

**Chapter 26.40 RCW  
CHILDREN WITH DISABILITIES**

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*State institutions: Title 72 RCW.*

*Temporary assistance for needy families—Child welfare services—Services to children with disabilities: Chapter 74.12 RCW.*

**RCW 26.40.010 Declaration of purpose.** The purpose of this chapter is to assure the right of every child with disabilities to parental love and care as long as possible, to provide for adequate custody of a child with a disability who has lost parental care, and to make available to the child with a disability the services of the state through its various departments and agencies. [2020 c 274 § 5; 1977 ex.s. c 80 § 22; 1955 c 272 § 1.]

**Purpose—Intent—Severability—1977 ex.s. c 80:** See notes following RCW 4.16.190.

**RCW 26.40.020 Removal, denial of parental responsibility—Commitment not an admission requirement to any school.** So long as the parents of a child with a disability are able to assume parental responsibility for such child, their parental responsibility may not be removed or denied, and commitment by the state or any officer or official thereof shall never be a requirement for the admission of

such child to any state school, or institution, or to the common schools. [2020 c 274 § 6; 1955 c 272 § 2.]

**RCW 26.40.030 Petition by parent for order of commitment—**

**Grounds.** The parents or parent of any child who is temporarily or permanently delayed in normal educational processes and/or normal social adjustment by reason of physical, sensory or mental disability, or by reason of social or emotional maladjustment, or by reason of other disability, may petition the superior court for the county in which such child resides for an order for the commitment of such child to custody as provided in RCW 26.40.040, as now or hereafter amended. [2020 c 274 § 7; 1977 ex.s. c 80 § 23; 1955 c 272 § 3.]

**Purpose—Severability—1977 ex.s. c 80:** See notes following RCW 4.16.190.

**RCW 26.40.040 Petition by parent for order of commitment—**

**Contents—Who may be co-custodians—Effective date.** The petition for an order for the commitment of a child to custody shall request the court to issue an order for the commitment of such child to the co-custody of the state and a relative or relatives, a friend or friends, an attorney or attorneys, a church through its chief officers, a fraternal organization through its chief officers, or a service organization through its chief officers, who shall be named in the petition. The petition shall also request the court to issue such order making the commitment of such child to custody effective as of the date that both parents of such child are deceased or are determined by the court to be unable to continue parental responsibilities for such child as provided in RCW 26.40.070. [1955 c 272 § 4.]

**RCW 26.40.050 Petition by parent for order of commitment—**

**Hearing—Written consent of co-custodians required.** Upon the filing of a petition for an order for the commitment of a child to custody, a hearing upon such petition shall be held in open court, and, if the court finds that the petition should be granted, the court shall issue an order for the commitment of the child to custody as petitioned and not otherwise. Written consent of the co-custodians other than the state must be filed with the court before such order for commitment may be issued. [1955 c 272 § 5.]

**RCW 26.40.060 Notice, copies, filing of order of commitment.**

Upon the issuance of an order for the commitment of a child to custody, the court shall transmit copies thereof to the co-custodians named therein. For the state as co-custodian the copy of such order shall be filed with the department of social and health services whose duty it shall be to notify the state superintendent of public instruction, the state department of social and health services, and such other state departments or agencies as may have services for the child, of the filing of such order, which notice shall be given by the department of social and health services at the time commitment to

custody becomes effective under the order. [1982 c 35 § 195; 1979 c 141 § 35; 1955 c 272 § 6.]

**Intent—Severability—Effective dates—Application—1982 c 35:** See notes following RCW 43.07.160.

**RCW 26.40.070 Petition by parent for rescission, change in co-custodians, determination of parental responsibility.** The parents or parent upon whose petition an order for the commitment of a child to custody has been issued may, before such commitment becomes effective, petition the court for a rescission of the order or for a change in the co-custodians other than the state, or to determine that they are unable to continue parental responsibilities for the child, and the court shall proceed on such petition as on the original petition. [1955 c 272 § 7.]

**RCW 26.40.080 Health and welfare of committed child—State and co-custodian responsibilities.** It shall be the responsibility of the state and the appropriate departments and agencies thereof to discover methods and procedures by which the mental and/or physical health of the child in custody may be improved and, with the consent of the co-custodians, to apply those methods and procedures. The co-custodians other than the state shall have no financial responsibility for the child committed to their co-custody except as they may in written agreement with the state accept such responsibility. At any time after the commitment of such child they may inquire into his or her well-being, and the state and any of its agencies may do nothing with respect to the child that would in any way affect his or her mental or physical health without the consent of the co-custodians. The legal status of the child may not be changed without the consent of the co-custodians. If it appears to the state as co-custodian of a child that the health and/or welfare of such child is impaired or jeopardized by the failure of the co-custodians other than the state to consent to the application of certain methods and procedures with respect to such child, the state through its proper department or agency may petition the court for an order to proceed with such methods and procedures. Upon the filing of such petition a hearing shall be held in open court, and if the court finds that such petition should be granted it shall issue the order. [2011 c 336 § 699; 1955 c 272 § 8.]

**RCW 26.40.090 Petition by co-custodians for rescission of commitment—Hearing.** When the co-custodians of any child committed to custody under provisions of this chapter agree that such child is no longer in need of custody they may petition the court for a rescission of the commitment to custody. Upon the filing of such petition a hearing shall be held in open court and if the court finds that such petition should be granted it shall rescind the order of commitment to custody. [1955 c 272 § 9.]

**RCW 26.40.100 Chapter does not affect commitments under other laws.** Nothing in this chapter shall be construed as affecting the

authority of the courts to make commitments as otherwise provided by law. [1955 c 272 § 10.]