STATE OF WASHINGTON
OFFICE OF GOVERNOR JAY INSLEE

PROCLAMATION BY THE GOVERNOR
EXTENDING AND AMENDING 20-05

21-02

EXTENDED ELIGIBILITY FOR FOSTER CARE SERVICES

WHEREAS, on February 29, 2020, I issued Proclamation 20-05, proclaiming a State of Emergency for all counties throughout the state of Washington as a result of the coronavirus disease 2019 (COVID-19) outbreak in the United States and confirmed person-to-person spread of COVID-19 in Washington State; and

WHEREAS, as a result of the continued worldwide spread of COVID-19, its significant progression in Washington State, and the high risk it poses to our most vulnerable populations, I have subsequently issued several amendatory proclamations, exercising my emergency powers under RCW 43.06.220 by prohibiting certain activities and waiving and suspending specified laws and regulations; and

WHEREAS, the COVID-19 disease, caused by a virus that spreads easily from person to person which may result in serious illness or death and has been classified by the World Health Organization as a worldwide pandemic, continues to broadly spread throughout Washington State, significantly increasing the threat of serious associated health risks statewide; and

WHEREAS, I issued Proclamations 20-25, et seq., first entitled "Stay Home – Stay Healthy," in which I initially prohibited all people in Washington State from leaving their homes except under certain circumstances, which I subsequently amended based on changing COVID-19 activity in Washington and is now entitled "Healthy Washington" and enacts a flexible, science-based matrix based on COVID-19 activity to set appropriate restrictions for Washington's counties; and

WHEREAS, the Department of Children, Youth and Families provides foster care services to Washington state children and youth; and

WHEREAS, under current law, upon reaching their 21st birthday, Washington children and youth are no longer eligible for foster care services; and

WHEREAS, in response to the ongoing effects of the COVID-19 pandemic, on December 27, 2020, the federal Consolidated Appropriations Act, 2021, was enacted, which (among other things) forbids states from refusing foster care services to persons who during the

COVID-19 pandemic either have or will become too old to be eligible for such services, and eliminates certain additional eligibility requirements for foster care services; and

WHEREAS, to align with federal law and ensure Washington's foster care services can be provided during the COVID-19 pandemic to persons who would otherwise be too old to be eligible for such services and to eliminate certain eligibility requirements for foster care services, while ensuring that appropriate age limitations continue to apply, the state must waive statutory provisions related to eligibility for foster care services and enact prohibitions related to foster care services eligibility; and

WHEREAS, the worldwide COVID-19 pandemic and its progression in Washington State continue to threaten the life and health of our people as well as the economy of Washington State, and remain a public disaster affecting life, health, property or the public peace; and

WHEREAS, the Washington State Department of Health continues to maintain a Public Health Incident Management Team in coordination with the State Emergency Operations Center and other supporting state agencies to manage the public health aspects of the incident; and

WHEREAS, the Washington State Military Department Emergency Management Division, through the State Emergency Operations Center, continues coordinating resources across state government to support the Washington State Department of Health and local health officials in alleviating the impacts to people, property, and infrastructure, and continues coordinating with the Department of Health in assessing the impacts and long-term effects of the incident on Washington State and its people.

NOW, THEREFORE, I, Jay Inslee, Governor of the state of Washington, as a result of the above-noted situation, and under Chapters 38.08, 38.52 and 43.06 RCW, do hereby proclaim that a State of Emergency continues to exist in all counties of Washington State, that Proclamation 20-05 and all amendments thereto remain in effect, and that Proclamation 20-05 is amended by waiving and suspending statutory language indicated by strikethrough below that serves to restrict continued or renewed eligibility for foster care services to persons who have turned or will turn 21 years old during the COVID-19 pandemic emergency, while simultaneously enacting prohibitions that will retain appropriate age-based restrictions on eligibility for foster care services.

FURTHERMORE, based on the above situation and under the provisions of RCW 43.06.220(2)(g), I also find that strict compliance with the statutes listed below will prevent, hinder, or delay the response to the COVID-19 pandemic State of Emergency under Proclamation 20-05, and therefore, those statutory provisions listed below are amended by waiving and suspending the language indicated by strikethrough.

RCW 13.34.030 (waiver and suspension indicated by strikethrough):

> (2) "Child," "juvenile," and "youth" mean:
> (a) Any individual under the age of eighteen years; or
> (b) Any individual ~~age eighteen to twenty-one years~~ who is eligible to receive and who elects to receive the extended foster care services authorized under RCW 74.13.031. A youth who remains dependent and who receives extended foster care services under RCW 74.13.031 shall not be considered a "child" under any other statute or for any other purpose.
> …
>
> (16) "Nonminor dependent" means any individual ~~age eighteen to twenty-one years~~ who is participating in extended foster care services authorized under RCW 74.13.031.

RCW 13.34.267 (waiver and suspension indicated by strikethrough):

> (1) In order to facilitate the delivery of extended foster care services, the court, upon the agreement of the youth to participate in the extended foster care program, shall maintain the dependency proceeding for any youth who is dependent at the age of eighteen years ~~and who, at the time of his or her eighteenth birthday, is:~~
> ~~(a) Enrolled in a secondary education program or a secondary education equivalency program;~~
> ~~(b) Enrolled and participating in a postsecondary academic or postsecondary vocational program, or has applied for and can demonstrate that he or she intends to timely enroll in a postsecondary academic or postsecondary vocational program;~~
> ~~(c) Participating in a program or activity designed to promote employment or remove barriers to employment;~~
> ~~(d) Engaged in employment for eighty hours or more per month; or~~
> ~~(e) Not able to engage in any of the activities described in (a) through (d) of this subsection due to a documented medical condition.~~
> …
>
> (4) The court shall dismiss the dependency proceeding for any youth who is a dependent and who~~, at the age of eighteen years, does not meet any of the criteria described in subsection (1)(a) through (e) of this section or~~ does not agree to participate in the program.

RCW 13.34.268 (waiver and suspension indicated by strikethrough):

> (1)(a) If a youth ~~prior to reaching age twenty-one years~~ requests extended foster care services from the department pursuant to RCW 74.13.336, and the department declines to enter into a voluntary placement agreement with

the youth, the department must provide written documentation to the youth which contains:

RCW 74.13.020 (waiver and suspension indicated by strikethrough):

(3) "Child" means:

(a) A person less than eighteen years of age; or

(b) A person ~~age eighteen to twenty-one years~~ who is eligible to receive the extended foster care services authorized under RCW 74.13.031.

(11) "Nonminor dependent" means any individual ~~age eighteen to twenty-one years~~ who is participating in extended foster care services authorized under RCW 74.13.031.

RCW 74.13.031 (waiver and suspension indicated by strikethrough):

(11)(a) The department shall provide continued extended foster care services to nonminor dependents who are:

~~(i) Enrolled in a secondary education program or a secondary education equivalency program;~~

~~(ii) Enrolled and participating in a postsecondary academic or postsecondary vocational education program;~~

~~(iii) Participating in a program or activity designed to promote employment or remove barriers to employment;~~

~~(iv) Engaged in employment for eighty hours or more per month; or~~

~~(v) Not able to engage in any of the activities described in (a)(i) through (iv) of this subsection due to a documented medical condition.~~

(b) To be eligible for extended foster care services, the nonminor dependent must have been dependent at the time that he or she reached age eighteen years. If the dependency case of the nonminor dependent was dismissed pursuant to RCW 13.34.267, he or she may receive extended foster care services pursuant to a voluntary placement agreement under RCW 74.13.336 or pursuant to an order of dependency issued by the court under RCW 13.34.268. A nonminor dependent whose dependency case was dismissed by the court may request extended foster care services ~~before reaching age twenty-one years.~~ Eligible nonminor dependents may unenroll and reenroll in extended foster care through a voluntary placement agreement an unlimited number of times ~~between ages eighteen and twenty-one.~~

(c) The department shall develop and implement rules regarding youth eligibility requirements.

(d) The department shall make efforts to ensure that extended foster care services maximize medicaid reimbursements. This must include the department ensuring that health and mental health extended foster care providers participate in medicaid, unless the condition of the extended foster care youth requires specialty care that is not available among participating medicaid providers or there are no participating medicaid providers in the area. The department shall coordinate other services to maximize federal resources and the most cost-efficient delivery of services to extended foster care youth.

(e) The department shall allow a youth who has received extended foster care services, but lost his or her eligibility, to reenter the extended foster care program an unlimited number of times through a voluntary placement agreement when he or she meets the eligibility criteria again

RCW 74.13.336 (waiver and suspension indicated by strikethrough):

(1) A youth who has reached age eighteen years may request extended foster care services authorized under RCW 74.13.031 at any time ~~before he or she reaches the age of twenty-one years~~ if:

(a) The dependency proceeding of the youth was dismissed pursuant to RCW 13.34.267(4) at the time that he or she reached age eighteen years; or

(b) The court, after holding the dependency case open pursuant to RCW 13.34.267(1), has dismissed the case because the youth became ineligible for extended foster care services.

FURTHERMORE, based on the above noted situation and under the provisions of RCW 43.06.220(1)(h), and to help preserve and maintain life, health, property or the public peace by retaining appropriate age-based restrictions on persons receiving foster care, I hereby prohibit persons who turned 21 years of age prior to April 1, 2020, from receiving foster care services from agencies of the State of Washington, except where federal law requires otherwise.

I again direct that the plans and procedures of the *Washington State Comprehensive Emergency Management Plan* be implemented throughout State government. State agencies and departments are directed to continue utilizing state resources and doing everything reasonably possible to support implementation of the *Washington State Comprehensive Emergency Management Plan* and to assist affected political subdivisions in an effort to respond to and recover from the COVID-19 pandemic.

I continue to order into active state service the organized militia of Washington State to include the National Guard and the State Guard, or such part thereof as may be necessary in the opinion of The Adjutant General to address the circumstances described above, to perform such duties as directed by competent authority of the Washington State Military Department in addressing the outbreak. Additionally, I continue to direct the Washington State Department of Health, the Washington State Military Department Emergency Management Division, and other agencies to identify and provide appropriate personnel for conducting necessary and ongoing incident related assessments.

Violators of this order may be subject to criminal penalties pursuant to RCW 43.06.220(5).

Unless extended or amended, the statutory waivers and suspensions and the prohibitions in this proclamation shall be in effect immediately and shall be in effect until February 28, 2021.

Signed and sealed with the official seal of the state of Washington on this 29th day of January, A.D., Two Thousand and Twenty-One at Olympia, Washington.

By:

/s/
Jay Inslee, Governor

BY THE GOVERNOR:

/s/
Secretary of State