
HOUSE BILL 2335

State of Washington

54th Legislature

1996 Regular Session

By Representatives Stevens, Thompson, Boldt, Hargrove, McMahan, Smith, Mulliken, Sheahan, Backlund, D. Schmidt, Goldsmith, Johnson, Sherstad, Campbell and Hymes

Read first time 01/10/96. Referred to Committee on Children & Family Services.

1 AN ACT Relating to investigations and proceedings pertaining to
2 child dependency and abuse or neglect; amending RCW 26.44.030,
3 26.44.035, 26.44.160, and 74.15.030; reenacting and amending RCW
4 26.44.020, 26.44.050, and 13.34.130; adding a new section to chapter
5 13.34 RCW; adding new sections to chapter 26.44 RCW; creating a new
6 section.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 NEW SECTION. **Sec. 1.** The legislature finds that child dependency
9 investigations are of great importance and, for the protection of
10 children as well as families, are best conducted at the local
11 government level. The legislature further finds that child abuse and
12 child neglect, the twin grounds for child dependency, are essentially
13 crimes against children and families and call for sophisticated and
14 extensive law enforcement expertise. For these reasons, the
15 legislature intends to transfer all responsibility of conducting child
16 abuse or neglect investigations, that is vested in the department of
17 social and health services, to local law enforcement agencies.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 13.34 RCW
2 to read as follows:

3 Because child abuse or neglect investigations frequently reveal
4 criminal activity and because the perpetrators should be punished as
5 criminals, the authority to conduct investigations to determine whether
6 there is evidence that would support a judicial determination that a
7 child is a dependent child is removed from the department of social and
8 health services and vested in the county sheriff and other local law
9 enforcement agencies.

10 NEW SECTION. **Sec. 3.** A new section is added to chapter 26.44 RCW
11 to read as follows:

12 The department of social and health services shall have no
13 authority to conduct investigations of suspected situations of child
14 abuse or neglect. Because investigations of child abuse or neglect
15 frequently reveal criminal activity, the county sheriff or other local
16 law enforcement agencies shall conduct such investigations.

17 **Sec. 4.** RCW 26.44.020 and 1993 c 412 s 12 and 1993 c 402 s 1 are
18 each reenacted and amended to read as follows:

19 For the purpose of and as used in this chapter:

20 (1) "Court" means the superior court of the state of Washington,
21 juvenile department.

22 (2) "Law enforcement agency" means the police department, the
23 prosecuting attorney, the state patrol, (~~the director of public~~
24 ~~safety, or~~) the office of the sheriff, or in the case of a charter
25 county, the county's chief law enforcement agency.

26 (3) "Practitioner of the healing arts" or "practitioner" means a
27 person licensed by this state to practice podiatric medicine and
28 surgery, optometry, chiropractic, nursing, dentistry, osteopathy and
29 surgery, or medicine and surgery or to provide other health services.
30 The term "practitioner" shall include a duly accredited Christian
31 Science practitioner: PROVIDED, HOWEVER, That a person who is being
32 furnished Christian Science treatment by a duly accredited Christian
33 Science practitioner shall not be considered, for that reason alone, a
34 neglected person for the purposes of this chapter.

35 (4) "Institution" means a private or public hospital or any other
36 facility providing medical diagnosis, treatment or care.

1 (5) "Department" means the state department of social and health
2 services.

3 (6) "Child" or "children" means any person under the age of
4 eighteen years of age.

5 (7) "Professional school personnel" shall include, but not be
6 limited to, teachers, counselors, administrators, child care facility
7 personnel, and school nurses.

8 (8) "Social service counselor" shall mean anyone engaged in a
9 professional capacity during the regular course of employment in
10 encouraging or promoting the health, welfare, support or education of
11 children, or providing social services to adults or families, including
12 mental health, drug and alcohol treatment, and domestic violence
13 programs, whether in an individual capacity, or as an employee or agent
14 of any public or private organization or institution.

15 (9) "Psychologist" shall mean any person licensed to practice
16 psychology under chapter 18.83 RCW, whether acting in an individual
17 capacity or as an employee or agent of any public or private
18 organization or institution.

19 (10) "Pharmacist" shall mean any registered pharmacist under the
20 provisions of chapter 18.64 RCW, whether acting in an individual
21 capacity or as an employee or agent of any public or private
22 organization or institution.

23 (11) "Clergy" shall mean any regularly licensed or ordained
24 minister, priest or rabbi of any church or religious denomination,
25 whether acting in an individual capacity or as an employee or agent of
26 any public or private organization or institution.

27 (12) "Abuse or neglect" shall mean the injury, sexual abuse, sexual
28 exploitation, negligent treatment, or maltreatment of a child, adult
29 dependent, or developmentally disabled person by any person under
30 circumstances which indicate that the child's or adult's health,
31 welfare, and safety is harmed. An abused child is a child who has been
32 subjected to child abuse or neglect as defined herein.

33 (13) "Child protective services section" shall mean the child
34 protective services section of the department.

35 (14) "Adult dependent persons" shall be defined as those persons
36 over the age of eighteen years who have been found to be legally
37 incompetent or disabled pursuant to chapter 11.88 RCW.

38 (15) "Sexual exploitation" includes: (a) Allowing, permitting, or
39 encouraging a child to engage in prostitution by any person; or (b)

1 allowing, permitting, encouraging, or engaging in the obscene or
2 pornographic photographing, filming, or depicting of a child by any
3 person.

4 (16) "Negligent treatment or maltreatment" means an act or omission
5 which evidences a serious disregard of consequences of such magnitude
6 as to constitute a clear and present danger to the child's health,
7 welfare, and safety.

8 (17) "Developmentally disabled person" means a person who has a
9 disability defined in RCW 71A.10.020.

10 (18) "Child protective services" means those services provided by
11 the department designed to protect children from child abuse and
12 neglect and safeguard the general welfare of such children (~~and shall~~
13 ~~include investigations of child abuse and neglect reports, including~~
14 ~~reports regarding child care centers and family child care homes,~~) and
15 the development, management, and provision of or referral to services
16 to ameliorate conditions which endanger the welfare of children, the
17 coordination of necessary programs and services relevant to the
18 prevention, intervention, and treatment of child abuse and neglect, and
19 services to children to ensure that each child has a permanent home.
20 In determining whether protective services should be provided, the
21 department shall not decline to provide such services solely because of
22 the child's unwillingness or developmental inability to describe the
23 nature and severity of the abuse or neglect. Child protective services
24 does not include any investigation by the department of suspected cases
25 of abuse or neglect.

26 (19) "Malice" or "maliciously" means an evil intent, wish, or
27 design to vex, annoy, or injure another person. Such malice may be
28 inferred from an act done in wilful disregard of the rights of another,
29 or an act wrongfully done without just cause or excuse, or an act or
30 omission of duty betraying a wilful disregard of social duty.

31 (20) "Sexually aggressive youth" means a child who is defined in
32 RCW 74.13.075(1)(b) as being a "sexually aggressive youth."

33 **Sec. 5.** RCW 26.44.030 and 1995 c 311 s 17 are each amended to read
34 as follows:

35 (1)(a) When any practitioner, county coroner or medical examiner,
36 law enforcement officer, professional school personnel, registered or
37 licensed nurse, social service counselor, psychologist, pharmacist,
38 licensed or certified child care providers or their employees, employee

1 of the department, or juvenile probation officer has reasonable cause
2 to believe that a child or adult dependent or developmentally disabled
3 person, has suffered abuse or neglect, he or she shall report such
4 incident, or cause a report to be made, to the proper law enforcement
5 agency or to the department as provided in RCW 26.44.040.

6 (b) The reporting requirement shall also apply to any adult who has
7 reasonable cause to believe that a child or adult dependent or
8 developmentally disabled person, who resides with them, has suffered
9 severe abuse, and is able or capable of making a report. For the
10 purposes of this subsection, "severe abuse" means any of the following:
11 Any single act of abuse that causes physical trauma of sufficient
12 severity that, if left untreated, could cause death; any single act of
13 sexual abuse that causes significant bleeding, deep bruising, or
14 significant external or internal swelling; or more than one act of
15 physical abuse, each of which causes bleeding, deep bruising,
16 significant external or internal swelling, bone fracture, or
17 unconsciousness.

18 (c) The report shall be made at the first opportunity, but in no
19 case longer than forty-eight hours after there is reasonable cause to
20 believe that the child or adult has suffered abuse or neglect. The
21 report shall include the identity of the accused if known.

22 (2) The reporting requirement of subsection (1) of this section
23 does not apply to the discovery of abuse or neglect that occurred
24 during childhood if it is discovered after the child has become an
25 adult. However, if there is reasonable cause to believe other
26 children, dependent adults, or developmentally disabled persons are or
27 may be at risk of abuse or neglect by the accused, the reporting
28 requirement of subsection (1) of this section shall apply.

29 (3) Any other person who has reasonable cause to believe that a
30 child or adult dependent or developmentally disabled person has
31 suffered abuse or neglect may report such incident to the proper law
32 enforcement agency or to the department of social and health services
33 as provided in RCW 26.44.040.

34 (4) The department, upon receiving a report of an incident of abuse
35 or neglect pursuant to this chapter, involving a child or adult
36 dependent or developmentally disabled person who has died or has had
37 physical injury or injuries inflicted upon him or her other than by
38 accidental means or who has been subjected to sexual abuse, shall
39 report such incident to the proper law enforcement agency. In

1 emergency cases, where the child, adult dependent, or developmentally
2 disabled person's welfare is endangered, the department shall notify
3 the proper law enforcement agency within twenty-four hours after a
4 report is received by the department. In all other cases, the
5 department shall notify the law enforcement agency within seventy-two
6 hours after a report is received by the department. If the department
7 makes an oral report, a written report shall also be made to the proper
8 law enforcement agency within five days thereafter.

9 (5) Any law enforcement agency receiving a report of an incident of
10 abuse or neglect pursuant to this chapter, involving a child or adult
11 dependent or developmentally disabled person who has died or has had
12 physical injury or injuries inflicted upon him or her other than by
13 accidental means, or who has been subjected to sexual abuse, shall
14 report such incident in writing as provided in RCW 26.44.040 to the
15 proper county prosecutor or city attorney for appropriate action
16 whenever the law enforcement agency's investigation reveals that a
17 crime may have been committed. The law enforcement agency shall also
18 notify the department of all reports received and the law enforcement
19 agency's disposition of them. In emergency cases, where the child,
20 adult dependent, or developmentally disabled person's welfare is
21 endangered, the law enforcement agency shall notify the department
22 within twenty-four hours. In all other cases, the law enforcement
23 agency shall notify the department within seventy-two hours after a
24 report is received by the law enforcement agency.

25 (6) Any county prosecutor or city attorney receiving a report under
26 subsection (5) of this section shall notify the victim, any persons the
27 victim requests, and the local office of the department, of the
28 decision to charge or decline to charge a crime, within five days of
29 making the decision.

30 (7) The department may conduct ongoing case planning and
31 consultation with those persons or agencies required to report under
32 this section, with consultants designated by the department, and with
33 designated representatives of Washington Indian tribes if the client
34 information exchanged is pertinent to cases currently receiving child
35 protective services or department case services for the developmentally
36 disabled. Upon request, the department shall conduct such planning and
37 consultation with those persons required to report under this section
38 if the department determines it is in the best interests of the child
39 or developmentally disabled person. Information considered privileged

1 by statute and not directly related to reports required by this section
2 shall not be divulged without a valid written waiver of the privilege.

3 (8) Any case referred to the department by a physician licensed
4 under chapter 18.57 or 18.71 RCW on the basis of an expert medical
5 opinion that child abuse, neglect, or sexual assault has occurred and
6 that the child's safety will be seriously endangered if returned home,
7 the department shall file a dependency petition unless a second
8 licensed physician of the parents' choice believes that such expert
9 medical opinion is incorrect. If the parents fail to designate a
10 second physician, the department may make the selection. If a
11 physician finds that a child has suffered abuse or neglect but that
12 such abuse or neglect does not constitute imminent danger to the
13 child's health or safety, and the department agrees with the
14 physician's assessment, the child may be left in the parents' home
15 while the department proceeds with reasonable efforts to remedy
16 parenting deficiencies.

17 (9) Persons or agencies exchanging information under subsection (7)
18 of this section shall not further disseminate or release the
19 information except as authorized by state or federal statute.
20 Violation of this subsection is a misdemeanor.

21 (10) Upon receiving reports of abuse or neglect, the ((department
22 or)) law enforcement agency may interview children. The interviews may
23 be conducted on school premises, at day-care facilities, at the child's
24 home, or at other suitable locations outside of the presence of
25 parents. Parental notification of the interview shall occur at the
26 earliest possible point in the investigation that will not jeopardize
27 the safety or protection of the child or the course of the
28 investigation. Prior to commencing the interview the ((department or))
29 law enforcement agency shall determine whether the child wishes a third
30 party to be present for the interview and, if so, shall make reasonable
31 efforts to accommodate the child's wishes. Unless the child objects,
32 the ((department or)) law enforcement agency shall make reasonable
33 efforts to include a third party in any interview so long as the
34 presence of the third party will not jeopardize the course of the
35 investigation. The agency shall videotape, or provide for videotaping,
36 each interview.

37 (11) Upon receiving a report of child abuse and neglect, the
38 ((department or)) investigating law enforcement agency shall have

1 access to all relevant records of the child in the possession of
2 mandated reporters and their employees.

3 (12) Law enforcement agencies conducting investigations of
4 suspected cases of abuse or neglect shall provide the department with
5 the results of their investigations. The department shall maintain
6 such investigation ((records)) reports and conduct timely and periodic
7 reviews of all cases constituting, in the opinion of the investigating
8 law enforcement agencies, abuse and neglect. The department shall
9 maintain a log of screened-out nonabusive cases.

10 (13) ~~((The department shall use a risk assessment process when~~
11 ~~investigating child abuse and neglect referrals. The department shall~~
12 ~~present the risk factors at all hearings in which the placement of a~~
13 ~~dependent child is an issue.))~~ The department shall, within funds
14 appropriated for this purpose, offer enhanced community-based services
15 to persons who are determined not to require further state
16 intervention.

17 ~~((The department shall provide annual reports to the legislature on~~
18 ~~the effectiveness of the risk assessment process.))~~

19 (14) Upon receipt of a report of abuse or neglect the law
20 enforcement agency may arrange to interview the person making the
21 report and any collateral sources to determine if any malice is
22 involved in the reporting.

23 **Sec. 6.** RCW 26.44.035 and 1985 c 259 s 3 are each amended to read
24 as follows:

25 If ~~((the department or))~~ a law enforcement agency responds to a
26 complaint of child abuse or neglect and discovers that another law
27 enforcement agency has also responded to the complaint, the agency
28 shall notify the other agency of their presence, and the agencies shall
29 coordinate the investigation and keep each other apprised of progress.

30 The department, each law enforcement agency, each county
31 prosecuting attorney, each city attorney, and each court shall make as
32 soon as practicable a written record and shall maintain records of all
33 incidents of suspected child abuse reported to that person or agency.
34 Records kept under this section shall be identifiable by means of an
35 agency code for child abuse.

36 **Sec. 7.** RCW 26.44.050 and 1987 c 450 s 7 and 1987 c 206 s 5 are
37 each reenacted and amended to read as follows:

1 Upon the receipt of a report concerning the possible occurrence of
2 abuse or neglect, it shall be the duty of the law enforcement agency or
3 the department of social and health services to investigate and provide
4 the protective services section with a report in accordance with the
5 provision of chapter 74.13 RCW, and where necessary to refer such
6 report to the court. However, the department's investigative authority
7 under this section is limited to cases involving adult dependent or
8 developmentally disabled persons.

9 A law enforcement officer may take, or cause to be taken, a child
10 into custody without a court order if there is probable cause to
11 believe that the child is abused or neglected and that the child would
12 be injured or could not be taken into custody if it were necessary to
13 first obtain a court order pursuant to RCW 13.34.050. The law
14 enforcement agency (~~(or the department of social and health services)~~)
15 investigating such a report is hereby authorized to photograph such a
16 child or adult dependent or developmentally disabled person for the
17 purpose of providing documentary evidence of the physical condition of
18 the child, adult dependent or developmentally disabled person. If the
19 department investigates a report involving an adult dependent or
20 developmentally disabled person, the department may also photograph the
21 person for that purpose.

22 **Sec. 8.** RCW 26.44.160 and 1993 c 402 s 2 are each amended to read
23 as follows:

24 (1) If a law enforcement agency receives a complaint that alleges
25 that a child under age twelve has committed a sex offense as defined in
26 RCW 9.94A.030, the agency shall investigate the complaint. If the
27 investigation reveals that probable cause exists to believe that the
28 youth may have committed a sex offense and the child is at least eight
29 years of age, the agency shall refer the case to the proper county
30 prosecuting attorney for appropriate action to determine whether the
31 child may be prosecuted or is a sexually aggressive youth. If the
32 child is less than eight years old, the law enforcement agency shall
33 refer the case to the department.

34 (2) If the prosecutor or a judge determines the child cannot be
35 prosecuted for the alleged sex offense because the child is incapable
36 of committing a crime as provided in RCW 9A.04.050 and the prosecutor
37 believes that probable cause exists to believe that the child engaged
38 in acts that would constitute a sex offense, the prosecutor shall refer

1 the child as a sexually aggressive youth to the department. The
2 prosecutor shall provide the department with an affidavit stating that
3 the prosecutor has determined that probable cause exists to believe
4 that the juvenile has committed acts that could be prosecuted as a sex
5 offense but the case is not being prosecuted because the juvenile is
6 incapable of committing a crime as provided in RCW 9A.04.050.

7 (3) The ((department)) law enforcement agency shall investigate any
8 referrals that allege that a child is a sexually aggressive youth. The
9 purpose of the investigation shall be to determine whether the child is
10 abused or neglected, as defined in this chapter, and whether the child
11 or the child's parents are in need of services or treatment. The
12 department may offer appropriate available services and treatment to a
13 sexually aggressive youth and his or her parents or legal guardians as
14 provided in RCW 74.13.075 and may refer the child and his or her
15 parents to appropriate treatment and services available within the
16 community. If the parents refuse to accept or fail to obtain
17 appropriate treatment or services under circumstances that indicate
18 that the refusal or failure is child abuse or neglect, as defined in
19 this chapter, the department may pursue a dependency action as provided
20 in chapter 13.34 RCW.

21 (4) Nothing in this section shall affect the responsibility of a
22 law enforcement agency to report incidents of abuse or neglect as
23 required in RCW 26.44.030(5).

24 **Sec. 9.** RCW 74.15.030 and 1995 c 302 s 4 are each amended to read
25 as follows:

26 The secretary shall have the power and it shall be the secretary's
27 duty:

28 (1) In consultation with the children's services advisory
29 committee, and with the advice and assistance of persons representative
30 of the various type agencies to be licensed, to designate categories of
31 facilities for which separate or different requirements shall be
32 developed as may be appropriate whether because of variations in the
33 ages, sex and other characteristics of persons served, variations in
34 the purposes and services offered or size or structure of the agencies
35 to be licensed hereunder, or because of any other factor relevant
36 thereto;

37 (2) In consultation with the children's services advisory
38 committee, and with the advice and assistance of persons representative

1 of the various type agencies to be licensed, to adopt and publish
2 minimum requirements for licensing applicable to each of the various
3 categories of agencies to be licensed.

4 The minimum requirements shall be limited to:

5 (a) The size and suitability of a facility and the plan of
6 operation for carrying out the purpose for which an applicant seeks a
7 license;

8 (b) The character, suitability and competence of an agency and
9 other persons associated with an agency directly responsible for the
10 care and treatment of children, expectant mothers or developmentally
11 disabled persons. In consultation with law enforcement personnel, the
12 secretary shall investigate the conviction record or pending charges
13 and dependency record information under chapter 43.43 RCW of each
14 agency and its staff seeking licensure or relicensure. In order to
15 determine the suitability of applicants for an agency license,
16 licensees, their employees, and other persons who have unsupervised
17 access to children in care, and who have not resided in the state of
18 Washington during the three-year period before being authorized to care
19 for children shall be fingerprinted. The fingerprints shall be
20 forwarded to the Washington state patrol and federal bureau of
21 investigation for a criminal history records check. The fingerprint
22 criminal history records checks will be at the expense of the licensee
23 except that in the case of a foster family home, if this expense would
24 work a hardship on the licensee, the department shall pay the expense.
25 The licensee may not pass this cost on to the employee or prospective
26 employee, unless the employee is determined to be unsuitable due to his
27 or her criminal history record. The secretary shall use the
28 information solely for the purpose of determining eligibility for a
29 license and for determining the character, suitability, and competence
30 of those persons or agencies, excluding parents, not required to be
31 licensed who are authorized to care for children, expectant mothers,
32 and developmentally disabled persons. Criminal justice agencies shall
33 provide the secretary such information as they may have and that the
34 secretary may require for such purpose;

35 (c) The number of qualified persons required to render the type of
36 care and treatment for which an agency seeks a license;

37 (d) The safety, cleanliness, and general adequacy of the premises
38 to provide for the comfort, care and well-being of children, expectant
39 mothers or developmentally disabled persons;

1 (e) The provision of necessary care, including food, clothing,
2 supervision and discipline; physical, mental and social well-being; and
3 educational, recreational and spiritual opportunities for those served;

4 (f) The financial ability of an agency to comply with minimum
5 requirements established pursuant to chapter 74.15 RCW and RCW
6 74.13.031; and

7 (g) The maintenance of records pertaining to the admission,
8 progress, health and discharge of persons served;

9 (3) To investigate any person, including relatives by blood or
10 marriage except for parents, for character, suitability, and competence
11 in the care and treatment of children, expectant mothers, and
12 developmentally disabled persons prior to authorizing that person to
13 care for children, expectant mothers, and developmentally disabled
14 persons. However, if a child is placed with a relative under RCW
15 13.34.060 or 13.34.130, and if such relative appears otherwise suitable
16 and competent to provide care and treatment the criminal history
17 background check required by this section need not be completed before
18 placement, but shall be completed as soon as possible after placement;

19 ~~((On reports of child abuse and neglect, to investigate~~
20 ~~agencies in accordance with chapter 26.44 RCW,))~~ To consider the
21 results of agency investigations conducted under chapter 26.44 RCW,
22 including investigations of child day-care centers and family day-care
23 homes, to determine whether the abuse or neglect has occurred, and
24 whether child protective services or referral to a law enforcement
25 agency is appropriate;

26 (5) To issue, revoke, or deny licenses to agencies pursuant to
27 chapter 74.15 RCW and RCW 74.13.031. Licenses shall specify the
28 category of care which an agency is authorized to render and the ages,
29 sex and number of persons to be served;

30 (6) To prescribe the procedures and the form and contents of
31 reports necessary for the administration of chapter 74.15 RCW and RCW
32 74.13.031 and to require regular reports from each licensee;

33 (7) To inspect agencies periodically to determine whether or not
34 there is compliance with chapter 74.15 RCW and RCW 74.13.031 and the
35 requirements adopted hereunder;

36 (8) To review requirements adopted hereunder at least every two
37 years and to adopt appropriate changes after consultation with the
38 child care coordinating committee and other affected groups for child

1 day-care requirements and with the children's services advisory
2 committee for requirements for other agencies; and

3 (9) To consult with public and private agencies in order to help
4 them improve their methods and facilities for the care of children,
5 expectant mothers and developmentally disabled persons.

6 NEW SECTION. **Sec. 10.** A new section is added to chapter 26.44 RCW
7 to read as follows:

8 The legislature shall provide funds for distribution to local law
9 enforcement agencies to pay the increased costs that are reasonably
10 attributable to their investigatory workload increase as a result of
11 chapter . . . , Laws of 1996 (this act).

12 **Sec. 11.** RCW 13.34.130 and 1995 c 313 s 2, 1995 c 311 s 19, and
13 1995 c 53 s 1 are each reenacted and amended to read as follows:

14 If, after a fact-finding hearing pursuant to RCW 13.34.110, it has
15 been proven (~~((by a preponderance of the evidence))~~) that the child is
16 dependent within the meaning of RCW 13.34.030; after consideration of
17 the predisposition report prepared pursuant to RCW 13.34.110 and after
18 a disposition hearing has been held pursuant to RCW 13.34.110, the
19 court shall enter an order of disposition pursuant to this section. If
20 the child is under twelve years of age, it must be proven by a
21 preponderance of the evidence that the child is dependent. If the
22 child is twelve or more years of age, it must be proven by clear,
23 cogent, and convincing evidence that the child is dependent.

24 (1) The court shall order one of the following dispositions of the
25 case:

26 (a) Order a disposition other than removal of the child from his or
27 her home, which shall provide a program designed to alleviate the
28 immediate danger to the child, to mitigate or cure any damage the child
29 has already suffered, and to aid the parents so that the child will not
30 be endangered in the future. In selecting a program, the court should
31 choose those services that least interfere with family autonomy,
32 provided that the services are adequate to protect the child.

33 (b) Order that the child be removed from his or her home and
34 ordered into the custody, control, and care of a relative or the
35 department of social and health services or a licensed child placing
36 agency for placement in a foster family home or group care facility
37 licensed pursuant to chapter 74.15 RCW or in a home not required to be

1 licensed pursuant to chapter 74.15 RCW. Unless there is reasonable
2 cause to believe that the safety or welfare of the child would be
3 jeopardized or that efforts to reunite the parent and child will be
4 hindered, such child shall be placed with a person who is related to
5 the child as defined in RCW 74.15.020(4)(a) and with whom the child has
6 a relationship and is comfortable, and who is willing and available to
7 care for the child. Placement of the child with a relative under this
8 subsection shall be given preference by the court. An order for out-
9 of-home placement may be made only if the court finds that reasonable
10 efforts have been made to prevent or eliminate the need for removal of
11 the child from the child's home and to make it possible for the child
12 to return home, specifying the services that have been provided to the
13 child and the child's parent, guardian, or legal custodian, and that
14 preventive services have been offered or provided and have failed to
15 prevent the need for out-of-home placement, unless the health, safety,
16 and welfare of the child cannot be protected adequately in the home,
17 and that:

18 (i) There is no parent or guardian available to care for such
19 child;

20 (ii) The parent, guardian, or legal custodian is not willing to
21 take custody of the child;

22 (iii) A manifest danger exists that the child will suffer serious
23 abuse or neglect if the child is not removed from the home and an order
24 under RCW 26.44.063 would not protect the child from danger; or

25 (iv) The extent of the child's disability is such that the parent,
26 guardian, or legal custodian is unable to provide the necessary care
27 for the child and the parent, guardian, or legal custodian has
28 determined that the child would benefit from placement outside of the
29 home.

30 (2) If the court has ordered a child removed from his or her home
31 pursuant to subsection (1)(b) of this section, the court may order that
32 a petition seeking termination of the parent and child relationship be
33 filed if the court finds it is recommended by the supervising agency,
34 that it is in the best interests of the child and that it is not
35 reasonable to provide further services to reunify the family because
36 the existence of aggravated circumstances make it unlikely that
37 services will effectuate the return of the child to the child's parents
38 in the near future. In determining whether aggravated circumstances
39 exist, the court shall consider one or more of the following:

1 (a) Conviction of the parent of rape of the child in the first,
2 second, or third degree as defined in RCW 9A.44.073, 9A.44.076, and
3 9A.44.079;

4 (b) Conviction of the parent of criminal mistreatment of the child
5 in the first or second degree as defined in RCW 9A.42.020 and
6 9A.42.030;

7 (c) Conviction of the parent of one of the following assault
8 crimes, when the child is the victim: Assault in the first or second
9 degree as defined in RCW 9A.36.011 and 9A.36.021 or assault of a child
10 in the first or second degree as defined in RCW 9A.36.120 or 9A.36.130;

11 (d) Conviction of the parent of murder, manslaughter, or homicide
12 by abuse of the child's other parent, sibling, or another child;

13 (e) A finding by a court that a parent is a sexually violent
14 predator as defined in RCW 71.09.020;

15 (f) Failure of the parent to complete available treatment ordered
16 under this chapter or the equivalent laws of another state, where such
17 failure has resulted in a prior termination of parental rights to
18 another child and the parent has failed to effect significant change in
19 the interim.

20 (3) Whenever a child is ordered removed from the child's home, the
21 agency charged with his or her care shall provide the court with:

22 (a) A permanency plan of care that shall identify one of the
23 following outcomes as a primary goal and may identify additional
24 outcomes as alternative goals: Return of the child to the home of the
25 child's parent, guardian, or legal custodian; adoption; guardianship;
26 or long-term relative or foster care, until the child is age eighteen,
27 with a written agreement between the parties and the care provider; and
28 independent living, if appropriate and if the child is age sixteen or
29 older. Whenever a permanency plan identifies independent living as a
30 goal, the plan shall also specifically identify the services that will
31 be provided to assist the child to make a successful transition from
32 foster care to independent living. Before the court approves
33 independent living as a permanency plan of care, the court shall make
34 a finding that the provision of services to assist the child in making
35 a transition from foster care to independent living will allow the
36 child to manage his or her financial affairs and to manage his or her
37 personal, social, educational, and nonfinancial affairs. The
38 department shall not discharge a child to an independent living

1 situation before the child is eighteen years of age unless the child
2 becomes emancipated pursuant to chapter 13.64 RCW.

3 (b) Unless the court has ordered, pursuant to subsection (2) of
4 this section, that a termination petition be filed, a specific plan as
5 to where the child will be placed, what steps will be taken to return
6 the child home, and what actions the agency will take to maintain
7 parent-child ties. All aspects of the plan shall include the goal of
8 achieving permanence for the child.

9 (i) The agency plan shall specify what services the parents will be
10 offered in order to enable them to resume custody, what requirements
11 the parents must meet in order to resume custody, and a time limit for
12 each service plan and parental requirement.

13 (ii) The agency shall be required to encourage the maximum parent-
14 child contact possible, including regular visitation and participation
15 by the parents in the care of the child while the child is in
16 placement. Visitation may be limited or denied only if the court
17 determines that such limitation or denial is necessary to protect the
18 child's health, safety, or welfare.

19 (iii) A child shall be placed as close to the child's home as
20 possible, preferably in the child's own neighborhood, unless the court
21 finds that placement at a greater distance is necessary to promote the
22 child's or parents' well-being.

23 (iv) The agency charged with supervising a child in placement shall
24 provide all reasonable services that are available within the agency,
25 or within the community, or those services which the department of
26 social and health services has existing contracts to purchase. It
27 shall report to the court if it is unable to provide such services.

28 (c) If the court has ordered, pursuant to subsection (2) of this
29 section, that a termination petition be filed, a specific plan as to
30 where the child will be placed, what steps will be taken to achieve
31 permanency for the child, services to be offered or provided to the
32 child, and, if visitation would be in the best interests of the child,
33 a recommendation to the court regarding visitation between parent and
34 child pending a fact-finding hearing on the termination petition. The
35 agency shall not be required to develop a plan of services for the
36 parents or provide services to the parents.

37 (4) If there is insufficient information at the time of the
38 disposition hearing upon which to base a determination regarding the
39 suitability of a proposed placement with a relative, the child shall

1 remain in foster care and the court shall direct the supervising agency
2 to conduct necessary background investigations as provided in chapter
3 74.15 RCW and report the results of such investigation to the court
4 within thirty days. However, if such relative appears otherwise
5 suitable and competent to provide care and treatment, the criminal
6 history background check need not be completed before placement, but as
7 soon as possible after placement. Any placements with relatives,
8 pursuant to this section, shall be contingent upon cooperation by the
9 relative with the agency case plan and compliance with court orders
10 related to the care and supervision of the child including, but not
11 limited to, court orders regarding parent-child contacts and any other
12 conditions imposed by the court. Noncompliance with the case plan or
13 court order shall be grounds for removal of the child from the
14 relative's home, subject to review by the court.

15 (5) Except for children whose cases are reviewed by a citizen
16 review board under chapter 13.70 RCW, the status of all children found
17 to be dependent shall be reviewed by the court at least every six
18 months from the beginning date of the placement episode or the date
19 dependency is established, whichever is first, at a hearing in which it
20 shall be determined whether court supervision should continue. The
21 review shall include findings regarding the agency and parental
22 completion of disposition plan requirements, and if necessary, revised
23 permanency time limits.

24 (a) A child shall not be returned home at the review hearing unless
25 the court finds that a reason for removal as set forth in this section
26 no longer exists. The parents, guardian, or legal custodian shall
27 report to the court the efforts they have made to correct the
28 conditions which led to removal. If a child is returned, casework
29 supervision shall continue for a period of six months, at which time
30 there shall be a hearing on the need for continued intervention.

31 (b) If the child is not returned home, the court shall establish in
32 writing:

33 (i) Whether reasonable services have been provided to or offered to
34 the parties to facilitate reunion, specifying the services provided or
35 offered;

36 (ii) Whether the child has been placed in the least-restrictive
37 setting appropriate to the child's needs, including whether
38 consideration and preference has been given to placement with the
39 child's relatives;

1 (iii) Whether there is a continuing need for placement and whether
2 the placement is appropriate;

3 (iv) Whether there has been compliance with the case plan by the
4 child, the child's parents, and the agency supervising the placement;

5 (v) Whether progress has been made toward correcting the problems
6 that necessitated the child's placement in out-of-home care;

7 (vi) Whether the parents have visited the child and any reasons why
8 visitation has not occurred or has been infrequent;

9 (vii) Whether additional services are needed to facilitate the
10 return of the child to the child's parents; if so, the court shall
11 order that reasonable services be offered specifying such services; and

12 (viii) The projected date by which the child will be returned home
13 or other permanent plan of care will be implemented.

14 (c) The court at the review hearing may order that a petition
15 seeking termination of the parent and child relationship be filed.

16 NEW SECTION. **Sec. 12.** Sections 1 through 9 of this act shall take
17 effect July 1, 1997. However, the law as it existed immediately prior
18 to July 1, 1997, shall continue to apply after that date to
19 investigations by the department of social and health services
20 commenced prior to that date.

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