

# HOUSE BILL REPORT

## SHB 2556

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### As Amended by the Senate

**Title:** An act relating to amendments concerning the child abuse prevention and treatment act and the adoption and safe families act.

**Brief Description:** Making changes concerning the federal child abuse prevention and treatment act.

**Sponsors:** By House Committee on Child & Family Service (originally sponsored by Representatives Cooke, Tokuda and O'Brien; by request of Department of Social and Health Services).

**Brief History:**

**Committee Activity:**

Children & Family Services: 1/29/98, 2/5/98 [DPS];  
Appropriations: 2/7/98 [DPS(CFS)].

**Floor Activity:**

Passed House: 2/13/98, 98-0.  
Senate Amended.

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### HOUSE COMMITTEE ON CHILDREN & FAMILY SERVICES

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Cooke, Chairman; Boldt, Vice Chairman; Bush, Vice Chairman; Tokuda, Ranking Minority Member; Kastama, Assistant Ranking Minority Member; Ballasiotes; Carrell; Dickerson; Gombosky; McDonald and Wolfe.

**Staff:** Douglas Ruth (786-7134).

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### HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** The substitute bill by Committee on Children & Family Services be substituted therefor and the substitute bill do pass. Signed by 29 members: Representatives Huff, Chairman; Alexander, Vice Chairman; Clements, Vice Chairman; Wensman, Vice Chairman; H. Sommers, Ranking Minority Member; Doumit, Assistant Ranking Minority Member; Gombosky, Assistant Ranking Minority Member; Benson; Carlson; Chopp; Cody; Cooke; Crouse; Grant; Keiser; Kenney; Kessler; Lambert; Lisk;

Mastin; McMorris; Parlette; Poulsen; Regala; D. Schmidt; Sehlin; Sheahan; Talcott and Tokuda.

**Staff:** Jason Hall (786-7145).

**Background:** Within the past year, Congress has amended two federal acts that govern child welfare law, The Child Abuse Act and the Social Security Act. Both of these acts provide grants to states to conduct programs relating to preventing and treating child abuse, neglect and family preservation. To be eligible for funding under these grant programs, states are required to establish systems for reporting and investigating child abuse and neglect and providing foster care and adoption assistance. As with the vast majority of similar federal grant programs, these systems must meet certain federal guidelines.

Both acts were recently amended. The amendments change the guidelines for state foster care, adoption assistance, and child abuse and neglect programs.

**Summary of Bill:** Changes are made in Washington's child abuse and dependency laws to conform with recent changes in federal law.

The policy goal of Washington's dependency chapter is altered to emphasize that in providing "reasonable efforts" to reunify families, the paramount concern is the health and safety of the child.

If specified aggravating circumstances exist, dependency courts are not required to find that reasonable efforts have been made to eliminate the need to remove a child from the home. Two aggravated circumstances are added to the current list. First, the conviction of a parent of attempting, soliciting, or conspiring to commit any of the other circumstances listed. And second, the abandonment of a child three years old or younger.

A custodial agency caring for a child is relieved of the obligation to make reasonable efforts to reunify parent and child if such reunification efforts are inconsistent with the child's permanency plan created by the agency.

If reasonable efforts at reunification are not required, a dependency court must hold a permanency planning hearing within 30 days and reasonable efforts must be made to permanently place the child in a timely manner.

The foster parents, pre-adoptive parents, or relatives currently providing care to a dependent child must be given the opportunity to provide input to the judge who is overseeing implementation of a child's permanency plan. The court must notify the caretakers of all review hearings. This right to an opportunity to be heard and to receive notice do not create standing for these individuals.

The age of a child is eliminated as the determining factor for when a permanency planning hearing is required. Regardless of age, a court must hold a hearing if a child has remained out-of-home for at least nine months and neither an adoption decree or guardianship order is pending. The hearing must be held no longer than 12 months after the date of the child's removal from the home.

An additional basis for termination of a parent's rights is created. A court may terminate parental rights if it is proved beyond a reasonable doubt that a child is dependent, and that the parent has attempted, conspired, or committed first or second degree murder or first or second degree manslaughter of the parent's child, or committed first or second degree assault against the child, or another child.

Licensing and employment decisions by the department may not be based on unfounded child abuse or neglect reports.

All persons named in founded reports of child abuse or neglect have the right to seek review of the finding, not just those seeking employment. A review procedure is created. The person may request the department review finding within 20 days of receiving notice of the report. The request must be written. Management level staff in the Children's Administration shall conduct the review. If appropriate, the finding may be changed. The outcome of the review is sent to the requestor. Within 30 days of receiving the notice, the person may request an adjudicative hearing. No standard of proof is given. Any review or hearing is confidential. If the requestor does not meet the time lines or procedures described, he or she loses all rights to challenge the finding.

Notification of allegations of abuse or neglect is made by certified mail, return receipt requested.

For the purpose of defining the department's authority to investigate child abuse and neglect reports, the definition of child abuse and neglect is changed. The language is changed to conform with federal law.

**EFFECT OF SENATE AMENDMENT(S):** The Senate amendment allows for reasonable efforts to reunify a family, notwithstanding the existence of aggravating circumstances, when the efforts are in the child's best interest.

A petition for termination of parental rights must be filed when a child, under age three, has been abandoned. Concurrently, the department must proceed with an adoption.

The amendment also makes changes to the administration of the Family Policy Council. The legislative representation on the Council is increased from one to two legislators from each caucus of both houses. The members of the community networks are required to sign an affidavit declaring whether they have a fiduciary interest. The Council is

given the authority to determine the maximum amount each network may spend on planing and administrative activities.

The amendment creates new entities independent of the Department of Social and Health Services to act as citizen review panels. The panels are created to examine the state's effectiveness in preventing and responding to child abuse and neglect. A minimum of six panels are created, one for each of the DSHS' regions. The panels are to consist of seven members each, three of which have professional or academic expertise in the prevention and treatment of child abuse and neglect. The remaining members will be citizens who have no fiduciary interest in any health, education, social service, or criminal justice agency.

The Department of Community, Trade, and Economic Development will contract with a private nonprofit organization to serve as the appointing authority of the panels and to oversee their operation. These duties will be transferred to the Office of the Family and Children's Ombudsman (OFCO) on January 1, 2001.

The panels are given the authority to employ investigative staff and access confidential information. Dissemination of confidential information is prohibited except in specified circumstances. Improper disclosure is punishable by up to a \$5,000 fine.

When a case reported to a citizen review panel leads to civil action, a successful plaintiff in the action may receive attorney fees, costs, triple damages, and punitive damages.

The panels are authorized to examine child protection standards, risk assessment, child fatality and near fatality reports, the time required for child protection services (CPS) investigations, immunity for child abuse reporters, confidentiality, coordination between CPS and foster care and adoption programs, and cooperation between law enforcement, the courts, and DSHS in handling child protection cases.

The panels are also authorized to review specific cases, although the cases must have been referred to them by a legislator, the ombudsman, or by DSHS.

Finally, the Senate amendment exempts funds received from the Adoption Support Program from determinations of eligibility and subsidy levels for the Basic Health Plan.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** Ninety days after adjournment of session in which bill is passed, except Section 9, which takes effect on October 1, 1998.

**Testimony For:** (Children & Family Services) These changes are needed to conform our state laws with federal law. The changes are intended to speed up permanent placement of dependent children.

(Appropriations) This bill matches changes in federal law and will improve the process of placing children in permanent homes.

**Testimony Against:** (Children & Family Services) None.

(Appropriations) None.

**Testified:** (Children & Family Services) Jennifer Strus, Director, Division for Program & Policy, Department of Social and Health Services (pro); and Laurie Lippold, Children's Home Society (pro).

(Appropriations) Representative Cooke, prime sponsor; and Laurie Lippold, Children's Home Society.