
SENATE BILL 5490

State of Washington

55th Legislature

1997 Regular Session

By Senators Stevens, Swecker, Hochstatter, Schow, Strannigan and Zarelli

Read first time 01/28/97. Referred to Committee on Human Services & Corrections.

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

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 1996 c 178 s 10 are each amended to read
18 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, osteopathic
29 medicine and surgery, or medicine and surgery or to provide other
30 health services. The term "practitioner" shall include a duly
31 accredited Christian Science practitioner: PROVIDED, HOWEVER, That a
32 person who is being furnished Christian Science treatment by a duly
33 accredited Christian Science practitioner shall not be considered, for
34 that reason alone, a 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 1996 c 278 s 2 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 department of
7 corrections personnel who, in the course of their employment, observe
8 offenders or the children with whom the offenders are in contact. If,
9 as a result of observations or information received in the course of
10 his or her employment, any department of corrections personnel has
11 reasonable cause to believe that a child or adult dependent or
12 developmentally disabled person has suffered abuse or neglect, he or
13 she shall report the incident, or cause a report to be made, to the
14 proper law enforcement agency or to the department as provided in RCW
15 26.44.040.

16 (c) The reporting requirement shall also apply to any adult who has
17 reasonable cause to believe that a child or adult dependent or
18 developmentally disabled person, who resides with them, has suffered
19 severe abuse, and is able or capable of making a report. For the
20 purposes of this subsection, "severe abuse" means any of the following:
21 Any single act of abuse that causes physical trauma of sufficient
22 severity that, if left untreated, could cause death; any single act of
23 sexual abuse that causes significant bleeding, deep bruising, or
24 significant external or internal swelling; or more than one act of
25 physical abuse, each of which causes bleeding, deep bruising,
26 significant external or internal swelling, bone fracture, or
27 unconsciousness.

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

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

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

6 (4) The department, upon receiving a report of an incident of abuse
7 or neglect pursuant to this chapter, involving a child or adult
8 dependent or developmentally disabled person who has died or has had
9 physical injury or injuries inflicted upon him or her other than by
10 accidental means or who has been subjected to sexual abuse, shall
11 report such incident to the proper law enforcement agency. In
12 emergency cases, where the child, adult dependent, or developmentally
13 disabled person's welfare is endangered, the department shall notify
14 the proper law enforcement agency within twenty-four hours after a
15 report is received by the department. In all other cases, the
16 department shall notify the law enforcement agency within seventy-two
17 hours after a report is received by the department. If the department
18 makes an oral report, a written report shall also be made to the proper
19 law enforcement agency within five days thereafter.

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

36 (6) Any county prosecutor or city attorney receiving a report under
37 subsection (5) of this section shall notify the victim, any persons the
38 victim requests, and the local office of the department, of the

1 decision to charge or decline to charge a crime, within five days of
2 making the decision.

3 (7) The department may conduct ongoing case planning and
4 consultation with those persons or agencies required to report under
5 this section, with consultants designated by the department, and with
6 designated representatives of Washington Indian tribes if the client
7 information exchanged is pertinent to cases currently receiving child
8 protective services or department case services for the developmentally
9 disabled. Upon request, the department shall conduct such planning and
10 consultation with those persons required to report under this section
11 if the department determines it is in the best interests of the child
12 or developmentally disabled person. Information considered privileged
13 by statute and not directly related to reports required by this section
14 shall not be divulged without a valid written waiver of the privilege.

15 (8) Any case referred to the department by a physician licensed
16 under chapter 18.57 or 18.71 RCW on the basis of an expert medical
17 opinion that child abuse, neglect, or sexual assault has occurred and
18 that the child's safety will be seriously endangered if returned home,
19 the department shall file a dependency petition unless a second
20 licensed physician of the parents' choice believes that such expert
21 medical opinion is incorrect. If the parents fail to designate a
22 second physician, the department may make the selection. If a
23 physician finds that a child has suffered abuse or neglect but that
24 such abuse or neglect does not constitute imminent danger to the
25 child's health or safety, and the department agrees with the
26 physician's assessment, the child may be left in the parents' home
27 while the department proceeds with reasonable efforts to remedy
28 parenting deficiencies.

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

33 (10) Upon receiving reports of abuse or neglect, the ((department
34 or)) law enforcement agency may interview children. The interviews may
35 be conducted on school premises, at day-care facilities, at the child's
36 home, or at other suitable locations outside of the presence of
37 parents. Parental notification of the interview shall occur at the
38 earliest possible point in the investigation that will not jeopardize
39 the safety or protection of the child or the course of the

1 investigation. Prior to commencing the interview the (~~department or~~)
2 law enforcement agency shall determine whether the child wishes a third
3 party to be present for the interview and, if so, shall make reasonable
4 efforts to accommodate the child's wishes. Unless the child objects,
5 the (~~department or~~) law enforcement agency shall make reasonable
6 efforts to include a third party in any interview so long as the
7 presence of the third party will not jeopardize the course of the
8 investigation. The agency shall videotape, or provide for videotaping,
9 each interview.

10 (11) Upon receiving a report of child abuse and neglect, the
11 (~~department or~~) investigating law enforcement agency shall have
12 access to all relevant records of the child in the possession of
13 mandated reporters and their employees.

14 (12) Law enforcement agencies conducting investigations of
15 suspected cases of abuse or neglect shall provide the department with
16 the results of their investigations. The department shall maintain
17 such investigation (~~records~~) reports and conduct timely and periodic
18 reviews of all cases constituting, in the opinion of the investigating
19 law enforcement agencies, abuse and neglect. The department shall
20 maintain a log of screened-out nonabusive cases.

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

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

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

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

36 If (~~the department or~~) a law enforcement agency responds to a
37 complaint of child abuse or neglect and discovers that another law
38 enforcement agency has also responded to the complaint, the agency

1 shall notify the other agency of their presence, and the agencies shall
2 coordinate the investigation and keep each other apprised of progress.

3 The department, each law enforcement agency, each county
4 prosecuting attorney, each city attorney, and each court shall make as
5 soon as practicable a written record and shall maintain records of all
6 incidents of suspected child abuse reported to that person or agency.
7 Records kept under this section shall be identifiable by means of an
8 agency code for child abuse.

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

11 Upon the receipt of a report concerning the possible occurrence of
12 abuse or neglect, it shall be the duty of the law enforcement agency or
13 the department of social and health services to investigate and provide
14 the protective services section with a report in accordance with the
15 provision of chapter 74.13 RCW, and where necessary to refer such
16 report to the court. However, the department's investigative authority
17 under this section is limited to cases involving adult dependent or
18 developmentally disabled persons.

19 A law enforcement officer may take, or cause to be taken, a child
20 into custody without a court order if there is probable cause to
21 believe that the child is abused or neglected and that the child would
22 be injured or could not be taken into custody if it were necessary to
23 first obtain a court order pursuant to RCW 13.34.050. The law
24 enforcement agency (~~(or the department of social and health services)~~)
25 investigating such a report is hereby authorized to photograph such a
26 child or adult dependent or developmentally disabled person for the
27 purpose of providing documentary evidence of the physical condition of
28 the child, adult dependent or developmentally disabled person. If the
29 department investigates a report involving an adult dependent or
30 developmentally disabled person, the department may also photograph the
31 person for that purpose.

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

34 (1) If a law enforcement agency receives a complaint that alleges
35 that a child under age twelve has committed a sex offense as defined in
36 RCW 9.94A.030, the agency shall investigate the complaint. If the
37 investigation reveals that probable cause exists to believe that the

1 youth may have committed a sex offense and the child is at least eight
2 years of age, the agency shall refer the case to the proper county
3 prosecuting attorney for appropriate action to determine whether the
4 child may be prosecuted or is a sexually aggressive youth. If the
5 child is less than eight years old, the law enforcement agency shall
6 refer the case to the department.

7 (2) If the prosecutor or a judge determines the child cannot be
8 prosecuted for the alleged sex offense because the child is incapable
9 of committing a crime as provided in RCW 9A.04.050 and the prosecutor
10 believes that probable cause exists to believe that the child engaged
11 in acts that would constitute a sex offense, the prosecutor shall refer
12 the child as a sexually aggressive youth to the department. The
13 prosecutor shall provide the department with an affidavit stating that
14 the prosecutor has determined that probable cause exists to believe
15 that the juvenile has committed acts that could be prosecuted as a sex
16 offense but the case is not being prosecuted because the juvenile is
17 incapable of committing a crime as provided in RCW 9A.04.050.

18 (3) The ((department)) law enforcement agency shall investigate any
19 referrals that allege that a child is a sexually aggressive youth. The
20 purpose of the investigation shall be to determine whether the child is
21 abused or neglected, as defined in this chapter, and whether the child
22 or the child's parents are in need of services or treatment. The
23 department may offer appropriate available services and treatment to a
24 sexually aggressive youth and his or her parents or legal guardians as
25 provided in RCW 74.13.075 and may refer the child and his or her
26 parents to appropriate treatment and services available within the
27 community. If the parents refuse to accept or fail to obtain
28 appropriate treatment or services under circumstances that indicate
29 that the refusal or failure is child abuse or neglect, as defined in
30 this chapter, the department may pursue a dependency action as provided
31 in chapter 13.34 RCW.

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

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

37 The secretary shall have the power and it shall be the secretary's
38 duty:

1 (1) In consultation with the children's services advisory
2 committee, and with the advice and assistance of persons representative
3 of the various type agencies to be licensed, to designate categories of
4 facilities for which separate or different requirements shall be
5 developed as may be appropriate whether because of variations in the
6 ages, sex and other characteristics of persons served, variations in
7 the purposes and services offered or size or structure of the agencies
8 to be licensed hereunder, or because of any other factor relevant
9 thereto;

10 (2) In consultation with the children's services advisory
11 committee, and with the advice and assistance of persons representative
12 of the various type agencies to be licensed, to adopt and publish
13 minimum requirements for licensing applicable to each of the various
14 categories of agencies to be licensed.

15 The minimum requirements shall be limited to:

16 (a) The size and suitability of a facility and the plan of
17 operation for carrying out the purpose for which an applicant seeks a
18 license;

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

1 license and for determining the character, suitability, and competence
2 of those persons or agencies, excluding parents, not required to be
3 licensed who are authorized to care for children, expectant mothers,
4 and developmentally disabled persons. Criminal justice agencies shall
5 provide the secretary such information as they may have and that the
6 secretary may require for such purpose;

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

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

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

15 (f) The financial ability of an agency to comply with minimum
16 requirements established pursuant to chapter 74.15 RCW and RCW
17 74.13.031; and

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

20 (3) To investigate any person, including relatives by blood or
21 marriage except for parents, for character, suitability, and competence
22 in the care and treatment of children, expectant mothers, and
23 developmentally disabled persons prior to authorizing that person to
24 care for children, expectant mothers, and developmentally disabled
25 persons. However, if a child is placed with a relative under RCW
26 13.34.060 or 13.34.130, and if such relative appears otherwise suitable
27 and competent to provide care and treatment the criminal history
28 background check required by this section need not be completed before
29 placement, but shall be completed as soon as possible after placement;

30 (~~(On reports of child abuse and neglect, to investigate~~
31 ~~agencies in accordance with chapter 26.44 RCW,)) To consider the
32 results of agency investigations conducted under chapter 26.44 RCW,
33 including investigations of child day-care centers and family day-care
34 homes, to determine whether the abuse or neglect has occurred, and
35 whether child protective services or referral to a law enforcement
36 agency is appropriate;~~

37 (5) To issue, revoke, or deny licenses to agencies pursuant to
38 chapter 74.15 RCW and RCW 74.13.031. Licenses shall specify the

1 category of care which an agency is authorized to render and the ages,
2 sex and number of persons to be served;

3 (6) To prescribe the procedures and the form and contents of
4 reports necessary for the administration of chapter 74.15 RCW and RCW
5 74.13.031 and to require regular reports from each licensee;

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

9 (8) To review requirements adopted hereunder at least every two
10 years and to adopt appropriate changes after consultation with the
11 child care coordinating committee and other affected groups for child
12 day-care requirements and with the children's services advisory
13 committee for requirements for other agencies; and

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

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

19 The legislature shall provide funds for distribution to local law
20 enforcement agencies to pay the increased costs that are reasonably
21 attributable to their investigatory workload increase as a result of
22 chapter . . . , Laws of 1997 (this act).

23 **Sec. 11.** RCW 13.34.130 and 1995 c 313 s 2, 1995 c 311 s 19, and
24 1995 c 53 s 1 are each reenacted and amended to read as follows:

25 If, after a fact-finding hearing pursuant to RCW 13.34.110, it has
26 been proven (~~((by a preponderance of the evidence))~~) that the child is
27 dependent within the meaning of RCW 13.34.030; after consideration of
28 the predisposition report prepared pursuant to RCW 13.34.110 and after
29 a disposition hearing has been held pursuant to RCW 13.34.110, the
30 court shall enter an order of disposition pursuant to this section. If
31 the child is under twelve years of age, it must be proven by a
32 preponderance of the evidence that the child is dependent. If the
33 child is twelve or more years of age, it must be proven by clear,
34 cogent, and convincing evidence that the child is dependent.

35 (1) The court shall order one of the following dispositions of the
36 case:

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

8 (b) Order that the child be removed from his or her home and
9 ordered into the custody, control, and care of a relative or the
10 department of social and health services or a licensed child placing
11 agency for placement in a foster family home or group care facility
12 licensed pursuant to chapter 74.15 RCW or in a home not required to be
13 licensed pursuant to chapter 74.15 RCW. Unless there is reasonable
14 cause to believe that the safety or welfare of the child would be
15 jeopardized or that efforts to reunite the parent and child will be
16 hindered, such child shall be placed with a person who is related to
17 the child as defined in RCW 74.15.020(4)(a) and with whom the child has
18 a relationship and is comfortable, and who is willing and available to
19 care for the child. Placement of the child with a relative under this
20 subsection shall be given preference by the court. An order for out-
21 of-home placement may be made only if the court finds that reasonable
22 efforts have been made to prevent or eliminate the need for removal of
23 the child from the child's home and to make it possible for the child
24 to return home, specifying the services that have been provided to the
25 child and the child's parent, guardian, or legal custodian, and that
26 preventive services have been offered or provided and have failed to
27 prevent the need for out-of-home placement, unless the health, safety,
28 and welfare of the child cannot be protected adequately in the home,
29 and that:

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

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

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

37 (iv) The extent of the child's disability is such that the parent,
38 guardian, or legal custodian is unable to provide the necessary care
39 for the child and the parent, guardian, or legal custodian has

1 determined that the child would benefit from placement outside of the
2 home.

3 (2) If the court has ordered a child removed from his or her home
4 pursuant to subsection (1)(b) of this section, the court may order that
5 a petition seeking termination of the parent and child relationship be
6 filed if the court finds it is recommended by the supervising agency,
7 that it is in the best interests of the child and that it is not
8 reasonable to provide further services to reunify the family because
9 the existence of aggravated circumstances make it unlikely that
10 services will effectuate the return of the child to the child's parents
11 in the near future. In determining whether aggravated circumstances
12 exist, the court shall consider one or more of the following:

13 (a) Conviction of the parent of rape of the child in the first,
14 second, or third degree as defined in RCW 9A.44.073, 9A.44.076, and
15 9A.44.079;

16 (b) Conviction of the parent of criminal mistreatment of the child
17 in the first or second degree as defined in RCW 9A.42.020 and
18 9A.42.030;

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

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

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

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

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

34 (a) A permanency plan of care that shall identify one of the
35 following outcomes as a primary goal and may identify additional
36 outcomes as alternative goals: Return of the child to the home of the
37 child's parent, guardian, or legal custodian; adoption; guardianship;
38 or long-term relative or foster care, until the child is age eighteen,
39 with a written agreement between the parties and the care provider; and

1 independent living, if appropriate and if the child is age sixteen or
2 older. Whenever a permanency plan identifies independent living as a
3 goal, the plan shall also specifically identify the services that will
4 be provided to assist the child to make a successful transition from
5 foster care to independent living. Before the court approves
6 independent living as a permanency plan of care, the court shall make
7 a finding that the provision of services to assist the child in making
8 a transition from foster care to independent living will allow the
9 child to manage his or her financial affairs and to manage his or her
10 personal, social, educational, and nonfinancial affairs. The
11 department shall not discharge a child to an independent living
12 situation before the child is eighteen years of age unless the child
13 becomes emancipated pursuant to chapter 13.64 RCW.

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

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

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

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

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

1 (c) If the court has ordered, pursuant to subsection (2) of this
2 section, that a termination petition be filed, a specific plan as to
3 where the child will be placed, what steps will be taken to achieve
4 permanency for the child, services to be offered or provided to the
5 child, and, if visitation would be in the best interests of the child,
6 a recommendation to the court regarding visitation between parent and
7 child pending a fact-finding hearing on the termination petition. The
8 agency shall not be required to develop a plan of services for the
9 parents or provide services to the parents.

10 (4) If there is insufficient information at the time of the
11 disposition hearing upon which to base a determination regarding the
12 suitability of a proposed placement with a relative, the child shall
13 remain in foster care and the court shall direct the supervising agency
14 to conduct necessary background investigations as provided in chapter
15 74.15 RCW and report the results of such investigation to the court
16 within thirty days. However, if such relative appears otherwise
17 suitable and competent to provide care and treatment, the criminal
18 history background check need not be completed before placement, but as
19 soon as possible after placement. Any placements with relatives,
20 pursuant to this section, shall be contingent upon cooperation by the
21 relative with the agency case plan and compliance with court orders
22 related to the care and supervision of the child including, but not
23 limited to, court orders regarding parent-child contacts and any other
24 conditions imposed by the court. Noncompliance with the case plan or
25 court order shall be grounds for removal of the child from the
26 relative's home, subject to review by the court.

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

36 (a) A child shall not be returned home at the review hearing unless
37 the court finds that a reason for removal as set forth in this section
38 no longer exists. The parents, guardian, or legal custodian shall
39 report to the court the efforts they have made to correct the

1 conditions which led to removal. If a child is returned, casework
2 supervision shall continue for a period of six months, at which time
3 there shall be a hearing on the need for continued intervention.

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

6 (i) Whether reasonable services have been provided to or offered to
7 the parties to facilitate reunion, specifying the services provided or
8 offered;

9 (ii) Whether the child has been placed in the least-restrictive
10 setting appropriate to the child's needs, including whether
11 consideration and preference has been given to placement with the
12 child's relatives;

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

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

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

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

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

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

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

28 NEW SECTION. Sec. 12. Sections 1 through 9 of this act shall take
29 effect July 1, 1998. However, the law as it existed immediately prior
30 to July 1, 1998, shall continue to apply after that date to
31 investigations by the department of social and health services
32 commenced prior to that date.

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