

CERTIFICATION OF ENROLLMENT

**ENGROSSED SECOND SUBSTITUTE SENATE BILL 5710**

55th Legislature  
1997 Regular Session

Passed by the Senate April 26, 1997  
YEAS 44 NAYS 0

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**President of the Senate**

Passed by the House April 26, 1997  
YEAS 98 NAYS 0

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**Speaker of the  
House of Representatives**

Approved

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**Governor of the State of Washington**

CERTIFICATE

I, Mike O Connell, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE SENATE BILL 5710** as passed by the Senate and the House of Representatives on the dates hereon set forth.

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**Secretary**

FILED

**Secretary of State  
State of Washington**

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ENGROSSED SECOND SUBSTITUTE SENATE BILL 5710

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AS RECOMMENDED BY CONFERENCE COMMITTEE

Passed Legislature - 1997 Regular Session

State of Washington                      55th Legislature                      1997 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Hargrove, Long, Franklin, Stevens, Prentice, Zarelli and Schow)

Read first time 03/10/97.

1            AN ACT Relating to reform of social and health services; amending  
2 RCW 41.06.076, 13.34.030, 13.34.245, 13.50.010, 13.50.100, 26.44.015,  
3 26.44.020, 26.44.030, 26.44.035, 26.44.040, 26.44.053, 26.44.060,  
4 70.124.040, 70.129.030, 74.13.031, 74.15.030, 74.34.050, 74.34.070,  
5 13.34.090, 13.34.120, 43.43.700, 43.20A.050, 41.64.100, 26.44.020,  
6 13.40.460, 82.08.02915, 82.12.02915, and 13.32A.080; reenacting and  
7 amending RCW 13.34.130, 13.04.030, 13.34.180, and 43.43.840; adding a  
8 new section to chapter 41.06 RCW; adding new sections to chapter 43.20A  
9 RCW; adding new sections to chapter 74.13 RCW; adding a new section to  
10 chapter 13.34 RCW; adding a new section to chapter 71A.10 RCW; adding  
11 a new section to chapter 26.44 RCW; adding a new section to chapter  
12 13.40 RCW; adding a new chapter to Title 74 RCW; adding a new chapter  
13 to Title 26 RCW; creating new sections; repealing RCW 43.06A.040;  
14 providing effective dates; providing expiration dates; and declaring an  
15 emergency.

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

17            **Sec. 1.** RCW 41.06.076 and 1993 c 281 s 22 are each amended to read  
18 as follows:

1 In addition to the exemptions set forth in RCW 41.06.070, the  
2 provisions of this chapter shall not apply in the department of social  
3 and health services to the secretary; the secretary's executive  
4 assistant, if any; not to exceed six assistant secretaries, thirteen  
5 division directors, six regional directors; one confidential secretary  
6 for each of the above-named officers; not to exceed six bureau chiefs;  
7 all social worker V positions; and all superintendents of institutions  
8 of which the average daily population equals or exceeds one hundred  
9 residents: PROVIDED, That each such confidential secretary must meet  
10 the minimum qualifications for the class of secretary II as determined  
11 by the Washington personnel resources board.

12 This section expires June 30, 2005.

13 NEW SECTION. **Sec. 2.** A new section is added to chapter 41.06 RCW  
14 to read as follows:

15 The salary and fringe benefits of all social worker V positions  
16 created under RCW 41.06.076 shall be determined by the Washington  
17 personnel resources board. In establishing the salary and fringe  
18 benefits the board shall consider: (1) The consequences of extended  
19 travel and out of home living; (2) the importance to the department of  
20 caseload reduction and increased efficiencies; (3) the requirements of  
21 and qualifications involved in caseworker training; (4) the complexity  
22 of the work requirements; and (5) the desirability of avoiding employee  
23 turnover in these positions.

24 The salary and fringe benefits shall exceed that of the highest  
25 position in the social worker classification on the effective date of  
26 this section.

27 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.20A RCW  
28 to read as follows:

29 There is created in the department the classification of social  
30 worker V. Employees who are appointed to fill the position shall have:  
31 (1) An employment history that demonstrates significant and successful  
32 experience in the efficient investigation and resolution of high-risk  
33 or complex cases involving child abuse and neglect, including child sex  
34 abuse cases; (2) advanced education and training; (3) supervisory  
35 experience; (4) a demonstrated commitment to professional improvement  
36 and advancement; and (5) capacity to successfully provide support and  
37 mentoring to coworkers. Social worker V positions shall not be

1 included in the Washington management service. This classification  
2 shall not have more than twenty-one positions. The department shall  
3 perform the duties assigned under sections 3 through 5 of this act and  
4 RCW 41.06.076 within existing personnel resources.

5 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.20A RCW  
6 to read as follows:

7 The secretary shall establish the most cost-effective and efficient  
8 administrative structure for use of the social worker V positions,  
9 consistent with the requirements of this section. The social worker V  
10 employees shall be assigned by the secretary to regions where the  
11 average child protective services' caseloads exceed the state-wide  
12 average, with consideration also given to the number of high-risk or  
13 complex cases in a region, for the purpose of assisting in the  
14 reduction of the caseload, training and mentoring other caseworkers,  
15 and providing hands-on training and assistance in high-risk, complex,  
16 or large cases. The social worker V employees shall be assigned high-  
17 risk and complex cases consistent with their qualifications and the  
18 goal of caseload reduction. They shall carry no more than one-third  
19 the average number of cases for social workers in the region to which  
20 they are assigned.

21 The social worker V employees shall be assigned to region as a task  
22 force consisting of no less than seven employees. The assignment shall  
23 be time-limited and in no event shall exceed two years in duration in  
24 any one region. Upon completion of the work in the region the task  
25 force members shall continue to remain in contact with the coworkers  
26 from the previous assignment for a period of twelve months to perform  
27 additional follow-up and mentoring. The department shall perform the  
28 duties assigned under sections 3 through 5 of this act and RCW  
29 41.06.076 within existing personnel resources.

30 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.20A RCW  
31 to read as follows:

32 The secretary shall develop a plan for implementation for the  
33 social worker V employees. The implementation plan shall be submitted  
34 to the governor and the legislature by December 1, 1997. The  
35 department shall begin implementation of the plan beginning April 1,  
36 1998. The department shall perform the duties assigned under sections

1 3 through 5 of this act and RCW 41.06.076 within existing personnel  
2 resources.

3 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.20A RCW  
4 to read as follows:

5 Sections 2 through 5 of this act expire June 30, 2005.

6 **Sec. 7.** RCW 13.34.030 and 1995 c 311 s 23 are each amended to read  
7 as follows:

8 For purposes of this chapter:

9 (1) "Child" and "juvenile" means any individual under the age of  
10 eighteen years.

11 (2) "Current placement episode" means the period of time that  
12 begins with the most recent date that the child was removed from the  
13 home of the parent, guardian, or legal custodian for purposes of  
14 placement in out-of-home care and continues until the child returns  
15 home, an adoption decree or guardianship order is entered, or the  
16 dependency is dismissed, whichever occurs soonest. If the most recent  
17 date of removal occurred prior to the filing of a dependency petition  
18 under this chapter or after filing but prior to entry of a disposition  
19 order, such time periods shall be included when calculating the length  
20 of a child's current placement episode.

21 (3) "Dependency guardian" means the person, nonprofit corporation,  
22 or Indian tribe appointed by the court pursuant to RCW 13.34.232 for  
23 the limited purpose of assisting the court in the supervision of the  
24 dependency.

25 (4) "Dependent child" means any child:

26 (a) Who has been abandoned; that is, where the child's parent,  
27 guardian, or other custodian has expressed either by statement or  
28 conduct, an intent to forego, for an extended period, parental rights  
29 or parental responsibilities despite an ability to do so. If the court  
30 finds that the petitioner has exercised due diligence in attempting to  
31 locate the parent, no contact between the child and the child's parent,  
32 guardian, or other custodian for a period of three months creates a  
33 rebuttable presumption of abandonment, even if there is no expressed  
34 intent to abandon;

35 (b) Who is abused or neglected as defined in chapter 26.44 RCW by  
36 a person legally responsible for the care of the child; or

1 (c) Who has no parent, guardian, or custodian capable of adequately  
2 caring for the child, such that the child is in circumstances which  
3 constitute a danger of substantial damage to the child's psychological  
4 or physical development(~~(or~~

5 ~~(d) Who has a developmental disability, as defined in RCW  
6 71A.10.020 and whose parent, guardian, or legal custodian together with  
7 the department determines that services appropriate to the child's  
8 needs can not be provided in the home. However, (a), (b), and (c) of  
9 this subsection may still be applied if other reasons for removal of  
10 the child from the home exist)).~~

11 (5) "Guardian" means the person or agency that: (a) Has been  
12 appointed as the guardian of a child in a legal proceeding other than  
13 a proceeding under this chapter; and (b) has the legal right to custody  
14 of the child pursuant to such appointment. The term "guardian" shall  
15 not include a "dependency guardian" appointed pursuant to a proceeding  
16 under this chapter.

17 (6) "Guardian ad litem" means a person, appointed by the court to  
18 represent the best interest of a child in a proceeding under this  
19 chapter, or in any matter which may be consolidated with a proceeding  
20 under this chapter. A "court-appointed special advocate" appointed by  
21 the court to be the guardian ad litem for the child, or to perform  
22 substantially the same duties and functions as a guardian ad litem,  
23 shall be deemed to be guardian ad litem for all purposes and uses of  
24 this chapter.

25 (7) "Guardian ad litem program" means a court-authorized volunteer  
26 program, which is or may be established by the superior court of the  
27 county in which such proceeding is filed, to manage all aspects of  
28 volunteer guardian ad litem representation for children alleged or  
29 found to be dependent. Such management shall include but is not  
30 limited to: Recruitment, screening, training, supervision, assignment,  
31 and discharge of volunteers.

32 (8) "Out-of-home care" means placement in a foster family home or  
33 group care facility licensed pursuant to chapter 74.15 RCW or placement  
34 in a home, other than that of the child's parent, guardian, or legal  
35 custodian, not required to be licensed pursuant to chapter 74.15 RCW.

36 (9) "Preventive services" means preservation services, as defined  
37 in chapter 74.14C RCW, and other reasonably available services capable  
38 of preventing the need for out-of-home placement while protecting the  
39 child.

1       **Sec. 8.** RCW 13.34.130 and 1995 c 313 s 2, 1995 c 311 s 19, and  
2 1995 c 53 s 1 are each reenacted and amended to read as follows:

3       If, after a fact-finding hearing pursuant to RCW 13.34.110, it has  
4 been proven by a preponderance of the evidence that the child is  
5 dependent within the meaning of RCW 13.34.030; after consideration of  
6 the predisposition report prepared pursuant to RCW 13.34.110 and after  
7 a disposition hearing has been held pursuant to RCW 13.34.110, the  
8 court shall enter an order of disposition pursuant to this section.

9       (1) The court shall order one of the following dispositions of the  
10 case:

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

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

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

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

5 (iii) The court finds, by clear and convincing evidence, a manifest  
6 danger exists that the child will suffer serious abuse or neglect if  
7 the child is not removed from the home and an order under RCW 26.44.063  
8 would not protect the child from danger; or

9 (iv) The extent of the child's disability is such that the parent,  
10 guardian, or legal custodian is unable to provide the necessary care  
11 for the child and the parent, guardian, or legal custodian has  
12 determined that the child would benefit from placement outside of the  
13 home.

14 (2) If the court has ordered a child removed from his or her home  
15 pursuant to subsection (1)(b) of this section, the court may order that  
16 a petition seeking termination of the parent and child relationship be  
17 filed if the court finds it is recommended by the supervising agency,  
18 that it is in the best interests of the child and that it is not  
19 reasonable to provide further services to reunify the family because  
20 the existence of aggravated circumstances make it unlikely that  
21 services will effectuate the return of the child to the child's parents  
22 in the near future. In determining whether aggravated circumstances  
23 exist, the court shall consider one or more of the following:

24 (a) Conviction of the parent of rape of the child in the first,  
25 second, or third degree as defined in RCW 9A.44.073, 9A.44.076, and  
26 9A.44.079;

27 (b) Conviction of the parent of criminal mistreatment of the child  
28 in the first or second degree as defined in RCW 9A.42.020 and  
29 9A.42.030;

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

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

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

38 (f) Failure of the parent to complete available treatment ordered  
39 under this chapter or the equivalent laws of another state, where such



1 failure has resulted in a prior termination of parental rights to  
2 another child and the parent has failed to effect significant change in  
3 the interim.

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

6 (a) A permanency plan of care that shall identify one of the  
7 following outcomes as a primary goal and may identify additional  
8 outcomes as alternative goals: Return of the child to the home of the  
9 child's parent, guardian, or legal custodian; adoption; guardianship;  
10 or long-term relative or foster care, until the child is age eighteen,  
11 with a written agreement between the parties and the care provider; and  
12 independent living, if appropriate and if the child is age sixteen or  
13 older. Whenever a permanency plan identifies independent living as a  
14 goal, the plan shall also specifically identify the services that will  
15 be provided to assist the child to make a successful transition from  
16 foster care to independent living. Before the court approves  
17 independent living as a permanency plan of care, the court shall make  
18 a finding that the provision of services to assist the child in making  
19 a transition from foster care to independent living will allow the  
20 child to manage his or her financial affairs and to manage his or her  
21 personal, social, educational, and nonfinancial affairs. The  
22 department shall not discharge a child to an independent living  
23 situation before the child is eighteen years of age unless the child  
24 becomes emancipated pursuant to chapter 13.64 RCW.

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

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

35 (ii) The agency shall be required to encourage the maximum parent-  
36 child contact possible, including regular visitation and participation  
37 by the parents in the care of the child while the child is in  
38 placement. Visitation may be limited or denied only if the court

1 determines that such limitation or denial is necessary to protect the  
2 child's health, safety, or welfare.

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

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

12 (c) If the court has ordered, pursuant to subsection (2) of this  
13 section, that a termination petition be filed, a specific plan as to  
14 where the child will be placed, what steps will be taken to achieve  
15 permanency for the child, services to be offered or provided to the  
16 child, and, if visitation would be in the best interests of the child,  
17 a recommendation to the court regarding visitation between parent and  
18 child pending a fact-finding hearing on the termination petition. The  
19 agency shall not be required to develop a plan of services for the  
20 parents or provide services to the parents.

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

38 (5) Except for children whose cases are reviewed by a citizen  
39 review board under chapter 13.70 RCW, the status of all children found

1 to be dependent shall be reviewed by the court at least every six  
2 months from the beginning date of the placement episode or the date  
3 dependency is established, whichever is first, at a hearing in which it  
4 shall be determined whether court supervision should continue. The  
5 review shall include findings regarding the agency and parental  
6 completion of disposition plan requirements, and if necessary, revised  
7 permanency time limits.

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

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

17 (i) Whether reasonable services have been provided to or offered to  
18 the parties to facilitate reunion, specifying the services provided or  
19 offered;

20 (ii) Whether the child has been placed in the least-restrictive  
21 setting appropriate to the child's needs, including whether  
22 consideration and preference has been given to placement with the  
23 child's relatives;

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

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

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

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

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

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

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

1        NEW SECTION.    **Sec. 9.**    As used in this chapter, "alternative  
2 response system" means voluntary family-centered services that are:  
3 (1) Provided by an entity with which the department contracts; and (2)  
4 intended to increase the strengths and cohesiveness of families that  
5 the department determines present a low risk of child abuse or neglect.

6        NEW SECTION.    **Sec. 10.**    (1) The department shall contract for  
7 delivery of services for at least two but not more than three models of  
8 alternative response systems.    The services shall be reasonably  
9 available throughout the state but need not be sited in every county in  
10 the state, subject to such conditions and limitations as may be  
11 specified in the omnibus appropriations act.

12        (2) The systems shall provide delivery of services in the least  
13 intrusive manner reasonably likely to achieve improved family  
14 cohesiveness, prevention of rereferrals of the family for alleged abuse  
15 or neglect, and improvement in the health and safety of children.

16        (3) The department shall identify and prioritize risk and  
17 protective factors associated with the type of abuse or neglect  
18 referrals that are appropriate for services delivered by alternative  
19 response systems.    Contractors who provide services through an  
20 alternative response system shall use the factors in determining which  
21 services to deliver, consistent with the provisions of subsection (2)  
22 of this section.

23        (4) Consistent with the provisions of chapter 26.44 RCW, the  
24 providers of services under the alternative response system shall  
25 recognize the due process rights of families that receive such services  
26 and recognize that these services are not intended to be investigative  
27 for purposes of chapter 13.34 RCW.

28        NEW SECTION.    **Sec. 11.**    The department shall identify appropriate  
29 data to determine and evaluate outcomes of the services delivered by  
30 the alternative response systems.    All contracts for delivery of  
31 alternative response system services shall include provisions and  
32 funding for data collection.

33        NEW SECTION.    **Sec. 12.**    (1) The court may, upon the entry of an  
34 order under this chapter, order the delivery of services through any  
35 appropriate public or private provider.

1 (2) This section may not be construed as allowing the court to  
2 require the department to pay for the cost of any services provided  
3 under this section.

4 NEW SECTION. **Sec. 13.** This chapter expires July 1, 2005.

5 NEW SECTION. **Sec. 14.** The legislature intends to consolidate all  
6 services provided to children with developmental disabilities through  
7 the department of social and health services in the division of  
8 developmental disabilities. The legislature also intends to provide a  
9 discrete, separate process for children with developmental disabilities  
10 who require home-based or out-of-home care that complies with the  
11 federal requirements for receipt of federal funds for services under  
12 Title IV-B and Title IV-E of the social security act. The legislature  
13 intends by this act to minimize the embarrassment and inconvenience of  
14 children with developmental disabilities and their families caused by  
15 complying with these federal requirements.

16 NEW SECTION. **Sec. 15.** A new section is added to chapter 74.13 RCW  
17 to read as follows:

18 As used in this chapter, "developmentally disabled dependent child"  
19 is a child who has a developmental disability as defined in RCW  
20 71A.10.020 and whose parent, guardian, or legal custodian and with the  
21 department mutually agree that services appropriate to the child's  
22 needs can not be provided in the home.

23 NEW SECTION. **Sec. 16.** A new section is added to chapter 74.13 RCW  
24 to read as follows:

25 It is the intent of the legislature that parents are responsible  
26 for the care and support of children with developmental disabilities.  
27 The legislature recognizes that, because of the intense support  
28 required to care for a child with developmental disabilities, the help  
29 of an out-of-home placement may be needed. It is the intent of the  
30 legislature that, when the sole reason for the out-of-home placement is  
31 the child's developmental disability, such services be offered by the  
32 department to these children and their families through a voluntary  
33 placement agreement. In these cases, the parents shall retain legal  
34 custody of the child.

1 As used in this section, "voluntary placement agreement" means a  
2 written agreement between the department and a child's parent or legal  
3 guardian authorizing the department to place the child in a licensed  
4 facility. Under the terms of this agreement, the parent or legal  
5 guardian shall retain legal custody and the department shall be  
6 responsible for the child's placement and care. The agreement shall at  
7 a minimum specify the legal status of the child and the rights and  
8 obligations of the parent or legal guardian, the child, and the  
9 department while the child is in placement. The agreement must be  
10 signed by the child's parent or legal guardian and the department to be  
11 in effect, except that an agreement regarding an Indian child shall not  
12 be valid unless executed in writing before the court and filed with the  
13 court as provided in RCW 13.34.245. Any party to a voluntary placement  
14 agreement may terminate the agreement at any time. Upon termination of  
15 the agreement, the child shall be returned to the care of the child's  
16 parent or legal guardian unless the child has been taken into custody  
17 pursuant to RCW 13.34.050 or 26.44.050, placed in shelter care pursuant  
18 to RCW 13.34.060, or placed in foster care pursuant to RCW 13.34.130.

19 As used in this section, "out-of-home placement" and "out-of-home  
20 care" mean the placement of a child in a foster family home or group  
21 care facility licensed under chapter 74.15 RCW.

22 Whenever the department places a child in out-of-home care under a  
23 voluntary placement pursuant to this section, the department shall have  
24 the responsibility for the child's placement and care. The department  
25 shall develop a permanency plan of care for the child no later than  
26 sixty days from the date that the department assumes responsibility for  
27 the child's placement and care. Within the first one hundred eighty  
28 days of the placement, the department shall obtain a judicial  
29 determination pursuant to RCW 13.04.030(1)(j) and section 19 of this  
30 act that the placement is in the best interests of the child. The  
31 permanency planning hearings shall review whether the child's best  
32 interests are served by continued out-of-home placement and determine  
33 the future legal status of the child.

34 The department shall provide for periodic administrative reviews as  
35 required by federal law. A review may be called at any time by either  
36 the department, the parent, or the legal guardian.

37 Nothing in this section shall prevent the department from filing a  
38 dependency petition if there is reason to believe that the child is a  
39 dependent child as defined in RCW 13.34.030.

1 The department shall adopt rules providing for the implementation  
2 of this act and the transfer of responsibility for out-of-home  
3 placements from the dependency process under chapter 13.34 RCW to the  
4 process under this chapter.

5 **Sec. 17.** RCW 13.04.030 and 1995 c 312 s 39 and 1995 c 311 s 15 are  
6 each reenacted and amended to read as follows:

7 (1) Except as provided in subsection (2) of this section, the  
8 juvenile courts in the several counties of this state((7)) shall have  
9 exclusive original jurisdiction over all proceedings:

10 (a) Under the interstate compact on placement of children as  
11 provided in chapter 26.34 RCW;

12 (b) Relating to children alleged or found to be dependent as  
13 provided in chapter 26.44 RCW and in RCW 13.34.030 through 13.34.170;

14 (c) Relating to the termination of a parent and child relationship  
15 as provided in RCW 13.34.180 through 13.34.210;

16 (d) To approve or disapprove out-of-home placement as provided in  
17 RCW 13.32A.170;

18 (e) Relating to juveniles alleged or found to have committed  
19 offenses, traffic infractions, or violations as provided in RCW  
20 13.40.020 through 13.40.230, unless:

21 (i) The juvenile court transfers jurisdiction of a particular  
22 juvenile to adult criminal court pursuant to RCW 13.40.110; or

23 (ii) The statute of limitations applicable to adult prosecution for  
24 the offense, traffic infraction, or violation has expired; or

25 (iii) The alleged offense or infraction is a traffic, fish,  
26 boating, or game offense or traffic infraction committed by a juvenile  
27 sixteen years of age or older and would, if committed by an adult, be  
28 tried or heard in a court of limited jurisdiction, in which instance  
29 the appropriate court of limited jurisdiction shall have jurisdiction  
30 over the alleged offense or infraction: PROVIDED, That if such an  
31 alleged offense or infraction and an alleged offense or infraction  
32 subject to juvenile court jurisdiction arise out of the same event or  
33 incident, the juvenile court may have jurisdiction of both matters:  
34 PROVIDED FURTHER, That the jurisdiction under this subsection does not  
35 constitute "transfer" or a "decline" for purposes of RCW 13.40.110(1)  
36 or (e)(i) of this subsection: PROVIDED FURTHER, That courts of limited  
37 jurisdiction which confine juveniles for an alleged offense or  
38 infraction may place juveniles in juvenile detention facilities under

1 an agreement with the officials responsible for the administration of  
2 the juvenile detention facility in RCW 13.04.035 and 13.20.060; or  
3 (iv) The juvenile is sixteen or seventeen years old and the alleged  
4 offense is: (A) A serious violent offense as defined in RCW 9.94A.030  
5 committed on or after June 13, 1994; or (B) a violent offense as  
6 defined in RCW 9.94A.030 committed on or after June 13, 1994, and the  
7 juvenile has a criminal history consisting of: (I) One or more prior  
8 serious violent offenses; (II) two or more prior violent offenses; or  
9 (III) three or more of any combination of the following offenses: Any  
10 class A felony, any class B felony, vehicular assault, or manslaughter  
11 in the second degree, all of which must have been committed after the  
12 juvenile's thirteenth birthday and prosecuted separately. In such a  
13 case the adult criminal court shall have exclusive original  
14 jurisdiction.

15 If the juvenile challenges the state's determination of the  
16 juvenile's criminal history, the state may establish the offender's  
17 criminal history by a preponderance of the evidence. If the criminal  
18 history consists of adjudications entered upon a plea of guilty, the  
19 state shall not bear a burden of establishing the knowing and  
20 voluntariness of the plea;

21 (f) Under the interstate compact on juveniles as provided in  
22 chapter 13.24 RCW;

23 (g) Relating to termination of a diversion agreement under RCW  
24 13.40.080, including a proceeding in which the divertee has attained  
25 eighteen years of age;

26 (h) Relating to court validation of a voluntary consent to an out-  
27 of-home placement under chapter 13.34 RCW, by the parent or Indian  
28 custodian of an Indian child, except if the parent or Indian custodian  
29 and child are residents of or domiciled within the boundaries of a  
30 federally recognized Indian reservation over which the tribe exercises  
31 exclusive jurisdiction; ((and))

32 (i) Relating to petitions to compel disclosure of information filed  
33 by the department of social and health services pursuant to RCW  
34 74.13.042; and

35 (j) Relating to judicial determinations and permanency planning  
36 hearings involving developmentally disabled children who have been  
37 placed in out-of-home care pursuant to a voluntary placement agreement  
38 between the child's parent, guardian, or legal custodian and the  
39 department of social and health services.



1 (2) The family court shall have concurrent original jurisdiction  
2 with the juvenile court over all proceedings under this section if the  
3 superior court judges of a county authorize concurrent jurisdiction as  
4 provided in RCW 26.12.010.

5 (3) A juvenile subject to adult superior court jurisdiction under  
6 subsection (1)(e) (i) through (iv) of this section, who is detained  
7 pending trial, may be detained in a county detention facility as  
8 defined in RCW 13.40.020 pending sentencing or a dismissal.

9 **Sec. 18.** RCW 13.34.245 and 1987 c 170 s 2 are each amended to read  
10 as follows:

11 (1) Where any parent or Indian custodian voluntarily consents to  
12 foster care placement of an Indian child and a petition for dependency  
13 has not been filed regarding the child, such consent shall not be valid  
14 unless executed in writing before the court and filed with the court.  
15 The consent shall be accompanied by the written certification of the  
16 court that the terms and consequences of the consent were fully  
17 explained in detail to the parent or Indian custodian during the court  
18 proceeding and were fully understood by the parent or Indian custodian.  
19 The court shall also certify in writing either that the parent or  
20 Indian custodian fully understood the explanation in English or that it  
21 was interpreted into a language that the parent or Indian custodian  
22 understood. Any consent given prior to, or within ten days after, the  
23 birth of the Indian child shall not be valid.

24 (2) To obtain court validation of a voluntary consent to foster  
25 care placement, any person may file a petition for validation alleging  
26 that there is located or residing within the county an Indian child  
27 whose parent or Indian custodian wishes to voluntarily consent to  
28 foster care placement of the child and requesting that the court  
29 validate the consent as provided in this section. The petition shall  
30 contain the name, date of birth, and residence of the child, the names  
31 and residences of the consenting parent or Indian custodian, and the  
32 name and location of the Indian tribe in which the child is a member or  
33 eligible for membership. The petition shall state whether the  
34 placement preferences of 25 U.S.C. Sec. 1915 (b) or (c) will be  
35 followed. Reasonable attempts shall be made by the petitioner to  
36 ascertain and set forth in the petition the identity, location, and  
37 custodial status of any parent or Indian custodian who has not

1 consented to foster care placement and why that parent or Indian  
2 custodian cannot assume custody of the child.

3 (3) Upon filing of the petition for validation, the clerk of the  
4 court shall schedule the petition for a hearing on the court validation  
5 of the voluntary consent no later than forty-eight hours after the  
6 petition has been filed, excluding Saturdays, Sundays, and holidays.  
7 Notification of time, date, location, and purpose of the validation  
8 hearing shall be provided as soon as possible to the consenting parent  
9 or Indian custodian, the department or other child-placing agency which  
10 is to assume (~~eustody of the child~~) responsibility for the child's  
11 placement and care pursuant to the consent to foster care placement,  
12 and the Indian tribe in which the child is enrolled or eligible for  
13 enrollment as a member. If the identity and location of any  
14 nonconsenting parent or Indian custodian is known, reasonable attempts  
15 shall be made to notify the parent or Indian custodian of the consent  
16 to placement and the validation hearing. Notification under this  
17 subsection may be given by the most expedient means, including, but not  
18 limited to, mail, personal service, telephone, and telegraph.

19 (4) Any parent or Indian custodian may withdraw consent to a  
20 voluntary foster care placement, made under this section, at any time.  
21 Unless the Indian child has been taken in custody pursuant to RCW  
22 13.34.050 or 26.44.050, placed in shelter care pursuant to RCW  
23 13.34.060, or placed in foster care pursuant to RCW 13.34.130, the  
24 Indian child shall be returned to the parent or Indian custodian upon  
25 withdrawal of consent to foster care placement of the child.

26 (5) Upon termination of the voluntary foster care placement and  
27 return of the child to the parent or Indian custodian, the department  
28 or other child-placing agency which had assumed (~~eustody of the~~  
29 ~~child~~) responsibility for the child's placement and care pursuant to  
30 the consent to foster care placement shall file with the court written  
31 notification of the child's return and shall also send such  
32 notification to the Indian tribe in which the child is enrolled or  
33 eligible for enrollment as a member and to any other party to the  
34 validation proceeding including any noncustodial parent.

35 NEW SECTION. Sec. 19. A new section is added to chapter 13.34 RCW  
36 to read as follows:

37 (1) Whenever the department of social and health services places a  
38 developmentally disabled child in out-of-home care pursuant to section

1 16 of this act, the department shall obtain a judicial determination  
2 within one hundred eighty days of the placement that continued  
3 placement is in the best interests of the child.

4 (2) To obtain the judicial determination, the department shall file  
5 a petition alleging that there is located or residing within the county  
6 a child who has a developmental disability, as defined in RCW  
7 71A.10.020, and that the child has been placed in out-of-home care  
8 pursuant to section 16 of this act. The petition shall request that  
9 the court review the child's placement, make a determination that  
10 continued placement is in the best interests of the child, and take  
11 other necessary action as provided in this section. The petition shall  
12 contain the name, date of birth, and residence of the child and the  
13 names and residences of the child's parent or legal guardian who has  
14 agreed to the child's placement in out-of-home care. Reasonable  
15 attempts shall be made by the department to ascertain and set forth in  
16 the petition the identity, location, and custodial status of any parent  
17 who is not a party to the placement agreement and why that parent  
18 cannot assume custody of the child.

19 (3) Upon filing of the petition, the clerk of the court shall  
20 schedule the petition for a hearing to be held no later than fourteen  
21 calendar days after the petition has been filed. The department shall  
22 provide notification of the time, date, and purpose of the hearing to  
23 the parent or legal guardian who has agreed to the child's placement in  
24 out-of-home care. The department shall also make reasonable attempts  
25 to notify any parent who is not a party to the placement agreement, if  
26 the parent's identity and location is known. Notification under this  
27 section may be given by the most expedient means, including but not  
28 limited to, mail, personal service, telephone, and telegraph.

29 (4) The court shall appoint a guardian ad litem for the child as  
30 provided in RCW 13.34.100, unless the court for good cause finds the  
31 appointment unnecessary.

32 (5) Permanency planning hearings shall be held as provided in this  
33 subsection. At the hearing, the court shall review whether the child's  
34 best interests are served by continued out-of-home placement and  
35 determine the future legal status of the child.

36 (a) For children age ten and under, a permanency planning hearing  
37 shall be held in all cases where the child has remained in out-of-home  
38 care for at least nine months and an adoption decree or guardianship  
39 order has not previously been entered. The hearing shall take place no

1 later than twelve months following commencement of the child's current  
2 placement episode.

3 (b) For children over age ten, a permanency planning hearing shall  
4 be held in all cases where the child has remained in out-of-home care  
5 for at least fifteen months and an adoption decree or guardianship  
6 order has not previously been entered. The hearing shall take place no  
7 later than eighteen months following commencement of the current  
8 placement episode.

9 (c) No later than ten working days before the permanency planning  
10 hearing, the department shall submit a written permanency plan to the  
11 court and shall mail a copy of the plan to all parties. The plan shall  
12 be directed toward securing a safe, stable, and permanent home for the  
13 child as soon as possible. The plan shall identify one of the  
14 following outcomes as the primary goal and may also identify additional  
15 outcomes as alternative goals: Return of the child to the home of the  
16 child's parent or legal guardian; adoption; guardianship; or long-term  
17 out-of-home care, until the child is age eighteen, with a written  
18 agreement between the parties and the child's care provider.

19 (d) If a goal of long-term out-of-home care has been achieved  
20 before the permanency planning hearing, the court shall review the  
21 child's status to determine whether the placement and the plan for the  
22 child's care remains appropriate. In cases where the primary  
23 permanency planning goal has not be achieved, the court shall inquire  
24 regarding the reasons why the primary goal has not been achieved and  
25 determine what needs to be done to make it possible to achieve the  
26 primary goal.

27 (e) Following the first permanency planning hearing, the court  
28 shall hold a further permanency planning hearing in accordance with  
29 this section at least once every twelve months until a permanency  
30 planning goal is achieved or the voluntary placement agreement is  
31 terminated.

32 (6) Any party to the voluntary placement agreement may terminate  
33 the agreement at any time. Upon termination of the agreement, the  
34 child shall be returned to the care of the child's parent or legal  
35 guardian, unless the child has been taken into custody pursuant to RCW  
36 13.34.050 or 26.44.050, placed in shelter care pursuant to RCW  
37 13.34.060, or placed in foster care pursuant to RCW 13.34.130. The  
38 department shall notify the court upon termination of the voluntary  
39 placement agreement and return of the child to the care of the child's

1 parent or legal guardian. Whenever a voluntary placement agreement is  
2 terminated, an action under this section shall be dismissed.

3 (7) This section does not prevent the department from filing a  
4 dependency petition if there is reason to believe that the child is a  
5 dependent child as defined in RCW 13.34.030. An action filed under  
6 this section shall be dismissed upon the filing of a dependency  
7 petition regarding a child who is the subject of the action under this  
8 section.

9 NEW SECTION. **Sec. 20.** A new section is added to chapter 71A.10  
10 RCW to read as follows:

11 The department shall consolidate all services provided through the  
12 department to children with developmental disabilities in the division  
13 of developmental disabilities. The department shall provide for an  
14 orderly transfer of staff, equipment, and related responsibilities from  
15 the division of children and family services to the division of  
16 developmental disabilities. The division of developmental disabilities  
17 shall assume responsibilities for children with developmental  
18 disabilities under this section no later than April 1, 1998. Any  
19 disputes between the division of children and family services and the  
20 division of developmental disabilities regarding the transfer of  
21 responsibilities under this section shall be resolved by the secretary  
22 of the department of social and health services.

23 **Sec. 21.** RCW 13.50.010 and 1996 c 232 s 6 are each amended to read  
24 as follows:

25 (1) For purposes of this chapter:

26 (a) "Juvenile justice or care agency" means any of the following:  
27 Police, diversion units, court, prosecuting attorney, defense attorney,  
28 detention center, attorney general, the legislative children's  
29 oversight committee, the office of family and children's ombudsman, the  
30 department of social and health services and its contracting agencies,  
31 schools; and, in addition, persons or public or private agencies having  
32 children committed to their custody;

33 (b) "Official juvenile court file" means the legal file of the  
34 juvenile court containing the petition or information, motions,  
35 memorandums, briefs, findings of the court, and court orders;

36 (c) "Social file" means the juvenile court file containing the  
37 records and reports of the probation counselor;

1 (d) "Records" means the official juvenile court file, the social  
2 file, and records of any other juvenile justice or care agency in the  
3 case.

4 (2) Each petition or information filed with the court may include  
5 only one juvenile and each petition or information shall be filed under  
6 a separate docket number. The social file shall be filed separately  
7 from the official juvenile court file.

8 (3) It is the duty of any juvenile justice or care agency to  
9 maintain accurate records. To this end:

10 (a) The agency may never knowingly record inaccurate information.  
11 Any information in records maintained by the department of social and  
12 health services relating to a petition filed pursuant to chapter 13.34  
13 RCW that is found by the court, upon proof presented, to be false or  
14 inaccurate shall be corrected or expunged from such records by the  
15 agency;

16 (b) An agency shall take reasonable steps to assure the security of  
17 its records and prevent tampering with them; and

18 (c) An agency shall make reasonable efforts to insure the  
19 completeness of its records, including action taken by other agencies  
20 with respect to matters in its files.

21 (4) Each juvenile justice or care agency shall implement procedures  
22 consistent with the provisions of this chapter to facilitate inquiries  
23 concerning records.

24 (5) Any person who has reasonable cause to believe information  
25 concerning that person is included in the records of a juvenile justice  
26 or care agency and who has been denied access to those records by the  
27 agency may make a motion to the court for an order authorizing that  
28 person to inspect the juvenile justice or care agency record concerning  
29 that person. The court shall grant the motion to examine records  
30 unless it finds that in the interests of justice or in the best  
31 interests of the juvenile the records or parts of them should remain  
32 confidential.

33 (6) A juvenile, or his or her parents, or any person who has  
34 reasonable cause to believe information concerning that person is  
35 included in the records of a juvenile justice or care agency may make  
36 a motion to the court challenging the accuracy of any information  
37 concerning the moving party in the record or challenging the continued  
38 possession of the record by the agency. If the court grants the

1 motion, it shall order the record or information to be corrected or  
2 destroyed.

3 (7) The person making a motion under subsection (5) or (6) of this  
4 section shall give reasonable notice of the motion to all parties to  
5 the original action and to any agency whose records will be affected by  
6 the motion.

7 (8) The court may permit inspection of records by, or release of  
8 information to, any clinic, hospital, or agency which has the subject  
9 person under care or treatment. The court may also permit inspection  
10 by or release to individuals or agencies, including juvenile justice  
11 advisory committees of county law and justice councils, engaged in  
12 legitimate research for educational, scientific, or public purposes.  
13 The court may also permit inspection of, or release of information  
14 from, records which have been sealed pursuant to RCW 13.50.050(11).  
15 The court shall release to the sentencing guidelines commission records  
16 needed for its research and data-gathering functions under RCW  
17 9.94A.040 and other statutes. Access to records or information for  
18 research purposes shall be permitted only if the anonymity of all  
19 persons mentioned in the records or information will be preserved.  
20 Each person granted permission to inspect juvenile justice or care  
21 agency records for research purposes shall present a notarized  
22 statement to the court stating that the names of juveniles and parents  
23 will remain confidential.

24 (9) Juvenile detention facilities shall release records to the  
25 sentencing guidelines commission under RCW 13.40.025 and 9.94A.040 upon  
26 request. The commission shall not disclose the names of any juveniles  
27 or parents mentioned in the records without the named individual's  
28 written permission.

29 (10) Requirements in this chapter relating to the court's authority  
30 to compel disclosure shall not apply to the legislative children's  
31 oversight committee or the office of the family and children's  
32 ombudsman.

33 **Sec. 22.** RCW 13.50.100 and 1995 c 311 s 16 are each amended to  
34 read as follows:

35 (1) This section governs records not covered by RCW 13.50.050.

36 (2) Records covered by this section shall be confidential and shall  
37 be released only pursuant to this section and RCW 13.50.010.

1 (3) Records retained or produced by any juvenile justice or care  
2 agency may be released to other participants in the juvenile justice or  
3 care system only when an investigation or case involving the juvenile  
4 in question is being pursued by the other participant or when that  
5 other participant is assigned the responsibility of supervising the  
6 juvenile. Records covered under this section and maintained by the  
7 juvenile courts which relate to the official actions of the agency may  
8 be entered in the state-wide juvenile court information system.

9 (4) A juvenile, his or her parents, the juvenile's attorney and the  
10 juvenile's parent's attorney, shall, upon request, be given access to  
11 all records and information collected or retained by a juvenile justice  
12 or care agency which pertain to the juvenile except:

13 (a) If it is determined by the agency that release of this  
14 information is likely to cause severe psychological or physical harm to  
15 the juvenile or his or her parents the agency may withhold the  
16 information subject to other order of the court: PROVIDED, That if the  
17 court determines that limited release of the information is  
18 appropriate, the court may specify terms and conditions for the release  
19 of the information; or

20 (b) If the information or record has been obtained by a juvenile  
21 justice or care agency in connection with the provision of counseling,  
22 psychological, psychiatric, or medical services to the juvenile, when  
23 the services have been sought voluntarily by the juvenile, and the  
24 juvenile has a legal right to receive those services without the  
25 consent of any person or agency, then the information or record may not  
26 be disclosed to the juvenile's parents without the informed consent of  
27 the juvenile unless otherwise authorized by law; or

28 (c) That the department of social and health services may delete  
29 the name and identifying information regarding persons or organizations  
30 who have reported (~~suspected~~) alleged child abuse or neglect.

31 (5) A juvenile or his or her parent denied access to any records  
32 following an agency determination under subsection (4) of this section  
33 may file a motion in juvenile court requesting access to the records.  
34 The court shall grant the motion unless it finds access may not be  
35 permitted according to the standards found in subsections (4) (a) and  
36 (b) of this section.

37 (6) The person making a motion under subsection (5) of this section  
38 shall give reasonable notice of the motion to all parties to the



1 original action and to any agency whose records will be affected by the  
2 motion.

3 (7) Subject to the rules of discovery in civil cases, any party to  
4 a proceeding seeking a declaration of dependency or a termination of  
5 the parent-child relationship and any party's counsel and the guardian  
6 ad litem of any party, shall have access to the records of any natural  
7 or adoptive child of the parent, subject to the limitations in  
8 subsection (4) of this section. A party denied access to records may  
9 request judicial review of the denial. If the party prevails, he or  
10 she shall be awarded attorneys' fees, costs, and an amount not less  
11 than five dollars and not more than one hundred dollars for each day  
12 the records were wrongfully denied.

13 **Sec. 23.** RCW 26.44.015 and 1993 c 412 s 11 are each amended to  
14 read as follows:

15 (1) This chapter shall not be construed to authorize interference  
16 with child-raising practices, including reasonable parental discipline,  
17 which are not injurious to the child's health, welfare, and safety.

18 (2) Nothing in this chapter may be used to prohibit the reasonable  
19 use of corporal punishment as a means of discipline.

20 (3) No parent or guardian may be deemed abusive or neglectful  
21 solely by reason of the parent's or child's blindness, deafness,  
22 developmental disability, or other handicap.

23 (4) A person reporting alleged injury, abuse, or neglect to an  
24 adult dependent person shall not suffer negative consequences if the  
25 person reporting believes in good faith that the adult dependent person  
26 has been found legally incompetent or disabled.

27 **Sec. 24.** RCW 26.44.020 and 1996 c 178 s 10 are each amended to  
28 read as follows:

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

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

32 (2) "Law enforcement agency" means the police department, the  
33 prosecuting attorney, the state patrol, the director of public safety,  
34 or the office of the sheriff.

35 (3) "Practitioner of the healing arts" or "practitioner" means a  
36 person licensed by this state to practice podiatric medicine and  
37 surgery, optometry, chiropractic, nursing, dentistry, osteopathic

1 medicine and surgery, or medicine and surgery or to provide other  
2 health services. The term "practitioner" shall include a duly  
3 accredited Christian Science practitioner: PROVIDED, HOWEVER, That a  
4 person who is being furnished Christian Science treatment by a duly  
5 accredited Christian Science practitioner shall not be considered, for  
6 that reason alone, a neglected person for the purposes of this chapter.

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

9 (5) "Department" means the state department of social and health  
10 services.

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

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

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

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

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

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

35 (12) "Abuse or neglect" shall mean the injury, sexual abuse, sexual  
36 exploitation, negligent treatment, or maltreatment of a child, adult  
37 dependent, or developmentally disabled person by any person under  
38 circumstances which indicate that the child's or adult's health,  
39 welfare, and safety is harmed, excluding conduct permitted under RCW

1 9A.16.100. An abused child is a child who has been subjected to child  
2 abuse or neglect as defined herein.

3 (13) "Child protective services section" shall mean the child  
4 protective services section of the department.

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

8 (15) "Sexual exploitation" includes: (a) Allowing, permitting, or  
9 encouraging a child to engage in prostitution by any person; or (b)  
10 allowing, permitting, encouraging, or engaging in the obscene or  
11 pornographic photographing, filming, or depicting of a child by any  
12 person.

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

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

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

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

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

1       **Sec. 25.** RCW 26.44.030 and 1996 c 278 s 2 are each amended to read  
2 as follows:

3       (1)(a) When any practitioner, county coroner or medical examiner,  
4 law enforcement officer, professional school personnel, registered or  
5 licensed nurse, social service counselor, psychologist, pharmacist,  
6 licensed or certified child care providers or their employees, employee  
7 of the department, (~~(or)~~) juvenile probation officer, or state family  
8 and children's ombudsman or any volunteer in the ombudsman's office has  
9 reasonable cause to believe that a child or adult dependent or  
10 developmentally disabled person, has suffered abuse or neglect, he or  
11 she shall report such incident, or cause a report to be made, to the  
12 proper law enforcement agency or to the department as provided in RCW  
13 26.44.040.

14       (b) The reporting requirement shall also apply to department of  
15 corrections personnel who, in the course of their employment, observe  
16 offenders or the children with whom the offenders are in contact. If,  
17 as a result of observations or information received in the course of  
18 his or her employment, any department of corrections personnel has  
19 reasonable cause to believe that a child or adult dependent or  
20 developmentally disabled person has suffered abuse or neglect, he or  
21 she shall report the incident, or cause a report to be made, to the  
22 proper law enforcement agency or to the department as provided in RCW  
23 26.44.040.

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

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

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

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

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

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

1 within twenty-four hours. In all other cases, the law enforcement  
2 agency shall notify the department within seventy-two hours after a  
3 report is received by the law enforcement agency.

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

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

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

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

1 (10) Upon receiving reports of alleged abuse or neglect, the  
2 department or law enforcement agency may interview children. The  
3 interviews may be conducted on school premises, at day-care facilities,  
4 at the child's home, or at other suitable locations outside of the  
5 presence of parents. Parental notification of the interview shall  
6 occur at the earliest possible point in the investigation that will not  
7 jeopardize the safety or protection of the child or the course of the  
8 investigation. Prior to commencing the interview the department or law  
9 enforcement agency shall determine whether the child wishes a third  
10 party to be present for the interview and, if so, shall make reasonable  
11 efforts to accommodate the child's wishes. Unless the child objects,  
12 the department or law enforcement agency shall make reasonable efforts  
13 to include a third party in any interview so long as the presence of  
14 the third party will not jeopardize the course of the investigation.

15 (11) Upon receiving a report of alleged child abuse and neglect,  
16 the department or investigating law enforcement agency shall have  
17 access to all relevant records of the child in the possession of  
18 mandated reporters and their employees.

19 (12) The department shall maintain investigation records and  
20 conduct timely and periodic reviews of all cases constituting abuse and  
21 neglect. The department shall maintain a log of screened-out  
22 nonabusive cases.

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

30 The department shall provide annual reports to the legislature on  
31 the effectiveness of the risk assessment process.

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

36 (15) The department shall make reasonable efforts to learn the  
37 name, address, and telephone number of each person making a report of  
38 abuse or neglect under this section. The department shall provide  
39 assurances of appropriate confidentiality of the identification of

1 persons reporting under this section. If the department is unable to  
2 learn the information required under this subsection, the department  
3 shall only investigate cases in which: (a) The department believes  
4 there is a serious threat of substantial harm to the child; (b) the  
5 report indicates conduct involving a criminal offense that has, or is  
6 about to occur, in which the child is the victim; or (c) the department  
7 has, after investigation, a report of abuse or neglect that has been  
8 founded with regard to a member of the household within three years of  
9 receipt of the referral.

10 **Sec. 26.** RCW 26.44.035 and 1985 c 259 s 3 are each amended to read  
11 as follows:

12 If the department or a law enforcement agency responds to a  
13 complaint of alleged child abuse or neglect and discovers that another  
14 agency has also responded to the complaint, the agency shall notify the  
15 other agency of their presence, and the agencies shall coordinate the  
16 investigation and keep each other apprised of progress.

17 The department, each law enforcement agency, each county  
18 prosecuting attorney, each city attorney, and each court shall make as  
19 soon as practicable a written record and shall maintain records of all  
20 incidents of suspected child abuse reported to that person or agency.  
21 Records kept under this section shall be identifiable by means of an  
22 agency code for child abuse.

23 **Sec. 27.** RCW 26.44.040 and 1993 c 412 s 14 are each amended to  
24 read as follows:

25 An immediate oral report shall be made by telephone or otherwise to  
26 the proper law enforcement agency or the department of social and  
27 health services and, upon request, shall be followed by a report in  
28 writing. Such reports shall contain the following information, if  
29 known:

30 (1) The name, address, and age of the child or adult dependent or  
31 developmentally disabled person;

32 (2) The name and address of the child's parents, stepparents,  
33 guardians, or other persons having custody of the child or the  
34 residence of the adult dependent or developmentally disabled person;

35 (3) The nature and extent of the alleged injury or injuries;

36 (4) The nature and extent of the alleged neglect;

37 (5) The nature and extent of the alleged sexual abuse;



1 (6) Any evidence of previous injuries, including their nature and  
2 extent; and

3 (7) Any other information which may be helpful in establishing the  
4 cause of the child's or adult dependent or developmentally disabled  
5 person's death, injury, or injuries and the identity of the alleged  
6 perpetrator or perpetrators.

7 **Sec. 28.** RCW 26.44.053 and 1996 c 249 s 16 are each amended to  
8 read as follows:

9 (1) In any judicial proceeding under this chapter or chapter 13.34  
10 RCW in which it is alleged that a child has been subjected to child  
11 abuse or neglect, the court shall appoint a guardian ad litem for the  
12 child as provided in chapter 13.34 RCW. The requirement of a guardian  
13 ad litem may be deemed satisfied if the child is represented by counsel  
14 in the proceedings.

15 (2) At any time prior to or during a hearing in such a case, the  
16 court may, on its own motion, or the motion of the guardian ad litem,  
17 or other parties, order the examination by a physician, psychologist,  
18 or psychiatrist, of any parent or child or other person having custody  
19 of the child at the time of the alleged child abuse or neglect, if the  
20 court finds such an examination is necessary to the proper  
21 determination of the case. The hearing may be continued pending the  
22 completion of such examination. The physician, psychologist, or  
23 psychiatrist conducting such an examination may be required to testify  
24 concerning the results of such examination and may be asked to give his  
25 or her opinion as to whether the protection of the child requires that  
26 he or she not be returned to the custody of his or her parents or other  
27 persons having custody of him or her at the time of the alleged child  
28 abuse or neglect. Persons so testifying shall be subject to cross-  
29 examination as are other witnesses. No information given at any such  
30 examination of the parent or any other person having custody of the  
31 child may be used against such person in any subsequent criminal  
32 proceedings against such person or custodian concerning the alleged  
33 abuse or neglect of the child.

34 (3) A parent or other person having legal custody of a child  
35 alleged to be abused or neglected shall be a party to any proceeding  
36 that may impair or impede such person's interest in and custody or  
37 control of the child.

1       **Sec. 29.** RCW 26.44.060 and 1988 c 142 s 3 are each amended to read  
2 as follows:

3       (1)(a) Except as provided in (b) of this subsection, any person  
4 participating in good faith in the making of a report pursuant to this  
5 chapter or testifying as to alleged child abuse or neglect in a  
6 judicial proceeding shall in so doing be immune from any liability  
7 arising out of such reporting or testifying under any law of this state  
8 or its political subdivisions.

9       (b) A person convicted of a violation of subsection (4) of this  
10 section shall not be immune from liability under (a) of this  
11 subsection.

12       (2) An administrator of a hospital or similar institution or any  
13 physician licensed pursuant to chapters 18.71 or 18.57 RCW taking a  
14 child into custody pursuant to RCW 26.44.056 shall not be subject to  
15 criminal or civil liability for such taking into custody.

16       (3) Conduct conforming with the reporting requirements of this  
17 chapter shall not be deemed a violation of the confidential  
18 communication privilege of RCW 5.60.060 (3) and (4), 18.53.200 and  
19 18.83.110. Nothing in this chapter shall be construed as to supersede  
20 or abridge remedies provided in chapter 4.92 RCW.

21       (4) A person who, intentionally and in bad faith or maliciously,  
22 knowingly makes a false report of alleged abuse or neglect shall be  
23 guilty of a misdemeanor punishable in accordance with RCW 9A.20.021.

24       **Sec. 30.** RCW 70.124.040 and 1981 c 174 s 4 are each amended to  
25 read as follows:

26       (1) Where a report is deemed warranted under RCW 70.124.030, an  
27 immediate oral report shall be made by telephone or otherwise to either  
28 a law enforcement agency or to the department and, upon request, shall  
29 be followed by a report in writing. The reports shall contain the  
30 following information, if known:

31       (a) The name and address of the person making the report;

32       (b) The name and address of the nursing home or state hospital  
33 patient;

34       (c) The name and address of the patient's relatives having  
35 responsibility for the patient;

36       (d) The nature and extent of the alleged injury or injuries;

37       (e) The nature and extent of the alleged neglect;

38       (f) The nature and extent of the alleged sexual abuse;

1 (g) Any evidence of previous injuries, including their nature and  
2 extent; and

3 (h) Any other information which may be helpful in establishing the  
4 cause of the patient's death, injury, or injuries, and the identity of  
5 the perpetrator or perpetrators.

6 (2) Each law enforcement agency receiving such a report shall, in  
7 addition to taking the action required by RCW 70.124.050, immediately  
8 relay the report to the department and to other law enforcement  
9 agencies, as appropriate. For any report it receives, the department  
10 shall likewise take the required action and in addition relay the  
11 report to the appropriate law enforcement agency or agencies. The  
12 appropriate law enforcement agency or agencies shall receive immediate  
13 notification when the department, upon receipt of such report, has  
14 reasonable cause to believe that a criminal act has been committed.

15 **Sec. 31.** RCW 70.129.030 and 1994 c 214 s 4 are each amended to  
16 read as follows:

17 (1) The facility must inform the resident both orally and in  
18 writing in a language that the resident understands of his or her  
19 rights and all rules and regulations governing resident conduct and  
20 responsibilities during the stay in the facility. The notification  
21 must be made prior to or upon admission. Receipt of the information  
22 must be acknowledged in writing.

23 (2) The resident or his or her legal representative has the right:

24 (a) Upon an oral or written request, to access all records  
25 pertaining to himself or herself including clinical records within  
26 twenty-four hours; and

27 (b) After receipt of his or her records for inspection, to purchase  
28 at a cost not to exceed the community standard photocopies of the  
29 records or portions of them upon request and two working days' advance  
30 notice to the facility.

31 (3) The facility must inform each resident in writing before, or at  
32 the time of admission, and at least once every twenty-four months  
33 thereafter of: (a) Services available in the facility; (b) charges for  
34 those services including charges for services not covered by the  
35 facility's per diem rate or applicable public benefit programs; and (c)  
36 the rules of operations required under RCW 70.129.140(2).

37 (4) The facility must furnish a written description of residents  
38 rights that includes:

1 (a) A description of the manner of protecting personal funds, under  
2 RCW 70.129.040;

3 (b) A posting of names, addresses, and telephone numbers of the  
4 state survey and certification agency, the state licensure office, the  
5 state ombudsmen program, and the protection and advocacy systems; and

6 (c) A statement that the resident may file a complaint with the  
7 appropriate state licensing agency concerning alleged resident abuse,  
8 neglect, and misappropriation of resident property in the facility.

9 (5) Notification of changes.

10 (a) A facility must immediately consult with the resident's  
11 physician, and if known, make reasonable efforts to notify the  
12 resident's legal representative or an interested family member when  
13 there is:

14 (i) An accident involving the resident which requires or has the  
15 potential for requiring physician intervention;

16 (ii) A significant change in the resident's physical, mental, or  
17 psychosocial status (i.e., a deterioration in health, mental, or  
18 psychosocial status in either life-threatening conditions or clinical  
19 complications).

20 (b) The facility must promptly notify the resident or the  
21 resident's representative shall make reasonable efforts to notify an  
22 interested family member, if known, when there is:

23 (i) A change in room or roommate assignment; or

24 (ii) A decision to transfer or discharge the resident from the  
25 facility.

26 (c) The facility must record and update the address and phone  
27 number of the resident's representative or interested family member,  
28 upon receipt of notice from them.

29 **Sec. 32.** RCW 74.13.031 and 1995 c 191 s 1 are each amended to read  
30 as follows:

31 The department shall have the duty to provide child welfare  
32 services as defined in RCW 74.13.020, and shall:

33 (1) Develop, administer, supervise, and monitor a coordinated and  
34 comprehensive plan that establishes, aids, and strengthens services for  
35 the protection and care of homeless, runaway, dependent, or neglected  
36 children.

37 (2) Develop a recruiting plan for recruiting an adequate number of  
38 prospective adoptive and foster homes, both regular and specialized,

1 i.e. homes for children of ethnic minority, including Indian homes for  
2 Indian children, sibling groups, handicapped and emotionally disturbed,  
3 and annually submit the plan for review to the house and senate  
4 committees on social and health services. The plan shall include a  
5 section entitled "Foster Home Turn-Over, Causes and Recommendations."

6 (3) Investigate complaints of alleged neglect, abuse, or  
7 abandonment of children, and on the basis of the findings of such  
8 investigation, offer child welfare services in relation to the problem  
9 to such parents, legal custodians, or persons serving in loco parentis,  
10 and/or bring the situation to the attention of an appropriate court, or  
11 another community agency: PROVIDED, That an investigation is not  
12 required of nonaccidental injuries which are clearly not the result of  
13 a lack of care or supervision by the child's parents, legal custodians,  
14 or persons serving in loco parentis. If the investigation reveals that  
15 a crime may have been committed, the department shall notify the  
16 appropriate law enforcement agency.

17 (4) Offer, on a voluntary basis, family reconciliation services to  
18 families who are in conflict.

19 (5) Monitor out-of-home placements, on a timely and routine basis,  
20 to assure the safety, well-being, and quality of care being provided is  
21 within the scope of the intent of the legislature as defined in RCW  
22 74.13.010 and 74.15.010, and annually submit a report delineating the  
23 results to the house and senate committees on social and health  
24 services.

25 (6) Have authority to accept custody of children from parents and  
26 to accept custody of children from juvenile courts, where authorized to  
27 do so under law, to provide child welfare services including placement  
28 for adoption, and to provide for the physical care of such children and  
29 make payment of maintenance costs if needed. Except where required by  
30 Public Law 95-608 (25 U.S.C. Sec. 1915), no private adoption agency  
31 which receives children for adoption from the department shall  
32 discriminate on the basis of race, creed, or color when considering  
33 applications in their placement for adoption.

34 (7) Have authority to provide temporary shelter to children who  
35 have run away from home and who are admitted to crisis residential  
36 centers.

37 (8) Have authority to purchase care for children; and shall follow  
38 in general the policy of using properly approved private agency  
39 services for the actual care and supervision of such children insofar

1 as they are available, paying for care of such children as are accepted  
2 by the department as eligible for support at reasonable rates  
3 established by the department.

4 (9) Establish a children's services advisory committee which shall  
5 assist the secretary in the development of a partnership plan for  
6 utilizing resources of the public and private sectors, and advise on  
7 all matters pertaining to child welfare, licensing of child care  
8 agencies, adoption, and services related thereto. At least one member  
9 shall represent the adoption community.

10 (10) Have authority to provide continued foster care or group care  
11 for individuals from eighteen through twenty years of age to enable  
12 them to complete their high school or vocational school program.

13 (11) Have authority within funds appropriated for foster care  
14 services to purchase care for Indian children who are in the custody of  
15 a federally recognized Indian tribe or tribally licensed child-placing  
16 agency pursuant to parental consent, tribal court order, or state  
17 juvenile court order; and the purchase of such care shall be subject to  
18 the same eligibility standards and rates of support applicable to other  
19 children for whom the department purchases care.

20 Notwithstanding any other provision of RCW 13.32A.170 through  
21 13.32A.200 and 74.13.032 through 74.13.036, or of this section all  
22 services to be provided by the department of social and health services  
23 under subsections (4), (6), and (7) of this section, subject to the  
24 limitations of these subsections, may be provided by any program  
25 offering such services funded pursuant to Titles II and III of the  
26 federal juvenile justice and delinquency prevention act of 1974.

27 **Sec. 33.** RCW 74.15.030 and 1995 c 302 s 4 are each amended to read  
28 as follows:

29 The secretary shall have the power and it shall be the secretary's  
30 duty:

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

1 to be licensed hereunder, or because of any other factor relevant  
2 thereto;

3 (2) In consultation with the children's services advisory  
4 committee, and with the advice and assistance of persons representative  
5 of the various type agencies to be licensed, to adopt and publish  
6 minimum requirements for licensing applicable to each of the various  
7 categories of agencies to be licensed.

8 The minimum requirements shall be limited to:

9 (a) The size and suitability of a facility and the plan of  
10 operation for carrying out the purpose for which an applicant seeks a  
11 license;

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

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

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

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

9 (f) The financial ability of an agency to comply with minimum  
10 requirements established pursuant to chapter 74.15 RCW and RCW  
11 74.13.031; and

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

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

24 (4) On reports of alleged child abuse and neglect, to investigate  
25 agencies in accordance with chapter 26.44 RCW, including child day-care  
26 centers and family day-care homes, to determine whether the alleged  
27 abuse or neglect has occurred, and whether child protective services or  
28 referral to a law enforcement agency is appropriate;

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

33 (6) To prescribe the procedures and the form and contents of  
34 reports necessary for the administration of chapter 74.15 RCW and RCW  
35 74.13.031 and to require regular reports from each licensee;

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



1 (8) To review requirements adopted hereunder at least every two  
2 years and to adopt appropriate changes after consultation with the  
3 child care coordinating committee and other affected groups for child  
4 day-care requirements and with the children's services advisory  
5 committee for requirements for other agencies; and

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

9 **Sec. 34.** RCW 74.34.050 and 1986 c 187 s 3 are each amended to read  
10 as follows:

11 (1) A person participating in good faith in making a report under  
12 this chapter or testifying about ((the)) alleged abuse, neglect,  
13 abandonment, or exploitation of a vulnerable adult in a judicial  
14 proceeding under this chapter is immune from liability resulting from  
15 the report or testimony. The making of permissive reports as allowed  
16 in RCW 74.34.030 does not create any duty to report and no civil  
17 liability shall attach for any failure to make a permissive report  
18 under RCW 74.34.030.

19 (2) Conduct conforming with the reporting and testifying provisions  
20 of this chapter shall not be deemed a violation of any confidential  
21 communication privilege. Nothing in this chapter shall be construed as  
22 superseding or abridging remedies provided in chapter 4.92 RCW.

23 **Sec. 35.** RCW 74.34.070 and 1995 1st sp.s. c 18 s 87 are each  
24 amended to read as follows:

25 In responding to reports of alleged abuse, exploitation, neglect,  
26 or abandonment under this chapter, the department shall provide  
27 information to the frail elder or vulnerable adult on protective  
28 services available to the person and inform the person of the right to  
29 refuse such services. The department shall develop cooperative  
30 agreements with community-based agencies servicing the abused elderly  
31 and vulnerable adults. The agreements shall cover such subjects as the  
32 appropriate roles and responsibilities of the department and community-  
33 based agencies in identifying and responding to reports of alleged  
34 abuse, the provision of case-management services, standardized data  
35 collection procedures, and related coordination activities.

1       **Sec. 36.** RCW 13.34.090 and 1990 c 246 s 4 are each amended to read  
2 as follows:

3       (1) Any party has a right to be represented by an attorney in all  
4 proceedings under this chapter, to introduce evidence, to be heard in  
5 his or her own behalf, to examine witnesses, to receive a decision  
6 based solely on the evidence adduced at the hearing, and to an unbiased  
7 fact-finder.

8       (2) At all stages of a proceeding in which a child is alleged to be  
9 dependent pursuant to RCW 13.34.030(~~((2))~~) (6), the child's parent,  
10 guardian, or legal custodian has the right to be represented by  
11 counsel, and if indigent, to have counsel appointed for him or her by  
12 the court. Unless waived in court, counsel shall be provided to the  
13 child's parent, guardian, or legal custodian, if such person (a) has  
14 appeared in the proceeding or requested the court to appoint counsel  
15 and (b) is financially unable to obtain counsel because of indigency as  
16 defined in chapter 10.101 RCW.

17       (3) If a party to an action under this chapter is represented by  
18 counsel, no order shall be provided to that party for his or her  
19 signature without prior notice and provision of the order to counsel.

20       (4) Copies of department of social and health services or  
21 supervising agency records to which parents have legal access pursuant  
22 to chapter 13.50 RCW shall be given to the child's parent, guardian,  
23 legal custodian, or his or her legal counsel, within twenty days after  
24 the department or supervising agency receives a written request for  
25 such records from the parent, guardian, legal custodian, or his or her  
26 legal counsel. These records shall be provided to the child's parents,  
27 guardian, legal custodian, or legal counsel prior to the shelter care  
28 hearing in order to allow an opportunity to review the records prior to  
29 the hearing. These records shall be legible and shall be provided at  
30 no expense to the parents, guardian, legal custodian, or his or her  
31 counsel.

32       **Sec. 37.** RCW 13.34.120 and 1996 c 249 s 14 are each amended to  
33 read as follows:

34       (1) To aid the court in its decision on disposition, a social  
35 study, consisting of a written evaluation of matters relevant to the  
36 disposition of the case, shall be made by the person or agency filing  
37 the petition. The study shall include all social records and may also  
38 include facts relating to the child's cultural heritage, and shall be

1 made available to the court. The court shall consider the social file,  
2 social study, guardian ad litem report, the court-appointed special  
3 advocate's report, if any, and any reports filed by a party at the  
4 disposition hearing in addition to evidence produced at the fact-  
5 finding hearing. At least ten working days before the disposition  
6 hearing, the department shall mail to the parent and his or her  
7 attorney a copy of the agency's social study and proposed service plan,  
8 which shall be in writing or in a form understandable to the parents or  
9 custodians. In addition, the department shall provide an opportunity  
10 for parents to review and comment on the plan at the community service  
11 office. If the parents disagree with the agency's plan or any part  
12 thereof, the parents shall submit to the court at least twenty-four  
13 hours before the hearing, in writing, or signed oral statement, an  
14 alternative plan to correct the problems which led to the finding of  
15 dependency. This section shall not interfere with the right of the  
16 parents or custodians to submit oral arguments regarding the  
17 disposition plan at the hearing.

18 (2) In addition to the requirements set forth in subsection (1) of  
19 this section, a predisposition study to the court in cases of  
20 dependency alleged pursuant to RCW 13.34.030(~~(+4)~~) (6) (b) or (c)  
21 shall contain the following information:

22 (a) A statement of the specific harm or harms to the child that  
23 intervention is designed to alleviate;

24 (b) A description of the specific programs, for both the parents  
25 and child, that are needed in order to prevent serious harm to the  
26 child; the reasons why such programs are likely to be useful; the  
27 availability of any proposed services; and the agency's overall plan  
28 for ensuring that the services will be delivered;

29 (c) If removal is recommended, a full description of the reasons  
30 why the child cannot be protected adequately in the home, including a  
31 description of any previous efforts to work with the parents and the  
32 child in the home; the in-home treatment programs which have been  
33 considered and rejected; the preventive services that have been offered  
34 or provided and have failed to prevent the need for out-of-home  
35 placement, unless the health, safety, and welfare of the child cannot  
36 be protected adequately in the home; and the parents' attitude toward  
37 placement of the child;

38 (d) A statement of the likely harms the child will suffer as a  
39 result of removal. This section should include an exploration of the

1 nature of the parent-child attachment and the meaning of separation and  
2 loss to both the parents and the child;

3 (e) A description of the steps that will be taken to minimize harm  
4 to the child that may result if separation occurs; and

5 (f) Behavior that will be expected before determination that  
6 supervision of the family or placement is no longer necessary.

7 **Sec. 38.** RCW 13.34.180 and 1993 c 412 s 2 and 1993 c 358 s 3 are  
8 each reenacted and amended to read as follows:

9 A petition seeking termination of a parent and child relationship  
10 may be filed in juvenile court by any party to the dependency  
11 proceedings concerning that child. Such petition shall conform to the  
12 requirements of RCW 13.34.040, shall be served upon the parties as  
13 provided in RCW 13.34.070(8), and shall allege:

14 (1) That the child has been found to be a dependent child under RCW  
15 13.34.030(~~((+2))~~) (6); and

16 (2) That the court has entered a dispositional order pursuant to  
17 RCW 13.34.130; and

18 (3) That the child has been removed or will, at the time of the  
19 hearing, have been removed from the custody of the parent for a period  
20 of at least six months pursuant to a finding of dependency under RCW  
21 13.34.030(~~((+2))~~) (6); and

22 (4) That the services ordered under RCW 13.34.130 have been offered  
23 or provided and all necessary services, reasonably available, capable  
24 of correcting the parental deficiencies within the foreseeable future  
25 have been offered or provided; and

26 (5) That there is little likelihood that conditions will be  
27 remedied so that the child can be returned to the parent in the near  
28 future. In determining whether the conditions will be remedied the  
29 court may consider, but is not limited to, the following factors:

30 (a) Use of intoxicating or controlled substances so as to render  
31 the parent incapable of providing proper care for the child for  
32 extended periods of time and documented unwillingness of the parent to  
33 receive and complete treatment or documented multiple failed treatment  
34 attempts; or

35 (b) Psychological incapacity or mental deficiency of the parent  
36 that is so severe and chronic as to render the parent incapable of  
37 providing proper care for the child for extended periods of time, and  
38 documented unwillingness of the parent to receive and complete

1 treatment or documentation that there is no treatment that can render  
2 the parent capable of providing proper care for the child in the near  
3 future; and

4 (6) That continuation of the parent and child relationship clearly  
5 diminishes the child's prospects for early integration into a stable  
6 and permanent home; or

7 (7) In lieu of the allegations in subsections (1) through (6) of  
8 this section, the petition may allege that the child was found under  
9 such circumstances that the whereabouts of the child's parent are  
10 unknown and no person has acknowledged paternity or maternity and  
11 requested custody of the child within two months after the child was  
12 found.

13 A parent's failure to substantially improve parental deficiencies  
14 within twelve months following entry of the dispositional order shall  
15 give rise to a rebuttable presumption that there is little likelihood  
16 that conditions will be remedied so that the child can be returned to  
17 the parent in the near future. The presumption shall not arise unless  
18 the petitioner makes a showing that all necessary services reasonably  
19 capable of correcting the parental deficiencies within the foreseeable  
20 future have been offered or provided.

21 Notice of rights shall be served upon the parent, guardian, or  
22 legal custodian with the petition and shall be in substantially the  
23 following form:

24 "NOTICE

25 A petition for termination of parental rights has been filed  
26 against you. You have important legal rights and you must take  
27 steps to protect your interests. This petition could result in  
28 permanent loss of your parental rights.

29 1. You have the right to a fact-finding hearing before  
30 a judge.

31 2. You have the right to have a lawyer represent you at  
32 the hearing. A lawyer can look at the files in your case, talk  
33 to the department of social and health services and other  
34 agencies, tell you about the law, help you understand your  
35 rights, and help you at hearings. If you cannot afford a  
36 lawyer, the court will appoint one to represent you. To get a  
37 court-appointed lawyer you must contact:           (explain local  
38 procedure)          .

1           3. At the hearing, you have the right to speak on your  
2 own behalf, to introduce evidence, to examine witnesses, and to  
3 receive a decision based solely on the evidence presented to  
4 the judge.

5           You should be present at this hearing.

6           You may call      (insert agency)      for more information  
7 about your child. The agency's name and telephone number are  
8      (insert name and telephone number)     ."

9           **Sec. 39.** RCW 43.43.700 and 1989 c 334 s 6 are each amended to read  
10 as follows:

11           There is hereby established within the Washington state patrol a  
12 section on identification, child abuse, vulnerable adult abuse, and  
13 criminal history hereafter referred to as the section.

14           In order to aid the administration of justice the section shall  
15 install systems for the identification of individuals, including the  
16 fingerprint system and such other systems as the chief deems necessary.  
17 The section shall keep a complete record and index of all information  
18 received in convenient form for consultation and comparison.

19           The section shall obtain from whatever source available and file  
20 for record the fingerprints, palmprints, photographs, or such other  
21 identification data as it deems necessary, of persons who have been or  
22 shall hereafter be lawfully arrested and charged with, or convicted of  
23 any criminal offense. The section may obtain like information  
24 concerning persons arrested for or convicted of crimes under the laws  
25 of another state or government.

26           The section shall also contain like information concerning persons,  
27 over the age of eighteen years, who have been found, pursuant to a  
28 dependency proceeding under RCW 13.34.030((+2)) (6)(b) to have  
29 physically abused or sexually abused or exploited a child or, pursuant  
30 to a protection proceeding under chapter 74.34 RCW, to have abused or  
31 financially exploited a vulnerable adult.

32           **Sec. 40.** RCW 43.43.840 and 1989 c 334 s 5 and 1989 c 90 s 5 are  
33 each reenacted and amended to read as follows:

34           (1) The supreme court shall by rule require the courts of the state  
35 to notify the state patrol of any dependency action under RCW  
36 ((13.34.030(2)(b))) 13.34.040, domestic relations action under Title 26  
37 RCW, or protection action under chapter 74.34 RCW, in which the court

1 makes specific findings of physical abuse or sexual abuse or  
2 exploitation of a child or abuse or financial exploitation of a  
3 vulnerable adult.

4 (2) The department of licensing shall notify the state patrol of  
5 any disciplinary board final decision that includes specific findings  
6 of physical abuse or sexual abuse or exploitation of a child or abuse  
7 or financial exploitation of a vulnerable adult.

8 (3) When a business or an organization terminates, fires,  
9 dismisses, fails to renew the contract, or permits the resignation of  
10 an employee because of crimes against children or other persons or  
11 because of crimes relating to the financial exploitation of a  
12 vulnerable adult, and if that employee is employed in a position  
13 requiring a certificate or license issued by a licensing agency such as  
14 the state board of education, the business or organization shall notify  
15 the licensing agency of such termination of employment.

16 **Sec. 41.** RCW 43.20A.050 and 1979 c 141 s 63 are each amended to  
17 read as follows:

18 It is the intent of the legislature wherever possible to place the  
19 internal affairs of the department under the control of the secretary  
20 (~~((in order that he may))~~) to institute (~~((therein))~~) the flexible, alert  
21 and intelligent management of its business that changing contemporary  
22 circumstances require. Therefore, whenever (~~((his))~~) the secretary's  
23 authority is not specifically limited by law, he or she shall have  
24 complete charge and supervisory powers over the department. (~~((He))~~) The  
25 secretary is authorized to create such administrative structures as  
26 (~~((he may deem))~~) deemed appropriate, except as otherwise specified by  
27 law. The secretary shall have the power to employ such assistants and  
28 personnel as may be necessary for the general administration of the  
29 department(~~((: PROVIDED, That,))~~). Except as elsewhere specified, such  
30 employment (~~((is))~~) shall be in accordance with the rules of the state  
31 civil service law, chapter 41.06 RCW.

32 NEW SECTION. **Sec. 42.** It is the intent of the legislature, in  
33 enacting the chapter . . . , Laws of 1997 changes to RCW 41.64.100  
34 (section 43 of this act), to provide a prompt and efficient method of  
35 expediting employee appeals regarding alleged misconduct that may have  
36 placed children at serious risk of harm. The legislature recognizes  
37 that children are at risk of harm in cases of abuse or neglect and

1 intends to provide a method of reducing such risk as well as mitigating  
2 the potential liability to the state associated with employee  
3 misconduct involving children. The legislature does not intend to  
4 impair any existing rights of appeals held by employees, nor does it  
5 intend to restrict consideration of any appropriate evidence or facts  
6 by the personnel appeals board.

7 **Sec. 43.** RCW 41.64.100 and 1981 c 311 s 11 are each amended to  
8 read as follows:

9 (1) In all appeals over which the board has jurisdiction involving  
10 reduction, dismissal, suspension, or demotion, the board shall set the  
11 case for hearing, and the final decision, including an appeal to the  
12 board from the hearing examiner, if any, shall be rendered within  
13 ninety days from the date the appeal was first received(~~(:—PROVIDED,~~  
14 ~~That))~~). An extension may be permitted if agreed to by the employee and  
15 the employing agency. The board shall furnish the agency with a copy  
16 of the appeal in advance of the hearing.

17 (2) Notwithstanding subsection (1) of this section, in a case  
18 involving misconduct that has placed a child at serious risk of harm as  
19 a result of actions taken or not taken under chapter 13.32A, 13.34,  
20 13.40, 26.44, 74.13, 74.14A, 74.14B, 74.14C, or 74.15 RCW, the board  
21 shall hear the case before all unscheduled cases. The board shall  
22 issue its order within forty-five days of hearing the case unless there  
23 are extraordinary circumstances, in which case, an additional thirty  
24 days may elapse until the case is decided.

25 (3) In all appeals made pursuant to RCW 41.06.170(~~((+3)))~~) (4), as  
26 now or hereafter amended, the decision of the board is final and not  
27 appealable to court.

28 NEW SECTION. **Sec. 44.** Section 43 of this act shall not be  
29 construed to alter an existing collective bargaining unit or the  
30 provisions of any existing bargaining agreement in place on the  
31 effective date of this section before the expiration of such agreement.

32 **Sec. 45.** RCW 26.44.020 and 1996 c 178 s 10 are each amended to  
33 read as follows:

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

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



1 (2) "Law enforcement agency" means the police department, the  
2 prosecuting attorney, the state patrol, the director of public safety,  
3 or the office of the sheriff.

4 (3) "Practitioner of the healing arts" or "practitioner" means a  
5 person licensed by this state to practice podiatric medicine and  
6 surgery, optometry, chiropractic, nursing, dentistry, osteopathic  
7 medicine and surgery, or medicine and surgery or to provide other  
8 health services. The term "practitioner" shall include a duly  
9 accredited Christian Science practitioner: PROVIDED, HOWEVER, That a  
10 person who is being furnished Christian Science treatment by a duly  
11 accredited Christian Science practitioner shall not be considered, for  
12 that reason alone, a neglected person for the purposes of this chapter.

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

15 (5) "Department" means the state department of social and health  
16 services.

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

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

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

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

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

37 (11) "Clergy" shall mean any regularly licensed or ordained  
38 minister, priest or rabbi of any church or religious denomination,

1 whether acting in an individual capacity or as an employee or agent of  
2 any public or private organization or institution.

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

9 (13) "Child protective services section" shall mean the child  
10 protective services section of the department.

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

14 (15) "Sexual exploitation" includes: (a) Allowing, permitting, or  
15 encouraging a child to engage in prostitution by any person; or (b)  
16 allowing, permitting, encouraging, or engaging in the obscene or  
17 pornographic photographing, filming, or depicting of a child by any  
18 person.

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

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

25 (18) "Child protective services" means those services provided by  
26 the department designed to protect children from child abuse and  
27 neglect and safeguard (~~the general welfare of~~) such children (~~and~~  
28 ~~shall include~~) from future abuse and neglect, and conduct  
29 investigations of child abuse and neglect reports(~~, including reports~~  
30 ~~regarding child care centers and family child care homes, and the~~  
31 ~~development, management, and provision of or~~). Investigations may be  
32 conducted regardless of the location of the alleged abuse or neglect.  
33 Child protective services includes referral to services to ameliorate  
34 conditions which endanger the welfare of children, the coordination of  
35 necessary programs and services relevant to the prevention,  
36 intervention, and treatment of child abuse and neglect, and services to  
37 children to ensure that each child has a permanent home. In  
38 determining whether protective services should be provided, the  
39 department shall not decline to provide such services solely because of

1 the child's unwillingness or developmental inability to describe the  
2 nature and severity of the abuse or neglect.

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

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

10 NEW SECTION. **Sec. 46.** A new section is added to chapter 43.20A  
11 RCW to read as follows:

12 (1) Notwithstanding the provisions of RCW 26.44.020 and chapter  
13 74.13 RCW, the secretary may exercise his or her discretion to permit  
14 employees of the department to provide child protective services and  
15 child welfare services under the following circumstances:

16 (a) The number of employees in an office or the location of an  
17 office makes it administratively impractical to require a strict  
18 segregation between the delivery of both types of services; or

19 (b) There are exceptional circumstances, including such things as  
20 a disproportionately large number of vacant positions in an office; or

21 (2) The changes required to implement RCW 26.44.020 and this  
22 section shall not be made until the expiration of any collective  
23 bargaining agreement in effect on the effective date of this section,  
24 unless the parties to the agreement determine such changes can be made  
25 before that time.

26 NEW SECTION. **Sec. 47.** A new section is added to chapter 43.20A  
27 RCW to read as follows:

28 The department shall prepare an annual quality assurance report  
29 that shall include but is not limited to: (1) Performance outcomes  
30 regarding health and safety of children in the children's services  
31 system; (2) children's length of stay in out-of-home placement from  
32 each date of referral; (3) adherence to permanency planning timelines;  
33 and (4) the response time on child protective services investigations  
34 differentiated by risk level determined at intake. The report shall be  
35 provided to the governor and legislature not later than July 1.

1        NEW SECTION. Sec. 48. A new section is added to chapter 26.44 RCW  
2 to read as follows:

3        (1) When, as a result of a report of alleged child abuse or  
4 neglect, an investigation is made that includes an in-person contact  
5 with the person who is alleged to have committed the abuse or neglect,  
6 there shall be a determination of whether it is probable that the use  
7 of alcohol or controlled substances is a contributing factor to the  
8 alleged abuse or neglect.

9        (2) The department shall provide appropriate training for persons  
10 who conduct the investigations under subsection (1) of this section.  
11 The training shall include methods of identifying indicators of abuse  
12 of alcohol or controlled substances.

13        (3) If a determination is made under subsection (1) of this section  
14 that there is probable cause to believe abuse of alcohol or controlled  
15 substances has contributed to the child abuse or neglect, the  
16 department shall, within available funds, cause a comprehensive  
17 chemical dependency evaluation to be made of the person or persons so  
18 identified. The evaluation shall be conducted by a physician or  
19 persons certified under rules adopted by the department to make such  
20 evaluation. The department shall perform the duties assigned under  
21 this section within existing personnel resources.

22        NEW SECTION. Sec. 49. The legislature finds that the placement of  
23 children and youth in state-operated or state-funded residential  
24 facilities must be done in such a manner as to protect children who are  
25 vulnerable to sexual victimization from youth who are sexually  
26 aggressive. To achieve this purpose, the legislature intends the  
27 department of social and health services to develop a policy for  
28 assessing sexual aggressiveness and vulnerability to sexual  
29 victimization of children and youth who are placed in state-operated or  
30 state-funded residential facilities.

31        NEW SECTION. Sec. 50. A new section is added to chapter 13.40 RCW  
32 to read as follows:

33        (1) The department shall implement a policy for protecting youth  
34 committed to state-operated or state-funded residential facilities  
35 under this chapter who are vulnerable to sexual victimization by other  
36 youth committed to those facilities who are sexually aggressive. The  
37 policy shall include, at a minimum, the following elements:

1 (a) Development and use of an assessment process for identifying  
2 youth, within thirty days of commitment to the department, who present  
3 a moderate or high risk of sexually aggressive behavior for the  
4 purposes of this section. The assessment process need not require that  
5 every youth who is adjudicated or convicted of a sex offense as defined  
6 in RCW 9.94A.030 be determined to be sexually aggressive, nor shall a  
7 sex offense adjudication or conviction be required in order to  
8 determine a youth is sexually aggressive. Instead, the assessment  
9 process shall consider the individual circumstances of the youth,  
10 including his or her age, physical size, sexual abuse history, mental  
11 and emotional condition, and other factors relevant to sexual  
12 aggressiveness. The definition of "sexually aggressive youth" in RCW  
13 74.13.075 does not apply to this section to the extent that it  
14 conflicts with this section;

15 (b) Development and use of an assessment process for identifying  
16 youth, within thirty days of commitment to the department, who may be  
17 vulnerable to victimization by youth identified under (a) of this  
18 subsection as presenting a moderate or high risk of sexually aggressive  
19 behavior. The assessment process shall consider the individual  
20 circumstances of the youth, including his or her age, physical size,  
21 sexual abuse history, mental and emotional condition, and other factors  
22 relevant to vulnerability;

23 (c) Development and use of placement criteria to avoid assigning  
24 youth who present a moderate or high risk of sexually aggressive  
25 behavior to the same sleeping quarters as youth assessed as vulnerable  
26 to sexual victimization, except that they may be assigned to the same  
27 multiple-person sleeping quarters if those sleeping quarters are  
28 regularly monitored by visual surveillance equipment or staff checks;

29 (d) Development and use of procedures for minimizing, within  
30 available funds, unsupervised contact in state-operated or state-funded  
31 residential facilities between youth presenting moderate to high risk  
32 of sexually aggressive behavior and youth assessed as vulnerable to  
33 sexual victimization. The procedures shall include taking reasonable  
34 steps to prohibit any youth committed under this chapter who present a  
35 moderate to high risk of sexually aggressive behavior from entering any  
36 sleeping quarters other than the one to which they are assigned, unless  
37 accompanied by an authorized adult.

38 (2) For the purposes of this section, the following terms have the  
39 following meanings:

1 (a) "Sleeping quarters" means the bedrooms or other rooms within a  
2 residential facility where youth are assigned to sleep.

3 (b) "Unsupervised contact" means contact occurring outside the  
4 sight or hearing of a responsible adult for more than a reasonable  
5 period of time under the circumstances.

6 NEW SECTION. **Sec. 51.** The department of social and health  
7 services shall report to the legislature by December 1, 1997, on the  
8 following: (1) Development of the assessment process for identifying  
9 youth who present a moderate to high risk of sexually aggressive  
10 behavior for the purposes of sections 49 through 55 of this act; (2)  
11 development of the assessment process for determining when a youth may  
12 be vulnerable to victimization by youth who present a moderate to high  
13 risk of sexually aggressive behavior for the purposes of sections 49  
14 through 55 of this act; and (3) development of the placement criteria  
15 and procedures required under section 50(1) (c) and (d) of this act.

16 NEW SECTION. **Sec. 52.** The policy developed under section 50 of  
17 this act shall be implemented within the juvenile rehabilitation  
18 administration by January 1, 1998.

19 NEW SECTION. **Sec. 53.** The department of social and health  
20 services shall provide an evaluation of the implementation of sections  
21 49 through 55 of this act to the legislature by December 1, 1998. The  
22 evaluation shall identify: (1) The number of youth assessed as  
23 presenting a moderate to high risk of sexually aggressive behavior; (2)  
24 the number of youth assessed as being vulnerable to victimization; (3)  
25 the effectiveness of avoiding assigning youth who present a moderate or  
26 high risk of sexually aggressive behavior to the same sleeping quarters  
27 as youth assessed as being vulnerable to sexual victimization by  
28 utilizing the assessment and placement process set forth in section 50  
29 of this act; (4) the effectiveness of minimizing, within available  
30 funds, unsupervised contact between youth who present a moderate or  
31 high risk of sexually aggressive behavior and youth assessed as being  
32 vulnerable to sexual victimization utilizing the procedures set forth  
33 in section 50 of this act; and (5) the number of youth identified as  
34 moderate to high risk of sexually aggressive behavior who were placed  
35 in department of social and health services community residential  
36 settings during their period of parole with a youth who is not a

1 juvenile offender and is found to be dependent under chapter 13.34 RCW  
2 or an at-risk youth or child in need of services under chapter 13.32A  
3 RCW. The department shall identify the resources necessary to provide  
4 separate placements for youth identified in this subsection and shall  
5 identify alternative administrative processes for managing the  
6 placement of these youth.

7 **Sec. 54.** RCW 13.40.460 and 1994 sp.s. c 7 s 516 are each amended  
8 to read as follows:

9 The secretary, assistant secretary, or the secretary's designee  
10 shall manage and administer the department's juvenile rehabilitation  
11 responsibilities, including but not limited to the operation of all  
12 state institutions or facilities used for juvenile rehabilitation.

13 The secretary or assistant secretary shall:

14 (1) Prepare a biennial budget request sufficient to meet the  
15 confinement and rehabilitative needs of the juvenile rehabilitation  
16 program, as forecast by the office of financial management;

17 (2) Create by rule a formal system for inmate classification. This  
18 classification system shall consider:

19 (a) Public safety;

20 (b) Internal security and staff safety; (~~and~~)

21 (c) Rehabilitative resources both within and outside the  
22 department;

23 (d) An assessment of each offender's risk of sexually aggressive  
24 behavior as provided in section 50 of this act; and

25 (e) An assessment of each offender's vulnerability to sexually  
26 aggressive behavior as provided in section 50 of this act;

27 (3) Develop agreements with local jurisdictions to develop regional  
28 facilities with a variety of custody levels;

29 (4) Adopt rules establishing effective disciplinary policies to  
30 maintain order within institutions;

31 (5) Develop a comprehensive diagnostic evaluation process to be  
32 used at intake, including but not limited to evaluation for substance  
33 addiction or abuse, literacy, learning disabilities, fetal alcohol  
34 syndrome or effect, attention deficit disorder, and mental health;

35 (6) Develop placement criteria:

36 (a) To avoid assigning youth who present a moderate or high risk of  
37 sexually aggressive behavior to the same sleeping quarters as youth

1 assessed as vulnerable to sexual victimization under section 50(1)(c)  
2 of this act; and

3 (b) To avoid placing a juvenile offender on parole status who has  
4 been assessed as a moderate to high risk for sexually aggressive  
5 behavior in a department community residential program with another  
6 child who is: (i) Dependent under chapter 13.34 RCW, or an at-risk  
7 youth or child in need of services under chapter 13.32A RCW; and (ii)  
8 not also a juvenile offender on parole status;

9 (7) Develop a plan to implement, by July 1, 1995:

10 (a) Substance abuse treatment programs for all state juvenile  
11 rehabilitation facilities and institutions;

12 (b) Vocational education and instruction programs at all state  
13 juvenile rehabilitation facilities and institutions; and

14 (c) An educational program to establish self-worth and  
15 responsibility in juvenile offenders. This educational program shall  
16 emphasize instruction in character-building principles such as:  
17 Respect for self, others, and authority; victim awareness;  
18 accountability; work ethics; good citizenship; and life skills; and

19 ~~((+7))~~ (8) Study, in conjunction with the superintendent of public  
20 instruction, educators, and superintendents of state facilities for  
21 juvenile offenders, the feasibility and value of consolidating within  
22 a single entity the provision of educational services to juvenile  
23 offenders committed to state facilities. The assistant secretary shall  
24 report his or her findings to the legislature by December 1, 1995.

25 NEW SECTION. Sec. 55. The policy developed under RCW  
26 13.40.460(6)(b) shall be implemented within the juvenile rehabilitation  
27 administration and the division of children and family services by July  
28 1, 1998.

29 **Sec. 56.** RCW 82.08.02915 and 1995 c 346 s 1 are each amended to  
30 read as follows:

31 The tax levied by RCW 82.08.020 shall not apply to sales to health  
32 or social welfare organizations, as defined in RCW 82.04.431, of items  
33 necessary for new construction of alternative housing for youth in  
34 crisis, so long as the facility will be a licensed agency under chapter  
35 74.15 RCW, upon completion. This section shall expire July 1, ~~((1997))~~  
36 1999.



1       **Sec. 57.** RCW 82.12.02915 and 1995 c 346 s 2 are each amended to  
2 read as follows:

3       The provisions of this chapter shall not apply in respect to the  
4 use of any item acquired by a health or social welfare organization, as  
5 defined in RCW 82.04.431, of items necessary for new construction of  
6 alternative housing for youth in crisis, so long as the facility will  
7 be a licensed agency under chapter 74.15 RCW, upon completion. This  
8 section shall expire July 1, (~~1997~~) 1999.

9       NEW SECTION. **Sec. 58.** It is the intent of section 59 of this act  
10 to protect runaway children from predatory individuals, such as drug  
11 dealers, sexual marauders, and panderers. Since it is in the interests  
12 of these individuals to keep children who have left home on the street  
13 and unlocated, this act punishes predatory individuals who provide  
14 shelter to at-risk youth as a means of preying upon them. The  
15 legislature also recognizes that preventing at-risk youth from coming  
16 into contact with these individuals is equally important to their  
17 protection. Since prevention and reconciliation can only begin once a  
18 child is located, section 59 of this act increases the incentives for  
19 individuals to report the children's whereabouts.

20       **Sec. 59.** RCW 13.32A.080 and 1994 sp.s. c 7 s 507 are each amended  
21 to read as follows:

22       (1)(a) A person commits the crime of unlawful harboring of a minor  
23 if the person provides shelter to a minor without the consent of a  
24 parent of the minor and after the person knows that the minor is away  
25 from the home of the parent, without the parent's permission, and if  
26 the person intentionally:

27       (i) Fails to release the minor to a law enforcement officer after  
28 being requested to do so by the officer; or

29       (ii) Fails to disclose the location of the minor to a law  
30 enforcement officer after being requested to do so by the officer, if  
31 the person knows the location of the minor and had either taken the  
32 minor to that location or had assisted the minor in reaching that  
33 location; or

34       (iii) Obstructs a law enforcement officer from taking the minor  
35 into custody; or

36       (iv) Assists the minor in avoiding or attempting to avoid the  
37 custody of the law enforcement officer; or

1        (v) Engages the child in a crime; or

2        (vi) Engages in a clear course of conduct that demonstrates an  
3 intent to contribute to the delinquency of a minor or the involvement  
4 of a minor in a sex offense as defined in RCW 9.94A.030.

5        (b) It is a defense to a prosecution under this section that the  
6 defendant had custody of the minor pursuant to a court order.

7        (2) Harboring a minor is punishable as a gross misdemeanor.

8        (3) Any person who provides shelter to a child, absent from home,  
9 may notify the department's local community service office of the  
10 child's presence.

11        (4) An adult responsible for involving a child in the commission of  
12 an offense may be prosecuted under existing criminal statutes  
13 including, but not limited to:

14        (a) Distribution of a controlled substance to a minor, as defined  
15 in RCW 69.50.406;

16        (b) Promoting prostitution as defined in chapter 9A.88 RCW; and

17        (c) Complicity of the adult in the crime of a minor, under RCW  
18 9A.08.020.

19        NEW SECTION. Sec. 60. The legislature recognizes that Indian  
20 tribes are sovereign nations and the relationship between the state and  
21 the tribe is sovereign-to-sovereign.

22        The federal government acknowledged the importance of including  
23 Indian tribes in child support systems established by the federal  
24 government and the states. The personal responsibility and work  
25 opportunity reconciliation act of 1996, P.L. 104-193, provides Indian  
26 tribes the option of developing their own tribal plan and tribal child  
27 support enforcement program to receive funds directly from the federal  
28 government for their own Title IV-D program similar to that of other  
29 states. The act also expressly authorizes the states and Indian tribe  
30 or tribal organization to enter into cooperative agreements to provide  
31 for the delivery of child support enforcement services.

32        It is the purpose of this chapter to encourage the department of  
33 social and health services, division of child support, and the Indian  
34 tribes within the state's borders to enter into cooperative agreements  
35 that will assist the state and tribal governments in carrying out their  
36 respective responsibilities. The legislature recognizes that the state  
37 and the tribes each possess resources that are sometimes distinct to  
38 that government. The legislature intends that the state and the tribes

1 work together to make the most efficient and productive use of all  
2 resources and authorities.

3 Cooperative agreements will enable the state and the tribes to  
4 better provide child support services to Indian children and to  
5 establish and enforce child support obligations, orders, and judgments.  
6 Under cooperative agreements, the state and the tribes can work as  
7 partners to provide culturally relevant child support services,  
8 consistent with state and federal laws, that are based on tribal laws  
9 and customs. The legislature recognizes that the preferred method for  
10 handling cases where all or some of the parties are enrolled tribal  
11 members living on the tribal reservation is to develop an agreement so  
12 that appropriate cases are referred to the tribe to be processed in the  
13 tribal court. The legislature recognizes that cooperative agreements  
14 serve the best interests of the children.

15 NEW SECTION. **Sec. 61.** (1) The department of social and health  
16 services may enter into an agreement with an Indian tribe or tribal  
17 organization, which is within the state's borders and recognized by the  
18 federal government, for joint or cooperative action on child support  
19 services and child support enforcement.

20 (2) In determining the scope and terms of the agreement, the  
21 department and the tribe should consider, among other factors, whether  
22 the tribe has an established tribal court system with the authority to  
23 establish, modify, or enforce support orders, establish paternity, or  
24 enter support orders in accordance with child support guidelines  
25 established by the tribe.

26 NEW SECTION. **Sec. 62.** An agreement established under this section  
27 may, but is not required to, address the following:

28 (1) Recognizing the state's and tribe's authority to address child  
29 support matters with the development of a process designed to determine  
30 how tribal member cases may be handled;

31 (2) The authority, procedures, and guidelines for all aspects of  
32 establishing, entering, modifying, and enforcing child support orders  
33 in the tribal court and the state court;

34 (3) The authority, procedures, and guidelines the department and  
35 tribe will follow for the establishment of paternity;

36 (4) The establishment and agreement of culturally relevant factors  
37 that may be considered in child support enforcement;

1 (5) The authority, procedures, and guidelines for the garnishing of  
2 wages of tribal members or employees of a tribe, tribally owned  
3 enterprise, or an Indian-owned business located on the reservation;  
4 (6) The department's and tribe's responsibilities to each other;  
5 (7) The ability for the department and the tribe to address the  
6 fiscal responsibilities between each other;  
7 (8) Requirements for alternative dispute resolution procedures;  
8 (9) The necessary procedures for notice and the continual sharing  
9 of information; and  
10 (10) The duration of the agreement, under what circumstances the  
11 parties may terminate the agreement, and the consequences of breaching  
12 the provisions in the agreement.

13 NEW SECTION. **Sec. 63.** The department of social and health  
14 services may adopt rules to implement this chapter.

15 NEW SECTION. **Sec. 64.** RCW 43.06A.040 and 1996 c 131 s 5 are each  
16 repealed.

17 NEW SECTION. **Sec. 65.** Sections 9 through 13 of this act  
18 constitute a new chapter in Title 74 RCW.

19 NEW SECTION. **Sec. 66.** Sections 60 through 63 of this act  
20 constitute a new chapter in Title 26 RCW.

21 NEW SECTION. **Sec. 67.** Sections 8 through 14 and 17 through 34 of  
22 this act apply only to incidents occurring on or after January 1, 1998.

23 NEW SECTION. **Sec. 68.** Sections 8 through 13 and 21 through 34 of  
24 this act take effect January 1, 1998.

25 NEW SECTION. **Sec. 69.** Sections 14 through 19 of this act take  
26 effect April 1, 1998.

27 NEW SECTION. **Sec. 70.** Sections 7 and 20 of this act are necessary  
28 for the immediate preservation of the public peace, health, or safety,  
29 or support of the state government and its existing public  
30 institutions, and take effect July 1, 1997.

1        NEW SECTION.    **Sec. 71.**    Sections 56 and 57 of this act are  
2 necessary for the immediate preservation of the public peace, health,  
3 or safety, or support of the state government and its existing public  
4 institutions, and take effect July 1, 1997.

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