

CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5710

Chapter 386, Laws of 1997

(partial veto)

55th Legislature
1997 Regular Session

JUVENILE CARE AND TREATMENT--REVISIONS

EFFECTIVE DATE: 7/27/97 - Except sections 8 through 13, and 21 through 34 which become effective 1/1/98; and sections 56 and 57 which become effective 7/1/97.

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

BRAD OWEN

President of the Senate

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

CLYDE BALLARD

**Speaker of the
House of Representatives**

Approved May 15, 1997, with the exception of sections 2, 3, 4, 6, 8, 14, 20, 36 through 39, 46, 58, 59, 69 and 70, which are vetoed.

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.

MIKE O'CONNELL

Secretary

FILED

May 15, 1997 - 4:36 p.m.

GARY LOCKE

Governor of the State of Washington

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5710

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 **Sec. 2 was vetoed. See message at end of chapter.*

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

30 *There is created in the department the classification of social
31 worker V. Employees who are appointed to fill the position shall have:
32 (1) An employment history that demonstrates significant and successful
33 experience in the efficient investigation and resolution of high-risk
34 or complex cases involving child abuse and neglect, including child sex
35 abuse cases; (2) advanced education and training; (3) supervisory
36 experience; (4) a demonstrated commitment to professional improvement
37 and advancement; and (5) capacity to successfully provide support and*

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

6 *Sec. 3 was vetoed. See message at end of chapter.

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

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

23 The social worker V employees shall be assigned to region as a task
24 force consisting of no less than seven employees. The assignment shall
25 be time-limited and in no event shall exceed two years in duration in
26 any one region. Upon completion of the work in the region the task
27 force members shall continue to remain in contact with the coworkers
28 from the previous assignment for a period of twelve months to perform
29 additional follow-up and mentoring. The department shall perform the
30 duties assigned under sections 3 through 5 of this act and RCW
31 41.06.076 within existing personnel resources.

32 *Sec. 4 was vetoed. See message at end of chapter.

33 NEW SECTION. Sec. 5. A new section is added to chapter 43.20A RCW
34 to read as follows:

35 The secretary shall develop a plan for implementation for the
36 social worker V employees. The implementation plan shall be submitted
37 to the governor and the legislature by December 1, 1997. The
38 department shall begin implementation of the plan beginning April 1,

1 1998. The department shall perform the duties assigned under sections
2 3 through 5 of this act and RCW 41.06.076 within existing personnel
3 resources.

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

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

7 ****Sec. 6 was vetoed. See message at end of chapter.***

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

10 For purposes of this chapter:

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

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

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

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

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

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

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

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

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

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

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

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

38 (9) "Preventive services" means preservation services, as defined
39 in chapter 74.14C RCW, and other reasonably available services capable

1 of preventing the need for out-of-home placement while protecting the
2 child.

3 **Sec. 8. RCW 13.34.130 and 1995 c 313 s 2, 1995 c 311 s 19, and*
4 *1995 c 53 s 1 are each reenacted and amended to read as follows:*

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

11 *(1) The court shall order one of the following dispositions of the*
12 *case:*

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

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

1 prevent the need for out-of-home placement, unless the health, safety,
2 and welfare of the child cannot be protected adequately in the home,
3 and that:

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

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

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

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

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

27 (a) Conviction of the parent of rape of the child in the first,
28 second, or third degree as defined in RCW 9A.44.073, 9A.44.076, and
29 9A.44.079;

30 (b) Conviction of the parent of criminal mistreatment of the child
31 in the first or second degree as defined in RCW 9A.42.020 and
32 9A.42.030;

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

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

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

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

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

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

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

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

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

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

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

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

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

1 court order shall be grounds for removal of the child from the
2 relative's home, subject to review by the court.

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

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

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

21 (i) Whether reasonable services have been provided to or offered to
22 the parties to facilitate reunion, specifying the services provided or
23 offered;

24 (ii) Whether the child has been placed in the least-restrictive
25 setting appropriate to the child's needs, including whether
26 consideration and preference has been given to placement with the
27 child's relatives;

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

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

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

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

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

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

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

5 *Sec. 8 was vetoed. See message at end of chapter.

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

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

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

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

28 (4) Consistent with the provisions of chapter 26.44 RCW, the
29 providers of services under the alternative response system shall
30 recognize the due process rights of families that receive such services
31 and recognize that these services are not intended to be investigative
32 for purposes of chapter 13.34 RCW.

33 NEW SECTION. **Sec. 11.** The department shall identify appropriate
34 data to determine and evaluate outcomes of the services delivered by
35 the alternative response systems. All contracts for delivery of

1 alternative response system services shall include provisions and
2 funding for data collection.

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

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

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

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

21 *Sec. 14 was vetoed. See message at end of chapter.

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

24 As used in this chapter, "developmentally disabled dependent child"
25 is a child who has a developmental disability as defined in RCW
26 71A.10.020 and whose parent, guardian, or legal custodian and with the
27 department mutually agree that services appropriate to the child's
28 needs can not be provided in the home.

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

31 It is the intent of the legislature that parents are responsible
32 for the care and support of children with developmental disabilities.
33 The legislature recognizes that, because of the intense support
34 required to care for a child with developmental disabilities, the help

1 of an out-of-home placement may be needed. It is the intent of the
2 legislature that, when the sole reason for the out-of-home placement is
3 the child's developmental disability, such services be offered by the
4 department to these children and their families through a voluntary
5 placement agreement. In these cases, the parents shall retain legal
6 custody of the child.

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

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

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

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

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

7 The department shall adopt rules providing for the implementation
8 of this act and the transfer of responsibility for out-of-home
9 placements from the dependency process under chapter 13.34 RCW to the
10 process under this chapter.

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

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

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

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

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

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

24 (e) Relating to juveniles alleged or found to have committed
25 offenses, traffic infractions, or violations as provided in RCW
26 13.40.020 through 13.40.230, unless:

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

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

31 (iii) The alleged offense or infraction is a traffic, fish,
32 boating, or game offense or traffic infraction committed by a juvenile
33 sixteen years of age or older and would, if committed by an adult, be
34 tried or heard in a court of limited jurisdiction, in which instance
35 the appropriate court of limited jurisdiction shall have jurisdiction
36 over the alleged offense or infraction: PROVIDED, That if such an
37 alleged offense or infraction and an alleged offense or infraction
38 subject to juvenile court jurisdiction arise out of the same event or

1 incident, the juvenile court may have jurisdiction of both matters:
2 PROVIDED FURTHER, That the jurisdiction under this subsection does not
3 constitute "transfer" or a "decline" for purposes of RCW 13.40.110(1)
4 or (e)(i) of this subsection: PROVIDED FURTHER, That courts of limited
5 jurisdiction which confine juveniles for an alleged offense or
6 infraction may place juveniles in juvenile detention facilities under
7 an agreement with the officials responsible for the administration of
8 the juvenile detention facility in RCW 13.04.035 and 13.20.060; or

9 (iv) The juvenile is sixteen or seventeen years old and the alleged
10 offense is: (A) A serious violent offense as defined in RCW 9.94A.030
11 committed on or after June 13, 1994; or (B) a violent offense as
12 defined in RCW 9.94A.030 committed on or after June 13, 1994, and the
13 juvenile has a criminal history consisting of: (I) One or more prior
14 serious violent offenses; (II) two or more prior violent offenses; or
15 (III) three or more of any combination of the following offenses: Any
16 class A felony, any class B felony, vehicular assault, or manslaughter
17 in the second degree, all of which must have been committed after the
18 juvenile's thirteenth birthday and prosecuted separately. In such a
19 case the adult criminal court shall have exclusive original
20 jurisdiction.

21 If the juvenile challenges the state's determination of the
22 juvenile's criminal history, the state may establish the offender's
23 criminal history by a preponderance of the evidence. If the criminal
24 history consists of adjudications entered upon a plea of guilty, the
25 state shall not bear a burden of establishing the knowing and
26 voluntariness of the plea;

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

29 (g) Relating to termination of a diversion agreement under RCW
30 13.40.080, including a proceeding in which the divertee has attained
31 eighteen years of age;

32 (h) Relating to court validation of a voluntary consent to an out-
33 of-home placement under chapter 13.34 RCW, by the parent or Indian
34 custodian of an Indian child, except if the parent or Indian custodian
35 and child are residents of or domiciled within the boundaries of a
36 federally recognized Indian reservation over which the tribe exercises
37 exclusive jurisdiction; ((and))

1 (i) Relating to petitions to compel disclosure of information filed
2 by the department of social and health services pursuant to RCW
3 74.13.042; and

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

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

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

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

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

32 (2) To obtain court validation of a voluntary consent to foster
33 care placement, any person may file a petition for validation alleging
34 that there is located or residing within the county an Indian child
35 whose parent or Indian custodian wishes to voluntarily consent to
36 foster care placement of the child and requesting that the court
37 validate the consent as provided in this section. The petition shall
38 contain the name, date of birth, and residence of the child, the names

1 and residences of the consenting parent or Indian custodian, and the
2 name and location of the Indian tribe in which the child is a member or
3 eligible for membership. The petition shall state whether the
4 placement preferences of 25 U.S.C. Sec. 1915 (b) or (c) will be
5 followed. Reasonable attempts shall be made by the petitioner to
6 ascertain and set forth in the petition the identity, location, and
7 custodial status of any parent or Indian custodian who has not
8 consented to foster care placement and why that parent or Indian
9 custodian cannot assume custody of the child.

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

26 (4) Any parent or Indian custodian may withdraw consent to a
27 voluntary foster care placement, made under this section, at any time.
28 Unless the Indian child has been taken in custody pursuant to RCW
29 13.34.050 or 26.44.050, placed in shelter care pursuant to RCW
30 13.34.060, or placed in foster care pursuant to RCW 13.34.130, the
31 Indian child shall be returned to the parent or Indian custodian upon
32 withdrawal of consent to foster care placement of the child.

33 (5) Upon termination of the voluntary foster care placement and
34 return of the child to the parent or Indian custodian, the department
35 or other child-placing agency which had assumed (~~custody of the~~
36 ~~child~~) responsibility for the child's placement and care pursuant to
37 the consent to foster care placement shall file with the court written
38 notification of the child's return and shall also send such
39 notification to the Indian tribe in which the child is enrolled or

1 eligible for enrollment as a member and to any other party to the
2 validation proceeding including any noncustodial parent.

3 NEW SECTION. **Sec. 19.** A new section is added to chapter 13.34 RCW
4 to read as follows:

5 (1) Whenever the department of social and health services places a
6 developmentally disabled child in out-of-home care pursuant to section
7 16 of this act, the department shall obtain a judicial determination
8 within one hundred eighty days of the placement that continued
9 placement is in the best interests of the child.

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

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

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

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

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

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

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

27 (d) If a goal of long-term out-of-home care has been achieved
28 before the permanency planning hearing, the court shall review the
29 child's status to determine whether the placement and the plan for the
30 child's care remains appropriate. In cases where the primary
31 permanency planning goal has not be achieved, the court shall inquire
32 regarding the reasons why the primary goal has not been achieved and
33 determine what needs to be done to make it possible to achieve the
34 primary goal.

35 (e) Following the first permanency planning hearing, the court
36 shall hold a further permanency planning hearing in accordance with
37 this section at least once every twelve months until a permanency
38 planning goal is achieved or the voluntary placement agreement is
39 terminated.

1 (6) Any party to the voluntary placement agreement may terminate
2 the agreement at any time. Upon termination of the agreement, the
3 child shall be returned to the care of the child's parent or legal
4 guardian, unless the child has been taken into custody pursuant to RCW
5 13.34.050 or 26.44.050, placed in shelter care pursuant to RCW
6 13.34.060, or placed in foster care pursuant to RCW 13.34.130. The
7 department shall notify the court upon termination of the voluntary
8 placement agreement and return of the child to the care of the child's
9 parent or legal guardian. Whenever a voluntary placement agreement is
10 terminated, an action under this section shall be dismissed.

11 (7) This section does not prevent the department from filing a
12 dependency petition if there is reason to believe that the child is a
13 dependent child as defined in RCW 13.34.030. An action filed under
14 this section shall be dismissed upon the filing of a dependency
15 petition regarding a child who is the subject of the action under this
16 section.

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

19 ***The department shall consolidate all services provided through the***
20 ***department to children with developmental disabilities in the division***
21 ***of developmental disabilities. The department shall provide for an***
22 ***orderly transfer of staff, equipment, and related responsibilities from***
23 ***the division of children and family services to the division of***
24 ***developmental disabilities. The division of developmental disabilities***
25 ***shall assume responsibilities for children with developmental***
26 ***disabilities under this section no later than April 1, 1998. Any***
27 ***disputes between the division of children and family services and the***
28 ***division of developmental disabilities regarding the transfer of***
29 ***responsibilities under this section shall be resolved by the secretary***
30 ***of the department of social and health services.***

31 ****Sec. 20 was vetoed. See message at end of chapter.***

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

34 (1) For purposes of this chapter:

35 (a) "Juvenile justice or care agency" means any of the following:
36 Police, diversion units, court, prosecuting attorney, defense attorney,
37 detention center, attorney general, the legislative children's

1 oversight committee, the office of family and children's ombudsman, the
2 department of social and health services and its contracting agencies,
3 schools; and, in addition, persons or public or private agencies having
4 children committed to their custody;

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

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

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

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

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

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

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

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

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

33 (5) Any person who has reasonable cause to believe information
34 concerning that person is included in the records of a juvenile justice
35 or care agency and who has been denied access to those records by the
36 agency may make a motion to the court for an order authorizing that
37 person to inspect the juvenile justice or care agency record concerning
38 that person. The court shall grant the motion to examine records
39 unless it finds that in the interests of justice or in the best

1 interests of the juvenile the records or parts of them should remain
2 confidential.

3 (6) A juvenile, or his or her parents, or any person who has
4 reasonable cause to believe information concerning that person is
5 included in the records of a juvenile justice or care agency may make
6 a motion to the court challenging the accuracy of any information
7 concerning the moving party in the record or challenging the continued
8 possession of the record by the agency. If the court grants the
9 motion, it shall order the record or information to be corrected or
10 destroyed.

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

15 (8) The court may permit inspection of records by, or release of
16 information to, any clinic, hospital, or agency which has the subject
17 person under care or treatment. The court may also permit inspection
18 by or release to individuals or agencies, including juvenile justice
19 advisory committees of county law and justice councils, engaged in
20 legitimate research for educational, scientific, or public purposes.
21 The court may also permit inspection of, or release of information
22 from, records which have been sealed pursuant to RCW 13.50.050(11).
23 The court shall release to the sentencing guidelines commission records
24 needed for its research and data-gathering functions under RCW
25 9.94A.040 and other statutes. Access to records or information for
26 research purposes shall be permitted only if the anonymity of all
27 persons mentioned in the records or information will be preserved.
28 Each person granted permission to inspect juvenile justice or care
29 agency records for research purposes shall present a notarized
30 statement to the court stating that the names of juveniles and parents
31 will remain confidential.

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

37 (10) Requirements in this chapter relating to the court's authority
38 to compel disclosure shall not apply to the legislative children's

1 oversight committee or the office of the family and children's
2 ombudsman.

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

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

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

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

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

20 (a) If it is determined by the agency that release of this
21 information is likely to cause severe psychological or physical harm to
22 the juvenile or his or her parents the agency may withhold the
23 information subject to other order of the court: PROVIDED, That if the
24 court determines that limited release of the information is
25 appropriate, the court may specify terms and conditions for the release
26 of the information; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (5) "Department" means the state department of social and health
18 services.

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

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

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

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

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

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

5 (12) "Abuse or neglect" shall mean the injury, sexual abuse, sexual
6 exploitation, negligent treatment, or maltreatment of a child, adult
7 dependent, or developmentally disabled person by any person under
8 circumstances which indicate that the child's or adult's health,
9 welfare, and safety is harmed, excluding conduct permitted under RCW
10 9A.16.100. An abused child is a child who has been subjected to child
11 abuse or neglect as defined herein.

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

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

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

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

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

28 (18) "Child protective services" means those services provided by
29 the department designed to protect children from child abuse and
30 neglect and safeguard the general welfare of such children and shall
31 include investigations of child abuse and neglect reports, including
32 reports regarding child care centers and family child care homes, and
33 the development, management, and provision of or referral to services
34 to ameliorate conditions which endanger the welfare of children, the
35 coordination of necessary programs and services relevant to the
36 prevention, intervention, and treatment of child abuse and neglect, and
37 services to children to ensure that each child has a permanent home.
38 In 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 **Sec. 25.** RCW 26.44.030 and 1996 c 278 s 2 are each amended to read
11 as follows:

12 (1)(a) When any practitioner, county coroner or medical examiner,
13 law enforcement officer, professional school personnel, registered or
14 licensed nurse, social service counselor, psychologist, pharmacist,
15 licensed or certified child care providers or their employees, employee
16 of the department, (~~(or)~~) juvenile probation officer, or state family
17 and children's ombudsman or any volunteer in the ombudsman's office has
18 reasonable cause to believe that a child or adult dependent or
19 developmentally disabled person, has suffered abuse or neglect, he or
20 she shall report such incident, or cause a report to be made, to the
21 proper law enforcement agency or to the department as provided in RCW
22 26.44.040.

23 (b) The reporting requirement shall also apply to department of
24 corrections personnel who, in the course of their employment, observe
25 offenders or the children with whom the offenders are in contact. If,
26 as a result of observations or information received in the course of
27 his or her employment, any department of corrections personnel has
28 reasonable cause to believe that a child or adult dependent or
29 developmentally disabled person has suffered abuse or neglect, he or
30 she shall report the incident, or cause a report to be made, to the
31 proper law enforcement agency or to the department as provided in RCW
32 26.44.040.

33 (c) The reporting requirement shall also apply to any adult who has
34 reasonable cause to believe that a child or adult dependent or
35 developmentally disabled person, who resides with them, has suffered
36 severe abuse, and is able or capable of making a report. For the
37 purposes of this subsection, "severe abuse" means any of the following:
38 Any single act of abuse that causes physical trauma of sufficient

1 severity that, if left untreated, could cause death; any single act of
2 sexual abuse that causes significant bleeding, deep bruising, or
3 significant external or internal swelling; or more than one act of
4 physical abuse, each of which causes bleeding, deep bruising,
5 significant external or internal swelling, bone fracture, or
6 unconsciousness.

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

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

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

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

37 (5) Any law enforcement agency receiving a report of an incident of
38 alleged abuse or neglect pursuant to this chapter, involving a child or
39 adult dependent or developmentally disabled person who has died or has

1 had physical injury or injuries inflicted upon him or her other than by
2 accidental means, or who has been subjected to alleged sexual abuse,
3 shall report such incident in writing as provided in RCW 26.44.040 to
4 the proper county prosecutor or city attorney for appropriate action
5 whenever the law enforcement agency's investigation reveals that a
6 crime may have been committed. The law enforcement agency shall also
7 notify the department of all reports received and the law enforcement
8 agency's disposition of them. In emergency cases, where the child,
9 adult dependent, or developmentally disabled person's welfare is
10 endangered, the law enforcement agency shall notify the department
11 within twenty-four hours. In all other cases, the law enforcement
12 agency shall notify the department within seventy-two hours after a
13 report is received by the law enforcement agency.

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

19 (7) The department may conduct ongoing case planning and
20 consultation with those persons or agencies required to report under
21 this section, with consultants designated by the department, and with
22 designated representatives of Washington Indian tribes if the client
23 information exchanged is pertinent to cases currently receiving child
24 protective services or department case services for the developmentally
25 disabled. Upon request, the department shall conduct such planning and
26 consultation with those persons required to report under this section
27 if the department determines it is in the best interests of the child
28 or developmentally disabled person. Information considered privileged
29 by statute and not directly related to reports required by this section
30 shall not be divulged without a valid written waiver of the privilege.

31 (8) Any case referred to the department by a physician licensed
32 under chapter 18.57 or 18.71 RCW on the basis of an expert medical
33 opinion that child abuse, neglect, or sexual assault has occurred and
34 that the child's safety will be seriously endangered if returned home,
35 the department shall file a dependency petition unless a second
36 licensed physician of the parents' choice believes that such expert
37 medical opinion is incorrect. If the parents fail to designate a
38 second physician, the department may make the selection. If a
39 physician finds that a child has suffered abuse or neglect but that

1 such abuse or neglect does not constitute imminent danger to the
2 child's health or safety, and the department agrees with the
3 physician's assessment, the child may be left in the parents' home
4 while the department proceeds with reasonable efforts to remedy
5 parenting deficiencies.

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

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

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

28 (12) The department shall maintain investigation records and
29 conduct timely and periodic reviews of all cases constituting abuse and
30 neglect. The department shall maintain a log of screened-out
31 nonabusive cases.

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

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

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

7 (15) The department shall make reasonable efforts to learn the
8 name, address, and telephone number of each person making a report of
9 abuse or neglect under this section. The department shall provide
10 assurances of appropriate confidentiality of the identification of
11 persons reporting under this section. If the department is unable to
12 learn the information required under this subsection, the department
13 shall only investigate cases in which: (a) The department believes
14 there is a serious threat of substantial harm to the child; (b) the
15 report indicates conduct involving a criminal offense that has, or is
16 about to occur, in which the child is the victim; or (c) the department
17 has, after investigation, a report of abuse or neglect that has been
18 founded with regard to a member of the household within three years of
19 receipt of the referral.

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

22 If the department or a law enforcement agency responds to a
23 complaint of alleged child abuse or neglect and discovers that another
24 agency has also responded to the complaint, the agency shall notify the
25 other agency of their presence, and the agencies shall coordinate the
26 investigation and keep each other apprised of progress.

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

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

35 An immediate oral report shall be made by telephone or otherwise to
36 the proper law enforcement agency or the department of social and
37 health services and, upon request, shall be followed by a report in

1 writing. Such reports shall contain the following information, if
2 known:

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

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

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

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

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

11 (6) Any evidence of previous injuries, including their nature and
12 extent; and

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

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

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

25 (2) At any time prior to or during a hearing in such a case, the
26 court may, on its own motion, or the motion of the guardian ad litem,
27 or other parties, order the examination by a physician, psychologist,
28 or psychiatrist, of any parent or child or other person having custody
29 of the child at the time of the alleged child abuse or neglect, if the
30 court finds such an examination is necessary to the proper
31 determination of the case. The hearing may be continued pending the
32 completion of such examination. The physician, psychologist, or
33 psychiatrist conducting such an examination may be required to testify
34 concerning the results of such examination and may be asked to give his
35 or her opinion as to whether the protection of the child requires that
36 he or she not be returned to the custody of his or her parents or other
37 persons having custody of him or her at the time of the alleged child
38 abuse or neglect. Persons so testifying shall be subject to cross-

1 examination as are other witnesses. No information given at any such
2 examination of the parent or any other person having custody of the
3 child may be used against such person in any subsequent criminal
4 proceedings against such person or custodian concerning the alleged
5 abuse or neglect of the child.

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

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

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

18 (b) A person convicted of a violation of subsection (4) of this
19 section shall not be immune from liability under (a) of this
20 subsection.

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

25 (3) Conduct conforming with the reporting requirements of this
26 chapter shall not be deemed a violation of the confidential
27 communication privilege of RCW 5.60.060 (3) and (4), 18.53.200 and
28 18.83.110. Nothing in this chapter shall be construed as to supersede
29 or abridge remedies provided in chapter 4.92 RCW.

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

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

35 (1) Where a report is deemed warranted under RCW 70.124.030, an
36 immediate oral report shall be made by telephone or otherwise to either
37 a law enforcement agency or to the department and, upon request, shall

1 be followed by a report in writing. The reports shall contain the
2 following information, if known:

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

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

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

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

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

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

11 (g) Any evidence of previous injuries, including their nature and
12 extent; and

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

16 (2) Each law enforcement agency receiving such a report shall, in
17 addition to taking the action required by RCW 70.124.050, immediately
18 relay the report to the department and to other law enforcement
19 agencies, as appropriate. For any report it receives, the department
20 shall likewise take the required action and in addition relay the
21 report to the appropriate law enforcement agency or agencies. The
22 appropriate law enforcement agency or agencies shall receive immediate
23 notification when the department, upon receipt of such report, has
24 reasonable cause to believe that a criminal act has been committed.

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

27 (1) The facility must inform the resident both orally and in
28 writing in a language that the resident understands of his or her
29 rights and all rules and regulations governing resident conduct and
30 responsibilities during the stay in the facility. The notification
31 must be made prior to or upon admission. Receipt of the information
32 must be acknowledged in writing.

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

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

37 (b) After receipt of his or her records for inspection, to purchase
38 at a cost not to exceed the community standard photocopies of the

1 records or portions of them upon request and two working days' advance
2 notice to the facility.

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

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

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

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

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

19 (5) Notification of changes.

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

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

26 (ii) A significant change in the resident's physical, mental, or
27 psychosocial status (i.e., a deterioration in health, mental, or
28 psychosocial status in either life-threatening conditions or clinical
29 complications).

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

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

34 (ii) A decision to transfer or discharge the resident from the
35 facility.

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

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

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

5 (1) Develop, administer, supervise, and monitor a coordinated and
6 comprehensive plan that establishes, aids, and strengthens services for
7 the protection and care of homeless, runaway, dependent, or neglected
8 children.

9 (2) Develop a recruiting plan for recruiting an adequate number of
10 prospective adoptive and foster homes, both regular and specialized,
11 i.e. homes for children of ethnic minority, including Indian homes for
12 Indian children, sibling groups, handicapped and emotionally disturbed,
13 and annually submit the plan for review to the house and senate
14 committees on social and health services. The plan shall include a
15 section entitled "Foster Home Turn-Over, Causes and Recommendations."

16 (3) Investigate complaints of alleged neglect, abuse, or
17 abandonment of children, and on the basis of the findings of such
18 investigation, offer child welfare services in relation to the problem
19 to such parents, legal custodians, or persons serving in loco parentis,
20 and/or bring the situation to the attention of an appropriate court, or
21 another community agency: PROVIDED, That an investigation is not
22 required of nonaccidental injuries which are clearly not the result of
23 a lack of care or supervision by the child's parents, legal custodians,
24 or persons serving in loco parentis. If the investigation reveals that
25 a crime may have been committed, the department shall notify the
26 appropriate law enforcement agency.

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

29 (5) Monitor out-of-home placements, on a timely and routine basis,
30 to assure the safety, well-being, and quality of care being provided is
31 within the scope of the intent of the legislature as defined in RCW
32 74.13.010 and 74.15.010, and annually submit a report delineating the
33 results to the house and senate committees on social and health
34 services.

35 (6) Have authority to accept custody of children from parents and
36 to accept custody of children from juvenile courts, where authorized to
37 do so under law, to provide child welfare services including placement
38 for adoption, and to provide for the physical care of such children and
39 make payment of maintenance costs if needed. Except where required by

1 Public Law 95-608 (25 U.S.C. Sec. 1915), no private adoption agency
2 which receives children for adoption from the department shall
3 discriminate on the basis of race, creed, or color when considering
4 applications in their placement for adoption.

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

8 (8) Have authority to purchase care for children; and shall follow
9 in general the policy of using properly approved private agency
10 services for the actual care and supervision of such children insofar
11 as they are available, paying for care of such children as are accepted
12 by the department as eligible for support at reasonable rates
13 established by the department.

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

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

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

30 Notwithstanding any other provision of RCW 13.32A.170 through
31 13.32A.200 and 74.13.032 through 74.13.036, or of this section all
32 services to be provided by the department of social and health services
33 under subsections (4), (6), and (7) of this section, subject to the
34 limitations of these subsections, may be provided by any program
35 offering such services funded pursuant to Titles II and III of the
36 federal juvenile justice and delinquency prevention act of 1974.

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

1 The secretary shall have the power and it shall be the secretary's
2 duty:

3 (1) 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 designate categories of
6 facilities for which separate or different requirements shall be
7 developed as may be appropriate whether because of variations in the
8 ages, sex and other characteristics of persons served, variations in
9 the purposes and services offered or size or structure of the agencies
10 to be licensed hereunder, or because of any other factor relevant
11 thereto;

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

17 The minimum requirements shall be limited to:

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

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

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

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

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

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

17 (f) The financial ability of an agency to comply with minimum
18 requirements established pursuant to chapter 74.15 RCW and RCW
19 74.13.031; and

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

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

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

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

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

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

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

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

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

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

19 (1) A person participating in good faith in making a report under
20 this chapter or testifying about ((the)) alleged abuse, neglect,
21 abandonment, or exploitation of a vulnerable adult in a judicial
22 proceeding under this chapter is immune from liability resulting from
23 the report or testimony. The making of permissive reports as allowed
24 in RCW 74.34.030 does not create any duty to report and no civil
25 liability shall attach for any failure to make a permissive report
26 under RCW 74.34.030.

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

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

33 In responding to reports of alleged abuse, exploitation, neglect,
34 or abandonment under this chapter, the department shall provide
35 information to the frail elder or vulnerable adult on protective
36 services available to the person and inform the person of the right to
37 refuse such services. The department shall develop cooperative

1 agreements with community-based agencies servicing the abused elderly
2 and vulnerable adults. The agreements shall cover such subjects as the
3 appropriate roles and responsibilities of the department and community-
4 based agencies in identifying and responding to reports of alleged
5 abuse, the provision of case-management services, standardized data
6 collection procedures, and related coordination activities.

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

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

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

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

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

38 **Sec. 36 was vetoed. See message at end of chapter.*

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

3 (1) To aid the court in its decision on disposition, a social
4 study, consisting of a written evaluation of matters relevant to the
5 disposition of the case, shall be made by the person or agency filing
6 the petition. The study shall include all social records and may also
7 include facts relating to the child's cultural heritage, and shall be
8 made available to the court. The court shall consider the social file,
9 social study, guardian ad litem report, the court-appointed special
10 advocate's report, if any, and any reports filed by a party at the
11 disposition hearing in addition to evidence produced at the fact-
12 finding hearing. At least ten working days before the disposition
13 hearing, the department shall mail to the parent and his or her
14 attorney a copy of the agency's social study and proposed service plan,
15 which shall be in writing or in a form understandable to the parents or
16 custodians. In addition, the department shall provide an opportunity
17 for parents to review and comment on the plan at the community service
18 office. If the parents disagree with the agency's plan or any part
19 thereof, the parents shall submit to the court at least twenty-four
20 hours before the hearing, in writing, or signed oral statement, an
21 alternative plan to correct the problems which led to the finding of
22 dependency. This section shall not interfere with the right of the
23 parents or custodians to submit oral arguments regarding the
24 disposition plan at the hearing.

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

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

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

36 (c) If removal is recommended, a full description of the reasons
37 why the child cannot be protected adequately in the home, including a
38 description of any previous efforts to work with the parents and the
39 child in the home; the in-home treatment programs which have been

1 considered and rejected; the preventive services that have been offered
2 or provided and have failed to prevent the need for out-of-home
3 placement, unless the health, safety, and welfare of the child cannot
4 be protected adequately in the home; and the parents' attitude toward
5 placement of the child;

6 (d) A statement of the likely harms the child will suffer as a
7 result of removal. This section should include an exploration of the
8 nature of the parent-child attachment and the meaning of separation and
9 loss to both the parents and the child;

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

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

14 *Sec. 37 was vetoed. See message at end of chapter.

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

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

22 (1) That the child has been found to be a dependent child under RCW
23 13.34.030(~~(+2)~~) (6); and

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

26 (3) That the child has been removed or will, at the time of the
27 hearing, have been removed from the custody of the parent for a period
28 of at least six months pursuant to a finding of dependency under RCW
29 13.34.030(~~(+2)~~) (6); and

30 (4) That the services ordered under RCW 13.34.130 have been offered
31 or provided and all necessary services, reasonably available, capable
32 of correcting the parental deficiencies within the foreseeable future
33 have been offered or provided; and

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

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

3 2. You have the right to have a lawyer represent you at
4 the hearing. A lawyer can look at the files in your case, talk
5 to the department of social and health services and other
6 agencies, tell you about the law, help you understand your
7 rights, and help you at hearings. If you cannot afford a
8 lawyer, the court will appoint one to represent you. To get a
9 court-appointed lawyer you must contact: (explain local
10 procedure) .

11 3. At the hearing, you have the right to speak on your
12 own behalf, to introduce evidence, to examine witnesses, and to
13 receive a decision based solely on the evidence presented to
14 the judge.

15 You should be present at this hearing.

16 You may call (insert agency) for more information
17 about your child. The agency's name and telephone number are
18 (insert name and telephone number) ."

19 *Sec. 38 was vetoed. See message at end of chapter.

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

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

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

30 The section shall obtain from whatever source available and file
31 for record the fingerprints, palmprints, photographs, or such other
32 identification data as it deems necessary, of persons who have been or
33 shall hereafter be lawfully arrested and charged with, or convicted of
34 any criminal offense. The section may obtain like information
35 concerning persons arrested for or convicted of crimes under the laws
36 of another state or government.

37 The section shall also contain like information concerning persons,
38 over the age of eighteen years, who have been found, pursuant to a

1 *dependency proceeding under RCW 13.34.030(~~(+2)~~) (6)(b) to have*
2 *physically abused or sexually abused or exploited a child or, pursuant*
3 *to a protection proceeding under chapter 74.34 RCW, to have abused or*
4 *financially exploited a vulnerable adult.*

5 *Sec. 39 was vetoed. See message at end of chapter.

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

8 (1) The supreme court shall by rule require the courts of the state
9 to notify the state patrol of any dependency action under RCW
10 (~~(13.34.030(2)(b))~~) 13.34.040, domestic relations action under Title 26
11 RCW, or protection action under chapter 74.34 RCW, in which the court
12 makes specific findings of physical abuse or sexual abuse or
13 exploitation of a child or abuse or financial exploitation of a
14 vulnerable adult.

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

19 (3) When a business or an organization terminates, fires,
20 dismisses, fails to renew the contract, or permits the resignation of
21 an employee because of crimes against children or other persons or
22 because of crimes relating to the financial exploitation of a
23 vulnerable adult, and if that employee is employed in a position
24 requiring a certificate or license issued by a licensing agency such as
25 the state board of education, the business or organization shall notify
26 the licensing agency of such termination of employment.

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

29 It is the intent of the legislature wherever possible to place the
30 internal affairs of the department under the control of the secretary
31 (~~(in order that he may)~~) to institute (~~(therein)~~) the flexible, alert
32 and intelligent management of its business that changing contemporary
33 circumstances require. Therefore, whenever (~~(his)~~) the secretary's
34 authority is not specifically limited by law, he or she shall have
35 complete charge and supervisory powers over the department. (~~(He)~~) The
36 secretary is authorized to create such administrative structures as
37 (~~(he may deem)~~) deemed appropriate, except as otherwise specified by

1 law. The secretary shall have the power to employ such assistants and
2 personnel as may be necessary for the general administration of the
3 department(~~(:—PROVIDED, That,)~~). Except as elsewhere specified, such
4 employment (~~is~~) shall be in accordance with the rules of the state
5 civil service law, chapter 41.06 RCW.

6 NEW SECTION. Sec. 42. It is the intent of the legislature, in
7 enacting the chapter . . . , Laws of 1997 changes to RCW 41.64.100
8 (section 43 of this act), to provide a prompt and efficient method of
9 expediting employee appeals regarding alleged misconduct that may have
10 placed children at serious risk of harm. The legislature recognizes
11 that children are at risk of harm in cases of abuse or neglect and
12 intends to provide a method of reducing such risk as well as mitigating
13 the potential liability to the state associated with employee
14 misconduct involving children. The legislature does not intend to
15 impair any existing rights of appeals held by employees, nor does it
16 intend to restrict consideration of any appropriate evidence or facts
17 by the personnel appeals board.

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

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

28 (2) Notwithstanding subsection (1) of this section, in a case
29 involving misconduct that has placed a child at serious risk of harm as
30 a result of actions taken or not taken under chapter 13.32A, 13.34,
31 13.40, 26.44, 74.13, 74.14A, 74.14B, 74.14C, or 74.15 RCW, the board
32 shall hear the case before all unscheduled cases. The board shall
33 issue its order within forty-five days of hearing the case unless there
34 are extraordinary circumstances, in which case, an additional thirty
35 days may elapse until the case is decided.

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

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

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

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

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

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

16 (3) "Practitioner of the healing arts" or "practitioner" means a
17 person licensed by this state to practice podiatric medicine and
18 surgery, optometry, chiropractic, nursing, dentistry, osteopathic
19 medicine and surgery, or medicine and surgery or to provide other
20 health services. The term "practitioner" shall include a duly
21 accredited Christian Science practitioner: PROVIDED, HOWEVER, That a
22 person who is being furnished Christian Science treatment by a duly
23 accredited Christian Science practitioner shall not be considered, for
24 that reason alone, a neglected person for the purposes of this chapter.

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

27 (5) "Department" means the state department of social and health
28 services.

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

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

34 (8) "Social service counselor" shall mean anyone engaged in a
35 professional capacity during the regular course of employment in
36 encouraging or promoting the health, welfare, support or education of
37 children, or providing social services to adults or families, including

1 mental health, drug and alcohol treatment, and domestic violence
2 programs, whether in an individual capacity, or as an employee or agent
3 of any public or private organization or institution.

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

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

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

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

22 (13) "Child protective services section" shall mean the child
23 protective services section of the department.

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

27 (15) "Sexual exploitation" includes: (a) Allowing, permitting, or
28 encouraging a child to engage in prostitution by any person; or (b)
29 allowing, permitting, encouraging, or engaging in the obscene or
30 pornographic photographing, filming, or depicting of a child by any
31 person.

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

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

38 (18) "Child protective services" means those services provided by
39 the department designed to protect children from child abuse and

1 neglect and safeguard (~~((the general welfare of))~~) such children (~~((and~~
2 ~~shall include))~~) from future abuse and neglect, and conduct
3 investigations of child abuse and neglect reports(~~(, including reports~~
4 ~~regarding child care centers and family child care homes, and the~~
5 ~~development, management, and provision of or))~~). Investigations may be
6 conducted regardless of the location of the alleged abuse or neglect.
7 Child protective services includes referral to services to ameliorate
8 conditions which endanger the welfare of children, the coordination of
9 necessary programs and services relevant to the prevention,
10 intervention, and treatment of child abuse and neglect, and services to
11 children to ensure that each child has a permanent home. In
12 determining whether protective services should be provided, the
13 department shall not decline to provide such services solely because of
14 the child's unwillingness or developmental inability to describe the
15 nature and severity of the abuse or neglect.

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

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

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

25 (1) ***Notwithstanding the provisions of RCW 26.44.020 and chapter***
26 ***74.13 RCW, the secretary may exercise his or her discretion to permit***
27 ***employees of the department to provide child protective services and***
28 ***child welfare services under the following circumstances:***

29 (a) ***The number of employees in an office or the location of an***
30 ***office makes it administratively impractical to require a strict***
31 ***segregation between the delivery of both types of services; or***

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

34 (2) ***The changes required to implement RCW 26.44.020 and this***
35 ***section shall not be made until the expiration of any collective***
36 ***bargaining agreement in effect on the effective date of this section,***
37 ***unless the parties to the agreement determine such changes can be made***
38 ***before that time.***

1 *Sec. 46 was vetoed. See message at end of chapter.

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

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

12 NEW SECTION. **Sec. 48.** A new section is added to chapter 26.44 RCW
13 to read as follows:

14 (1) When, as a result of a report of alleged child abuse or
15 neglect, an investigation is made that includes an in-person contact
16 with the person who is alleged to have committed the abuse or neglect,
17 there shall be a determination of whether it is probable that the use
18 of alcohol or controlled substances is a contributing factor to the
19 alleged abuse or neglect.

20 (2) The department shall provide appropriate training for persons
21 who conduct the investigations under subsection (1) of this section.
22 The training shall include methods of identifying indicators of abuse
23 of alcohol or controlled substances.

24 (3) If a determination is made under subsection (1) of this section
25 that there is probable cause to believe abuse of alcohol or controlled
26 substances has contributed to the child abuse or neglect, the
27 department shall, within available funds, cause a comprehensive
28 chemical dependency evaluation to be made of the person or persons so
29 identified. The evaluation shall be conducted by a physician or
30 persons certified under rules adopted by the department to make such
31 evaluation. The department shall perform the duties assigned under
32 this section within existing personnel resources.

33 NEW SECTION. **Sec. 49.** The legislature finds that the placement of
34 children and youth in state-operated or state-funded residential
35 facilities must be done in such a manner as to protect children who are
36 vulnerable to sexual victimization from youth who are sexually

1 aggressive. To achieve this purpose, the legislature intends the
2 department of social and health services to develop a policy for
3 assessing sexual aggressiveness and vulnerability to sexual
4 victimization of children and youth who are placed in state-operated or
5 state-funded residential facilities.

6 NEW SECTION. **Sec. 50.** A new section is added to chapter 13.40 RCW
7 to read as follows:

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

13 (a) Development and use of an assessment process for identifying
14 youth, within thirty days of commitment to the department, who present
15 a moderate or high risk of sexually aggressive behavior for the
16 purposes of this section. The assessment process need not require that
17 every youth who is adjudicated or convicted of a sex offense as defined
18 in RCW 9.94A.030 be determined to be sexually aggressive, nor shall a
19 sex offense adjudication or conviction be required in order to
20 determine a youth is sexually aggressive. Instead, the assessment
21 process shall consider the individual circumstances of the youth,
22 including his or her age, physical size, sexual abuse history, mental
23 and emotional condition, and other factors relevant to sexual
24 aggressiveness. The definition of "sexually aggressive youth" in RCW
25 74.13.075 does not apply to this section to the extent that it
26 conflicts with this section;

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

35 (c) Development and use of placement criteria to avoid assigning
36 youth who present a moderate or high risk of sexually aggressive
37 behavior to the same sleeping quarters as youth assessed as vulnerable
38 to sexual victimization, except that they may be assigned to the same

1 multiple-person sleeping quarters if those sleeping quarters are
2 regularly monitored by visual surveillance equipment or staff checks;

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

12 (2) For the purposes of this section, the following terms have the
13 following meanings:

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

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

19 NEW SECTION. **Sec. 51.** The department of social and health
20 services shall report to the legislature by December 1, 1997, on the
21 following: (1) Development of the assessment process for identifying
22 youth who present a moderate to high risk of sexually aggressive
23 behavior for the purposes of sections 49 through 55 of this act; (2)
24 development of the assessment process for determining when a youth may
25 be vulnerable to victimization by youth who present a moderate to high
26 risk of sexually aggressive behavior for the purposes of sections 49
27 through 55 of this act; and (3) development of the placement criteria
28 and procedures required under section 50(1) (c) and (d) of this act.

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

32 NEW SECTION. **Sec. 53.** The department of social and health
33 services shall provide an evaluation of the implementation of sections
34 49 through 55 of this act to the legislature by December 1, 1998. The
35 evaluation shall identify: (1) The number of youth assessed as
36 presenting a moderate to high risk of sexually aggressive behavior; (2)

1 the number of youth assessed as being vulnerable to victimization; (3)
2 the effectiveness of avoiding assigning youth who present a moderate or
3 high risk of sexually aggressive behavior to the same sleeping quarters
4 as youth assessed as being vulnerable to sexual victimization by
5 utilizing the assessment and placement process set forth in section 50
6 of this act; (4) the effectiveness of minimizing, within available
7 funds, unsupervised contact between youth who present a moderate or
8 high risk of sexually aggressive behavior and youth assessed as being
9 vulnerable to sexual victimization utilizing the procedures set forth
10 in section 50 of this act; and (5) the number of youth identified as
11 moderate to high risk of sexually aggressive behavior who were placed
12 in department of social and health services community residential
13 settings during their period of parole with a youth who is not a
14 juvenile offender and is found to be dependent under chapter 13.34 RCW
15 or an at-risk youth or child in need of services under chapter 13.32A
16 RCW. The department shall identify the resources necessary to provide
17 separate placements for youth identified in this subsection and shall
18 identify alternative administrative processes for managing the
19 placement of these youth.

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

22 The secretary, assistant secretary, or the secretary's designee
23 shall manage and administer the department's juvenile rehabilitation
24 responsibilities, including but not limited to the operation of all
25 state institutions or facilities used for juvenile rehabilitation.

26 The secretary or assistant secretary shall:

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

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

32 (a) Public safety;

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

34 (c) Rehabilitative resources both within and outside the
35 department;

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

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

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

5 (4) Adopt rules establishing effective disciplinary policies to
6 maintain order within institutions;

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

11 (6) Develop placement criteria:

12 (a) To avoid assigning youth who present a moderate or high risk of
13 sexually aggressive behavior to the same sleeping quarters as youth
14 assessed as vulnerable to sexual victimization under section 50(1)(c)
15 of this act; and

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

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

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

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

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

32 ~~((7))~~ (8) Study, in conjunction with the superintendent of public
33 instruction, educators, and superintendents of state facilities for
34 juvenile offenders, the feasibility and value of consolidating within
35 a single entity the provision of educational services to juvenile
36 offenders committed to state facilities. The assistant secretary shall
37 report his or her findings to the legislature by December 1, 1995.

1 NEW SECTION. **Sec. 55.** The policy developed under RCW
2 13.40.460(6)(b) shall be implemented within the juvenile rehabilitation
3 administration and the division of children and family services by July
4 1, 1998.

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

7 The tax levied by RCW 82.08.020 shall not apply to sales to health
8 or social welfare organizations, as defined in RCW 82.04.431, of items
9 necessary for new construction of alternative housing for youth in
10 crisis, so long as the facility will be a licensed agency under chapter
11 74.15 RCW, upon completion. This section shall expire July 1, (~~1997~~)
12 1999.

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

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

21 ***NEW SECTION. Sec. 58.** *It is the intent of section 59 of this act
22 to protect runaway children from predatory individuals, such as drug
23 dealers, sexual marauders, and panderers. Since it is in the interests
24 of these individuals to keep children who have left home on the street
25 and unlocated, this act punishes predatory individuals who provide
26 shelter to at-risk youth as a means of preying upon them. The
27 legislature also recognizes that preventing at-risk youth from coming
28 into contact with these individuals is equally important to their
29 protection. Since prevention and reconciliation can only begin once a
30 child is located, section 59 of this act increases the incentives for
31 individuals to report the children's whereabouts.*

32 **Sec. 58 was vetoed. See message at end of chapter.*

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

1 (1)(a) A person commits the crime of unlawful harboring of a minor
2 if the person provides shelter to a minor without the consent of a
3 parent of the minor and after the person knows that the minor is away
4 from the home of the parent, without the parent's permission, and if
5 the person intentionally:

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

8 (ii) Fails to disclose the location of the minor to a law
9 enforcement officer after being requested to do so by the officer, if
10 the person knows the location of the minor and had either taken the
11 minor to that location or had assisted the minor in reaching that
12 location; or

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

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

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

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

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

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

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

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

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

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

33 (c) Complicity of the adult in the crime of a minor, under RCW
34 9A.08.020.

35 *Sec. 59 was vetoed. See message at end of chapter.

36 NEW SECTION. **Sec. 60.** The legislature recognizes that Indian
37 tribes are sovereign nations and the relationship between the state and
38 the tribe is sovereign-to-sovereign.

1 The federal government acknowledged the importance of including
2 Indian tribes in child support systems established by the federal
3 government and the states. The personal responsibility and work
4 opportunity reconciliation act of 1996, P.L. 104-193, provides Indian
5 tribes the option of developing their own tribal plan and tribal child
6 support enforcement program to receive funds directly from the federal
7 government for their own Title IV-D program similar to that of other
8 states. The act also expressly authorizes the states and Indian tribe
9 or tribal organization to enter into cooperative agreements to provide
10 for the delivery of child support enforcement services.

11 It is the purpose of this chapter to encourage the department of
12 social and health services, division of child support, and the Indian
13 tribes within the state's borders to enter into cooperative agreements
14 that will assist the state and tribal governments in carrying out their
15 respective responsibilities. The legislature recognizes that the state
16 and the tribes each possess resources that are sometimes distinct to
17 that government. The legislature intends that the state and the tribes
18 work together to make the most efficient and productive use of all
19 resources and authorities.

20 Cooperative agreements will enable the state and the tribes to
21 better provide child support services to Indian children and to
22 establish and enforce child support obligations, orders, and judgments.
23 Under cooperative agreements, the state and the tribes can work as
24 partners to provide culturally relevant child support services,
25 consistent with state and federal laws, that are based on tribal laws
26 and customs. The legislature recognizes that the preferred method for
27 handling cases where all or some of the parties are enrolled tribal
28 members living on the tribal reservation is to develop an agreement so
29 that appropriate cases are referred to the tribe to be processed in the
30 tribal court. The legislature recognizes that cooperative agreements
31 serve the best interests of the children.

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

37 (2) In determining the scope and terms of the agreement, the
38 department and the tribe should consider, among other factors, whether

1 the tribe has an established tribal court system with the authority to
2 establish, modify, or enforce support orders, establish paternity, or
3 enter support orders in accordance with child support guidelines
4 established by the tribe.

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

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

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

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

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

17 (5) The authority, procedures, and guidelines for the garnishing of
18 wages of tribal members or employees of a tribe, tribally owned
19 enterprise, or an Indian-owned business located on the reservation;

20 (6) The department's and tribe's responsibilities to each other;

21 (7) The ability for the department and the tribe to address the
22 fiscal responsibilities between each other;

23 (8) Requirements for alternative dispute resolution procedures;

24 (9) The necessary procedures for notice and the continual sharing
25 of information; and

26 (10) The duration of the agreement, under what circumstances the
27 parties may terminate the agreement, and the consequences of breaching
28 the provisions in the agreement.

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

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

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

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

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

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

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

9 **Sec. 69 was vetoed. See message at end of chapter.*

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

14 **Sec. 70 was vetoed. See message at end of chapter.*

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

 Passed the Senate April 26, 1997.

 Passed the House April 26, 1997.

 Approved by the Governor May 15, 1997, with the exception of
 certain items that were vetoed.

 Filed in Office of Secretary of State May 15, 1997.

1 Note: Governor's explanation of partial veto is as follows:

2 "I am returning herewith, without my approval as to sections 2, 3,
3 4, 6, 8, 14, 20, 36 through 39, 46, 58, 59, 69 and 70, Engrossed Second
4 Substitute Senate Bill No. 5710 entitled:

5 "AN ACT Relating to reform of social and health services;"

6 This legislation addresses a number of issues related to services
7 for children and families. I support a number of the proposed measures
8 included in this bill, including the further development of an
9 alternative response system for families in which abuse and neglect is
10 a matter of concern, but not yet a serious danger to the health and
11 safety of the children.

12 Within the portions of E2SSB 5710 that I have signed, the bill
13 provides the authority to create the position of "Social Worker V" in
14 the Division of Children and Family Services ("DCFS"); further develops
15 an alternative response system of services for families where there has

1 been an indication of child abuse or neglect, but where the risk of
2 danger to the children is regarded as low; provides for a voluntary
3 placement agreement, instead of a termination of parental rights, for
4 families of developmentally disabled children receiving intensive
5 support services; requires the Department of Social and Health Services
6 ("DSHS") to segregate sexually aggressive youth from other populations
7 under the authority of Juvenile Rehabilitation Administration and DCFS;
8 and, extends a tax credit for the construction of facilities for youth
9 in crisis.

10 Sections 2, 3, 4, and 6

11 I support giving DSHS the flexibility to create a Social Worker V
12 position and to undertake planning for the deployment of those workers.
13 Sections 2, 3, 4 and 6 do not allow for the flexibility to implement
14 these positions within already scarce resources.

15 Section 8

16 This section, relating to the placement of a child under the care
17 of DCFS, was enacted as part of ESSB 5491, which I have already signed.

18 Sections 14 and 20

19 I am vetoing sections 14 and 20 which require a transfer of certain
20 developmentally disabled children from DCFS to the Division of
21 Developmental Disabilities ("DDD"). At the same time, I am directing
22 DSHS to begin planning now for the transfer. DSHS will prepare for
23 this transfer to take place as soon as April 1, 1998. When this
24 transfer occurs, the quality of services provided to the
25 developmentally disabled youngsters through DDD and to the child
26 victims of abuse and neglect served by DCFS should both improve.

27 The transfer will require the provision of sufficient funds to
28 permit DDD to develop the expertise to handle complicated out-of-home
29 placements, and the authority to transfer funds between DSHS divisions
30 to permit an adequate level of care for the children who will be served
31 by DDD. I request the legislature to clearly grant DSHS the necessary
32 budget transfer authority as soon as possible in the next legislative
33 session, so that the transfer may occur.

34 Sections 36 through 39

35 These sections attempt to correct erroneous citations in our
36 statutes. However, a wrong citation is stated. It is better to leave
37 in place the current interpretations than to add to the confusion. A
38 part of the necessary corrections were made in ESSB 5491.

39 Section 46

40 This section requires child protective services and child welfare
41 services to be provided by different employees. I have vetoed section
42 46 because it does not allow DSHS the flexibility to make use of a team
43 approach to some of their cases and would also present a problem in

1 small, rural areas where there are a limited number of staff to perform
2 these duties.

3 Sections 58 and 59

4 These sections relate to harboring and contributing to the
5 delinquency of a minor. They reiterate the existing law and make no
6 meaningful changes.

7 Sections 69 and 70

8 These sections provide effective dates of April 1, 1998 for
9 sections 14 through 19, and July 1, 1997 for sections 7 and 20. By
10 vetoing sections 69 and 70, and with sections 14 and 20 vetoed,
11 sections 7 and 15 through 19 will become effective 90 days after the
12 session. These sections are rendered unnecessary by the other section
13 vetoes.

14 For these reasons I have vetoed sections 2, 3, 4, 6, 8, 14, 20, 36
15 through 39, 46, 58, 59, 69 and 70 of Engrossed Second Substitute Senate
16 Bill No. 5710.

17 With the exception of sections 2, 3, 4, 6, 8, 14, 20, 36 through
18 39, 46, 58, 59, 69 and 70 Engrossed Second Substitute Senate Bill No.
19 5710 is approved."