

CERTIFICATION OF ENROLLMENT

ENGROSSED SUBSTITUTE SENATE BILL 5922

Chapter 512, Laws of 2005

(partial veto)

59th Legislature
2005 Regular Session

CHILD ABUSE OR NEGLECT--INVESTIGATIONS

EFFECTIVE DATE: 1/01/07

Passed by the Senate April 23, 2005
YEAS 46 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House April 21, 2005
YEAS 96 NAYS 1

FRANK CHOPP

Speaker of the House of Representatives

Approved May 17, 2005, with the
exception of Sections 7 and 8, which
are vetoed.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of
the Senate of the State of
Washington, do hereby certify that
the attached is **ENGROSSED
SUBSTITUTE SENATE BILL 5922** as
passed by the Senate and the House
of Representatives on the dates
hereon set forth.

THOMAS HOEMANN

Secretary

FILED

May 17, 2005 - 2:29 p.m.

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 5922

AS AMENDED BY THE HOUSE

Passed Legislature - 2005 Regular Session

State of Washington 59th Legislature 2005 Regular Session

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Stevens, Hargrove, Roach, Schmidt, Zarelli, Carrell and Finkbeiner)

READ FIRST TIME 03/01/05.

1 AN ACT Relating to investigations of child abuse or neglect;
2 amending RCW 26.44.100, 13.34.138, 26.44.015, 26.44.020, 74.13.031, and
3 13.34.050; adding a new section to chapter 26.44 RCW; creating new
4 sections; and providing an effective date.

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

6 **Sec. 1.** RCW 26.44.100 and 1998 c 314 s 8 are each amended to read
7 as follows:

8 (1) The legislature finds parents and children often are not aware
9 of their due process rights when agencies are investigating allegations
10 of child abuse and neglect. The legislature reaffirms that all
11 citizens, including parents, shall be afforded due process, that
12 protection of children remains the priority of the legislature, and
13 that this protection includes protecting the family unit from
14 unnecessary disruption. To facilitate this goal, the legislature
15 wishes to ensure that parents and children be advised in writing and
16 orally, if feasible, of their basic rights and other specific
17 information as set forth in this chapter, provided that nothing
18 contained in this chapter shall cause any delay in protective custody
19 action.

1 (2) The department shall notify the (~~(alleged perpetrator of the)~~)
2 parent, guardian, or legal custodian of a child of any allegations of
3 child abuse (~~(and)~~) or neglect (~~(at the earliest possible point in the~~
4 ~~investigation that will not jeopardize the safety and protection of the~~
5 ~~child or the investigation process)~~) made against such person at the
6 initial point of contact with such person, in a manner consistent with
7 the laws maintaining the confidentiality of the persons making the
8 complaints or allegations. Investigations of child abuse and neglect
9 should be conducted in a manner that will not jeopardize the safety or
10 protection of the child or the integrity of the investigation process.

11 Whenever the department completes an investigation of a child abuse
12 or neglect report under chapter 26.44 RCW, the department shall notify
13 the (~~(alleged perpetrator)~~) subject of the report (~~(and)~~) of the
14 department's investigative findings. The notice shall also advise the
15 (~~(alleged perpetrator)~~) subject of the report that:

16 (a) A written response to the report may be provided to the
17 department and that such response will be filed in the record following
18 receipt by the department;

19 (b) Information in the department's record may be considered in
20 subsequent investigations or proceedings related to child protection or
21 child custody;

22 (c) Founded reports of child abuse and neglect may be considered in
23 determining whether the person is disqualified from being licensed to
24 provide child care, employed by a licensed child care agency, or
25 authorized by the department to care for children; and

26 (d) (~~(An alleged perpetrator)~~) A subject named in a founded report
27 of child abuse or neglect has the right to seek review of the finding
28 as provided in this chapter.

29 (3) The notification required by this section shall be made by
30 certified mail, return receipt requested, to the person's last known
31 address.

32 (4) The duty of notification created by this section is subject to
33 the ability of the department to ascertain the location of the person
34 to be notified. The department shall exercise reasonable, good-faith
35 efforts to ascertain the location of persons entitled to notification
36 under this section.

37 (5) The department shall provide training to all department
38 personnel who conduct investigations under this section that shall

1 include, but is not limited to, training regarding the legal duties of
2 the department from the initial time of contact during investigation
3 through treatment in order to protect children and families.

4 NEW SECTION. **Sec. 2.** The legislature finds that whenever
5 possible, children should remain in the home of their parents. It is
6 only when the safety of the child is in jeopardy that the child should
7 be removed from the home.

8 It is the intent of the legislature that the department of social
9 and health services be permitted to intervene in cases of chronic
10 neglect where the health, welfare, or safety of the child is at risk.
11 One incident of neglect may not rise to the level requiring state
12 intervention; however, a pattern of neglect has been shown to cause
13 damage to the health and well-being of the child subject to the
14 neglect.

15 It is the intent of the legislature that, when chronic neglect has
16 been found to exist in a family, the legal system reinforce the need
17 for the parent's early engagement in services that will decrease the
18 likelihood of future neglect. However, if the parents fail to comply
19 with the offered necessary and available services, the state has the
20 authority to intervene to protect the children who are at risk. If a
21 parent fails to engage in available substance abuse or mental health
22 services necessary to maintain the safety of a child or a parent fails
23 to correct substance abuse deficiencies that jeopardize the safety of
24 a child, the state has the authority to intervene to protect a child.

25 **Sec. 3.** RCW 13.34.138 and 2003 c 227 s 5 are each amended to read
26 as follows:

27 (1) Except for children whose cases are reviewed by a citizen
28 review board under chapter 13.70 RCW, the status of all children found
29 to be dependent shall be reviewed by the court at least every six
30 months from the beginning date of the placement episode or the date
31 dependency is established, whichever is first, at a hearing in which it
32 shall be determined whether court supervision should continue. The
33 initial review hearing shall be an in-court review and shall be set six
34 months from the beginning date of the placement episode or no more than
35 ninety days from the entry of the disposition order, whichever comes
36 first. The initial review hearing may be a permanency planning hearing

1 when necessary to meet the time frames set forth in RCW 13.34.145(3) or
2 13.34.134. The review shall include findings regarding the agency and
3 parental completion of disposition plan requirements, and if necessary,
4 revised permanency time limits. This review shall consider both the
5 agency's and parent's efforts that demonstrate consistent measurable
6 progress over time in meeting the disposition plan requirements. The
7 requirements for the initial review hearing, including the in-court
8 requirement, shall be accomplished within existing resources. The
9 supervising agency shall provide a foster parent, preadoptive parent,
10 or relative with notice of, and their right to an opportunity to be
11 heard in, a review hearing pertaining to the child, but only if that
12 person is currently providing care to that child at the time of the
13 hearing. This section shall not be construed to grant party status to
14 any person who has been provided an opportunity to be heard.

15 (a) A child shall not be returned home at the review hearing unless
16 the court finds that a reason for removal as set forth in RCW 13.34.130
17 no longer exists. The parents, guardian, or legal custodian shall
18 report to the court the efforts they have made to correct the
19 conditions which led to removal. If a child is returned, casework
20 supervision shall continue for a period of six months, at which time
21 there shall be a hearing on the need for continued intervention.

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

24 (i) Whether reasonable services have been provided to or offered to
25 the parties to facilitate reunion, specifying the services provided or
26 offered;

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

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

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

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

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

1 (vii) Whether additional services, including housing assistance,
2 are needed to facilitate the return of the child to the child's
3 parents; if so, the court shall order that reasonable services be
4 offered specifying such services; and

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

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

9 (2)(a) In any case in which the court orders that a dependent child
10 may be returned to or remain in the child's home, the in-home placement
11 shall be contingent upon the following:

12 (i) The compliance of the parents with court orders related to the
13 care and supervision of the child, including compliance with an agency
14 case plan; and

15 (ii) The continued participation of the parents, if applicable, in
16 available substance abuse or mental health treatment if substance abuse
17 or mental illness was a contributing factor to the removal of the
18 child.

19 (b) The following may be grounds for removal of the child from the
20 home, subject to review by the court:

21 (i) Noncompliance by the parents with the agency case plan or court
22 order;

23 (ii) The parent's inability, unwillingness, or failure to
24 participate in available services or treatment for themselves or the
25 child, including substance abuse treatment if a parent's substance
26 abuse was a contributing factor to the abuse or neglect; or

27 (iii) The failure of the parents to successfully and substantially
28 complete available services or treatment for themselves or the child,
29 including substance abuse treatment if a parent's substance abuse was
30 a contributing factor to the abuse or neglect.

31 (3) The court's ability to order housing assistance under RCW
32 13.34.130 and this section is: (a) Limited to cases in which
33 homelessness or the lack of adequate and safe housing is the primary
34 reason for an out-of-home placement; and (b) subject to the
35 availability of funds appropriated for this specific purpose.

36 ~~((+3))~~ (4) The court shall consider the child's relationship with
37 siblings in accordance with RCW 13.34.130(3).

1 **Sec. 4.** RCW 26.44.015 and 1999 c 176 s 28 are each amended to read
2 as follows:

3 (1) This chapter shall not be construed to authorize interference
4 with child-raising practices, including reasonable parental discipline,
5 which are not injurious to the child's health, welfare, ~~((and))~~ or
6 safety.

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

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

12 **Sec. 5.** RCW 26.44.020 and 2000 c 162 s 19 are each amended to read
13 as follows:

14 The definitions in this section apply throughout this chapter
15 unless the context clearly requires otherwise.

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

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

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

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

32 (5) "Department" means the state department of social and health
33 services.

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

36 (7) "Professional school personnel" include, but are not limited

1 to, teachers, counselors, administrators, child care facility
2 personnel, and school nurses.

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

10 (9) "Psychologist" means any person licensed to practice psychology
11 under chapter 18.83 RCW, whether acting in an individual capacity or as
12 an employee or agent of any public or private organization or
13 institution.

14 (10) "Pharmacist" means any registered pharmacist under chapter
15 18.64 RCW, whether acting in an individual capacity or as an employee
16 or agent of any public or private organization or institution.

17 (11) "Clergy" means any regularly licensed or ordained minister,
18 priest, or rabbi of any church or religious denomination, whether
19 acting in an individual capacity or as an employee or agent of any
20 public or private organization or institution.

21 (12) "Abuse or neglect" means (~~the injury,~~) sexual abuse, sexual
22 exploitation, (~~negligent treatment, or maltreatment~~) or injury of a
23 child by any person under circumstances which (~~indicate that~~) cause
24 harm to the child's health, welfare, (and) or safety (is harmed),
25 excluding conduct permitted under RCW 9A.16.100; or the negligent
26 treatment or maltreatment of a child by a person responsible for or
27 providing care to the child. An abused child is a child who has been
28 subjected to child abuse or neglect as defined in this section.

29 (13) "Child protective services section" means the child protective
30 services section of the department.

31 (14) "Sexual exploitation" includes: (a) Allowing, permitting, or
32 encouraging a child to engage in prostitution by any person; or (b)
33 allowing, permitting, encouraging, or engaging in the obscene or
34 pornographic photographing, filming, or depicting of a child by any
35 person.

36 (15) "Negligent treatment or maltreatment" means an act or
37 (~~omission~~) a failure to act, or the cumulative effects of a pattern
38 of conduct, behavior, or inaction, that evidences a serious disregard

1 of consequences of such magnitude as to constitute a clear and present
2 danger to ~~((the))~~ a child's health, welfare, ~~((and))~~ or safety. When
3 considering whether a clear and present danger exists, evidence of a
4 parent's substance abuse as a contributing factor to negligent
5 treatment or maltreatment shall be given great weight. The fact that
6 siblings share a bedroom is not, in and of itself, negligent treatment
7 or maltreatment. Poverty, homelessness, or exposure to domestic
8 violence as defined in RCW 26.50.010 that is perpetrated against
9 someone other than the child do not constitute negligent treatment or
10 maltreatment in and of themselves.

11 (16) "Child protective services" means those services provided by
12 the department designed to protect children from child abuse and
13 neglect and safeguard such children from future abuse and neglect, and
14 conduct investigations of child abuse and neglect reports.
15 Investigations may be conducted regardless of the location of the
16 alleged abuse or neglect. Child protective services includes referral
17 to services to ameliorate conditions that endanger the welfare of
18 children, the coordination of necessary programs and services relevant
19 to the prevention, intervention, and treatment of child abuse and
20 neglect, and services to children to ensure that each child has a
21 permanent home. In determining whether protective services should be
22 provided, the department shall not decline to provide such services
23 solely because of the child's unwillingness or developmental inability
24 to describe the nature and severity of the abuse or neglect.

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

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

32 (19) "Unfounded" means available information indicates that, more
33 likely than not, child abuse or neglect did not occur. No unfounded
34 allegation of child abuse or neglect may be disclosed to a child-
35 placing agency, private adoption agency, or any other provider licensed
36 under chapter 74.15 RCW.

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

3 (1) If the department, upon investigation of a report that a child
4 has been abused or neglected as defined in this chapter, determines
5 that the child has been subject to negligent treatment or maltreatment,
6 the department may offer services to the child's parents, guardians, or
7 legal custodians to: (a) Ameliorate the conditions that endangered the
8 welfare of the child; or (b) address or treat the effects of
9 mistreatment or neglect upon the child.

10 (2) When evaluating whether the child has been subject to negligent
11 treatment or maltreatment, evidence of a parent's substance abuse as a
12 contributing factor to a parent's failure to provide for a child's
13 basic health, welfare, or safety shall be given great weight.

14 (3) If the child's parents, guardians, or legal custodians are
15 available and willing to participate on a voluntary basis in in-home
16 services, and the department determines that in-home services on a
17 voluntary basis are appropriate for the family, the department may
18 offer such services.

19 (4) In cases where the department has offered appropriate and
20 reasonable services under subsection (1) of this section, and the
21 parents, guardians, or legal custodians refuse to accept or fail to
22 obtain available and appropriate treatment or services, or are unable
23 or unwilling to participate in or successfully and substantially
24 complete the treatment or services identified by the department, the
25 department may initiate a dependency proceeding under chapter 13.34 RCW
26 on the basis that the negligent treatment or maltreatment by the
27 parent, guardian, or legal custodian constitutes neglect. When
28 evaluating whether to initiate a dependency proceeding on this basis,
29 the evidence of a parent's substance abuse as a contributing factor to
30 the negligent treatment or maltreatment shall be given great weight.

31 (5) Nothing in this section precludes the department from filing a
32 dependency petition as provided in chapter 13.34 RCW if it determines
33 that such action is necessary to protect the child from abuse or
34 neglect.

35 (6) Nothing in this section shall be construed to create in any
36 person an entitlement to services or financial assistance in paying for
37 services or to create judicial authority to order the provision of

1 services to any person or family if the services are unavailable or
2 unsuitable or if the child or family is not eligible for such services.

3 *Sec. 7. RCW 74.13.031 and 2004 c 183 s 3 are each amended to read
4 as follows:

5 The department shall have the duty to provide child welfare
6 services and shall:

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

10 (2) Within available resources, recruit an adequate number of
11 prospective adoptive and foster homes, both regular and specialized,
12 i.e. homes for children of ethnic minority, including Indian homes for
13 Indian children, sibling groups, handicapped and emotionally disturbed,
14 teens, pregnant and parenting teens, and annually report to the
15 governor and the legislature concerning the department's success in:
16 (a) Meeting the need for adoptive and foster home placements; (b)
17 reducing the foster parent turnover rate; (c) completing home studies
18 for legally free children; and (d) implementing and operating the
19 passport program required by RCW 74.13.285. The report shall include
20 a section entitled "Foster Home Turn-Over, Causes and Recommendations."

21 (3)(a) Investigate (~~complaints of any recent act or failure to~~
22 ~~act~~) any reports of child abuse or neglect, as defined in chapter
23 26.44 RCW, on the part of a parent, guardian, or legal custodian of the
24 child, member of the household of such persons, an agency providing
25 care to the child as defined in chapter 74.15 RCW, or other caretaker
26 ((that)) of the child who is serving in place of the parent if the
27 child abuse or neglect results in death, serious physical or emotional
28 harm, or sexual abuse or exploitation, or that presents an imminent
29 risk of serious harm(, and on the basis of the findings of such
30 investigation, offer)). Evidence of a parent's substance abuse as a
31 contributing factor to the alleged abuse or neglect shall be considered
32 to present an imminent risk of serious harm to the child.

33 (b) Offer child welfare services ((in relation to the problem to
34 such)), where warranted, to parents, legal custodians, or persons
35 serving in ((loco parentis)) the place of the parent, ((and/or)) or
36 bring the situation to the attention of an appropriate court, or
37 another community agency((:—PROVIDED, That)), including the

1 appropriate law enforcement agency if the investigation reveals that a
2 crime against a child may have been committed. However, an
3 investigation is not required of nonaccidental injuries which are
4 clearly not the result of a lack of care or supervision by the child's
5 parents, legal custodians, or persons serving in ((loco parentis)) the
6 place of the parent. ((If the investigation reveals that a crime
7 against a child may have been committed, the department shall notify
8 the appropriate law enforcement agency.))

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

11 (5) Monitor out-of-home placements, on a timely and routine basis,
12 to assure the safety, well-being, and quality of care being provided is
13 within the scope of the intent of the legislature as defined in RCW
14 74.13.010 and 74.15.010, and annually submit a report measuring the
15 extent to which the department achieved the specified goals to the
16 governor and the legislature.

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

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

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

35 (9) Establish a children's services advisory committee which shall
36 assist the secretary in the development of a partnership plan for
37 utilizing resources of the public and private sectors, and advise on

1 all matters pertaining to child welfare, licensing of child care
2 agencies, adoption, and services related thereto. At least one member
3 shall represent the adoption community.

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

7 (11) Refer cases to the division of child support whenever state or
8 federal funds are expended for the care and maintenance of a child,
9 including a child with a developmental disability who is placed as a
10 result of an action under chapter 13.34 RCW, unless the department
11 finds that there is good cause not to pursue collection of child
12 support against the parent or parents of the child.

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

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

27 (13) Within amounts appropriated for this specific purpose, provide
28 preventive services to families with children that prevent or shorten
29 the duration of an out-of-home placement.

30 (14) Have authority to provide independent living services to
31 youths, including individuals eighteen through twenty years of age, who
32 are or have been in foster care.

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

33 *NEW SECTION. Sec. 8. The legislature recognizes that the fiscal
34 and workload impact of this act may not be fully determined until after
35 it is implemented and that such impact may further be affected by the
36 funding or availability of community-based prevention and remedial
37 services. For that reason, the department of social and health

1 *services shall report on the implementation of this act to the*
2 *appropriate legislative committees and the governor by December 1,*
3 *2006. The report shall include information regarding any change over*
4 *previous years in the number and type of child abuse and neglect*
5 *referrals received and investigations conducted, any change in in-home*
6 *and out-of-home dependency placements and/or filings, any increased*
7 *service costs, barriers to implementation, and an assessment of the*
8 *fiscal and workload impact on the department. Such information shall*
9 *be reviewed by the legislature for possible amendment of this act or*
10 *additional allocation of resources to the department for implementation*
11 *purposes.*

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

12 **Sec. 9.** RCW 13.34.050 and 2000 c 122 s 3 are each amended to read
13 as follows:

14 (1) The court may enter an order directing a law enforcement
15 officer, probation counselor, or child protective services official to
16 take a child into custody if: (a) A petition is filed with the
17 juvenile court alleging that the child is dependent and that the
18 child's health, safety, and welfare will be seriously endangered if not
19 taken into custody; (b) an affidavit or declaration is filed by the
20 department in support of the petition setting forth specific factual
21 information evidencing reasonable grounds that the child's health,
22 safety, and welfare will be seriously endangered if not taken into
23 custody and at least one of the grounds set forth demonstrates a risk
24 of imminent harm to the child. "Imminent harm" for purposes of this
25 section shall include, but not be limited to, circumstances of sexual
26 abuse, ((~~or~~)) sexual exploitation as defined in RCW 26.44.020, and a
27 parent's failure to perform basic parental functions, obligations, and
28 duties as the result of substance abuse; and (c) the court finds
29 reasonable grounds to believe the child is dependent and that the
30 child's health, safety, and welfare will be seriously endangered if not
31 taken into custody.

32 (2) Any petition that does not have the necessary affidavit or
33 declaration demonstrating a risk of imminent harm requires that the
34 parents are provided notice and an opportunity to be heard before the
35 order may be entered.

36 (3) The petition and supporting documentation must be served on the
37 parent, and if the child is in custody at the time the child is

1 removed, on the entity with custody other than the parent. Failure to
2 effect service does not invalidate the petition if service was
3 attempted and the parent could not be found.

4 NEW SECTION. **Sec. 10.** This act takes effect January 1, 2007.

5 NEW SECTION. **Sec. 11.** This act may be known and cited as the
6 Justice and Raiden Act.

Passed by the Senate April 23, 2005.

Passed by the House April 21, 2005.

Approved by the Governor May 17, 2005, with the exception of
certain items that were vetoed.

Filed in Office of Secretary of State May 17, 2005.

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

"I am returning, without my approval as to Sections 7 and 8,
Engrossed Substitute Senate Bill No. 5922 entitled:

"AN ACT Relating to investigations of child abuse or neglect."

The 2005-2007 state operating budget as passed by the Legislature does not include all of the funding that the Department of Social and Health Services' (DSHS) Children's Administration has initially estimated would be needed for full implementation of this bill. I am directing the Children's Administration to develop a policy for staff to provide guidance in identifying and prioritizing those cases involving allegations of chronic neglect that staff will be authorized to provide enhanced services to within the limits of new funding specifically appropriated for this purpose in the budget.

Section 7 specifies that, as regards to reports of child abuse or neglect, evidence of a parent's substance abuse as a contributing factor shall be considered to present an imminent risk of serious harm to the child. The DSHS' child protective services investigators are required to respond to all reports indicating an imminent risk of serious harm to a child within twenty-four hours. Elevating all reports in which substance abuse is alleged to imminent risk is unnecessary. Parental substance abuse is already one of the factors considered when determining the risk level of the referral. Automatically coding all cases with substance abuse as imminent risk cases will lead to focusing emergent investigative resources on non-emergent cases.

Section 8 requires the DSHS to complete a report regarding issues associated with implementation of this bill by December 1, 2006. The bill does not take effect, however, until January 1, 2007.

For these reasons, I have vetoed Sections 7 and 8 of Engrossed Substitute Senate Bill No. 5922.

With the exception of Sections 7 and 8, Engrossed Substitute Senate Bill No. 5922 is approved."