
SUBSTITUTE SENATE BILL 6627

State of Washington

54th Legislature

1996 Regular Session

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Hargrove, Long, Franklin, Prentice and Winsley)

Read first time 02/02/96.

1 AN ACT Relating to reform of social and health services; amending
2 RCW 41.06.076, 26.44.015, 26.44.030, 26.44.035, 26.44.040, 26.44.053,
3 26.44.060, 13.50.100, 70.124.040, 70.129.030, 74.13.031, 74.15.030,
4 74.34.050, 74.34.070, and 13.50.010; reenacting and amending RCW
5 26.44.020; adding new sections to chapter 41.06 RCW; adding new
6 sections to chapter 43.20A RCW; adding a new chapter to Title 44 RCW;
7 creating new sections; making appropriations; providing an effective
8 date; providing an expiration date; and declaring an emergency.

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

10

PART I--SOCIAL WORKER TEAMS

11 **Sec. 101.** RCW 41.06.076 and 1993 c 281 s 22 are each amended to
12 read as follows:

13 In addition to the exemptions set forth in RCW 41.06.070, the
14 provisions of this chapter shall not apply in the department of social
15 and health services to the secretary; the secretary's executive
16 assistant, if any; not to exceed six assistant secretaries, thirteen
17 division directors, six regional directors; one confidential secretary
18 for each of the above-named officers; not to exceed six bureau chiefs;

1 all social worker V positions; and all superintendents of institutions
2 of which the average daily population equals or exceeds one hundred
3 residents: PROVIDED, That each such confidential secretary must meet
4 the minimum qualifications for the class of secretary II as determined
5 by the Washington personnel resources board.

6 NEW SECTION. Sec. 102. A new section is added to chapter 41.06
7 RCW to read as follows:

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

17 The salary and fringe benefits shall exceed that of the highest
18 position in the social worker classification on the effective date of
19 this section.

20 NEW SECTION. Sec. 103. A new section is added to chapter 43.20A
21 RCW to read as follows:

22 There is created in the department the classification of social
23 worker V. Employees who are appointed to fill the position shall have:
24 (1) An employment history that demonstrates significant and successful
25 experience in the efficient investigation and resolution of high-risk
26 or complex cases involving child abuse and neglect, including child sex
27 abuse cases; (2) advanced education and training; (3) supervisory
28 experience; (4) a demonstrated commitment to professional improvement
29 and advancement; and (5) capacity to successfully provide support and
30 mentoring to coworkers. Social worker V positions shall not be
31 included in the Washington management service. This classification
32 shall not have more than forty positions.

33 NEW SECTION. Sec. 104. A new section is added to chapter 43.20A
34 RCW to read as follows:

35 The secretary shall establish the most cost-effective and efficient
36 administrative structure for utilization of the social worker V

1 positions, consistent with the requirements of this section. The
2 social worker V employees shall be assigned by the secretary to regions
3 where the average child protective services' caseloads exceed the
4 state-wide average, with consideration also given to the number of
5 high-risk or complex cases in a region, for the purpose of assisting in
6 the reduction of the caseload, training and mentoring other
7 caseworkers, and providing hands-on training and assistance in high-
8 risk, complex, or large cases. The social worker V employees shall be
9 assigned high-risk and complex cases consistent with their
10 qualifications and the goal of caseload reduction. They shall carry no
11 more than one-third the average number of cases for social workers in
12 the region to which they are assigned.

13 The social worker V employees shall be assigned to a region as a
14 task force consisting of no less than ten employees. The assignment
15 shall be time-limited and in no event shall exceed two years in
16 duration in any one region. Upon completion of the work in the region
17 the task force members shall continue to remain in contact with the
18 coworkers from the previous assignment for a period of twelve months to
19 perform additional follow-up and mentoring.

20 NEW SECTION. **Sec. 105.** A new section is added to chapter 43.20A
21 RCW to read as follows:

22 The secretary shall develop a plan for implementation for the
23 social worker V employees. The implementation plan shall be submitted
24 to the governor and the legislature by September 1, 1996.

25 NEW SECTION. **Sec. 106.** A new section is added to chapter 43.20A
26 RCW to read as follows:

27 The Washington state institute for public policy shall conduct or
28 contract for monitoring and tracking of sections 102 through 105 of
29 this act to determine whether these efforts result in a measurable
30 reduction in caseloads, increased capacities and efficiencies of
31 caseworkers, and improved resolution of cases. The institute shall
32 report its findings to the governor and legislature by December 1,
33 2003. If the institute contracts for the study required under this
34 section, it shall consult with the appropriate committees of the
35 legislature to assure the request for proposals adequately reflects the
36 legislative intent.

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

3 (5) "Department" means the state department of social and health
4 services.

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

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

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

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

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

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

29 (12) "Abuse or neglect" shall mean the injury, sexual abuse, sexual
30 exploitation, negligent treatment, or maltreatment of a child, adult
31 dependent, or developmentally disabled person by any person under
32 circumstances which indicate that the child's or adult's health,
33 welfare, and safety is harmed, subject to the standards of defense as
34 provided in RCW 9A.16.100. An abused child is a child who has been
35 subjected to child abuse or neglect as defined herein.

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

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

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

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

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

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

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

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

36 **Sec. 203.** RCW 26.44.030 and 1995 c 311 s 17 are each amended to
37 read as follows:

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

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

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

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

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

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

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

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

36 (7) The department may conduct ongoing case planning and
37 consultation with those persons or agencies required to report under
38 this section, with consultants designated by the department, and with
39 designated representatives of Washington Indian tribes if the client

1 information exchanged is pertinent to cases currently receiving child
2 protective services or department case services for the developmentally
3 disabled. Upon request, the department shall conduct such planning and
4 consultation with those persons required to report under this section
5 if the department determines it is in the best interests of the child
6 or developmentally disabled person. Information considered privileged
7 by statute and not directly related to reports required by this section
8 shall not be divulged without a valid written waiver of the privilege.

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

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

27 (10) Upon receiving reports of alleged abuse or neglect, the
28 department or law enforcement agency may interview children. The
29 interviews may be conducted on school premises, at day-care facilities,
30 at the child's home, or at other suitable locations outside of the
31 presence of parents. Parental notification of the interview shall
32 occur at the earliest possible point in the investigation that will not
33 jeopardize the safety or protection of the child or the course of the
34 investigation. Prior to commencing the interview the department or law
35 enforcement agency shall determine whether the child wishes a third
36 party to be present for the interview and, if so, shall make reasonable
37 efforts to accommodate the child's wishes. Unless the child objects,
38 the department or law enforcement agency shall make reasonable efforts

1 to include a third party in any interview so long as the presence of
2 the third party will not jeopardize the course of the investigation.

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

7 (12) The department shall maintain investigation records and
8 conduct timely and periodic reviews of all cases constituting abuse and
9 neglect. The department shall maintain a log of screened-out
10 nonabusive cases.

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

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

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

24 **Sec. 204.** RCW 26.44.035 and 1985 c 259 s 3 are each amended to
25 read as follows:

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

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

1 **Sec. 205.** RCW 26.44.040 and 1993 c 412 s 14 are each amended to
2 read as follows:

3 An immediate oral report shall be made by telephone or otherwise to
4 the proper law enforcement agency or the department of social and
5 health services and, upon request, shall be followed by a report in
6 writing. Such reports shall contain the following information, if
7 known:

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

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

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

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

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

16 (6) Any evidence of previous injuries, including their nature and
17 extent; and

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

22 **Sec. 206.** RCW 26.44.053 and 1994 c 110 s 1 are each amended to
23 read as follows:

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

29 (2) At any time prior to or during a hearing in such a case, the
30 court may, on its own motion, or the motion of the guardian ad litem,
31 or other parties, order the examination by a physician, psychologist,
32 or psychiatrist, of any parent or child or other person having custody
33 of the child at the time of the alleged child abuse or neglect, if the
34 court finds such an examination is necessary to the proper
35 determination of the case. The hearing may be continued pending the
36 completion of such examination. The physician, psychologist, or
37 psychiatrist conducting such an examination may be required to testify
38 concerning the results of such examination and may be asked to give his

1 or her opinion as to whether the protection of the child requires that
2 he or she not be returned to the custody of his or her parents or other
3 persons having custody of him or her at the time of the alleged child
4 abuse or neglect. Persons so testifying shall be subject to cross-
5 examination as are other witnesses. No information given at any such
6 examination of the parent or any other person having custody of the
7 child may be used against such person in any subsequent criminal
8 proceedings against such person or custodian concerning the alleged
9 abuse or neglect of the child.

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

14 **Sec. 207.** RCW 26.44.060 and 1988 c 142 s 3 are each amended to
15 read as follows:

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

22 (b) A person convicted of a violation of subsection (4) of this
23 section shall not be immune from liability under (a) of this
24 subsection.

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

29 (3) Conduct conforming with the reporting requirements of this
30 chapter shall not be deemed a violation of the confidential
31 communication privilege of RCW 5.60.060 (3) and (4), 18.53.200 and
32 18.83.110. Nothing in this chapter shall be construed as to supersede
33 or abridge remedies provided in chapter 4.92 RCW.

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

1 **Sec. 208.** RCW 13.50.100 and 1995 c 311 s 16 are each amended to
2 read as follows:

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

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

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

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

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

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

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

36 (5) A juvenile or his or her parent denied access to any records
37 following an agency determination under subsection (4) of this section
38 may file a motion in juvenile court requesting access to the records.
39 The court shall grant the motion unless it finds access may not be

1 permitted according to the standards found in subsections (4) (a) and
2 (b) of this section.

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

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

17 **Sec. 209.** RCW 70.124.040 and 1981 c 174 s 4 are each amended to
18 read as follows:

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

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

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

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

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

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

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

32 (g) Any evidence of previous injuries, including their nature and
33 extent; and

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

37 (2) Each law enforcement agency receiving such a report shall, in
38 addition to taking the action required by RCW 70.124.050, immediately

1 relay the report to the department and to other law enforcement
2 agencies, as appropriate. For any report it receives, the department
3 shall likewise take the required action and in addition relay the
4 report to the appropriate law enforcement agency or agencies. The
5 appropriate law enforcement agency or agencies shall receive immediate
6 notification when the department, upon receipt of such report, has
7 reasonable cause to believe that a criminal act has been committed.

8 **Sec. 210.** RCW 70.129.030 and 1994 c 214 s 4 are each amended to
9 read as follows:

10 (1) The facility must inform the resident both orally and in
11 writing in a language that the resident understands of his or her
12 rights and all rules and regulations governing resident conduct and
13 responsibilities during the stay in the facility. The notification
14 must be made prior to or upon admission. Receipt of the information
15 must be acknowledged in writing.

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

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

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

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

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

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

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

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

4 (5) Notification of changes.

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

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

11 (ii) A significant change in the resident's physical, mental, or
12 psychosocial status (i.e., a deterioration in health, mental, or
13 psychosocial status in either life-threatening conditions or clinical
14 complications).

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

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

19 (ii) A decision to transfer or discharge the resident from the
20 facility.

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

24 **Sec. 211.** RCW 74.13.031 and 1995 c 191 s 1 are each amended to
25 read as follows:

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

28 (1) Develop, administer, supervise, and monitor a coordinated and
29 comprehensive plan that establishes, aids, and strengthens services for
30 the protection and care of homeless, runaway, dependent, or neglected
31 children.

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

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

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

14 (5) Monitor out-of-home placements, on a timely and routine basis,
15 to assure the safety, well-being, and quality of care being provided is
16 within the scope of the intent of the legislature as defined in RCW
17 74.13.010 and 74.15.010, and annually submit a report delineating the
18 results to the house and senate committees on social and health
19 services.

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

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

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

38 (9) Establish a children's services advisory committee which shall
39 assist the secretary in the development of a partnership plan for

1 utilizing resources of the public and private sectors, and advise on
2 all matters pertaining to child welfare, licensing of child care
3 agencies, adoption, and services related thereto. At least one member
4 shall represent the adoption community.

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

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

15 Notwithstanding any other provision of RCW 13.32A.170 through
16 13.32A.200 and 74.13.032 through 74.13.036, or of this section all
17 services to be provided by the department of social and health services
18 under subsections (4), (6), and (7) of this section, subject to the
19 limitations of these subsections, may be provided by any program
20 offering such services funded pursuant to Titles II and III of the
21 federal juvenile justice and delinquency prevention act of 1974.

22 **Sec. 212.** RCW 74.15.030 and 1995 c 302 s 4 are each amended to
23 read as follows:

24 The secretary shall have the power and it shall be the secretary's
25 duty:

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

35 (2) In consultation with the children's services advisory
36 committee, and with the advice and assistance of persons representative
37 of the various type agencies to be licensed, to adopt and publish

1 minimum requirements for licensing applicable to each of the various
2 categories of agencies to be licensed.

3 The minimum requirements shall be limited to:

4 (a) The size and suitability of a facility and the plan of
5 operation for carrying out the purpose for which an applicant seeks a
6 license;

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

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

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

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

4 (f) The financial ability of an agency to comply with minimum
5 requirements established pursuant to chapter 74.15 RCW and RCW
6 74.13.031; and

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

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

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

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

28 (6) To prescribe the procedures and the form and contents of
29 reports necessary for the administration of chapter 74.15 RCW and RCW
30 74.13.031 and to require regular reports from each licensee;

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

34 (8) To review requirements adopted hereunder at least every two
35 years and to adopt appropriate changes after consultation with the
36 child care coordinating committee and other affected groups for child
37 day-care requirements and with the children's services advisory
38 committee for requirements for other agencies; and

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

4 **Sec. 213.** RCW 74.34.050 and 1986 c 187 s 3 are each amended to
5 read as follows:

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

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

18 **Sec. 214.** RCW 74.34.070 and 1995 1st sp.s. c 18 s 87 are each
19 amended to read as follows:

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

31 **PART III--CREATING A FAMILY AND CHILDREN'S SERVICES OMBUDSMAN**

32 NEW SECTION. **Sec. 301.** This chapter may be known and cited as the
33 family and children's ombudsman act.

1 NEW SECTION. **Sec. 302.** Unless the context clearly requires
2 otherwise, the definitions in this section apply throughout this
3 chapter.

4 (1) "Administrative act" means any of the following, whether final
5 or not:

6 (a) An action, omission, decision, recommendation, practice, or
7 other procedure of the department or a child-placing agency with
8 respect to a particular family or child relating to family and
9 children's services as defined in subsection (3) of this section; or

10 (b) An action, omission, decision, recommendation, practice, or
11 other procedure of a state institution that receives children, or a
12 facility or residence subject to licensing under chapter 74.15 RCW,
13 with respect to a particular family member or child that may adversely
14 affect the health, safety, welfare, and rights of the family member or
15 child.

16 (2) "Child-placing agency" has the same meaning as in RCW
17 74.15.020.

18 (3) "Family and children's services" means adoption, out-of-home
19 care, child day care, child protective services, child welfare
20 services, and juvenile rehabilitative services provided by the
21 department or through contract, and services provided by the department
22 or through contract for sexually aggressive youth, at-risk youth and
23 families in conflict, children with mental health or substance abuse
24 problems, and children with developmental disabilities.

25 (4) "Child or children" means any unemancipated person under the
26 age of eighteen.

27 (5) "Committee" means the legislative ombudsman committee.

28 (6) "Department" means the department of social and health
29 services.

30 (7) "Office" means the office of the family and children's
31 ombudsman.

32 (8) "Ombudsman" means the family and children's ombudsman.

33 (9) "Secretary" means the secretary of the department of social and
34 health services or the secretary's designee.

35 (10) "State-licensed facility or residence" means those facilities
36 or residences that directly serve children and are subject to licensing
37 by the department or have programs subject to certification by the
38 department, or a facility where a child has been placed by superior
39 court or the department.

1 NEW SECTION. **Sec. 303.** As a means of monitoring and ensuring
2 compliance with administrative acts, relevant statutes, rules, and
3 policies pertaining to family and children services and the placement,
4 supervision, and treatment of children in the state's care or in state-
5 licensed facilities or residences, there is created the legislative
6 ombudsman committee. The committee shall consist of three senators and
7 three representatives from the legislature. The senate members of the
8 committee shall be appointed by the president of the senate. The house
9 members of the committee shall be appointed by the speaker of the
10 house. Not more than two members from each chamber shall be from the
11 same political party. Members shall be appointed before the close of
12 each regular session of the legislature during an odd-numbered year.

13 NEW SECTION. **Sec. 304.** The term of membership of the committee
14 shall be from the close of the session in which they were appointed or
15 elected as provided in RCW 44.28.010 until the close of the next
16 regular session during an odd-numbered year so long as they remain
17 members. A position that becomes vacant prior to the expiration of the
18 members's term shall be filled by the appointing authority.

19 NEW SECTION. **Sec. 305.** The committee shall have the following
20 powers:

21 (1) Selection of its officers and adopt rules for orderly
22 procedure;

23 (2) Provide a list of candidates for the governor to utilize in
24 nominating the ombudsman. No person may be placed on the list without
25 an affirmative vote of at least two members from each chamber;

26 (3) Request investigations by the ombudsman of administrative acts;

27 (4) Receive reports of the ombudsman;

28 (5)(a) Obtain access to all relevant records in the possession of
29 the ombudsman, except as prohibited by law; and (b) make
30 recommendations to all branches of government;

31 (6) Request legislation;

32 (7) Conduct hearings into such matters as it deems necessary.

33 NEW SECTION. **Sec. 306.** Upon receipt of records from the ombudsman,
34 the committee is subject to the same confidentiality restrictions as
35 the ombudsman under section 320 of this act.

1 NEW SECTION. **Sec. 307.** Members of the committee shall serve
2 without additional compensation, but shall be reimbursed in accordance
3 with RCW 44.04.120 while on business authorized by the committee.

4 NEW SECTION. **Sec. 308.** As a means of promoting public awareness
5 and understanding of family and children services, identifying system
6 issues and responses for the governor and the legislature to act upon,
7 and monitoring and ensuring compliance with administrative acts,
8 relevant statutes, rules, and policies pertaining to family and
9 children's services and the placement, supervision, and treatment of
10 children in the state s care or in state-licensed facilities or
11 residences, the office of the family and children's ombudsman is
12 established within the office of the governor. The ombudsman shall
13 report directly to the governor and shall exercise his or her powers
14 and duties independently of the secretary.

15 NEW SECTION. **Sec. 309.** (1) The governor shall appoint the
16 ombudsman from the list submitted by the committee under section 305(2)
17 of this act, subject to confirmation by the senate. The ombudsman
18 shall be a person of recognized judgment, independence, objectivity,
19 and integrity, and shall be qualified by training or experience, or
20 both, in family and children's services law and policy. The governor
21 shall consult with and receive recommendations from the committee prior
22 to the appointment.

23 (2) An ombudsman shall not have been employed by the department
24 within two years immediately preceding his or her appointment to the
25 office.

26 (3) No ombudsman or any member of his or her immediate family may
27 have or have had within two years immediately preceding his or her
28 appointment to the office any contract with the department for the
29 provision of family and children's services or for consultative
30 services.

31 NEW SECTION. **Sec. 310.** (1) The ombudsman may appoint such
32 personnel as necessary for the general administration of the office.
33 The ombudsman and personnel appointed by the ombudsman are exempt from
34 state civil service law, chapter 41.06 RCW.

35 (2) Any power or duty vested in or transferred to the ombudsman by
36 law or executive order may be delegated by the ombudsman to any other

1 assistant or subordinate, but the ombudsman shall be responsible for
2 the official acts of the officers and employees of the office.

3 NEW SECTION. **Sec. 311.** The person appointed ombudsman shall hold
4 office for a term of three years and shall continue to hold office
5 until reappointed or until his or her successor is appointed and
6 confirmed. The governor may remove the ombudsman only for neglect of
7 duty, misconduct, or inability to perform duties. Any vacancy shall be
8 filled by similar appointment for the remainder of the unexpired term.

9 NEW SECTION. **Sec. 312.** The ombudsman shall perform the following
10 duties:

11 (1) Provide information as appropriate on the rights and
12 responsibilities of individuals receiving family and children's
13 services, and on the procedures for providing these services;

14 (2) Investigate, upon his or her own initiative or upon receipt of
15 a complaint, an administrative act alleged to be contrary to law, rule,
16 or policy, imposed without an adequate statement of reason, or based on
17 irrelevant, immaterial, or erroneous grounds; however, the ombudsman
18 may decline to investigate any complaint as provided by rules adopted
19 under this chapter;

20 (3) Monitor the procedures as established, implemented, and
21 practiced by the department to carry out its responsibilities in
22 delivering family and children's services with a view toward
23 appropriate preservation of families and ensuring children's health and
24 safety;

25 (4) Review periodically the facilities and procedures of state
26 institutions serving children, and state-licensed facilities or
27 residences;

28 (5) Review reports relating to the unexpected deaths of minors in
29 the care of the department receiving family and children's services and
30 make recommendations as appropriate;

31 (6) Recommend changes in the procedures for addressing the needs of
32 families and children;

33 (7) Submit annually to the committee and to the governor by
34 November 1 a report analyzing the work of the office including
35 recommendations;

36 (8) Coordinate the activities of the regional offices throughout
37 the state;

1 (9) Grant the committee access to all relevant records in the
2 possession of the ombudsman unless prohibited by law;

3 (10) Provide for recruiting and training of volunteers and
4 promoting the development of citizen organizations to assist the
5 office. A volunteer shall be able to identify problems of individuals
6 receiving family and children's services and of children in state-
7 licensed facilities or residences. Volunteers may be used to assist
8 the ombudsman in carrying out the duties of the office;

9 (11) Establish procedures for the administration of the office;

10 (12) Take whatever steps are appropriate to make persons aware of
11 the services of the office, its purpose, and how it can be contacted;
12 and

13 (13) Adopt rules necessary to implement this chapter.

14 NEW SECTION. **Sec. 313.** (1) Upon deciding to investigate a
15 complaint, the ombudsman shall notify the complainant and the
16 department, child-placing agency, or state-licensed facility or
17 residence of the ombudsman's intention to investigate. If the
18 ombudsman declines to investigate a complaint he or she shall notify
19 the complainant. If the ombudsman discontinues an investigation he or
20 she shall notify the complainant and the department, child-placing
21 agency, or state-licensed facility or residence of the decision and the
22 reasons for the action.

23 (2) The ombudsman may require a complainant to pursue all
24 administrative remedies or means of complaint open to the complainant
25 before pursuing a complaint with the ombudsman.

26 (3) If the ombudsman determines in the course of an investigation
27 that an individual's action is likely to have been in violation of
28 state or federal criminal law, the ombudsman shall immediately report
29 that fact to the appropriate law enforcement agency and the department
30 and, if the complaint is against a child-placing agency or state-
31 licensed facility or residence, the ombudsman shall report that fact to
32 the secretary.

33 (4) The ombudsman or any volunteer shall report suspected abuse or
34 neglect of any child, adult dependent, or developmentally disabled
35 person as required in chapter 26.44 RCW.

1 NEW SECTION. **Sec. 314.** The department, a child-placing agency,
2 and a family and children's services provider shall do all of the
3 following:

4 (1) Upon the ombudsman's request, grant the ombudsman or the
5 ombudsman's designee access to all relevant information, records, and
6 documents in their possession that the ombudsman considers necessary in
7 an investigation except as prohibited by law;

8 (2) Assist the ombudsman to obtain releases of confidential records
9 when necessary;

10 (3) When deciding whether to initiate or continue an administrative
11 act, consider any findings or recommendations made by the ombudsman;

12 (4) Upon deciding not to act on a finding or recommendation made by
13 the ombudsman, provide the ombudsman with a written statement setting
14 forth the reason or reasons for the decision; and

15 (5) Provide the ombudsman upon request with progress reports
16 concerning their administrative processing of a complaint.

17 NEW SECTION. **Sec. 315.** A new section is added to chapter 43.20A
18 RCW to read as follows:

19 The secretary shall provide the employees of the department,
20 licensees, contractors, and all other relevant individuals, including
21 the public, information regarding the office of the family and
22 children's ombudsman created under chapter 44.-- RCW (sections 301
23 through 314 and 317 through 322 of this act) and the rights and
24 responsibilities established under that chapter.

25 **Sec. 316.** RCW 13.50.010 and 1994 sp.s. c 7 s 541 are each amended
26 to read as follows:

27 (1) For purposes of this chapter:

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

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

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

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

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

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

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

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

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

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

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

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

1 possession of the record by the agency. If the court grants the
2 motion, it shall order the record or information to be corrected or
3 destroyed.

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

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

22 (9) Juvenile detention facilities shall release records to the
23 juvenile disposition standards commission under RCW 13.40.025 upon
24 request. The commission shall not disclose the names of any juveniles
25 or parents mentioned in the records without the named individual's
26 written permission.

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

30 NEW SECTION. Sec. 317. (1) The ombudsman shall prepare a report
31 of the findings of an investigation and make recommendations to the
32 department, child-placing agency, or state-licensed facility or
33 residence if the ombudsman finds one or more of the following:

34 (a) A matter should be further considered by the department, child-
35 placing agency, or state-licensed facility or residence;

36 (b) An administrative act should be upheld, modified, or canceled;

37 (c) An explanation should be given for an administrative act; or

1 (d) Other action should be taken by the department, child-placing
2 agency, or state-licensed facility or residence.

3 (2) Before publicly announcing a conclusion or recommendation that
4 expressly or by implication criticizes an individual, the department,
5 child-placing agency, or state-licensed facility or residence, the
6 ombudsman shall consult with that individual, the secretary, child-
7 placing agency, or state-licensed facility or residence for purposes of
8 comment. When publishing an opinion adverse to the individual, the
9 department, child-placing agency, or state-licensed facility or
10 residence, the ombudsman shall include in the publication any written
11 statement of reasonable length made to the ombudsman by the individual,
12 secretary, child-placing agency, or state-licensed facility or
13 residence in defense or mitigation of the action. The ombudsman may
14 request to be notified by the secretary, child-placing agency, or
15 state-licensed facility or residence, within a specified time, of any
16 action taken on any recommendation presented.

17 (3) The ombudsman shall notify the complainant of the actions taken
18 by the ombudsman and by the secretary, child-placing agency, or state-
19 licensed facility or residence.

20 (4) The ombudsman shall provide the complainant with a copy of his
21 or her recommendations on a complaint.

22 NEW SECTION. Sec. 318. (1) The ombudsman shall have the following
23 rights and powers:

24 (a) To copy and subpoena records held by the department except as
25 prohibited by law;

26 (b) To apply for and accept grants, gifts, and bequests of funds
27 from other states, federal and interstate agencies, independent
28 authorities, and private firms, individuals, and foundations, for the
29 purpose of carrying out his or her lawful responsibilities. The funds
30 shall be deposited in the child, youth, and family ombudsman account
31 created in section 319 of this act;

32 (c) To appoint advisory committees as appropriate to carry out the
33 duties of the office;

34 (d) To request legal assistance, including appointment of special
35 counsel through the office of the attorney general;

36 (e) To mediate disputes between a complainant and the department
37 where appropriate; and

1 (f) To submit to the governor budgetary and legislative
2 recommendations relating to children and family services.

3 (2) Actions of the office shall be solely advisory to the governor
4 and the department. The office shall not be delegated any
5 administrative authority or responsibility, and its functions shall not
6 supplant existing avenues for recourse or appeals.

7 NEW SECTION. **Sec. 319.** The ombudsman may apply for and accept
8 contributions, grants, gifts in cash or otherwise, and bequests of
9 funds from other states, federal and interstate agencies, independent
10 authorities, and private firms, individuals, and foundations, for the
11 purpose of carrying out his or her lawful responsibilities. All moneys
12 received by the ombudsman or any employee thereof from contributions,
13 grants, or gifts and not through appropriation by the legislature shall
14 be deposited in an account in the custody of the state treasurer to be
15 known as the child, youth, and family ombudsman account. Disbursements
16 of such funds shall be on the authorization of the ombudsman or a duly
17 authorized representative of the ombudsman and only for the purposes
18 stated in this chapter. The account is subject to chapter 43.88 RCW,
19 but no appropriation is required to permit expenditure of the funds.

20 NEW SECTION. **Sec. 320.** The ombudsman shall treat all matters
21 under investigation, including the identities of service recipients,
22 complainants, and individuals from whom information is acquired, as
23 confidential, except as far as disclosures may be necessary to enable
24 the ombudsman to perform the duties of the office and to support any
25 recommendations resulting from an investigation. However, the
26 ombudsman shall honor the request of a service recipient, complainant,
27 or individual from whom information is acquired, or the legal
28 representative of any of these individuals, not to disclose his or her
29 identity. Upon receipt of information that by law is confidential or
30 privileged, the ombudsman shall maintain the confidentiality of such
31 information and shall not further disclose or disseminate the
32 information except as provided by applicable state or federal law. A
33 record of the office of the ombudsman is confidential, shall only be
34 used for purposes set forth in this chapter, and is not subject to
35 court subpoena.

1 NEW SECTION. **Sec. 321.** (1) An ombudsman, including a volunteer
2 ombudsman, is not liable for good faith performance of responsibilities
3 under this chapter.

4 (2) No discriminatory, disciplinary, or retaliatory action may be
5 taken against any employee of the department, child-placing agency, or
6 state-licensed facility or residence, a recipient of family and
7 children's services, or a volunteer, for any communication made, or
8 information given or disclosed, to aid the ombudsman in carrying out
9 his or her responsibilities, unless the communication or information is
10 knowingly false or made, given, or disclosed in violation of law. This
11 subsection does not infringe the rights of an employer to supervise,
12 discipline, or terminate an employee for other reasons.

13 (3) An individual, the department, a child-placing agency, or a
14 state-licensed facility or residence shall not hinder the lawful
15 actions of the ombudsman or members of the ombudsman's office.

16 (4) All communications by the ombudsman, if reasonably related to
17 the requirements of that individual's responsibilities under this
18 chapter and done in good faith, are privileged and that privilege shall
19 serve as a defense in any defamation action.

20 (5) A representative of the office shall not be required to testify
21 in court as to any confidential matter.

22 NEW SECTION. **Sec. 322.** The authority granted the ombudsman under
23 this chapter is in addition to the authority granted under the
24 provisions of any other act or rule under which the remedy or right of
25 appeal or objection is provided for a person, or any procedures
26 provided for the inquiry into or investigation of any matter. The
27 authority granted the ombudsman does not limit or affect the remedy or
28 right of appeal or objection and is not an exclusive remedy or
29 procedure.

30 NEW SECTION. **Sec. 323.** A new section is added to chapter 41.06
31 RCW to read as follows:

32 In addition to the exemptions under RCW 41.06.070, the provisions
33 of this chapter shall not apply in the office of the family and
34 children's ombudsman to the ombudsman and all personnel in the office.

35 NEW SECTION. **Sec. 324.** The family and children's ombudsman office
36 shall commence operation not later than January 1, 1997.

1 NEW SECTION. **Sec. 325.** Sections 301 through 314 and 317 through
2 322 of this act shall constitute a new chapter in Title 44 RCW.

3 **PART IV--REQUIRING COMMUNITY NETWORKS TO DEVELOP A STRATEGIC PLAN**
4 **FOR THE DECATEGORIZATION OF APPROPRIATE PROGRAMS**

5 NEW SECTION. **Sec. 401.** Not later than January 1, 1997, the
6 community public health and safety networks authorized under chapter
7 70.190 RCW shall submit to the legislature, the governor, and the
8 family policy council a study and recommendations whether funding for
9 all or some of the programs set out in RCW 70.190.110 should be made
10 directly to a network.

11 The networks shall conduct the study, and make the recommendations,
12 on a regional basis. Each network shall determine its regional
13 membership not later than June 1, 1996, and advise the council of its
14 decision by that date. If any network has not determined its regional
15 membership by the required date, the council shall designate the region
16 into which a network will be placed. The council shall make such
17 designation not later than July 1, 1997.

18 No region shall have less than forty thousand persons. No network
19 shall be part of more than one region. Regions shall consist of
20 networks that are contiguous or wholly contained within another
21 network.

22 The council shall inform the networks of their responsibilities
23 under this act and provide appropriate support for the networks in the
24 development of the study and recommendations. The council shall make
25 available to each region funds from the appropriation contained in
26 section 703 of this act to prepare and submit the study.

27 **PART V--DEVELOP A PLAN FOR EXAMINING THE STRUCTURE AND**
28 **DELIVERY OF SERVICES TO FAMILIES AND CHILDREN**

29 NEW SECTION. **Sec. 501.** (1) The legislature requires a
30 comprehensive, objective study of the structure and delivery of
31 services to families and children by Washington state government.

32 The purpose of the study is to provide the legislature an
33 evaluation of the planning and management capacity, business practices,
34 and culture of the department of social and health services for the
35 purpose of determining whether: (a) There is a need to create a

1 separate agency for the delivery of services to families and children;
2 (b) if so, what structure will provide the maximum opportunities for
3 the delivery of services to succeed; and (c) if a separate agency is
4 not appropriate what alternative reforms within the department will
5 significantly improve service delivery.

6 (2) The study shall include consideration of whether: (a) The
7 mission of the department is commonly understood by its management,
8 employees, the legislature, and the public; (b) there is consistency
9 between the department's mission, strategic plan, goals, and
10 objectives; (c) the capacity of the department to establish, and adhere
11 to, its long-term planning and priorities; (d) the existence of
12 performance benchmarks against which the delivery of services are
13 measured; and (e) these benchmarks adequately measure the effectiveness
14 of services delivered. The study shall examine programs operated by,
15 or offered through, the department to determine the appropriateness for
16 continuation, revision, or termination. In the program analysis the
17 study shall review the circumstances which gave rise to the program;
18 whether programs comport with statutory constraints; if the programs
19 are duplicated in other agencies within state government; whether
20 viable alternatives to a program exist; whether the program has been
21 prioritized by the department relative to other programs and, if so,
22 whether program priorities reflect legislative direction.

23 (3) The school of public affairs at the University of Washington
24 shall conduct the study. The results of the study shall be presented
25 to the legislature and governor not later than January 2, 1997.

26

PART VI--LEGISLATIVE TASK FORCE

27 NEW SECTION. **Sec. 601.** There is created a joint legislative task
28 force on drug use and child abuse. The membership shall consist of
29 four members of the senate, appointed by the president of the senate,
30 and four members of the house of representatives, appointed by the
31 speaker of the house of representatives. Not more than two members
32 from each chamber shall be of the same political party.

33 The purpose of the task force is to determine whether there is a
34 significant relationship between the abuse of controlled substances by
35 parents and the ability of services delivered by, or from, the state to
36 preserve families and protect children who may be at risk of abuse or
37 neglect. The task force shall review statutory and administrative

1 incentives available to parents to enter and successfully undergo
2 treatment, and determine whether existing incentives can be made more
3 effective.

4 The task force shall consult with parents, advocacy groups for
5 children, law enforcement officials, all appropriate public agencies,
6 health professionals, prosecutors, criminal defense lawyers, and other
7 appropriate entities.

8 The task force shall report its findings and recommendations to the
9 legislature by December 1, 1996.

10

PART VII--MISCELLANEOUS

11 NEW SECTION. **Sec. 701.** The sum of five hundred thousand dollars,
12 or as much thereof as may be necessary, is appropriated for the
13 biennium ending June 30, 1997, from the general fund to the legislature
14 for the purposes of the family and children's ombudsman.

15 NEW SECTION. **Sec. 702.** The sum of one million dollars, or as much
16 thereof as may be necessary, is appropriated for the biennium ending
17 June 30, 1997, from the general fund to the University of Washington
18 for the purposes of developing a plan for examining the structure and
19 delivery of services to families and children. The university may
20 expend up to eight percent of the funds for administrative costs.

21 NEW SECTION. **Sec. 703.** The sum of five hundred thousand dollars,
22 or as much thereof as may be necessary, is appropriated for the
23 biennium ending June 30, 1997, from the general fund to the family
24 policy council for the purposes of section 401 of this act.

25 NEW SECTION. **Sec. 704.** (1) Sections 101 through 107 of this act
26 are necessary for the immediate preservation of the public peace,
27 health, or safety, or support of the state government and its existing
28 public institutions, and shall take effect immediately.

29 (2) Sections 201 through 214 of this act shall take effect July 1,
30 1996, and shall apply only to incidents occurring on or after July 1,
31 1996.

32 NEW SECTION. **Sec. 705.** If any provision of this act or its
33 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other
2 persons or circumstances is not affected.

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