

1 of which the average daily population equals or exceeds one hundred
2 residents: PROVIDED, That each such confidential secretary must meet
3 the minimum qualifications for the class of secretary II as determined
4 by the Washington personnel resources board.

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

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

16 The salary and fringe benefits shall exceed that of the highest
17 position in the social worker classification on the effective date of
18 this section. The salary and fringe benefits shall not be equal to or
19 exceed that set for the classification of area regional manager.

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

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

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

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

13 **Sec. 203.** RCW 26.44.020 and 1993 c 412 s 12 and 1993 c 402 s 1 are
14 each reenacted and amended to read as follows:

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

16 (1) "Abuse" shall include:

17 (a) Inflicting physical injury on a child by other than accidental
18 means, causing death, disfigurement, multiple incidents of skin
19 bruising, impairment of physical or emotional health, or loss or
20 impairment of any bodily function;

21 (b) Creating a substantial risk of physical harm to a child's
22 bodily functioning;

23 (c) Committing or allowing to be committed any sex offense against
24 a child as defined in RCW 9.94A.030 or intentionally touching, either
25 directly or through the clothing, the genitals, anus, or breasts of a
26 child for other than hygiene or child care purposes;

27 (d) Committing acts that are cruel or inhumane regardless of
28 observable injury. Such acts may include, but are not limited to,
29 instances of extreme discipline demonstrating a disregard of a child's
30 pain and/or mental suffering;

31 (e) Assaulting or criminally mistreating a child, as defined in
32 Titles 9 and 9A RCW, subject to the defense allowed under RCW
33 9A.16.100.

34 (2) "Adult dependent persons" means those persons over the age of
35 eighteen years who have been found to be incapacitated pursuant to
36 chapter 11.88 RCW.

37 (3) "Child" or "children" means any person under the age of
38 eighteen years of age.

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

15 (5) "Child protective services section" means the child protective
16 services section of the department.

17 (6) "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 (7) "Court" means the superior court of the state of Washington,
22 juvenile department.

23 ~~((+2))~~ (8) "Department" means the state department of social and
24 health services.

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

27 (10) "Institution" means a private or public hospital or any other
28 facility providing medical diagnosis, treatment, or care.

29 (11) "Law enforcement agency" means ~~((the))~~ police department,
30 ~~((the))~~ prosecuting attorney, ~~((the))~~ state patrol, ~~((the))~~ director of
31 public safety, or the office of the sheriff.

32 ~~((+3))~~ (12) "Malice" or "maliciously" means an evil intent, wish,
33 or design to vex, annoy, or injure another person. Such malice may be
34 inferred from an act done in willful disregard of the rights of
35 another, or an act wrongfully done without just cause or excuse, or an
36 act or omission of duty betraying a willful disregard of social duty.

37 (13) "Neglect" means:

38 (a) Failing to provide food, shelter, clothing, supervision, or
39 health care necessary to a child's health or safety;

1 (b) Engaging in actions or omissions resulting in injury to, or
2 creating a substantial risk to, the physical or mental health or
3 development of a child;

4 (c) Failing to take reasonable steps to prevent the occurrence of
5 abuse.

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

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

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

21 ~~(5) "Department" means the state department of social and health~~
22 ~~services.~~

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

25 ~~(7))~~ (16) "Professional school personnel" shall include, but not
26 be limited to, teachers, counselors, administrators, child care
27 facility personnel, and school nurses.

28 ~~((8))~~ (17) "Psychologist" means any person licensed to practice
29 psychology under chapter 18.83 RCW, whether acting in an individual
30 capacity or as an employee or agent of any public or private
31 organization or institution.

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

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

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

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

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

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

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

26 ~~(13) "Child protective services section" shall mean the child
27 protective services section of the department.~~

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

31 ~~(15) "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 ~~(16) "Negligent treatment or maltreatment" means an act or omission
37 which evidences a serious disregard of consequences of such magnitude
38 as to constitute a clear and present danger to the child's health,
39 welfare, and safety.~~

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

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

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

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

24 **Sec. 204.** RCW 26.44.030 and 1995 c 311 s 17 are each amended to
25 read as follows:

26 (1)(a) When any practitioner, county coroner or medical examiner,
27 law enforcement officer, professional school personnel, registered or
28 licensed nurse, social service counselor, psychologist, pharmacist,
29 licensed or certified child care providers or their employees, employee
30 of the department, or juvenile probation officer has reasonable cause
31 to believe that a child or adult dependent or developmentally disabled
32 person, has suffered abuse or neglect, he or she shall report such
33 incident, or cause a report to be made, to the proper law enforcement
34 agency or to the department as provided in RCW 26.44.040.

35 (b) The reporting requirement shall also apply to any adult who has
36 reasonable cause to believe that a child or adult dependent or
37 developmentally disabled person, who resides with them, has suffered
38 severe abuse, and is able or capable of making a report. For the

1 purposes of this subsection, "severe abuse" means any of the following:
2 Any single act of abuse that causes physical trauma of sufficient
3 severity that, if left untreated, could cause death; any single act of
4 sexual abuse that causes significant bleeding, deep bruising, or
5 significant external or internal swelling; or more than one act of
6 physical abuse, each of which causes bleeding, deep bruising,
7 significant external or internal swelling, bone fracture, or
8 unconsciousness.

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

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

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

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

1 (5) Any law enforcement agency 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 in writing as provided in RCW 26.44.040 to
7 the proper county prosecutor or city attorney for appropriate action
8 whenever the law enforcement agency's investigation reveals that a
9 crime may have been committed. The law enforcement agency shall also
10 notify the department of all reports received and the law enforcement
11 agency's disposition of them. In emergency cases, where the child,
12 adult dependent, or developmentally disabled person's welfare is
13 endangered, the law enforcement agency shall notify the department
14 within twenty-four hours. In all other cases, the law enforcement
15 agency shall notify the department within seventy-two hours after a
16 report is received by the law enforcement agency.

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

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

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

1 medical opinion is incorrect. If the parents fail to designate a
2 second physician, the department may make the selection. If a
3 physician finds that a child has suffered abuse or neglect but that
4 such abuse or neglect does not constitute imminent danger to the
5 child's health or safety, and the department agrees with the
6 physician's assessment, the child may be left in the parents' home
7 while the department proceeds with reasonable efforts to remedy
8 parenting deficiencies.

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

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

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

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

35 (13) The department shall use a risk assessment process when
36 investigating alleged child abuse and neglect referrals. The
37 department shall present the risk factors at all hearings in which the
38 placement of a dependent child is an issue. The department shall,
39 within funds appropriated for this purpose, offer enhanced community-

1 based services to persons who are determined not to require further
2 state intervention.

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

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

9 **Sec. 205.** RCW 26.44.035 and 1985 c 259 s 3 are each amended to
10 read as follows:

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

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

22 **Sec. 206.** RCW 26.44.040 and 1993 c 412 s 14 are each amended to
23 read as follows:

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

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

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

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

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

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

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

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

7 **Sec. 207.** RCW 26.44.053 and 1994 c 110 s 1 are each amended to
8 read as follows:

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

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

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

1 **Sec. 208.** RCW 26.44.060 and 1988 c 142 s 3 are each amended to
2 read as follows:

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

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

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

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

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

24 **PART III--CREATING A FAMILY AND CHILDREN'S SERVICES OMBUDSMAN WITH**
25 **THE LEGISLATIVE BRANCH OF STATE GOVERNMENT**

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

28 NEW SECTION. **Sec. 302.** Unless the context clearly requires
29 otherwise, the definitions in this section apply throughout this
30 chapter.

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

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

1 (b) An action, omission, decision, recommendation, practice, or
2 other procedure of a state institution, or a facility or residence
3 subject to licensing under chapter 74.15 RCW, with respect to a
4 particular family member or child that may adversely affect the health,
5 safety, welfare, and rights of the family member or child.

6 (2) "Child-placing agency" has the same meaning as in RCW
7 74.15.020.

8 (3) "Family and children's services" means adoption, out-of-home
9 care, child day care, child protective services, child welfare
10 services, and juvenile rehabilitative services provided by the
11 department or through contract, and services provided by the department
12 or through contract for sexually aggressive youth, at-risk youth and
13 families in conflict, children with mental health or substance abuse
14 problems, and children with developmental disabilities.

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

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

18 (6) "Department" means the department of social and health
19 services.

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

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

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

25 (10) "State-licensed facility or residence" means those facilities
26 or residences that serve children and are subject to licensing by the
27 department or have programs subject to certification by the department,
28 or a facility where a child has been placed by superior court or the
29 department.

30 NEW SECTION. **Sec. 303.** There is created the legislative ombudsman
31 committee which shall consist of three senators and three
32 representatives from the legislature. The senate members of the
33 committee shall be appointed by the president of the senate. The house
34 members of the committee shall be appointed by the speaker of the
35 house. Not more than two members from each chamber shall be from the
36 same political party. Members shall be appointed before the close of
37 each regular session of the legislature during an odd-numbered year.

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

7 NEW SECTION. **Sec. 305.** The committee shall have the following
8 powers:

9 (1) Selection of its officers and adopt rules for orderly
10 procedure;

11 (2) Selection and removal of the ombudsman. Selection and removal
12 shall require an affirmative vote of at least two members from each
13 chamber;

14 (3) Approve the administrative structure of the office;

15 (4) Request investigations by the ombudsman of administrative acts;

16 (5) Receive reports of the ombudsman;

17 (6)(a) Make examination of records; and (b) make recommendations to
18 all branches of government;

19 (7) Request legislation;

20 (8) Conduct hearings into such matters as it deems necessary.

21 NEW SECTION. **Sec. 306.** The committee and office are subject to
22 the restrictions of a juvenile justice or care agency under chapter
23 13.50 RCW and may not disseminate confidential information to other
24 members of the legislature who are not members of the committee or to
25 the public. Nothing in this section prohibits the disclosure of
26 information which may be otherwise lawfully disclosed.

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

30 NEW SECTION. **Sec. 308.** As a means of monitoring and ensuring
31 compliance with administrative acts, relevant statutes, rules, and
32 policies pertaining to family and children's services and the
33 placement, supervision, and treatment of children in the state s care
34 or in state-licensed facilities or residences, the office of the family

1 and children's ombudsman is established. The ombudsman shall report
2 directly to the committee.

3 NEW SECTION. **Sec. 309.** (1) The committee shall appoint the
4 ombudsman for a period not to exceed three years. The initial
5 ombudsman's term shall expire June 30, 1999. The ombudsman may be
6 reappointed for successive terms. The ombudsman shall be a person of
7 recognized judgment, independence, objectivity, and integrity, and
8 shall be qualified by training and experience in the following areas:

9 (a) Family and children's services or other related social service
10 programs, accompanied by in-depth understanding and knowledge of social
11 service programs and delivery systems;

12 (b) The legal system;

13 (c) Administration; and

14 (d) Public policy.

15 (2) An ombudsman shall not have been employed by the department
16 within two years prior to appointment to the office.

17 (3) No ombudsman or any member of his or her immediate family may
18 have or have had within two years prior to appointment to the office
19 any pecuniary interest in a child-placing agency or in providing
20 services to children in state-licensed facilities or residences.

21 (4) The ombudsman shall be a professional staff member of the
22 legislature for the purposes of chapter 42.17 RCW.

23 NEW SECTION. **Sec. 310.** The ombudsman shall perform the following
24 duties:

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

28 (2) Investigate, upon his or her own initiative or upon receipt of
29 a complaint, an administrative act alleged to be contrary to law, rule,
30 or policy, imposed without an adequate statement of reason, or based on
31 irrelevant, immaterial, or erroneous grounds;

32 (3) Monitor the procedures as established, implemented, and
33 practiced by the department to carry out its responsibilities in
34 delivering family and children's services with a view toward
35 appropriate preservation of families and ensuring children's health and
36 safety;

1 (4) Review periodically the facilities and procedures of state
2 institutions serving children, and state-licensed facilities or
3 residences;

4 (5) Review reports relating to the unexpected deaths of minors
5 receiving family and children's services and make recommendations as
6 appropriate;

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

9 (7) Submit annually to the committee and to the governor by
10 November 1 a report analyzing the work of the office including
11 recommendations;

12 (8) Provide for recruiting and training of volunteers and promoting
13 the development of citizen organizations to assist the office. A
14 volunteer ombudsman shall be able to identify problems of individuals
15 receiving family and children's services. Volunteers may be used to
16 investigate administrative acts and such other acts as the ombudsman
17 directs;

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

19 (10) Select and remove staff;

20 (11) Propose, for the committee's approval, staff positions,
21 regional offices, and biennial budgets;

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

24 (13) Apply for and accept grants and funds from other public
25 entities for the purpose of carrying out the duties of the office; and

26 (14) Contract for independent legal counsel as appropriate.

27 NEW SECTION. **Sec. 311.** (1) Upon deciding to investigate a
28 complaint, the ombudsman shall notify the complainant and the
29 department, child-placing agency, or state-licensed facility or
30 residence of the ombudsman's intention to investigate. If the
31 ombudsman declines to investigate a complaint he or she shall notify
32 the complainant. If the ombudsman discontinues an investigation he or
33 she shall notify the complainant and the department, child-placing
34 agency, or state-licensed facility or residence of the decision and the
35 reasons for the action.

36 (2) The ombudsman may advise a complainant to pursue all
37 administrative remedies or means of complaint open to the complainant
38 before pursuing a complaint with the ombudsman.

1 (3) If the ombudsman determines in the course of an investigation
2 that an individual s action is likely to have been in violation of
3 state or federal criminal law, the ombudsman shall immediately report
4 that fact to the appropriate county prosecutor and, if the complaint is
5 against a child-placing agency or state-licensed facility or residence,
6 the ombudsman shall report that fact to the secretary.

7 NEW SECTION. **Sec. 312.** Upon the request of the committee or the
8 ombudsman, the department, a child-placing agency, and a family and
9 children's services provider shall:

10 (1) Grant access to all relevant information, records, and
11 documents in their possession; and

12 (2) Provide progress reports concerning their administrative
13 processing of a complaint.

14 NEW SECTION. **Sec. 313.** A new section is added to chapter 43.20A
15 RCW to read as follows:

16 The secretary shall provide the employees of the department,
17 licensees, contractors, and all other relevant individuals, including
18 the public, information regarding the office of the family and
19 children's ombudsman created under chapter 44.-- RCW (sections 301
20 through 312 and 315 through 317 of this act) and the rights and
21 responsibilities established under that chapter.

22 **Sec. 314.** RCW 13.50.010 and 1994 sp.s. c 7 s 541 are each amended
23 to read as follows:

24 (1) For purposes of this chapter:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 NEW SECTION. **Sec. 315.** (1) The ombudsman shall prepare a report
27 of the findings of an investigation and make recommendations to the
28 department, child-placing agency, or state-licensed facility or
29 residence if the ombudsman finds one or more of the following:

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

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

33 (c) An explanation should be given for an administrative act; and

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

36 (2) Before announcing a conclusion or recommendation that expressly
37 or by implication criticizes an individual, the department, child-
38 placing agency, or state-licensed facility or residence, the ombudsman

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

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

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

17 NEW SECTION. Sec. 316. (1) No employee or volunteer is liable for
18 good faith performance of their responsibilities under this chapter.

19 (2) No discriminatory, disciplinary, or retaliatory action may be
20 taken against any employee of the department, child-placing agency, or
21 state-licensed facility or residence, a recipient of family and
22 children's services, or a volunteer, for any communication made, or
23 information given or disclosed, to aid the ombudsman in carrying out
24 his or her responsibilities, unless the communication or information is
25 knowingly false or made, given, or disclosed in violation of law. This
26 subsection does not infringe the rights of an employer to supervise,
27 discipline, or terminate an employee for other reasons.

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

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

35 (5) A representative of the office shall not be required to testify
36 in court as to any confidential matter except as the court may deem
37 necessary to enforce this chapter.

1 NEW SECTION. **Sec. 317.** The authority granted the ombudsman under
2 this chapter is in addition to the authority granted under the
3 provisions of any other act or rule under which the remedy or right of
4 appeal or objection is provided for a person, or any procedures
5 provided for the inquiry into or investigation of any matter. The
6 authority granted the ombudsman does not limit or affect the remedy or
7 right of appeal or objection and is not an exclusive remedy or
8 procedure.

9 NEW SECTION. **Sec. 318.** The family and children's ombudsman office
10 shall commence operation not later than November 1, 1996.

11 NEW SECTION. **Sec. 319.** Sections 301 through 312 and 315 through
12 317 of this act shall constitute a new chapter in Title 44 RCW.

13 **PART IV--REQUIRING COMMUNITY NETWORKS TO DEVELOP A STRATEGIC PLAN**
14 **FOR THE DECATEGORYIZATION OF APPROPRIATE PROGRAMS**

15 NEW SECTION. **Sec. 401.** Not later than January 1, 1997, the
16 community public health and safety networks authorized under chapter
17 70.190 RCW shall submit to the legislature, the governor, and the
18 family policy council a study and recommendations whether funding for
19 all or some of the programs set out in RCW 70.190.110 should be made
20 directly to a network.

21 The networks shall conduct the study, and make the recommendations,
22 on a regional basis. Each network shall determine its regional
23 membership not later than June 1, 1996, and advise the council of its
24 decision by that date. If any network has not determined its regional
25 membership by the required date, the council shall designate the region
26 into which a network will be placed. The council shall make such
27 designation not later than July 1, 1997.

28 No region shall have less than forty thousand persons. No network
29 shall be part of more than one region. Regions shall consist of
30 networks that are contiguous or wholly contained within another
31 network.

32 The council shall inform the networks of their responsibilities
33 under this act and provide appropriate support for the networks in the
34 development of the study and recommendations. The council shall make

1 available to each region funds from the appropriation contained in
2 section 603 of this act to prepare and submit the study.

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

5 NEW SECTION. **Sec. 501.** The legislature requires a comprehensive,
6 objective review of the structure and delivery of services to families
7 and children by Washington state government.

8 The review shall determine whether the current structure for the
9 delivery of services provides the most effective and efficient
10 mechanism available.

11 The review shall, in light of the mission of the department of
12 social and health services relative to the delivery of services to
13 families and children, examine: (1) Performance criteria of the
14 department in conjunction with statutory mandates, (2) similar agencies
15 in other states, (3) budget allocations and trends, (4) business case
16 and strategic planning and implementation, (5) whether combining the
17 delivery of services to families and children with other diverse
18 functions of the department significantly improves or impedes the
19 delivery of services, (6) possible revisions in the delivery of
20 services to families and children in other state agencies which could
21 be commonly administered, and (7) alternative governance structures for
22 the department.

23 If review determines that the incumbent structure and delivery
24 system are not amenable to significant improvement the review shall
25 also identify and recommend the most effective and cost-efficient
26 replacement.

27 The institute for public policy shall conduct the review. The
28 results of the review shall be presented to the legislature and
29 governor not later than January 2, 1997.

30 **PART VI--MISCELLANEOUS**

31 NEW SECTION. **Sec. 601.** The sum of five hundred thousand dollars,
32 or as much thereof as may be necessary, is appropriated for the
33 biennium ending June 30, 1997, from the general fund to the legislature
34 for the purposes of the family and children's ombudsman.

1 NEW SECTION. **Sec. 602.** The sum of one million dollars, or as much
2 thereof as may be necessary, is appropriated for the biennium ending
3 June 30, 1997, from the general fund to the institute of public policy
4 for the purposes of developing a plan for examining the structure and
5 delivery of services to families and children.

6 NEW SECTION. **Sec. 603.** The sum of five hundred thousand dollars,
7 or as much thereof as may be necessary, is appropriated for the
8 biennium ending June 30, 1997, from the general fund to the family
9 policy council for the purposes of section 401 of this act.

10 NEW SECTION. **Sec. 604.** (1) Sections 101 through 107 of this act
11 are necessary for the immediate preservation of the public peace,
12 health, or safety, or support of the state government and its existing
13 public institutions, and shall take effect immediately.

14 (2) Sections 201 through 208 of this act shall take effect July 1,
15 1996, and shall apply only to incidents occurring on or after July 1,
16 1996.

17 NEW SECTION. **Sec. 605.** If any provision of this act or its
18 application to any person or circumstance is held invalid, the
19 remainder of the act or the application of the provision to other
20 persons or circumstances is not affected.

--- END ---