

2 **SHB 2556** - S AMD TO HSC COMM AMD (S-5084.1/98) - 843
3 By Senators Zarelli, Long, Hargrove and Kohl

4 SCOPE & OBJECT RAISED; RULED WITHIN S/O; ADOPTED 3/5/98

5 On page 27, after line 12 of the amendment, insert the following:

6 "NEW SECTION. **Sec. 15.** The legislature finds that it is
7 critically important to the basic nurture, health, and safety of
8 children that the state operate a state-wide program relating to child
9 abuse and neglect that includes the creation of regional citizen review
10 panels. The creation of these panels is intended to meet the federal
11 requirements contained in the federal child abuse prevention and
12 treatment act, 42 U.S.C. Sec. 5106a. Citizen review panels will enable
13 community members to contribute to improving the policy and programs
14 critical to the well-being of children and their families and to ensure
15 that the state's plan for the prevention and investigation of child
16 abuse and neglect is being carried out as intended by the legislature.
17 It has been long-standing public policy in Washington that the family
18 unit is a fundamental resource of American life which should be
19 nurtured. Toward continuation of this principle, the legislature finds
20 that through the performance of these panels, which are broadly
21 representative of the community, knowledge of the policies and
22 procedures of state and local agencies and an examination of specific
23 cases will occur. From this an evaluation of the state-wide program to
24 prevent child abuse and neglect will yield improvements that are in the
25 best interest of children and families and further the principle that
26 the family unit should remain intact, recognizing that the child's
27 health and safety are paramount.

28 NEW SECTION. **Sec. 16.** There are hereby created a minimum of six
29 citizen review panels, at least one for each service delivery region of
30 the department of social and health services. The department of
31 community, trade, and economic development shall contract with a
32 private nonprofit organization to serve as the administrator for and
33 the appointing authority of the citizen review panels. The department
34 or its contractor shall provide administrative coordination and support
35 to the local citizen review panels and shall:

- 1 (1) Recruit applicants through public service announcements in
2 local radio, television, and newspapers of record and accept
3 application on a first-come basis based on postmarked date of receipt;
- 4 (2) Obtain background checks, screening applicants on the same
5 suitability, character, and competence standards as required in RCW
6 74.15.130;
- 7 (3) Select citizen review panel members for each region and
8 establish basic requirements for participation;
- 9 (4) Stagger the terms of membership on each panel so that there is
10 always a quorum of members who have had at least six months' experience
11 and have participated in at least two meetings of the panel;
- 12 (5) Provide consultation and basic training to local panels as
13 requested;
- 14 (6) Compile and provide aggregate citizen review panel reports;
- 15 (7) Consider recommendations of local teams; and
- 16 (8) Ensure that they meet at least every three months.

17 NEW SECTION. **Sec. 17.** The department shall ensure that the
18 citizen review panels have been created no later than July 1, 1999.

19 NEW SECTION. **Sec. 18.** (1) The citizen review panels shall have
20 only those powers and duties expressly authorized under this chapter.

21 (2) The citizen review panels must have access to all information
22 from the department of social and health services, criminal justice
23 agencies, law enforcement, schools, and medical providers, and other
24 sources that have relevant information, including reports and records
25 made and maintained by the department and its contracting agencies.

26 (3) The panels shall receive, upon request and with the full
27 assistance of the agency with the information, complete access to
28 information on cases that the panel desires to review if such
29 information is necessary for the panel to carry out its duties.

30 (4) The citizen review panels must preserve the confidentiality of
31 all records in order to protect the rights of the child and of the
32 child's parents or guardians. However, the state shall always have the
33 right to refuse to disclose identifying information concerning the
34 individual alleging suspected instances of child abuse or neglect. The
35 state must make such information known to the citizen review panel only
36 where a court orders such disclosure after such court has reviewed, in
37 camera, the record of the state related to the report or complaint and

1 has found it has reason to believe that the reporter knowingly made a
2 false report.

3 NEW SECTION. **Sec. 19.** The powers and duties of the citizen review
4 panels are to:

5 (1) Examine the policies and procedures of state agencies and,
6 where appropriate, specific cases, to evaluate the extent to which the
7 agencies are effectively discharging their child protection
8 responsibilities according to the state law and the state plan required
9 under 42 U.S.C. Sec. 5106a. These responsibilities may include a
10 review of any of the following:

11 (a) The extent to which the state agencies and community-based
12 programs have developed the capacity to integrate shared leadership
13 strategies between parents and professionals to prevent and treat child
14 abuse and neglect at the neighborhood level;

15 (b) Intake, assessment, and screening, and investigation processes
16 for reports of child abuse and neglect;

17 (c) Multidisciplinary teams and interagency protocols used to
18 enhance child abuse and neglect investigations;

19 (d) Legal preparation and representation of both children and
20 families;

21 (e) Case management and service delivery systems for children and
22 families;

23 (f) Risk and safety assessment tools and protocols;

24 (g) Automation systems that support the program and track reports
25 of child abuse and neglect from intake through final disposition,
26 including information referral systems;

27 (h) Training opportunities and requirements for individuals
28 overseeing and providing services to children and their families
29 through the child protective and child welfare systems;

30 (i) Training protocols for individuals mandated to report child
31 abuse and neglect;

32 (j) Child abuse and neglect prevention, treatment, and research
33 programs in the public and private sectors;

34 (k) Information, education programs, and training programs to
35 improve the provision of service to infants with chronic disabilities
36 or life-threatening conditions;

1 (1) Programs to assist in obtaining or coordinating necessary
2 services for families of infants with disabilities or life-threatening
3 conditions;

4 (m) Coordination, to the maximum extent practicable with the state
5 plan under part B, Title IV of the Social Security Act relating to
6 child welfare services, including adoption, and family preservation and
7 family support services.

8 (2) Examine child protection standards set forth in the federal and
9 state law, including but not limited to standards for reporting of
10 known and suspected abuse and neglect, immediate screening, safety
11 assessment, and prompt investigation, steps to protect the safety of
12 abused or neglected children, immunity from prosecution for individuals
13 who make good faith reports of suspected or known instances of abuse or
14 neglect, methods to preserve confidentiality of records, provisions to
15 allow for public disclosure of findings or information about cases of
16 abuse and neglect that result in child fatality or near fatality, and
17 the cooperation of law enforcement officials, courts of competent
18 jurisdiction, and appropriate state agencies providing human services
19 in the investigation, assessment, prosecution, and treatment of abuse
20 and neglect;

21 (3) Examine any other criteria that the panel considers important
22 to ensure the protection of children, including a review of the extent
23 to which the state child protective services system is coordinated with
24 the foster care and adoption programs established under part E, Title
25 IV of the Social Security Act.

26 (4) Conduct a review of reports of child fatalities and near
27 fatalities conducted under RCW 26.44.030.

28 NEW SECTION. **Sec. 20.** There shall be at least one citizen review
29 panel in each of the six department of social and health services'
30 designated service delivery regions. Each panel shall have no more
31 than seven volunteer members who are all permanent residents living in
32 the region, who broadly represent the region in which each panel is
33 established. Three members shall have professional or academic
34 expertise in the prevention and treatment of child abuse and neglect.
35 Four members shall be members of the public at large with no fiduciary
36 interest in publicly funded social services. "Fiduciary interest" has
37 the same meaning as defined in RCW 70.190.010. Volunteer members of
38 the local citizen review panels shall serve for no longer than an

1 eighteen-month period of time and can not serve again for a period of
2 sixty months from the date they end their eighteen-month membership.
3 The citizen review panel shall meet no less than once every three
4 months to examine the policies and procedures of state and local
5 agencies and, where appropriate in specific cases, evaluate the extent
6 to which the agencies are effectively discharging their child
7 protection responsibilities in accordance with applicable state law.
8 The goal of the citizen review panels is to improve the child
9 protective services system.

10 NEW SECTION. **Sec. 21.** The department of community, trade, and
11 economic development shall present proposed rules, policies, and
12 procedures to the legislative children's oversight committee created in
13 RCW 44.04.220 prior to implementation.

14 NEW SECTION. **Sec. 22.** The citizen review panels shall employ
15 staff as necessary which may include contracting for investigators only
16 as necessary to assist the panel in fulfilling their responsibilities.

17 NEW SECTION. **Sec. 23.** Members and staff and any staff on contract
18 with the citizen review panel shall not disclose to any person or
19 government official, other than the department of social and health
20 services or the family and children's ombudsman, any identifying
21 information about any specific child protection case with respect to
22 which the panel is provided information and shall not make public other
23 information unless authorized by state statute. A violation of this
24 section is a civil penalty punishable by a fine not to exceed five
25 thousand dollars per violation.

26 NEW SECTION. **Sec. 24.** (1) The citizen review panels may examine
27 any child abuse and neglect case referred to the panel.

28 (2) Members of the legislature may refer child abuse and neglect
29 cases, in writing, to the panel in the legislator's district for
30 review. The panels may also receive written requests for review from
31 the family and children's ombudsman and from the department of social
32 and health services. No other entity or individual may refer cases to
33 the citizen review panels.

1 NEW SECTION. **Sec. 25.** (1) Notwithstanding any confidentiality
2 laws, if the citizen review panel finds possible criminal activity, the
3 panel shall turn the investigation and information over to the local
4 prosecuting attorney in the county in which the case resides.

5 (2) If the panel finds possible civil infractions, the panel shall
6 turn the findings over to any interested citizen, if the conditions set
7 forth in RCW 74.13.500 through 74.13.525 are met. The courts shall
8 award attorney fees, costs, and triple damages, and may impose punitive
9 damages if the citizens prevail in court.

10 NEW SECTION. **Sec. 26.** (1) All powers, duties, and functions of
11 the department of community, trade, and economic development pertaining
12 to entering into and administering contracts and implementation of
13 rules, policies, and procedures pursuant to sections 16 and 21 of this
14 act are transferred to the office of the family and children's
15 ombudsman. All references to the director or the department of
16 community, trade, and economic development in the Revised Code of
17 Washington shall be construed to mean the director or the office of the
18 family and children's ombudsman when referring to the functions
19 transferred in this section.

20 (2)(a) All reports, documents, surveys, books, records, files,
21 papers, or written material in the possession of the department of
22 community, trade, and economic development pertaining to the powers,
23 functions, and duties transferred shall be delivered to the custody of
24 the office of the family and children's ombudsman. All cabinets,
25 furniture, office equipment, motor vehicles, and other tangible
26 property employed by the department of community, trade, and economic
27 development in carrying out the powers, functions, and duties
28 transferred shall be made available to the office of the family and
29 children's ombudsman. All funds, credits, or other assets held in
30 connection with the powers, functions, and duties transferred shall be
31 assigned to the office of the family and children's ombudsman.

32 (b) Any appropriations made to the department of community, trade,
33 and economic development for carrying out the powers, functions, and
34 duties transferred shall, on the effective date of this section, be
35 transferred and credited to the office of the family and children's
36 ombudsman.

37 (c) Whenever any question arises as to the transfer of any
38 personnel, funds, books, documents, records, papers, files, equipment,

1 or other tangible property used or held in the exercise of the powers
2 and the performance of the duties and functions transferred, the
3 director of financial management shall make a determination as to the
4 proper allocation and certify the same to the state agencies concerned.

5 (3) All employees of the department of community, trade, and
6 economic development engaged in performing the powers, functions, and
7 duties transferred are transferred to the jurisdiction of the office of
8 the family and children's ombudsman. All employees classified under
9 chapter 41.06 RCW, the state civil service law, are assigned to the
10 office of the family and children's ombudsman to perform their usual
11 duties upon the same terms as formerly, without any loss of rights,
12 subject to any action that may be appropriate thereafter in accordance
13 with the laws and rules governing state civil service.

14 (4) All rules and all pending business before the department of
15 community, trade, and economic development pertaining to the powers,
16 functions, and duties transferred shall be continued and acted upon by
17 the office of the family and children's ombudsman. All existing
18 contracts and obligations shall remain in full force and shall be
19 performed by the office of the family and children's ombudsman.

20 (5) The transfer of the powers, duties, functions, and personnel of
21 the department of community, trade, and economic development shall not
22 affect the validity of any act performed before the effective date of
23 this section.

24 (6) If apportionments of budgeted funds are required because of the
25 transfers directed by this section, the director of financial
26 management shall certify the apportionments to the agencies affected,
27 the state auditor, and the state treasurer. Each of these shall make
28 the appropriate transfer and adjustments in funds and appropriation
29 accounts and equipment records in accordance with the certification.

30 (7) Nothing contained in this section may be construed to alter any
31 existing collective bargaining unit or the provisions of any existing
32 collective bargaining agreement until the agreement has expired or
33 until the bargaining unit has been modified by action of the personnel
34 board as provided by law.

35 **Sec. 27.** RCW 44.04.220 and 1996 c 131 s 1 are each amended to read
36 as follows:

37 (1) There is created the legislative children's oversight committee
38 for the purpose of monitoring and ensuring compliance with

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

12 (2) The committee shall have the following powers:

13 (a) Selection of its officers and adopt rules for orderly
14 procedure;

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

16 (c) Receive reports of the ombudsman;

17 (d)(i) Obtain access to all relevant records in the possession of
18 the ombudsman, except as prohibited by law; and (ii) make
19 recommendations to all branches of government;

20 (e) Request legislation;

21 (f) Conduct hearings into such matters as it deems necessary.

22 (3) Upon receipt of records from the ombudsman, the committee is
23 subject to the same confidentiality restrictions as the ombudsman under
24 RCW 43.06A.050.

25 (4) The committee may also review any proposed rules, policies, or
26 procedures relating to the citizen review panels created under section
27 16 of this act.

28 **Sec. 28.** RCW 13.50.010 and 1997 c 386 s 21 and 1997 c 338 s 39 are
29 each reenacted and amended to read as follows:

30 (1) For purposes of this chapter:

31 (a) "Juvenile justice or care agency" means any of the following:
32 Police, diversion units, court, prosecuting attorney, defense attorney,
33 detention center, attorney general, the legislative children's
34 oversight committee, the office of family and children's ombudsman,
35 members of the citizen review panels created under section 16 of this
36 act, including the contracting agency, and the panel's staff and
37 contractors, the department of social and health services and its

1 contracting agencies, schools; and, in addition, persons or public or
2 private agencies having children committed to their custody;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (10) Requirements in this chapter relating to the court's authority
36 to compel disclosure shall not apply to the legislative children's
37 oversight committee or the office of the family and children's
38 ombudsman.

