

2 **3SSB 5278** - S AMD - 787

3 By Senators West, Patterson and Long

4 ADOPTED 2/17/98

5 Strike everything after the enacting clause and insert the  
6 following:

7 NEW SECTION. **Sec. 1.** The legislature finds that all children  
8 have the right to be born healthy and free of the consequences of the  
9 nonprescription use of controlled substances by the mother during  
10 pregnancy. Individuals who have a drug addiction are unable to make  
11 reasoned decisions that help ensure the birth of a healthy infant. The  
12 availability of long-term pharmaceutical birth control, when combined  
13 with other treatment regimens, may allow women to regain control of  
14 their lives and make long-term decisions in the best interest of  
15 themselves and their children. The legislature further finds that a  
16 third or subsequent drug-affected infant being born to the same mother  
17 means it may be unreasonable to attempt to continue efforts to reunify  
18 the family and that all reasonable reunification efforts that have  
19 previously been made have proven futile and there is no likelihood that  
20 future efforts will produce a different outcome.

21 NEW SECTION. **Sec. 2.** A new section is added to chapter 13.34 RCW  
22 to read as follows:

23 (1) A physician licensed under chapter 18.71 RCW primarily  
24 responsible for the supervision of the birth of an infant who has  
25 reasonable cause to believe an infant has been exposed to  
26 nonprescription use of controlled substances shall: (a) Conduct  
27 appropriate tests to determine whether the infant is drug-affected; (b)  
28 notify the department of the name and address of the parents of an  
29 infant who is drug-affected; and (c) retain the infant in the birthing  
30 facility for medical treatment or place the infant in an appropriate  
31 pediatric care facility with the concurrence of the department for  
32 sufficient time for the infant to undergo withdrawal from the affects  
33 of the controlled substances. The withdrawal shall be under the  
34 supervision of appropriate medical professionals.

1 (2) The physician shall, as soon as practical, inform the mother of  
2 a drug-affected infant of: (a) Her right to publicly funded tubal  
3 ligation surgery as provided under section 13 of this act; (b)  
4 available drug treatment and counseling; and (c) birth control  
5 counseling and education. The mother may accept the offer of a tubal  
6 ligation up to six months following its tender.

7 (3) A physician who makes any determination under this section  
8 shall not be liable in any cause of action as a result of his or her  
9 determination except for acts of gross negligence or intentional  
10 misconduct.

11 (4) This section expires June 30, 2002.

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

14 (1) The department, upon receipt of a report under section 2 of  
15 this act, shall investigate and, in appropriate cases, file a  
16 dependency petition. In the event the department does not file a  
17 petition, it shall refer the mother to available chemical dependency  
18 treatment programs or a pilot project.

19 (2) The department and the mother may enter an agreement in which  
20 the mother agrees to chemical dependency treatment on an inpatient or  
21 outpatient basis or be referred to a pilot project created under  
22 section 10 of this act.

23 (3) If the department and mother enter an agreement under  
24 subsection (2) of this section, the department shall, if a dependency  
25 petition has been filed, request the court to defer the entry of an  
26 order of dependency for as long as the mother remains in treatment or  
27 enrolled in the pilot project, subject to the department's monitoring  
28 for compliance. As a condition of deferral of the order of dependency,  
29 the parents, if both are available and known, shall stipulate to facts  
30 sufficient to constitute a dependency and the court shall order  
31 treatment or enrollment in a pilot project and prohibit nonprescription  
32 use of controlled substances. In the event that an available parent  
33 unreasonably refuses to stipulate to facts constituting a dependency,  
34 the court may proceed with the hearing on the petition.

35 (4) This section expires June 30, 2002.

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

1 (1) If the department receives a report under section 2 of this act  
2 of a mother who has given birth to a second drug-affected infant, the  
3 department:

4 (a) May request the court to proceed immediately with the entry of  
5 a dependency for the first drug-affected infant; and

6 (b) Shall investigate and, unless there are compelling reasons to  
7 the contrary, file a dependency petition on the second drug-affected  
8 infant. If the department does not file a petition, it shall refer the  
9 woman to available chemical dependency treatment programs or a pilot  
10 project.

11 (2) The department and the mother may enter an agreement in which  
12 the mother agrees to: (a) Enter chemical dependency inpatient  
13 treatment or a pilot project, together with an aftercare program that  
14 includes participation in a pilot project when feasible; and (b)  
15 medically appropriate pharmaceutical pregnancy prevention, such as  
16 Norplant or depo-provera, that is administered not less than once every  
17 thirty days. The selection of the pregnancy prevention method shall be  
18 based on an evaluation of the medical and physical consequences to the  
19 mother and shall remain in effect until the dependency petition is  
20 dismissed or the court determines it is no longer medically  
21 appropriate.

22 (3) If the department and the mother enter an agreement under  
23 subsection (2) of this section, the department shall request the court  
24 to defer the entry of an order of dependency on the second drug-  
25 affected infant for as long as the mother remains in treatment or  
26 enrolled in the pilot project, subject to the department's monitoring  
27 for compliance. As a condition of deferral of the order of dependency,  
28 the parents, if both are available and known, shall stipulate to facts  
29 sufficient to constitute a dependency and the court shall order  
30 treatment or enrollment in a pilot project and prohibit nonprescription  
31 use of controlled substances. In the event that an available parent  
32 unreasonably refuses to stipulate to facts constituting a dependency,  
33 the court may proceed with the hearing on the petition.

34 (4) This section expires June 30, 2002.

35 NEW SECTION. **Sec. 5.** A new section is added to chapter 13.34 RCW  
36 to read as follows:

37 (1) The department may request the court to dismiss the petition  
38 deferred under section 3 or 4 of this act at any time. No petition may

1 be vacated or dismissed unless the mother demonstrates by clear and  
2 convincing evidence that she has not used controlled substances in a  
3 nonprescription manner for at least thirty-six consecutive months and  
4 can safely provide for the child's welfare without continuing  
5 supervision by the department or court.

6 (2) This section expires June 30, 2002.

7 NEW SECTION. **Sec. 6.** A new section is added to chapter 13.34 RCW  
8 to read as follows:

9 (1) If the department receives a report under section 2 of this act  
10 of a mother who has given birth to a third or subsequent drug-affected  
11 infant, the department shall:

12 (a) Request the court to proceed immediately with the entry of a  
13 finding of dependency on all drug-affected children born before the  
14 third or subsequent birth unless an order of dependency has been  
15 vacated or dismissed; and

16 (b) File a dependency petition on any drug-affected infant subject  
17 to this section as well as any other child born before the third or  
18 subsequent birth of a drug-affected infant.

19 (2) This section expires June 30, 2002.

20 NEW SECTION. **Sec. 7.** A new section is added to chapter 13.34 RCW  
21 to read as follows:

22 (1) Following a filing of a petition under section 6 of this act:

23 (a) The court shall order evaluation by a designated chemical  
24 dependency specialist, as defined in RCW 70.96A.020 who shall undertake  
25 the processes described in RCW 70.96A.140.

26 (b) If the court has ordered removal of a child or children, the  
27 out-of-home placement order shall remain in effect until the petition  
28 is dismissed or the mother has successfully completed inpatient  
29 treatment and any aftercare program for controlled substances ordered  
30 by the court.

31 (2) This section expires June 30, 2002.

32 NEW SECTION. **Sec. 8.** A new section is added to chapter 13.34 RCW  
33 to read as follows:

34 (1) There is a rebuttable presumption in any petition filed under  
35 section 6 of this act that termination of parental rights is in the  
36 best interest of the child and it is unreasonable to provide services

1 to reunify the children with the mother. The court shall give great  
2 weight to the fact that the mother has given birth to a third or  
3 subsequent drug-affected infant.

4 (2) This section expires June 30, 2002.

5 NEW SECTION. **Sec. 9.** By July 1, 1999, the department of social  
6 and health services, in consultation with the department of health,  
7 shall adopt rules to implement this act, including a definition of  
8 "drug-affected infant," which shall be limited to infants who are  
9 affected by a mother's nonprescription use of controlled substances.

10 NEW SECTION. **Sec. 10.** To the extent funds are appropriated, the  
11 department shall operate a pilot project to provide services to women  
12 who give birth to infants exposed to the nonprescription use of  
13 controlled substances by the mother during pregnancy. Within available  
14 funds, the project may be offered in each of the department's  
15 administrative regions. The project shall accept women referred to it  
16 by the department following the birth of a drug-affected infant. The  
17 pilot project shall be concluded by July 1, 2001.

18 NEW SECTION. **Sec. 11.** To the extent funds are appropriated, the  
19 institute for public policy shall study the cost-effectiveness of this  
20 act and report to the governor and legislature not later than September  
21 1, 2002. The study shall measure the reduction in the birth rate of  
22 drug-affected infants among women and shall compare the reduction with  
23 the rate of birth of drug-affected infants born to women referred to  
24 chemical dependency treatment programs. The study shall identify the  
25 factors that promote or discourage the ability of women to avoid giving  
26 birth to drug-affected infants.

27 NEW SECTION. **Sec. 12.** A new section is added to chapter 70.96A  
28 RCW to read as follows:

29 (1) Any treatment program or pilot project in which a mother is  
30 enrolled under sections 3 through 5 of this act shall provide family  
31 planning, education, counseling, information, and services other than  
32 pregnancy termination.

33 (2) This section expires June 30, 2002.

