HOUSE BILL 3214

State of Washington 58th Legislature 2004 Regular Session

By Representatives Hankins, Veloria, Campbell, G. Simpson, Boldt, Haigh, Bush, Chase, Rodne and Skinner

Read first time 03/11/2004. Referred to Committee on Juvenile Justice & Family Law.

- 1 AN ACT Relating to emergency respite centers; amending RCW
- 2 13.32A.030, 13.32A.050, and 13.32A.090; and reenacting and amending RCW
- 3 13.32A.060 and 74.15.020.
- 4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:
- 5 Sec. 1. RCW 13.32A.030 and 2000 c 123 s 2 are each amended to read 6 as follows:
- As used in this chapter the following terms have the meanings indicated unless the context clearly requires otherwise:
- 9 (1) "Abuse or neglect" means the injury, sexual abuse, sexual
 10 exploitation, negligent treatment, or maltreatment of a child by any
 11 person under circumstances which indicate that the child's health,
 12 welfare, and safety is harmed, excluding conduct permitted under RCW
- 9A.16.100. An abused child is a child who has been subjected to child
- 14 abuse or neglect as defined in this section.
- 15 (2) "Administrator" means the individual who has the daily
- 16 administrative responsibility of a crisis residential center, or his or
- 17 her designee.
- 18 (3) "At-risk youth" means a juvenile:

p. 1 HB 3214

- 1 (a) Who is absent from home for at least seventy-two consecutive 2 hours without consent of his or her parent;
 - (b) Who is beyond the control of his or her parent such that the child's behavior endangers the health, safety, or welfare of the child or any other person; or
 - (c) Who has a substance abuse problem for which there are no pending criminal charges related to the substance abuse.
 - (4) "Child," "juvenile," and "youth" mean any unemancipated individual who is under the chronological age of eighteen years.
 - (5) "Child in need of services" means a juvenile:

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- (a) Who is beyond the control of his or her parent such that the child's behavior endangers the health, safety, or welfare of the child or other person;
- (b) Who has been reported to law enforcement as absent without consent for at least twenty-four consecutive hours on two or more separate occasions from the home of either parent, a crisis residential center, an out-of-home placement, or a court-ordered placement; and
 - (i) Has exhibited a serious substance abuse problem; or
- (ii) Has exhibited behaviors that create a serious risk of harm to the health, safety, or welfare of the child or any other person; or
- (c)(i) Who is in need of: (A) Necessary services, including food, shelter, health care, clothing, or education; or (B) services designed to maintain or reunite the family;
- 24 (ii) Who lacks access to, or has declined to utilize, these 25 services; and
 - (iii) Whose parents have evidenced continuing but unsuccessful efforts to maintain the family structure or are unable or unwilling to continue efforts to maintain the family structure.
 - (6) "Child in need of services petition" means a petition filed in juvenile court by a parent, child, or the department seeking adjudication of placement of the child.
 - (7) "Crisis residential center" means a secure or semi-secure facility established pursuant to chapter 74.13 RCW.
- 34 (8) "Custodian" means the person or entity who has the legal right 35 to the custody of the child.
- 36 (9) "Department" means the department of social and health 37 services.

1 (10) <u>"Emergency respite center" means an agency, commonly known as</u> 2 a crisis nursery, as defined in RCW 74.15.020.

- (11) "Extended family member" means an adult who is a grandparent, brother, sister, stepbrother, stepsister, uncle, aunt, or first cousin with whom the child has a relationship and is comfortable, and who is willing and available to care for the child.
- $((\frac{11}{11}))$ (12) "Guardian" means that person or agency that (a) has been appointed as the guardian of a child in a legal proceeding other than a proceeding under chapter 13.34 RCW, and (b) has the right to legal custody of the child pursuant to such appointment. The term "guardian" does not include a "dependency guardian" appointed pursuant to a proceeding under chapter 13.34 RCW.
- ((\(\frac{(12)}\))) (13) "Multidisciplinary team" means a group formed to provide assistance and support to a child who is an at-risk youth or a child in need of services and his or her parent. The team shall include the parent, a department case worker, a local government representative when authorized by the local government, and when appropriate, members from the mental health and substance abuse disciplines. The team may also include, but is not limited to, the following persons: Educators, law enforcement personnel, probation officers, employers, church persons, tribal members, therapists, medical personnel, social service providers, placement providers, and extended family members. The team members shall be volunteers who do not receive compensation while acting in a capacity as a team member, unless the member's employer chooses to provide compensation or the member is a state employee.
- $((\frac{13}{13}))$ (14) "Out-of-home placement" means a placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW or placement in a home, other than that of the child's parent, guardian, or legal custodian, not required to be licensed pursuant to chapter 74.15 RCW.
- $((\frac{14}{1}))$ (15) "Parent" means the parent or parents who have the legal right to custody of the child. "Parent" includes custodian or guardian.
- (((15))) <u>(16)</u> "Secure facility" means a crisis residential center, or portion thereof, that has locking doors, locking windows, or a secured perimeter, designed and operated to prevent a child from leaving without permission of the facility staff.

p. 3 HB 3214

 $((\frac{16}{10}))$ "Semi-secure facility" means any facility, including 1 2 but not limited to crisis residential centers or specialized foster family homes, operated in a manner to reasonably assure that youth 3 placed there will not run away. Pursuant to rules established by the 4 5 department, the facility administrator shall establish reasonable hours for residents to come and go from the facility such that no residents 6 7 are free to come and go at all hours of the day and night. To prevent residents from taking unreasonable actions, the facility administrator, 8 9 where appropriate, may condition a resident's leaving the facility upon resident being accompanied by the administrator or the 10 administrator's designee and the resident may be required to notify the 11 administrator or the administrator's designee of any intent to leave, 12 13 his or her intended destination, and the probable time of his or her return to the center. 14

 $((\frac{17}{17}))$ (18) "Staff secure facility" means a structured group care facility licensed under rules adopted by the department with a ratio of at least one adult staff member to every two children.

(((18))) (19) "Temporary out-of-home placement" means an out-of-home placement of not more than fourteen days ordered by the court at a fact-finding hearing on a child in need of services petition.

- 21 **Sec. 2.** RCW 13.32A.050 and 2000 c 123 s 6 are each amended to read 22 as follows:
 - (1) A law enforcement officer shall take a child into custody:
 - (a) If a law enforcement agency has been contacted by the parent of the child that the child is absent from parental custody without consent; or
 - (b) If a law enforcement officer reasonably believes, considering the child's age, the location, and the time of day, that a child is in circumstances which constitute a danger to the child's safety or that a child is violating a local curfew ordinance; or
 - (c) If an agency legally charged with the supervision of a child has notified a law enforcement agency that the child has run away from placement; or
- 34 (d) If a law enforcement agency has been notified by the juvenile 35 court that the court finds probable cause exists to believe that the 36 child has violated a court placement order issued under this chapter or

HB 3214 p. 4

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chapter 13.34 RCW or that the court has issued an order for law enforcement pick-up of the child under this chapter or chapter 13.34 RCW.

- (2) Law enforcement custody shall not extend beyond the amount of time reasonably necessary to transport the child to a destination authorized by law and to place the child at that destination. Law enforcement custody continues until the law enforcement officer transfers custody to a person, agency, or other authorized entity under this chapter, or releases the child because no placement is available. Transfer of custody is not complete unless the person, agency, or entity to whom the child is released agrees to accept custody.
- (3) If a law enforcement officer takes a child into custody pursuant to either subsection (1)(a) or (b) of this section and transports the child to a crisis residential center or emergency respite center, the officer shall, within twenty-four hours of delivering the child to the center, provide to the center a written report detailing the reasons the officer took the child into custody. The center shall provide the department with a copy of the officer's report.
- (4) If the law enforcement officer who initially takes the juvenile into custody or the staff of the crisis residential center or emergency respite center have reasonable cause to believe that the child is absent from home because he or she is abused or neglected, a report shall be made immediately to the department.
- (5) Nothing in this section affects the authority of any political subdivision to make regulations concerning the conduct of minors in public places by ordinance or other local law.
- (6) If a law enforcement officer has a reasonable suspicion that a child is being unlawfully harbored in violation of RCW 13.32A.080, the officer shall remove the child from the custody of the person harboring the child and shall transport the child to one of the locations specified in RCW 13.32A.060.
- 33 (7) No child may be placed in a secure facility except as provided in this chapter.
- **Sec. 3.** RCW 13.32A.060 and 2000 c 162 s 11 and 2000 c 123 s 7 are each reenacted and amended to read as follows:

p. 5 HB 3214

- 1 (1) An officer taking a child into custody under RCW 13.32A.050(1) 2 (a) or (b) shall inform the child of the reason for such custody and 3 shall:
- (a) Transport the child to his or her home or to a parent at his or 4 5 her place of employment, if no parent is at home. The parent may request that the officer take the child to the home of an adult 6 7 extended family member, responsible adult, crisis residential center, emergency respite center, the department, or a licensed youth shelter. 8 9 In responding to the request of the parent, the officer shall take the child to a requested place which, in the officer's belief, is within a 10 reasonable distance of the parent's home. The officer releasing a 11 child into the custody of a parent, an adult extended family member, 12 13 responsible adult, or a licensed youth shelter shall inform the person receiving the child of the reason for taking the child into custody and 14 inform all parties of the nature and location of appropriate services 15 16 available in the community; or
 - (b) After attempting to notify the parent, take the child to a designated crisis residential center's secure facility or a center's semi-secure facility if a secure facility is full, not available, or not located within a reasonable distance, or to an emergency respite center, if:
 - (i) The child expresses fear or distress at the prospect of being returned to his or her home which leads the officer to believe there is a possibility that the child is experiencing some type of abuse or neglect;
 - (ii) It is not practical to transport the child to his or her home or place of the parent's employment; or
- 28 (iii) There is no parent available to accept custody of the child; 29 or
 - (c) After attempting to notify the parent, if a crisis residential center or emergency respite center is full, not available, or not located within a reasonable distance, request the department to accept custody of the child. If the department determines that an appropriate placement is currently available, the department shall accept custody and place the child in an out-of-home placement. Upon accepting custody of a child from the officer, the department may place the child in an out-of-home placement for up to seventy-two hours, excluding Saturdays, Sundays, and holidays, without filing a child in need of

HB 3214 p. 6

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- services petition, obtaining parental consent, or obtaining an order 1 2 for placement under chapter 13.34 RCW. Upon transferring a child to department's custody, the officer shall provide written 3 documentation of the reasons and the statutory basis for taking the 4 5 child into custody. If the department declines to accept custody of the child, the officer may release the child after attempting to take 6 7 the child to the following, in the order listed: The home of an adult extended family member; a responsible adult; or a licensed youth 8 The officer shall immediately notify the department if no 9 10 placement option is available and the child is released.
- (2) An officer taking a child into custody under RCW 13.32A.050(1) 11 12 (c) or (d) shall inform the child of the reason for custody. 13 officer taking a child into custody under RCW 13.32A.050(1)(c) may 14 release the child to the supervising agency, or shall take the child to a designated crisis residential center's secure facility. 15 secure facility is not available, not located within a reasonable 16 17 distance, or full, the officer shall take the child to a semi-secure crisis residential center. An officer taking a child into custody 18 under RCW 13.32A.050(1)(d) may place the child in a juvenile detention 19 facility as provided in RCW 13.32A.065 or a secure facility, except 20 21 that the child shall be taken to detention whenever the officer has 22 been notified that a juvenile court has entered a detention order under 23 this chapter or chapter 13.34 RCW.
 - (3) Every officer taking a child into custody shall provide the child and his or her parent or parents or responsible adult with a copy of the statement specified in RCW 13.32A.130(6).

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- (4) Whenever an officer transfers custody of a child to a crisis residential center, emergency respite center, or the department, the child may reside in the crisis residential center or emergency respite center, or may be placed by the department in an out-of-home placement for an aggregate total period of time not to exceed seventy-two hours excluding Saturdays, Sundays, and holidays. Thereafter, the child may continue in out-of-home placement only if the parents have consented, a child in need of services petition has been filed, or an order for placement has been entered under chapter 13.34 RCW.
- (5) The department shall ensure that all law enforcement authorities are informed on a regular basis as to the location of all

p. 7 HB 3214

- 1 designated secure and semi-secure facilities within <u>crisis residential</u>
- 2 centers and emergency respite centers in their jurisdiction, where
- 3 children taken into custody under RCW 13.32A.050 may be taken.

- **Sec. 4.** RCW 13.32A.090 and 2000 c 123 s 11 are each amended to read as follows:
 - (1) The administrator of a designated crisis residential center, the director of an emergency respite center, or the department shall perform the duties under subsection (3) of this section:
- 9 (a) Upon admitting a child who has been brought to the center by a law enforcement officer under RCW 13.32A.060;
 - (b) Upon admitting a child who has run away from home or has requested admittance to the center;
 - (c) Upon learning from a person under RCW 13.32A.082 that the person is providing shelter to a child absent from home; or
 - (d) Upon learning that a child has been placed with a responsible adult pursuant to RCW 13.32A.060.
 - (2) Transportation expenses of the child shall be at the parent's expense to the extent of his or her ability to pay, with any unmet transportation expenses assumed by the department.
 - (3) When any of the circumstances under subsection (1) of this section are present, the administrator <u>or director</u> of a center or the department shall perform the following duties:
 - (a) Immediately notify the child's parent of the child's whereabouts, physical and emotional condition, and the circumstances surrounding his or her placement;
 - (b) Initially notify the parent that it is the paramount concern of the family reconciliation service personnel to achieve a reconciliation between the parent and child to reunify the family and inform the parent as to the procedures to be followed under this chapter;
 - (c) Inform the parent whether a referral to children's protective services has been made and, if so, inform the parent of the standard pursuant to RCW 26.44.020(12) governing child abuse and neglect in this state; and either
- (d)(i) Arrange transportation for the child to the residence of the parent, as soon as practicable, when the child and his or her parent agrees to the child's return home or when the parent produces a copy of

a court order entered under this chapter requiring the child to reside in the parent's home; or

- (ii) Arrange transportation for the child to: $((\frac{i}{A}))$ (A) An out-of-home placement which may include a licensed group care facility or foster family when agreed to by the child and parent; or $(\frac{i}{A})$ (B) a certified or licensed mental health or chemical dependency program of the parent's choice.
- (4) If the administrator of the crisis residential center <u>or</u> <u>director of the emergency respite center</u> performs the duties listed in subsection (3) of this section, he or she shall also notify the department that a child has been admitted to the crisis residential center <u>or emergency respite center</u>.
- **Sec. 5.** RCW 74.15.020 and 2001 c 230 s 1, 2001 c 144 s 1, and 2001 14 c 137 s 3 are each reenacted and amended to read as follows:
- For the purpose of chapter 74.15 RCW and RCW 74.13.031, and unless otherwise clearly indicated by the context thereof, the following terms shall mean:
 - (1) "Agency" means any person, firm, partnership, association, corporation, or facility which receives children, expectant mothers, or persons with developmental disabilities for control, care, or maintenance outside their own homes, or which places, arranges the placement of, or assists in the placement of children, expectant mothers, or persons with developmental disabilities for foster care or placement of children for adoption, and shall include the following irrespective of whether there is compensation to the agency or to the children, expectant mothers or persons with developmental disabilities for services rendered:
 - (a) "Child day-care center" means an agency which regularly provides care for a group of children for periods of less than twenty-four hours;
 - (b) "Child-placing agency" means an agency which places a child or children for temporary care, continued care, or for adoption;
- 33 (c) "Community facility" means a group care facility operated for 34 the care of juveniles committed to the department under RCW 13.40.185. 35 A county detention facility that houses juveniles committed to the 36 department under RCW 13.40.185 pursuant to a contract with the 37 department is not a community facility;

p. 9 HB 3214

(d) "Crisis residential center" means an agency which is a temporary protective residential facility operated to perform the duties specified in chapter 13.32A RCW, in the manner provided in RCW 74.13.032 through 74.13.036;

- (e) "Emergency respite center" is an agency that may be commonly known as a crisis nursery, that provides emergency and crisis care for up to seventy-two hours to: Children who have been admitted by their parents or guardians to prevent abuse or neglect; or children under twelve years of age who have been admitted by a law enforcement agency or the department and whose parents are unavailable. Emergency respite centers may operate for up to twenty-four hours a day, and for up to seven days a week. Emergency respite centers may provide care for children ages birth through seventeen, and for persons eighteen through twenty with developmental disabilities who are admitted with a sibling or siblings through age seventeen. Emergency respite centers may not substitute for crisis residential centers or HOPE centers, or any other services defined under this section, and may not substitute for services which are required under chapter 13.32A or 13.34 RCW;
 - (f) "Family day-care provider" means a child day-care provider who regularly provides child day care for not more than twelve children in the provider's home in the family living quarters;
 - (g) "Foster-family home" means an agency which regularly provides care on a twenty-four hour basis to one or more children, expectant mothers, or persons with developmental disabilities in the family abode of the person or persons under whose direct care and supervision the child, expectant mother, or person with a developmental disability is placed;
 - (h) "Group-care facility" means an agency, other than a foster-family home, which is maintained and operated for the care of a group of children on a twenty-four hour basis;
 - (i) "HOPE center" means an agency licensed by the secretary to provide temporary residential placement and other services to street youth. A street youth may remain in a HOPE center for thirty days while services are arranged and permanent placement is coordinated. No street youth may stay longer than thirty days unless approved by the department and any additional days approved by the department must be based on the unavailability of a long-term placement option. A street youth whose parent wants him or her returned to home may remain in a

HOPE center until his or her parent arranges return of the youth, not longer. All other street youth must have court approval under chapter 3 13.34 or 13.32A RCW to remain in a HOPE center up to thirty days;

- (j) "Maternity service" means an agency which provides or arranges for care or services to expectant mothers, before or during confinement, or which provides care as needed to mothers and their infants after confinement;
- (k) "Responsible living skills program" means an agency licensed by the secretary that provides residential and transitional living services to persons ages sixteen to eighteen who are dependent under chapter 13.34 RCW and who have been unable to live in his or her legally authorized residence and, as a result, the minor lived outdoors or in another unsafe location not intended for occupancy by the minor. Dependent minors ages fourteen and fifteen may be eligible if no other placement alternative is available and the department approves the placement;
- 17 (1) "Service provider" means the entity that operates a community 18 facility.
 - (2) "Agency" shall not include the following:

- (a) Persons related to the child, expectant mother, or person with developmental disability in the following ways:
 - (i) Any blood relative, including those of half-blood, and including first cousins, nephews or nieces, and persons of preceding generations as denoted by prefixes of grand, great, or great-great;
 - (ii) Stepfather, stepmother, stepbrother, and stepsister;
 - (iii) A person who legally adopts a child or the child's parent as well as the natural and other legally adopted children of such persons, and other relatives of the adoptive parents in accordance with state law;
- 30 (iv) Spouses of any persons named in (i), (ii), or (iii) of this 31 subsection (2)(a), even after the marriage is terminated; or
 - (v) Extended family members, as defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, a person who has reached the age of eighteen and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent who provides care in the family abode on a twenty-four-hour basis to an Indian child as defined in 25 U.S.C. Sec. 1903(4);

p. 11 HB 3214

1 (b) Persons who are legal guardians of the child, expectant mother, 2 or persons with developmental disabilities;

- (c) Persons who care for a neighbor's or friend's child or children, with or without compensation, where: (i) The person providing care for periods of less than twenty-four hours does not conduct such activity on an ongoing, regularly scheduled basis for the purpose of engaging in business, which includes, but is not limited to, advertising such care; or (ii) the parent and person providing care on a twenty-four-hour basis have agreed to the placement in writing and the state is not providing any payment for the care;
- 11 (d) Parents on a mutually cooperative basis exchange care of one 12 another's children;
 - (e) A person, partnership, corporation, or other entity that provides placement or similar services to exchange students or international student exchange visitors or persons who have the care of an exchange student in their home;
 - (f) A person, partnership, corporation, or other entity that provides placement or similar services to international children who have entered the country by obtaining visas that meet the criteria for medical care as established by the United States immigration and naturalization service, or persons who have the care of such an international child in their home;
 - (g) Nursery schools or kindergartens which are engaged primarily in educational work with preschool children and in which no child is enrolled on a regular basis for more than four hours per day;
 - (h) Schools, including boarding schools, which are engaged primarily in education, operate on a definite school year schedule, follow a stated academic curriculum, accept only school-age children and do not accept custody of children;
- 30 (i) Seasonal camps of three months' or less duration engaged 31 primarily in recreational or educational activities;
- (j) Hospitals licensed pursuant to chapter 70.41 RCW when performing functions defined in chapter 70.41 RCW, nursing homes licensed under chapter 18.51 RCW and boarding homes licensed under chapter 18.20 RCW;
 - (k) Licensed physicians or lawyers;
- 37 (1) Facilities providing care to children for periods of less than

twenty-four hours whose parents remain on the premises to participate in activities other than employment;

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- (m) Facilities approved and certified under chapter 71A.22 RCW;
- (n) Any agency having been in operation in this state ten years prior to June 8, 1967, and not seeking or accepting moneys or assistance from any state or federal agency, and is supported in part by an endowment or trust fund;
- (o) Persons who have a child in their home for purposes of adoption, if the child was placed in such home by a licensed child-placing agency, an authorized public or tribal agency or court or if a replacement report has been filed under chapter 26.33 RCW and the placement has been approved by the court;
- (p) An agency operated by any unit of local, state, or federal government or an agency, located within the boundaries of a federally recognized Indian reservation, licensed by the Indian tribe;
- (q) A maximum or medium security program for juvenile offenders operated by or under contract with the department;
- (r) An agency located on a federal military reservation, except where the military authorities request that such agency be subject to the licensing requirements of this chapter.
- (3) "Department" means the state department of social and health services.
 - (4) "Juvenile" means a person under the age of twenty-one who has been sentenced to a term of confinement under the supervision of the department under RCW 13.40.185.
 - (5) "Probationary license" means a license issued as a disciplinary measure to an agency that has previously been issued a full license but is out of compliance with licensing standards.
- 29 (6) "Requirement" means any rule, regulation, or standard of care 30 to be maintained by an agency.
 - (7) "Secretary" means the secretary of social and health services.
- 32 (8) "Street youth" means a person under the age of eighteen who 33 lives outdoors or in another unsafe location not intended for occupancy 34 by the minor and who is not residing with his or her parent or at his 35 or her legally authorized residence.
- 36 (9) "Transitional living services" means at a minimum, to the 37 extent funds are available, the following:

p. 13 HB 3214

- (a) Educational services, including basic literacy and computational skills training, either in local alternative or public high schools or in a high school equivalency program that leads to obtaining a high school equivalency degree;
- (b) Assistance and counseling related to obtaining vocational training or higher education, job readiness, job search assistance, and placement programs;
- (c) Counseling and instruction in life skills such as money management, home management, consumer skills, parenting, health care, access to community resources, and transportation and housing options;
 - (d) Individual and group counseling; and

(e) Establishing networks with federal agencies and state and local organizations such as the United States department of labor, employment and training administration programs including the job training partnership act which administers private industry councils and the job corps; vocational rehabilitation; and volunteer programs.

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