
SUBSTITUTE SENATE BILL 5361

State of Washington

52nd Legislature

1991 Regular Session

By Senate Committee on Children & Family Services (originally sponsored by Senators Talmadge, L. Smith and Stratton).

Read first time February 22, 1991.

1 AN ACT Relating to child protection; amending RCW 13.34.020,
2 13.34.030, 13.34.060, 26.44.020, and 43.43.760; reenacting and amending
3 RCW 43.43.735; adding new sections to chapter 36.27 RCW; adding a new
4 section to chapter 26.44 RCW; adding a new section to chapter 43.43
5 RCW; adding a new section to chapter 10.98 RCW; creating new sections;
6 and making appropriations.

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

8 NEW SECTION. **Sec. 1.** It is the intent of the legislature to
9 safeguard children in situations where there is a reasonable basis for
10 believing the potential for physical or sexual abuse exists. In an
11 effort to prevent the possibility of abuse, a person who has been
12 accused of physically or sexually abusing a child should be restrained
13 from exercising visitation rights with a minor child if a law
14 enforcement officer who is conducting an investigation of the alleged
15 abuse requests a temporary restraining order from the court. The

1 safety of all children is enhanced when sexual assault cases are
2 properly investigated and prosecuted. Specialized training in the
3 investigation and prosecution of sexual assault cases, with an emphasis
4 on child victims, is needed as well as the creation of a sexual assault
5 prosecution assistance program.

6 Due to a lack of rehabilitative knowledge and services, there is a
7 significant likelihood that a person who has been convicted of physical
8 or sexual abuse of a child will reoffend. The department of
9 corrections should be required to advise the department of social and
10 health services of the release and conditions of release of an offender
11 who has been convicted of certain crimes involving child victims. In
12 employment positions where services are provided to children,
13 developmentally disabled persons, and vulnerable adults, a background
14 check, including a check of military records, is necessary to determine
15 the person's suitability for employment. In order to deter prospective
16 abuse, a child should be removed immediately from the care of a parent
17 or guardian who has been convicted of crimes against children or other
18 persons as defined in the law and a dependency proceeding should be
19 commenced.

20 PART I

21 NEW SECTION. **Sec. 101.** FINDINGS. The legislature finds that
22 sexual assault cases, particularly those in which children are
23 victimized, are difficult to prosecute successfully. To prosecute such
24 cases successfully requires that the prosecutors and investigators have
25 a high degree of training and skill in handling sexual assaults. The
26 legislature further finds that in the less populated areas of the
27 state, it is difficult for local prosecutors and law enforcement
28 agencies to obtain the needed specialization to handle these cases.

1 Therefore, the legislature intends to establish a mechanism to provide
2 the training and special investigators to more effectively prosecute
3 these cases.

4 NEW SECTION. **Sec. 102.** TRAINING FOR INVESTIGATING AND
5 PROSECUTING. (1) Each year the criminal justice training commission
6 shall offer an intensive, week-long training session on investigating
7 and prosecuting sexual assault cases for up to twenty prosecuting
8 attorneys, deputy prosecuting attorneys, and law enforcement officers.
9 The training shall place particular emphasis on the investigation and
10 prosecution of sexual assault cases involving child victims.

11 (2) The commission shall seek advice from the Washington
12 association of prosecuting attorneys and the Washington coalition of
13 sexual assault programs in planning the curriculum and recruiting
14 faculty for this program.

15 NEW SECTION. **Sec. 103.** SEXUAL ASSAULT PROSECUTION ASSISTANCE
16 PROGRAM. (1) There is created in the department of community
17 development the sexual assault prosecution assistance program to assist
18 county prosecuting attorneys in the investigation and prosecution of
19 sexual assault and child abuse cases, primarily for those cases
20 involving child victims. The department of community development shall
21 contract with the Washington state association of prosecuting attorneys
22 to employ a project coordinator and no more than ten project
23 investigators. The project coordinator shall supervise the development
24 of training for the investigators and their assignments to individual
25 prosecuting attorneys in counties or regions consisting of two or more
26 counties where law enforcement officers who specialize in investigation
27 of child sexual abuse cases are not readily available.

1 (2) The investigators shall be under the general supervision of the
2 project coordinator and shall be specially trained in investigating
3 sexual assault cases, with primary focus on those cases involving child
4 victims. The prosecuting attorney shall be responsible for the daily
5 supervision of the investigators and may agree to make the investigator
6 available for investigations on a regional basis and may be made
7 available to child protective services, if requested.

8 NEW SECTION. **Sec. 104.** SEXUAL ASSAULT COMMITTEE. A state-wide
9 committee on sexual assault is established to evaluate the success of
10 the project in section 103 of this act and to provide technical
11 assistance to the criminal justice training commission in the
12 development and evaluation of training required by this chapter for
13 prosecutors and their deputies, investigators, and uniformed law
14 enforcement agency investigators. The committee shall be comprised of
15 three prosecuting attorneys, a representative of the Washington
16 association of sheriffs and police chiefs, two representatives of the
17 Washington coalition of sexual assault programs, one representative of
18 the office of the attorney general, one representative of the
19 department of social and health services, and one representative of a
20 victims of sexual assault group. The project coordinator shall serve
21 as chair of the committee and may invite citizen organizations and
22 other state agencies to provide assistance and advice to the committee.

23 NEW SECTION. **Sec. 105.** LEGAL ADVOCATES. The department of social
24 and health services shall provide up to one legal advocate per sexual
25 assault program that qualifies for funding under the victims of sexual
26 assault fund. The legal advocates shall have completed a training
27 program to be designed and administered by the department of social and
28 health services in conjunction with the Washington association of

1 prosecuting attorneys and the Washington coalition of sexual assault
2 programs.

3 NEW SECTION. **Sec. 106.** Sections 102 through 105 of this act
4 are each added to chapter 36.27 RCW.

5 PART II

6 NEW SECTION. **Sec. 201.** A new section is added to chapter 26.44
7 RCW to read as follows:

8 RESTRAINED VISITATION RIGHTS. (1) If a person who has unsupervised
9 visitation rights with a minor child pursuant to a court order is
10 accused of sexually or physically abusing a child and the alleged abuse
11 has been reported to the proper authorities for investigation, the law
12 enforcement officer conducting the investigation may file a motion with
13 the court for a temporary restraining order to restrain the alleged
14 abuser's visitation rights during the investigation. The investigating
15 law enforcement officer shall submit an affidavit stating that the
16 person is currently under investigation for sexual or physical abuse of
17 a child and that the prosecuting attorney does not have enough
18 information at the time to determine whether prosecution is warranted.
19 The restraining order shall be issued for up to ninety days or until
20 the investigation has been concluded in favor of the alleged abuser,
21 whichever is shorter.

22 (2) Willful violation of a court order entered under this section
23 is a misdemeanor. The court order shall state: "Violation of this
24 order is a criminal offense under chapter 26.44 RCW and will subject
25 the violator to arrest."

26 PART III

1 **Sec. 301.** RCW 13.34.020 and 1990 c 284 s 31 are each amended to
2 read as follows:

3 The legislature declares that the family unit is a fundamental
4 resource of American life which should be nurtured. Toward the
5 continuance of this principle, the legislature declares that the family
6 unit should remain intact unless a child's right to conditions of basic
7 nurture, health, or safety is jeopardized. When the rights of basic
8 nurture, physical and mental health, and safety of the child and the
9 legal rights of the parents are in conflict, the rights and safety of
10 the child should prevail. If a child is in the care of a parent or
11 guardian who has been convicted of a gross misdemeanor or greater
12 against a child, the department shall request a pick-up order
13 immediately, place the child in shelter care, and initiate a dependency
14 proceeding without delay. The right of a child to basic nurturing
15 includes the right to a safe, stable, and permanent home and a speedy
16 resolution of any proceeding under this chapter.

17 **Sec. 302.** RCW 13.34.030 and 1988 c 176 s 901 are each amended to
18 read as follows:

19 For purposes of this chapter:

20 (1) "Child" and "juvenile" means any individual under the age of
21 eighteen years;

22 (2) "Dependent child" means any child:

23 (a) Who has been abandoned; that is, where the child's parent,
24 guardian, or other custodian has evidenced either by statement or
25 conduct, a settled intent to forego, for an extended period, all
26 parental rights or all parental responsibilities despite an ability to
27 do so;

28 (b) Who is abused or neglected as defined in chapter 26.44 RCW by
29 a person legally responsible for the care of the child;

1 (c) Whose parent, guardian, or custodian by past acts or omissions
2 demonstrated a serious disregard for the health, safety, or welfare of
3 a child;

4 (d) Who has no parent, guardian, or custodian capable of adequately
5 caring for the child, such that the child is in circumstances which
6 constitute a danger of substantial damage to the child's psychological
7 or physical development; or

8 (~~(d)~~) (e) Who has a developmental disability, as defined in RCW
9 71A.10.020 and whose parent, guardian, or legal custodian together with
10 the department determines that services appropriate to the child's
11 needs can not be provided in the home. However, (a), (b), and (~~(e)~~)
12 (d) of this subsection may still be applied if other reasons for
13 removal of the child from the home exist.

14 **Sec. 303.** RCW 13.34.060 and 1990 c 246 s 1 are each amended to
15 read as follows:

16 (1) A child taken into custody pursuant to RCW 13.34.050 or
17 26.44.050 shall be immediately placed in shelter care. A child taken
18 by a relative of the child in violation of RCW 9A.40.060 or 9A.40.070
19 shall be placed in shelter care only when permitted under RCW
20 13.34.055. "Shelter care" means temporary physical care in a facility
21 licensed pursuant to RCW 74.15.030 or in a home not required to be
22 licensed pursuant to that section. Whenever a child is taken into such
23 custody pursuant to this section, the supervising agency may authorize
24 evaluations of the child's physical or emotional condition, routine
25 medical and dental examination and care, and all necessary emergency
26 care. In no case may a child who is taken into custody pursuant to RCW
27 13.34.055, 13.34.050, or 26.44.050 be detained in a secure detention
28 facility. No child may be held longer than seventy-two hours,
29 excluding Saturdays, Sundays and holidays, after such child is taken

1 into custody unless a court order has been entered for continued
2 shelter care. The child and his or her parent, guardian, or custodian
3 shall be informed that they have a right to a shelter care hearing.
4 The court shall hold a shelter care hearing within seventy-two hours
5 after the child is taken into custody, excluding Saturdays, Sundays,
6 and holidays. If a parent, guardian, or legal custodian desires to
7 waive the shelter care hearing, the court shall determine, on the
8 record and with the parties present, that such waiver is knowing and
9 voluntary.

10 (2) Whenever a child is taken into custody by child protective
11 services pursuant to a court order issued under RCW 13.34.050 or when
12 child protective services is notified that a child has been taken into
13 custody pursuant to RCW 26.44.050 or 26.44.056, child protective
14 services shall make reasonable efforts to inform the parents, guardian,
15 or legal custodian of the fact that the child has been taken into
16 custody, the reasons why the child was taken into custody, and their
17 legal rights under this title as soon as possible and in no event
18 longer than twenty-four hours after the child has been taken into
19 custody or twenty-four hours after child protective services has been
20 notified that the child has been taken into custody. The notice of
21 custody and rights may be given by any means reasonably certain of
22 notifying the parents including, but not limited to, written,
23 telephone, or in person oral notification. If the initial notification
24 is provided by a means other than writing, child protective services
25 shall make reasonable efforts to also provide written notification.

26 The written notice of custody and rights shall be in substantially
27 the following form:

28 "NOTICE

1 Your child has been placed in temporary custody under the
2 supervision of Child Protective Services (or other person or agency).
3 You have important legal rights and you must take steps to protect your
4 interests.

5 1. A court hearing will be held before a judge within 72 hours of
6 the time your child is taken into custody. You should call the court
7 at ...(insert appropriate phone number here)... for specific
8 information about the date, time, and location of the court hearing.

9 2. You have the right to have a lawyer represent you at the
10 hearing. A lawyer can look at the files in your case, talk to child
11 protective services and other agencies, tell you about the law, help
12 you understand your rights, and help you at hearings. If you cannot
13 afford a lawyer, the court will appoint one to represent you. To get
14 a court-appointed lawyer you must contact: ...(explain local
15 procedure)....

16 3. At the hearing, you have the right to speak on your own behalf,
17 to introduce evidence, to examine witnesses, and to receive a decision
18 based solely on the evidence presented to the judge.

19 You should be present at this hearing. If you do not come, the
20 judge will not hear what you have to say.

21 You may call the Child Protective Services' caseworker for more
22 information about your child. The caseworker's name and telephone
23 number are: ...(insert name and telephone number)..."

24 Upon receipt of the written notice, the parent, guardian, or legal
25 custodian shall acknowledge such notice by signing a receipt prepared
26 by child protective services. If the parent, guardian, or legal
27 custodian does not sign the receipt, the reason for lack of a signature
28 shall be written on the receipt. The receipt shall be made a part of
29 the court's file in the dependency action.

1 If after making reasonable efforts to provide notification, child
2 protective services is unable to determine the whereabouts of the
3 parents, guardian, or legal custodian, the notice shall be delivered or
4 sent to the last known address of the parent, guardian, or legal
5 custodian.

6 (3) If child protective services is not required to give notice
7 under subsection (2) of this section, the juvenile court counselor
8 assigned to the matter shall make all reasonable efforts to advise the
9 parents, guardian, or legal custodian of the time and place of any
10 shelter care hearing, request that they be present, and inform them of
11 their basic rights as provided in RCW 13.34.090.

12 (4) Reasonable efforts to advise and to give notice, as required in
13 subsections (2) and (3) of this section, shall include, at a minimum,
14 investigation of the whereabouts of the parent, guardian, or legal
15 custodian. If such reasonable efforts are not successful, or the
16 parent, guardian, or legal custodian does not appear at the shelter
17 care hearing, the juvenile court counselor or caseworker shall testify
18 at the hearing or state in a declaration:

19 (a) The efforts made to investigate the whereabouts of, and to
20 advise, the parent, guardian, or legal custodian; and

21 (b) Whether actual advice of rights was made, to whom it was made,
22 and how it was made, including the substance of any oral communication
23 or copies of written materials used.

24 (5) At the commencement of the shelter care hearing the court shall
25 advise the parties of their basic rights as provided in RCW 13.34.090
26 and shall appoint counsel pursuant to RCW 13.34.090 if counsel has not
27 been retained by the parent or guardian and if the parent or guardian
28 is indigent, unless the court finds that the right to counsel has been
29 expressly and voluntarily waived in court.

1 (6) The court shall hear evidence regarding notice given to, and
2 efforts to notify, the parent, guardian, or legal custodian and shall
3 examine the need for shelter care. The court shall make an express
4 finding as to whether the notice required under subsections (2) and (3)
5 of this section was given to the parent, guardian, or legal custodian.
6 All parties have the right to present testimony to the court regarding
7 the need or lack of need for shelter care. Hearsay evidence before the
8 court regarding the need or lack of need for shelter care must be
9 supported by sworn testimony, affidavit, or declaration of the person
10 offering such evidence.

11 (7) The juvenile court probation counselor shall submit a
12 recommendation to the court as to the further need for shelter care,
13 except that such recommendation shall be submitted by the department of
14 social and health services in cases where the petition alleging
15 dependency has been filed by the department of social and health
16 services, unless otherwise ordered by the court.

17 (8) The court shall release a child alleged to be dependent to the
18 care, custody, and control of the child's parent, guardian, or legal
19 custodian unless that person has been convicted of a gross misdemeanor
20 or greater against a child or unless the court finds there is
21 reasonable cause to believe that:

22 (a) After consideration of the specific services that have been
23 provided, reasonable efforts have been made to prevent or eliminate the
24 need for removal of the child from the child's home and to make it
25 possible for the child to return home; and

26 (b)(i) The child has no parent, guardian, or legal custodian to
27 provide supervision and care for such child; or

28 (ii) The release of such child would present a serious threat of
29 substantial harm to such child; or

1 (iii) The parent, guardian, or custodian to whom the child could be
2 released is alleged to have violated RCW 9A.40.060 or 9A.40.070.

3 If the court does not release the child to his or her parent,
4 guardian, or legal custodian, the court shall order continued shelter
5 care or order placement with another suitable person, and the court
6 shall set forth its reasons for the order. The court shall enter a
7 finding as to whether subsections (2) and (3) of this section have been
8 complied with. If actual notice was not given to the parent, guardian,
9 or legal custodian and the whereabouts of such person is known or can
10 be ascertained, the court shall order the supervising agency or the
11 department of social and health services to make reasonable efforts to
12 advise the parent, guardian, or legal custodian of the status of the
13 case, including the date and time of any subsequent hearings, and their
14 rights under RCW 13.34.090.

15 (9) An order releasing the child on any conditions specified in
16 this section may at any time be amended, with notice and hearing
17 thereon, so as to return the child to shelter care for failure of the
18 parties to conform to the conditions originally imposed.

19 (10) A shelter care order issued pursuant to this section may be
20 amended at any time with notice and hearing thereon. The shelter care
21 decision of placement shall be modified only upon a showing of change
22 in circumstances. No child may be detained for longer than thirty days
23 without an order, signed by the judge, authorizing continued shelter
24 care.

25 (11) Any parent, guardian, or legal custodian who for good cause is
26 unable to attend the initial shelter care hearing may request that a
27 subsequent shelter care hearing be scheduled. The request shall be
28 made to the clerk of the court where the petition is filed prior to the
29 initial shelter care hearing. The hearing shall be held within
30 seventy-two hours of the request, excluding Saturdays, Sundays, and

1 holidays. The clerk shall notify all other parties of the hearing by
2 any reasonable means.

3 **Sec. 304.** RCW 26.44.020 and 1988 c 142 s 1 are each amended to
4 read as follows:

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

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

8 (2) "Law enforcement agency" means the police department, the
9 prosecuting attorney, the state patrol, the director of public safety,
10 or the office of the sheriff.

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

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

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

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

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

1 (8) "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) "Child abuse or neglect" shall mean the injury, sexual abuse,
21 sexual exploitation, or negligent treatment or maltreatment of a child
22 by any person under circumstances which indicate that the child's
23 health, welfare, and safety is harmed thereby. An abused child is a
24 child who has been subjected to child abuse or neglect as defined
25 herein: PROVIDED, That this subsection shall not be construed to
26 authorize interference with child-raising practices, including
27 reasonable parental discipline, which are not proved to be injurious to
28 the child's health, welfare, and safety: AND PROVIDED FURTHER, That
29 nothing in this section shall be used to prohibit the reasonable use of
30 corporal punishment as a means of discipline. No parent or guardian

1 shall be deemed abusive or neglectful solely by reason of the parent's
2 or child's blindness, deafness, developmental disability, or other
3 handicap.

4 (13) "Child protective services section" shall mean the child
5 protective services section of the department.

6 (14) "Adult dependent persons not able to provide for their own
7 protection through the criminal justice system" shall be defined as
8 those persons over the age of eighteen years who have been found
9 legally incompetent pursuant to chapter 11.88 RCW or found disabled to
10 such a degree pursuant to said chapter, that such protection is
11 indicated: PROVIDED, That no persons reporting injury, abuse, or
12 neglect to an adult dependent person as defined herein shall suffer
13 negative consequences if such a judicial determination of incompetency
14 or disability has not taken place and the person reporting believes in
15 good faith that the adult dependent person has been found legally
16 incompetent pursuant to chapter 11.88 RCW.

17 (15) "Sexual exploitation" includes: (a) Allowing, permitting, or
18 encouraging a child to engage in prostitution by any person; or (b)
19 allowing, permitting, encouraging, or engaging in the obscene or
20 pornographic photographing, filming, or depicting of a child for
21 commercial purposes as those acts are defined by state law by any
22 person.

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

27 (17) "Developmentally disabled person" means a person who has a
28 disability defined in RCW (~~(71.20.016)~~) 71A.10.020.

29 (18) "Child protective services" means those services provided by
30 the department designed to protect children from child abuse and

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

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

18 PART IV

19 NEW SECTION. **Sec. 401.** A new section is added to chapter 43.43
20 RCW to read as follows:

21 (1) All applicants as defined in RCW 43.43.830(1)(a) and (b) shall
22 be fingerprinted at a local law enforcement agency and pay the cost for
23 such fingerprinting. The fingerprints shall be stored by the
24 Washington state patrol criminal identification system for the purpose
25 of transmittal to the federal bureau of investigation identification
26 division when a written request for a federal background check of an
27 applicant is received. The state patrol may waive the requirement for
28 fingerprints if a federal waiver is obtained.

1 (2) Federal bureau of investigation criminal history record
2 information may be received only by a state or local governmental
3 agency and shall not be provided to private entities. If a business or
4 organization made the request for a federal background check, the
5 governmental agency in receipt of the records shall, based upon the
6 criminal history record information, determine the applicant's
7 suitability for employment and inform the inquiring business or
8 organization.

9 **Sec. 402.** RCW 43.43.760 and 1985 c 201 s 15 are each amended to
10 read as follows:

11 (1) Whenever a resident of this state appears before any law
12 enforcement agency and requests an impression of his or her
13 fingerprints to be made, such agency may comply with his or her request
14 and make the required copies of the impressions on forms marked
15 "Personal Identification". The required copies shall be forwarded to
16 the section and marked "for personal identification only".

17 The section shall accept and file such fingerprints submitted
18 voluntarily by such resident, for the purpose of securing a more
19 certain and easy identification in case of death, injury, loss of
20 memory, or other similar circumstances. Upon the request of such
21 person, the section shall return his or her identification data.

22 (2) Whenever any person is an applicant for appointment to any
23 position or is an applicant for employment or is an applicant for a
24 license to be issued by any governmental agency, and the law or a
25 regulation of such governmental agency requires that the applicant be
26 of good moral character or not have been convicted of a crime, or is an
27 applicant for appointment to or employment with a criminal justice
28 agency, or the department, the applicant may request any law
29 enforcement agency to make an impression of his or her fingerprints to

1 be submitted to the section. The law enforcement agency may comply
2 with such request and make copies of the impressions on forms marked
3 "applicant", and submit such copies to the section.

4 The section shall accept such fingerprints and shall cause its
5 files to be examined and shall promptly send to the appointing
6 authority, employer, or licensing authority indicated on the form of
7 application, a transcript of the record of previous crimes committed by
8 the person described on the data submitted, or a transcript of the
9 dependency record information regarding the person described on the
10 data submitted, or if there is no record of his or her commission of
11 any crimes, or if there is no dependency record information, a
12 statement to that effect.

13 (3) The Washington state patrol shall charge fees for processing of
14 noncriminal justice system requests for criminal history record
15 information pursuant to this section which will cover, as nearly as
16 practicable, the direct and indirect costs to the patrol of processing
17 such requests.

18 Any law enforcement agency may charge a fee (~~(not to exceed five~~
19 ~~dollars)) that has been adopted by administrative rule for the purpose
20 of taking fingerprint impressions or searching its files of
21 identification for noncriminal purposes.~~

22 **Sec. 403.** RCW 43.43.735 and 1989 c 334 s 9 and 1989 c 6 s 2 are
23 each reenacted and amended to read as follows:

24 (1) It shall be the duty of the sheriff or director of public
25 safety of every county, and the chief of police of every city or town,
26 and of every chief officer of other law enforcement agencies duly
27 operating within this state, to cause the photographing and
28 fingerprinting of all adults and juveniles lawfully arrested for the
29 commission of any criminal offense constituting a felony or gross

1 misdemeanor. (a) When such juveniles are brought directly to a
2 juvenile detention facility, the juvenile court administrator is also
3 authorized, but not required, to cause the photographing,
4 fingerprinting, and record transmittal to the appropriate law
5 enforcement agency; and (b) a further exception may be made when the
6 arrest is for a violation punishable as a gross misdemeanor and the
7 arrested person is not taken into custody.

8 (2) It shall be the right, but not the duty, of the sheriff or
9 director of public safety of every county, and the chief of police of
10 every city or town, and every chief officer of other law enforcement
11 agencies operating within this state to photograph and record the
12 fingerprints of all adults lawfully arrested, all persons who are the
13 subject of dependency record information, or all persons who are the
14 subject of protection proceeding record information.

15 (3) For cases adjudicated under Title 26 RCW in which a finding of
16 sexual or physical abuse is entered, the court shall require the
17 offender to be photographed and fingerprinted by law enforcement. Law
18 enforcement shall transmit the photographs and fingerprints to the
19 Washington state patrol for retention in the event a background check
20 is requested.

21 (4) Such sheriffs, directors of public safety, chiefs of police,
22 and other chief law enforcement officers, may record, in addition to
23 photographs and fingerprints, the palmprints, soleprints, toeprints, or
24 any other identification data of all persons whose photograph and
25 fingerprints are required or allowed to be taken under this section,
26 all persons who are the subject of dependency record information, or
27 all persons who are the subject of protection proceeding record
28 information, when in the discretion of such law enforcement officers it
29 is necessary for proper identification of the arrested person or the
30 investigation of the crime with which he or she is charged.

1 NEW SECTION. **Sec. 601.** Section and part headings as used in
2 this act do not constitute any part of the law.

3 NEW SECTION. **Sec. 602.** The sum of forty thousand dollars, or
4 as much thereof as may be necessary, is appropriated for the biennium
5 ending June 30, 1993, from the general fund to the criminal justice
6 training commission for the purposes of section 102 of this act.

7 NEW SECTION. **Sec. 603.** The sum of one million two hundred
8 eighty thousand dollars, or as much thereof as may be necessary, is
9 appropriated for the biennium ending June 30, 1993, from the general
10 fund to the department of community development for the purposes of
11 section 103 of this act.

12 NEW SECTION. **Sec. 604.** The sum of one million dollars, or as
13 much thereof as may be necessary, is appropriated for the biennium
14 ending June 30, 1993, from the general fund to the department of social
15 and health services for the purposes of section 105 of this act.