

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 1608

Chapter 326, Laws of 1991
(partial veto)

52nd Legislature
1991 Regular Session

SERVICES FOR CHILDREN

EFFECTIVE DATE: 7/28/91 - Except Sections 11 through 14 which
become effective on 5/21/91.

Passed by the House April 28, 1991
Yeas 87 Nays 0

JOE KING
Speaker of the
House of Representatives

Passed by the Senate April 27, 1991
Yeas 41 Nays 0

JOEL PRITCHARD
President of the Senate

Approved May 21, 1991, with
the exception of sections 1,
15 and 16, which are vetoed.

BOOTH GARDNER
Governor of the State of Washington

CERTIFICATE

I, Alan Thompson, Chief Clerk of the
House of Representatives of the State
of Washington, do hereby certify that
the attached is **ENGROSSED SUBSTITUTE
HOUSE BILL 1608** as passed by the House
of Representatives and the Senate on
the dates hereon set forth.

ALAN THOMPSON
Chief Clerk

FILED

May 21, 1991 - 10:44 a.m.

Secretary of State
State of Washington

ENGROSSED SUBSTITUTE HOUSE BILL 1608

AS RECOMMENDED BY THE CONFERENCE COMMITTEE

Passed Legislature - 1991 Regular Session

State of Washington

52nd Legislature

1991 Regular Session

By House Committee on Human Services (originally sponsored by Representatives Leonard, Winsley, Rasmussen, Beck, Anderson, Hargrove, Brekke, Bowman, Dorn, Hine, Rust, Riley, Spanel, H. Myers, Dellwo, Phillips, Haugen, Jacobsen, Jones, R. King, Pruitt, Basich, R. Johnson, Van Luven, Holland, Valle, Paris, Belcher, Sheldon and O'Brien).

Read first time March 4, 1991.

1 AN ACT Relating to children's services; amending RCW 13.34.030 and
2 74.13.300; adding a new section to chapter 13.40 RCW; adding new
3 sections to chapter 74.13 RCW; adding new sections to chapter 13.34
4 RCW; adding a new chapter to Title 71 RCW; creating new sections; and
5 declaring an emergency.

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

8 **NEW SECTION. Sec. 1. The department of social and health*
9 *services shall conduct an assessment of the children in its care to*
10 *determine the appropriate level of residential and treatment services*
11 *required by these children. Prior to performing the assessment, the*
12 *department shall, in conjunction with the private sector, develop a*
13 *comprehensive, multidisciplinary diagnostic/assessment tool to be used*
14 *in conducting the assessment. Any such assessment shall be based on a*
15 *statistically valid sample of all children in the department's care.*
16 *The department shall report the results of the assessment to the*

1 *appropriate standing committees of the legislature by September 15,*
2 *1992. The department shall submit recommendations to the appropriate*
3 *standing committees of the legislature on reallocating funds for*
4 *children's services by December 1, 1992.*

5 **Sec. 1 was vetoed, see message at end of chapter.*

6 NEW SECTION. **Sec. 2.** A new section is added to chapter 74.13 RCW
7 to read as follows:

8 The department of social and health services may implement a
9 therapeutic family home program for up to fifteen youth in the custody
10 of the department under chapter 13.34 RCW. The program shall strive to
11 develop and maintain a mutually reinforcing relationship between the
12 youth and the therapeutic staff associated with the program.

13 NEW SECTION. **Sec. 3.** The legislature finds that a destructive
14 lifestyle of drug and street gang activity is rapidly becoming
15 prevalent among some of the state's youths. Gang and drug activity may
16 be a culturally influenced phenomenon which the legislature intends
17 public and private agencies to consider and address in prevention and
18 treatment programs. Gang and drug-involved youths are more likely to
19 become addicted to drugs or alcohol, live in poverty, experience high
20 unemployment, be incarcerated, and die of violence than other youths.

21 NEW SECTION. **Sec. 4.** A new section is added to chapter 13.40 RCW
22 to read as follows:

23 (1) The department of social and health services may contract with
24 a community-based nonprofit organization to establish a three-step
25 transitional treatment program for gang and drug-involved juvenile
26 offenders committed to the custody of the department under chapter
27 13.40 RCW. Any such program shall provide six to twenty-four months of

1 treatment. The program shall emphasize the principles of self-
2 determination, unity, collective work and responsibility, cooperative
3 economics, and creativity. The program shall be culturally relevant
4 and appropriate and shall include:

5 (a) A culturally relevant and appropriate institution-based program
6 that provides comprehensive drug and alcohol services, individual and
7 family counseling, and a wilderness experience of constructive group
8 living, rigorous physical exercise, and academic studies;

9 (b) A culturally relevant and appropriate community-based
10 structured group living program that focuses on individual goals,
11 positive community involvement, coordinated drug and alcohol treatment,
12 coordinated individual and family counseling, academic and vocational
13 training, and employment in apprenticeship, internship, and
14 entrepreneurial programs; and

15 (c) A culturally relevant and appropriate transitional group living
16 program that provides support services, academic services, and
17 coordinated individual and family counseling.

18 (2) Participation in any such program shall be on a voluntary
19 basis.

20 (3) The department shall adopt rules as necessary to implement any
21 such program.

22 NEW SECTION. **Sec. 5.** (1) The department of social and health
23 services may contract with an independent research organization to
24 conduct an evaluation of any program that is established under section
25 4 of this act. The evaluation shall include an analysis of the race
26 and ethnicity of juvenile offenders served, the offenses for which the
27 youths were committed, the services provided, the effects of the
28 program on educational and vocational achievement, and the rate of
29 recidivism for these youth.

1 (2) Any organization selected shall provide a preliminary report on
2 the program to appropriate standing committees of the senate and house
3 of representatives by September 15, 1992. Any final report shall be
4 submitted to appropriate standing committees of the senate and house of
5 representatives by January 15, 1993.

6 **Sec. 6.** RCW 13.34.030 and 1988 c 176 s 901 are each amended to
7 read as follows:

8 For purposes of this chapter:

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

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

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

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

19 (c) Who has no parent, guardian, or custodian capable of adequately
20 caring for the child, such that the child is in circumstances which
21 constitute a danger of substantial damage to the child's psychological
22 or physical development; or

23 (d) Who has a developmental disability, as defined in RCW
24 71A.10.020 and whose parent, guardian, or legal custodian together with
25 the department determines that services appropriate to the child's
26 needs can not be provided in the home. However, (a), (b), and (c) of
27 this subsection may still be applied if other reasons for removal of
28 the child from the home exist.

1 (3) "Permanency planning" means the process by which a child is
2 diagnostically assessed and provided treatment services based on his or
3 her unique individual and developmental needs to facilitate the
4 attainment of successful maturity as an adult. Permanency planning
5 should occur in the least restrictive setting appropriate and available
6 and with minimum placement disruption.

7 (4) "Transitional living programs" means programs that provide
8 shelter and services designed to promote transition to self-sufficient
9 living, development of independent living skills, and to minimize the
10 incidence of long-term dependency on social services.

11 NEW SECTION. Sec. 7. Out-of-home placement services become
12 necessary whenever voluntary or court-ordered out-of-home placement of
13 a child is imminent or has already occurred. In striving to meet the
14 objective of permanency for every child, a continuum of services must
15 encompass the full range of possible alternatives. A variety of
16 services are available to prevent out-of-home placement or address the
17 needs of the child and family when out-of-home placement becomes
18 necessary, however, the continuum of care is severely lacking in
19 providing transitional living services for older youth.

20 NEW SECTION. Sec. 8. A new section is added to chapter 13.34 RCW
21 to read as follows:

22 The department of social and health services shall contract, using
23 the request for proposal process, with independent qualified agencies
24 to provide transitional living services to minors.

25 Persons sixteen to eighteen years old or sixteen years old until
26 emancipation are eligible for transitional living services. The
27 population eligible for transitional living services are those for whom
28 returning to their parents' or guardians' home is not possible and for

1 whom foster care or adoption is not likely or appropriate. An
2 assessment shall be done of each minor, including the minor's family
3 situation, before receiving transitional living services. The
4 assessment shall include input from the agency that would be providing
5 the transitional living services to the minor, the agency currently
6 providing services to the minor, and the caseworker for the minor. The
7 assessment shall seek to determine whether the most appropriate plan
8 for the minor is preparation for emancipation. The assessment shall
9 also determine whether the minor is motivated to participate in a
10 transitional living program that requires significant commitment from
11 the minor. A primary goal of transitional living services shall be the
12 acquisition by the youth of basic educational and/or vocational skills
13 that are compatible with the individual's treatment plan. If a youth
14 demonstrates a consistent unwillingness to participate in the
15 acquisition of such skills, a reassessment shall be done of the youth's
16 appropriateness for the program.

17 NEW SECTION. **Sec. 9.** A new section is added to chapter 13.34 RCW
18 to read as follows:

19 Transitional living services should be tailored to meet the needs
20 of the particular minor. A transitional living program should include,
21 but is not limited to, the following:

22 (1) Educational services, including basic literacy and
23 computational skills training, either in local alternative or public
24 high schools or in a high school equivalency program that leads to
25 obtaining a high school equivalency degree;

26 (2) Assistance and counseling related to obtaining vocational
27 training or higher education, job readiness, job search assistance, and
28 placement programs;

29 (3) Health services including pre and post-natal care;

1 (4) Counseling and instruction in life skills such as money
2 management, home management, consumer skills, parenting, health care,
3 access to community resources, and transportation and housing options;

4 (5) Individual and group counseling with emphasis on issues of
5 avoiding abuse, sexual abuse, prostitution, drug and alcohol abuse,
6 depression, motivation, self-esteem, and interpersonal and social
7 skills training and development;

8 (6) Recognizing and facilitating long-term relationships with
9 significant adults; and

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

15 NEW SECTION. **Sec. 10.** If specific funding for the purposes of
16 sections 6 through 9 of this act, referencing this act by bill and
17 section number, is not provided by June 30, 1991, in the omnibus
18 appropriations act, sections 6 through 9 of this act shall be null and
19 void.

20 NEW SECTION. **Sec. 11.** The legislature intends to encourage the
21 development of community-based interagency collaborative efforts to
22 plan for and provide mental health services to children in a manner
23 that coordinates existing categorical children's mental health programs
24 and funding, is sensitive to the unique cultural circumstances of
25 children of color, eliminates duplicative case management, and to the
26 greatest extent possible, blends categorical funding to offer more
27 service options to each child.

1 NEW SECTION. **Sec. 12.** Unless the context clearly requires
2 otherwise, the definitions in this section apply throughout this
3 chapter.

4 (1) "Agency" means a state or local governmental entity or a
5 private not-for-profit organization.

6 (2) "Child" means a person under eighteen years of age, except as
7 expressly provided otherwise in federal law.

8 (3) "County authority" means the board of county commissioners or
9 county executive.

10 (4) "Department" means the department of social and health
11 services.

12 (5) "Early periodic screening, diagnosis, and treatment" means the
13 component of the federal medicaid program established pursuant to 42
14 U.S.C. Sec. 1396d(r), as amended.

15 (6) "Regional support network" means a county authority or group of
16 county authorities that have entered into contracts with the secretary
17 pursuant to chapter 71.24 RCW.

18 (7) "Secretary" means the secretary of social and health services.

19 NEW SECTION. **Sec. 13.** (1) The office of financial management
20 shall provide the following information to the appropriate committees
21 of the legislature on or before December 1, 1991, and update such
22 information biennially thereafter:

23 (a) An inventory of state and federally funded programs providing
24 mental health services to children in Washington state. For purposes
25 of the inventory, "children's mental health services" shall be broadly
26 construed to include services related to children's mental health
27 provided through education, children and family services, juvenile
28 justice, mental health, health care, alcohol and substance abuse, and
29 developmental disabilities programs, such as: The primary intervention

1 program; treatment foster care; the fair start program; therapeutic
2 child care and day treatment for children in the child protective
3 services system, as provided in RCW 74.14B.040; family reconciliation
4 services counseling, as provided in chapter 13.32A RCW; the community
5 mental health services act, as provided in chapter 71.24 RCW; mental
6 health services for minors, as provided in chapter 71.34 RCW; mental
7 health services provided by the medical assistance program, limited
8 casualty program for the medically needy and children's health program,
9 as provided in chapter 74.09 RCW; counseling for delinquent children,
10 as provided in RCW 72.05.170; mental health service provided by child
11 welfare services, as provided in chapter 74.13 RCW; and services to
12 emotionally disturbed and mentally ill children, as provided in chapter
13 74.14A RCW.

14 (b) For each program or service inventoried pursuant to (a) of this
15 subsection:

16 (i) Statutory authority;

17 (ii) Level and source of funding state-wide and for each county and
18 school district in the state during the biennium ending June 30, 1991,
19 to the extent such information is available;

20 (iii) Agency administering the service state-wide and description
21 of how administration and service delivery are organized and provided
22 at the regional and local level;

23 (iv) Programmatic or financial eligibility criteria;

24 (v) Characteristics of, and number of children served state-wide
25 and in each county and school district during the biennium ending June
26 30, 1991, to the extent such information is available;

27 (vi) Number of children of color served, by race and nationality,
28 and number and type of minority mental health providers, by race and
29 nationality, in each regional support network area, to the extent such
30 information is available; and

1 (vii) Statutory changes necessary to remove categorical
2 restrictions in the program or service, including federal statutory or
3 regulatory changes.

4 (2) The office of financial management, in consultation with the
5 department, shall develop a plan and criteria for the use of early
6 periodic screening, diagnosis, and treatment services related to mental
7 health that includes at least the following components:

8 (a) Criteria for screening and assessment of mental illness and
9 emotional disturbance;

10 (b) Criteria for determining the appropriate level of medically
11 necessary services a child receives, including but not limited to
12 development of a multidisciplinary plan of care when appropriate, and
13 prior authorization for receipt of mental health services;

14 (c) Qualifications for children's mental health providers;

15 (d) Other cost control mechanisms, such as managed care
16 arrangements and prospective or capitated payments for mental health
17 services; and

18 (e) Mechanisms to ensure that federal medicaid matching funds are
19 obtained for services inventoried pursuant to subsection (1) of this
20 section, to the greatest extent practicable.

21 In developing the plan, the office of financial management shall
22 provide an opportunity for comment by the major child-serving systems
23 and regional support networks. The plan shall be submitted to
24 appropriate committees of the legislature on or before December 1,
25 1991.

26 NEW SECTION. **Sec. 14.** (1) On or before January 1, 1992, each
27 regional support network, or county authority in counties that have not
28 established a regional support network, shall initiate a local planning
29 effort to develop a children's mental health services delivery system.

1 (2) Representatives of the following agencies or organizations and
2 the following individuals shall participate in the local planning
3 effort:

4 (a) Representatives of the department of social and health services
5 in the following program areas: Children and family services, medical
6 care, mental health, juvenile rehabilitation, alcohol and substance
7 abuse, and developmental disabilities;

8 (b) The juvenile courts;

9 (c) The public health department or health district;

10 (d) The school districts;

11 (e) The educational service district serving schools in the county;

12 (f) Head start or early childhood education and assistance
13 programs;

14 (g) Community action agencies; and

15 (h) Children's services providers, including minority mental health
16 providers.

17 (3) Parents of children in need of mental health services and
18 parents of children of color shall be invited to participate in the
19 local planning effort.

20 (4) The following information shall be developed through the local
21 planning effort and submitted to the secretary:

22 (a) A supplement to the county's January 1, 1991, children's mental
23 health services report prepared pursuant to RCW 71.24.049 to include
24 the following data:

25 (i) The number of children in need of mental health services in the
26 county or counties covered by the local planning effort, including
27 children in school and children receiving services through the
28 department of social and health services division of children and
29 family services, division of developmental disabilities, division of

1 alcohol and substance abuse, and division of juvenile rehabilitation,
2 grouped by severity of their mental illness;

3 (ii) The number of such children that are underserved or unserved
4 and the types of services needed by such children; and

5 (iii) The supply of children's mental health specialists in the
6 county or counties covered by the local planning effort.

7 (b) A children's mental health services delivery plan that includes
8 a description of the following:

9 (i) Children that will be served, giving consideration to children
10 who are at significant risk of experiencing mental illness, as well as
11 those already experiencing mental illness;

12 (ii) How appropriate services needed by children served through the
13 plan will be identified and provided, including prevention and
14 identification services;

15 (iii) How a lead case manager for each child will be identified;

16 (iv) How funding for existing services will be coordinated to
17 create more flexibility in meeting children's needs. Such funding
18 shall include the services and programs inventoried pursuant to section
19 13(1) of this act;

20 (v) How the children's mental health delivery system will
21 incorporate the elements of the early periodic screening, diagnosis,
22 and treatment services plan developed pursuant to section 13(2) of this
23 act; and

24 (vi) How the children's mental health delivery system will
25 coordinate with the regional support network information system
26 developed pursuant to RCW 71.24.035(5)(g).

27 (5) In developing the children's mental health services delivery
28 plan, every effort shall be made to reduce duplication in service
29 delivery and promote complementary services among all entities that
30 provide children's services related to mental health.

1 (6) The children's mental health services delivery plan shall
2 address the needs of children of color through at least the following
3 mechanisms:

4 (a) Outreach initiatives, services, and modes of service delivery
5 that meet the unique needs of children of color; and

6 (b) Services to children of color that are culturally relevant and
7 acceptable, as well as linguistically accessible.

8 ***NEW SECTION.** *Sec. 15. A new section is added to chapter 74.13 RCW
9 to read as follows:*

10 *Any client of the department, individual complainant, or foster
11 parent who exhausts the department's complaint resolution process and
12 who is subjected to any reprisal or retaliatory action undertaken after
13 the complainant makes his or her complaint known to the department may
14 seek judicial review of the reprisal or retaliatory action in superior
15 court. In such action, the reviewing court may award reasonable
16 attorneys' fees or make written findings that the action was frivolous
17 and advanced without reasonable cause and award expenses as specified
18 in RCW 4.84.185.*

19 **Sec. 15 was vetoed, see message at end of chapter.*

20
21 **Sec. 16. RCW 74.13.300 and 1990 c 284 s 12 are each amended to
22 read as follows:*

23 *(1) Whenever a child has been placed in a foster family home or the
24 home of a relative care provider by the department or a child-placing
25 agency and the child has thereafter resided in the home for at least
26 ninety consecutive days, the department or child-placing agency shall
27 notify the foster family in writing of the reasons upon which the
28 decision to move the child was based, at least five days prior to
29 moving the child to another placement, unless:*

1 (a) A court order has been entered requiring an immediate change in
2 placement; or

3 (b) ~~((The child is being returned home;~~

4 ~~(c))) The child's safety is in jeopardy(~~(; or~~~~

5 ~~(d) The child is residing in a receiving home or a group home)).~~

6 (2) If a decision is made by the department or a child-placing
7 agency to move a child to another placement, the foster family parent
8 or relative care provider shall receive written notice of his or her
9 right to request a review of the removal decision regarding a child
10 that is residing in the home of the foster parent or relative pursuant
11 to a court order entered in a proceeding under this chapter through the
12 department's complaint resolution process. Notification of the
13 department's complaint resolution process is not required to be
14 provided if:

15 (a) A court order has been entered requiring an immediate change in
16 placement; or

17 (b) The child is being returned home and a court order has been
18 entered to that effect.

19 (3) If the child has resided in a foster family home for less than
20 ninety days or if, due to one or more of the circumstances in
21 subsection (1) of this section, it is not possible to give five days'
22 notification, the department or child-placing agency shall notify the
23 foster family of proposed placement changes as soon as reasonably
24 possible.

25 ~~((+3))~~ (4) This section is intended solely to assist in minimizing
26 disruption to the child in changing foster care placements. Nothing in
27 this section shall be construed to ~~((require that a court hearing be~~
28 held prior to changing a child's foster care placement nor to)) create
29 any substantive custody rights in the foster parents.

30 *Sec. 16 was vetoed, see message at end of chapter.

1 NEW SECTION. **Sec. 17.** Part headings used in this act do not
2 constitute any part of the law.

3 NEW SECTION. **Sec. 18.** Sections 11 through 14 of this act shall
4 constitute a new chapter in Title 71 RCW.

5 NEW SECTION. **Sec. 19.** If any provision of this act or its
6 application to any person or circumstance is held invalid, the
7 remainder of the act or the application of the provision to other
8 persons or circumstances is not affected.

9 NEW SECTION. **Sec. 20.** Sections 11 through 14 of this act are
10 necessary for the immediate preservation of the public peace, health,
11 or safety, or support of the state government and its existing public
12 institutions, and shall take effect immediately.

13 NEW SECTION. **Sec. 21.** If specific funding for the purposes of
14 section 13 of this act, referencing section 13 of this act by bill and
15 section number, is not provided by June 30, 1991, in the omnibus
16 appropriations act, then section 13 of this act shall be null and void.

17 NEW SECTION. **Sec. 22.** If specific funding for the purposes of
18 section 14 of this act, referencing section 14 of this act by bill and
19 section number, is not provided by June 30, 1991, in the omnibus
20 appropriations act, then section 14 of this act shall be null and void.

Passed the House April 28, 1991.
Passed the Senate April 27, 1991.
Approved by the Governor May 21, 1991, with the exception of
certain items which were vetoed.
Filed in Office of Secretary of State May 21, 1991.

1 Note: Governor's explanation of partial veto is as follows:

2 "I am returning herewith, without my approval as to sections 1, 15,
3 and 16, Engrossed Substitute House Bill No. 1608 entitled:

4 "AN ACT Relating to children's services."

5 Section 1 directs the Department of Social and Health Services
6 (DSHS) to conduct an assessment of the children in its care in order to
7 determine the appropriate level of residential and treatment services
8 required. This study is not made contingent upon funding in the
9 budget. Because of the budgetary constraints agencies face in the next
10 biennium, I cannot accept placing unfunded responsibilities upon them.

11 Section 15 allows any client of DSHS, individual complainant, or
12 foster parent who exhausts the department's complaint process and who
13 is subjected to any reprisal or retaliatory action to seek judicial
14 review. Individuals who are treated unfairly by a state agency should
15 be given the opportunity to seek redress. In many cases, statutes
16 allow for appeal of agency actions, and where loss occurs, receipt of
17 recompense. However, where the current authority to seek review is
18 specific, protects appellants, and insulates the state from frivolous
19 legal actions, this section is vague and does not offer sufficient
20 definition to develop a meaningful system of judicial review of agency
21 actions. Further attempts to develop such a system must provide
22 greater specificity.

23 Section 16 would require DSHS to notify certain foster families in
24 writing of a decision to move a child to another placement five days
25 prior to doing so. Current statutes do not specify the means of
26 notification. In addition, this section removes certain circumstances
27 under which DSHS can waive this notification requirement.

28 While state agencies and child placing agencies should strive to
29 provide written notification, current workloads for child welfare
30 workers do not always allow for such notice. More importantly, this
31 section constrains the department's ability to move children without
32 five days notice when the child is being returned home or is residing
33 in a group home. Where parents voluntarily place their children in
34 foster care, the department should not be constrained in its ability to
35 return them to their parents when the child's safety is not
36 jeopardized.

37 For the above reasons, I have vetoed sections 1, 15 and 16 of
38 Engrossed Substitute House Bill No. 1608.

39 With the exception of sections 1, 15, and 16, Engrossed Substitute
40 House Bill No. 1608 is approved."