

2 **ESHB 1512** - CONF REPT - S3505.2
3 By Conference Committee

4 ADOPTED 4/25/93

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

7 "**Sec. 1.** RCW 13.34.145 and 1989 1st ex.s. c 17 s 18 are each
8 amended to read as follows:

9 (1) In all cases where a child has been placed in substitute care
10 for at least fifteen months, the agency having custody of the child
11 shall prepare a permanency ((planning)) plan and present it in a
12 hearing ((shall-be)) held before the court no later than eighteen
13 months following commencement of the placement episode.

14 (2) At the permanency planning hearing, the court shall enter
15 findings as required by RCW 13.34.130((~~4~~))(5). In addition the court
16 shall: (a) Approve a ((~~permanent plan of care~~)) permanency plan which
17 ((~~can~~)) shall include one of the following: Adoption, guardianship,
18 ((~~or~~)) placement of the child in the home of the child's parent,
19 relative placement with written permanency plan, or family foster care
20 with written permanency agreement; (b) require filing of a petition for
21 termination of parental rights; or (c) dismiss the dependency, unless
22 the court finds, based on clear, cogent, and convincing evidence, that
23 it is in the best interest of the child to continue the dependency
24 beyond eighteen months, based on ((~~a permanent plan of care~~)) the
25 permanency plan. Extensions may only be granted in increments of
26 twelve months or less.

27 **Sec. 2.** RCW 13.34.180 and 1990 c 246 s 7 are each amended to read
28 as follows:

29 A petition seeking termination of a parent and child relationship
30 may be filed in juvenile court by any party to the dependency
31 proceedings concerning that child. Such petition shall conform to the
32 requirements of RCW 13.34.040, shall be served upon the parties as
33 provided in RCW 13.34.070(7), and shall allege:

34 (1) That the child has been found to be a dependent child under RCW
35 13.34.030(2); and

1 (2) That the court has entered a dispositional order pursuant to
2 RCW 13.34.130; and

3 (3) That the child has been removed or will, at the time of the
4 hearing, have been removed from the custody of the parent for a period
5 of at least six months pursuant to a finding of dependency under RCW
6 13.34.030(2); and

7 (4) That the services ordered under RCW 13.34.130 have been offered
8 or provided and all necessary services, reasonably available, capable
9 of correcting the parental deficiencies within the foreseeable future
10 have been offered or provided; and

11 (5) That there is little likelihood that conditions will be
12 remedied so that the child can be returned to the parent in the near
13 future. In determining whether the conditions will be remedied the
14 court may consider, but is not limited to, the following factors:

15 (a) Use of intoxicating or controlled substances so as to render
16 the parent incapable of providing proper care for the child for
17 extended periods of time and documented unwillingness of the parent to
18 receive and complete treatment or documented multiple failed treatment
19 attempts; or

20 (b) Psychological incapacity or mental deficiency of the parent
21 that is so severe and chronic as to render the parent incapable of
22 providing proper care for the child for extended periods of time, and
23 documented unwillingness of the parent to receive and complete
24 treatment or documentation that there is no treatment that can render
25 the parent capable of providing proper care for the child in the near
26 future; and

27 (6) That continuation of the parent and child relationship clearly
28 diminishes the child's prospects for early integration into a stable
29 and permanent home; or

30 (7) In lieu of the allegations in subsections (1) through (6) of
31 this section, the petition may allege that the child was found under
32 such circumstances that the whereabouts of the child's parent are
33 unknown and no person has acknowledged paternity or maternity and
34 requested custody of the child within two months after the child was
35 found.

36 A parent's failure to substantially improve parental deficiencies
37 within twelve months following entry of the dispositional order shall
38 give rise to a rebuttable presumption that there is little likelihood
39 that conditions will be remedied so that the child can be returned to

1 the parent in the near future. The presumption shall not arise unless
2 the petitioner makes a showing that all necessary services reasonably
3 capable of correcting the parental deficiencies within the foreseeable
4 future have been offered or provided.

5 Notice of rights shall be served upon the parent, guardian, or
6 legal custodian with the petition and shall be in substantially the
7 following form:

8 "NOTICE

9 A petition for termination of parental rights has been filed
10 against you. You have important legal rights and you must take
11 steps to protect your interests. This petition could result in
12 permanent loss of your parental rights.

13 1. You have the right to a fact-finding hearing before
14 a judge.

15 2. You have the right to have a lawyer represent you at
16 the hearing. A lawyer can look at the files in your case, talk
17 to the department of social and health services and other
18 agencies, tell you about the law, help you understand your
19 rights, and help you at hearings. If you cannot afford a
20 lawyer, the court will appoint one to represent you. To get a
21 court-appointed lawyer you must contact: (explain local
22 procedure) .

23 3. At the hearing, you have the right to speak on your
24 own behalf, to introduce evidence, to examine witnesses, and to
25 receive a decision based solely on the evidence presented to
26 the judge.

27 You should be present at this hearing.

28 You may call (insert agency) for more information
29 about your child. The agency's name and telephone number are
30 (insert name and telephone number) ."

31 **Sec. 3.** RCW 13.34.190 and 1992 c 145 s 15 are each amended to read
32 as follows:

33 After hearings pursuant to RCW 13.34.110, the court may enter an
34 order terminating all parental rights to a child if the court finds
35 that:

1 (1) The allegations contained in the petition as provided in RCW
2 13.34.180 (1) through (6) are established by clear, cogent, and
3 convincing evidence; or

4 (2) RCW 13.34.180 (3) and (4) may be waived because the allegations
5 under RCW 13.34.180 (1), (2), (5), and (6) are established beyond a
6 reasonable doubt; or

7 (3) The allegation under RCW 13.34.180(7) is established beyond a
8 reasonable doubt. In determining whether RCW 13.34.180 (5) and (6) are
9 established beyond a reasonable doubt, the court shall consider whether
10 one or more of the ~~((following:~~

11 ~~(a) Conviction of the parent of rape of the child in the first,~~
12 ~~second, or third degree as defined in RCW 9A.44.073, 9A.44.076, and~~
13 ~~9A.44.079;~~

14 ~~(b) Conviction of the parent of criminal mistreatment of the child~~
15 ~~in the first or second degree as defined in RCW 9A.42.020 or 9A.42.030;~~

16 ~~(c) Conviction of the parent of one of the following assault~~
17 ~~crimes, when the child is the victim: Assault in the first or second~~
18 ~~degree as defined in RCW 9A.36.011 and 9A.36.021 or assault of a child~~
19 ~~in the first or second degree as defined in RCW 9A.36.120 or 9A.36.130;~~

20 ~~(d) Conviction of the parent of murder, manslaughter, or homicide~~
21 ~~by abuse of the child's other parent, sibling, or another child;~~

22 ~~(e) A finding by a court that a parent is a sexually violent~~
23 ~~predator as defined in RCW 71.09.020;~~

24 ~~(f) Failure of the parent to complete available treatment ordered~~
25 ~~under this chapter or the equivalent laws of another state, where such~~
26 ~~failure has resulted in a prior termination of parental rights to~~
27 ~~another child and the parent has failed to effect significant change in~~
28 ~~the interim)) aggravated circumstances listed in RCW 13.34.130(2)~~
29 ~~exist; and~~

30 (4) Such an order is in the best interests of the child.

31 **Sec. 4.** RCW 13.34.232 and 1981 c 195 s 3 are each amended to read
32 as follows:

33 If the court has made a finding under RCW 13.34.231, it shall enter
34 an order establishing a guardianship for the child. The order shall:

35 (1) Appoint a person or agency to serve as guardian;

36 (2) Specify the guardian's rights and responsibilities concerning
37 the care, custody, and control of the child. A guardian shall not have
38 the authority to consent to the child's adoption;

1 (3) Specify an appropriate frequency of visitation between the
2 parent and the child; and

3 (4) Specify the need for any continued involvement of the
4 supervising agency and the nature of that involvement, if any.

5 The order shall not affect the child's status as a dependent child,
6 and the child shall remain dependent for the duration of the
7 guardianship.

8 NEW SECTION. Sec. 5. A new section is added to chapter 13.34 RCW
9 to read as follows:

10 (1) The provisions of this section shall apply when a court orders
11 a party to undergo an alcohol or substance abuse diagnostic
12 investigation and evaluation.

13 (2) The facility conducting the investigation and evaluation shall
14 make a written report to the court stating its findings and
15 recommendations including family-based services or treatment when
16 appropriate. If its findings and recommendations support treatment, it
17 shall also recommend a treatment plan setting out:

18 (a) Type of treatment;

19 (b) Nature of treatment;

20 (c) Length of treatment;

21 (d) A treatment time schedule; and

22 (e) Approximate cost of the treatment.

23 The affected person shall be included in developing the appropriate
24 plan of treatment. The plan of treatment must be signed by treatment
25 provider and the affected person. The initial written report based on
26 the treatment plan and response to treatment shall be sent to
27 appropriate persons six weeks after initiation of treatment, and after
28 three months, after six months, after twelve months, and thereafter
29 every six months if treatment exceeds twelve months. Reports are to be
30 filed in a timely manner. Close-out of the treatment record must
31 include summary of pretreatment and posttreatment, with final outcome
32 and disposition. The report shall also include recommendations for
33 ongoing stability and decrease in destructive behavior.

34 The report with the treatment plan shall be filed with the court
35 and a copy given to the person evaluated and the person's counsel. A
36 copy of the treatment plan shall also be given to the department's
37 caseworker and to the guardian ad litem. Any program for chemical

1 dependency shall meet the program requirements contained in chapter
2 70.96A RCW.

3 (3) If the court has ordered treatment pursuant to a dependency
4 proceeding it shall also require the treatment program to provide, in
5 the reports required by subsection (2) of this section, status reports
6 to the court, the department, the supervising child-placing agency if
7 any, and the person or person's counsel regarding: (a) The person's
8 cooperation with the treatment plan proposed; and (b) the person's
9 progress in treatment.

10 (4) In addition, if the party fails or neglects to carry out and
11 fulfill any term or condition of the treatment plan, the program or
12 agency administering the treatment shall report such breach to the
13 court, the department, the guardian ad litem, the supervising child-
14 placing agency if any, and the person or person's counsel, within
15 twenty-four hours, together with its recommendation. These reports
16 shall be made as a declaration by the person who is personally
17 responsible for providing the treatment.

18 (5) Nothing in this chapter may be construed as allowing the court
19 to require the department to pay for the cost of any alcohol or
20 substance abuse evaluation or treatment program.

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

23 (1) The court or the department, upon receiving a report under
24 section 5(4) of this act, may schedule a show cause hearing to
25 determine whether the person is in violation of the treatment
26 conditions. All parties shall be given notice of the hearing. The
27 court shall hold the hearing within ten days of the request for a
28 hearing. At the hearing, testimony, declarations, reports, or other
29 relevant information may be presented on the person's alleged failure
30 to comply with the treatment plan and the person shall have the right
31 to present similar information on his or her own behalf.

32 (2) If the court finds that there has been a violation of the
33 treatment conditions it shall modify the dependency order, as
34 necessary, to ensure the safety of the child. The modified order shall
35 remain in effect until the party is in full compliance with the
36 treatment requirements.

1 **Sec. 7.** RCW 13.34.110 and 1991 c 340 s 3 are each amended to read
2 as follows:

3 The court shall hold a fact-finding hearing on the petition and,
4 unless the court dismisses the petition, shall make written findings of
5 fact, stating the reasons therefor, and after it has announced its
6 findings of fact shall hold a hearing to consider disposition of the
7 case immediately following the fact-finding hearing or at a continued
8 hearing within fourteen days or longer for good cause shown. The
9 parties need not appear at the fact-finding or dispositional hearing if
10 ~~((all))~~ the parties, their attorneys, the guardian ad litem, and court-
11 appointed special advocates, if any, are all in agreement~~((+but))~~.
12 The court shall receive and review a social study before entering an
13 order based on agreement. No social file or social study may be
14 considered by the court in connection with the fact-finding hearing or
15 prior to factual determination, except as otherwise admissible under
16 the rules of evidence. Notice of the time and place of the continued
17 hearing may be given in open court. If notice in open court is not
18 given to a party, that party shall be notified by mail of the time and
19 place of any continued hearing.

20 All hearings may be conducted at any time or place within the
21 limits of the county, and such cases may not be heard in conjunction
22 with other business of any other division of the superior court. The
23 general public shall be excluded, and only such persons may be admitted
24 who are found by the judge to have a direct interest in the case or in
25 the work of the court. If a child resides in foster care or in the
26 home of a relative pursuant to a disposition order entered under RCW
27 13.34.130, the court may allow the child's foster parent or relative
28 care provider to attend dependency review proceedings pertaining to the
29 child for the sole purpose of providing information about the child to
30 the court.

31 Stenographic notes or any device which accurately records the
32 proceedings may be required as provided in other civil cases pursuant
33 to RCW 2.32.200.

34 **Sec. 8.** RCW 13.34.120 and 1987 c 524 s 5 are each amended to read
35 as follows:

36 (1) To aid the court in its decision on disposition, a social
37 study, consisting of a written evaluation of matters relevant to the
38 disposition of the case, shall be made by the person or agency filing

1 the petition. The study shall include all social records and may also
2 include facts relating to the child's cultural heritage, and shall be
3 made available to the court. The court shall consider the social file
4 (~~and~~), social study, guardian ad litem report, the court-appointed
5 special advocates report, if any, and any reports filed by a party at
6 the disposition hearing in addition to evidence produced at the fact-
7 finding hearing. At least ten working days before the disposition
8 hearing, the department shall mail to the parent and his or her
9 attorney a copy of the agency's social study and proposed service plan,
10 which shall be in writing or in a form understandable to the parents or
11 custodians. In addition, the department shall provide an opportunity
12 for parents to review and comment on the plan at the community service
13 office. If the parents disagree with the agency's plan or any part
14 thereof, the parents shall submit to the court at least twenty-four
15 hours before the hearing, in writing, or signed oral statement, an
16 alternative plan to correct the problems which led to the finding of
17 dependency. This section shall not interfere with the right of the
18 parents or custodians to submit oral arguments regarding the
19 disposition plan at the hearing.

20 (2) In addition to the requirements set forth in subsection (1) of
21 this section, a predisposition study to the court in cases of
22 dependency alleged pursuant to RCW 13.34.030(2) (b) or (c) shall
23 contain the following information:

24 (a) A statement of the specific harm or harms to the child that
25 intervention is designed to alleviate;

26 (b) A description of the specific programs, for both the parents
27 and child, that are needed in order to prevent serious harm to the
28 child; the reasons why such programs are likely to be useful; the
29 availability of any proposed services; and the agency's overall plan
30 for ensuring that the services will be delivered;

31 (c) If removal is recommended, a full description of the reasons
32 why the child cannot be protected adequately in the home, including a
33 description of any previous efforts to work with the parents and the
34 child in the home; the in-home treatment programs which have been
35 considered and rejected; and the parents' attitude toward placement of
36 the child;

37 (d) A statement of the likely harms the child will suffer as a
38 result of removal. This section should include an exploration of the

1 nature of the parent-child attachment and the meaning of separation and
2 loss to both the parents and the child;

3 (e) A description of the steps that will be taken to minimize harm
4 to the child that may result if separation occurs; and

5 (f) Behavior that will be expected before determination that
6 supervision of the family or placement is no longer necessary.

7 **Sec. 9.** RCW 13.34.150 and 1990 c 246 s 6 are each amended to read
8 as follows:

9 Any order made by the court in the case of a dependent child may be
10 changed, modified, or set aside, only upon a showing of a change in
11 circumstance or as provided in section 8 of this act.

12 **Sec. 10.** RCW 13.34.162 and 1988 c 275 s 15 are each amended to
13 read as follows:

14 A determination of child support shall be based upon the child
15 support schedule and standards (~~((adopted))~~) provided under chapter 26.19
16 RCW ((26.19.040)).

17 NEW SECTION. **Sec. 11.** A new section is added to chapter 26.44 RCW
18 to read as follows:

19 (1) This chapter shall not be construed to authorize interference
20 with child-raising practices, including reasonable parental discipline,
21 which are not injurious to the child's health, welfare, and safety.

22 (2) Nothing in this chapter may be used to prohibit the reasonable
23 use of corporal punishment as a means of discipline.

24 (3) No parent or guardian may be deemed abusive or neglectful
25 solely by reason of the parent's or child's blindness, deafness,
26 developmental disability, or other handicap.

27 (4) A person reporting injury, abuse, or neglect to an adult
28 dependent person shall not suffer negative consequences if the person
29 reporting believes in good faith that the adult dependent person has
30 been found legally incompetent or disabled.

31 **Sec. 12.** RCW 26.44.020 and 1988 c 142 s 1 are each amended to read
32 as follows:

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

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

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

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

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

15 (5) "Department" means the state department of social and health
16 services.

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

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

22 (8) "Social service counselor" shall mean anyone engaged in a
23 professional capacity during the regular course of employment in
24 encouraging or promoting the health, welfare, support or education of
25 children, or providing social services to adults or families, including
26 mental health, drug and alcohol treatment, and domestic violence
27 programs, whether in an individual capacity, or as an employee or agent
28 of any public or private organization or institution.

29 (9) "Psychologist" shall mean any person licensed to practice
30 psychology under chapter 18.83 RCW, whether acting in an individual
31 capacity or as an employee or agent of any public or private
32 organization or institution.

33 (10) "Pharmacist" shall mean any registered pharmacist under the
34 provisions of chapter 18.64 RCW, whether acting in an individual
35 capacity or as an employee or agent of any public or private
36 organization or institution.

37 (11) "Clergy" shall mean any regularly licensed or ordained
38 minister, priest or rabbi of any church or religious denomination,

1 whether acting in an individual capacity or as an employee or agent of
2 any public or private organization or institution.

3 (12) "~~((Child)) Abuse or neglect~~" shall mean the injury, sexual
4 abuse, sexual exploitation, ~~((or)) negligent treatment,~~ or maltreatment
5 of a child, adult dependent, or developmentally disabled person by any
6 person under circumstances which indicate that the child's or adult's
7 health, welfare, and safety is harmed ~~((thereby))~~. An abused child is
8 a child who has been subjected to child abuse or neglect as defined
9 herein~~((:— PROVIDED, That this subsection shall not be construed to~~
10 ~~authorize—interference—with—child-raising—practices,—including~~
11 ~~reasonable parental discipline, which are not proved to be injurious to~~
12 ~~the child's health, welfare, and safety:—AND PROVIDED FURTHER, That~~
13 ~~nothing in this section shall be used to prohibit the reasonable use of~~
14 ~~corporal punishment as a means of discipline.—No parent or guardian~~
15 ~~shall be deemed abusive or neglectful solely by reason of the parent's~~
16 ~~or child's blindness, deafness, developmental disability, or other~~
17 ~~handicap))~~.

18 (13) "Child protective services section" shall mean the child
19 protective services section of the department.

20 (14) "Adult dependent persons ~~((not able to provide for their own~~
21 ~~protection through the criminal justice system))~~" shall be defined as
22 those persons over the age of eighteen years who have been found to be
23 legally incompetent or disabled pursuant to chapter 11.88 RCW ~~((or~~
24 ~~found disabled to such a degree pursuant to said chapter, that such~~
25 ~~protection is indicated:—PROVIDED, That no persons reporting injury,~~
26 ~~abuse, or neglect to an adult dependent person as defined herein shall~~
27 ~~suffer negative consequences if such a judicial determination of~~
28 ~~incompetency or disability has not taken place and the person reporting~~
29 ~~believes in good faith that the adult dependent person has been found~~
30 ~~legally incompetent pursuant to chapter 11.88 RCW))~~.

31 (15) "Sexual exploitation" includes: (a) Allowing, permitting, or
32 encouraging a child to engage in prostitution by any person; or (b)
33 allowing, permitting, encouraging, or engaging in the obscene or
34 pornographic photographing, filming, or depicting of a child ~~((for~~
35 ~~commercial purposes as those acts are defined by state law))~~ by any
36 person.

37 (16) "Negligent treatment or maltreatment" means an act or omission
38 which evidences a serious disregard of consequences of such magnitude

1 as to constitute a clear and present danger to the child's health,
2 welfare, and safety.

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

5 (18) "Child protective services" means those services provided by
6 the department designed to protect children from child abuse and
7 neglect and safeguard the general welfare of such children and shall
8 include investigations of child abuse and neglect reports, including
9 reports regarding child care centers and family child care homes, and
10 the development, management, and provision of or referral to services
11 to ameliorate conditions which endanger the welfare of children, the
12 coordination of necessary programs and services relevant to the
13 prevention, intervention, and treatment of child abuse and neglect, and
14 services to children to ensure that each child has a permanent home.
15 In determining whether protective services should be provided, the
16 department shall not decline to provide such services solely because of
17 the child's unwillingness or developmental inability to describe the
18 nature and severity of the abuse or neglect.

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

24 **Sec. 13.** RCW 26.44.030 and 1991 c 111 s 1 are each amended to read
25 as follows:

26 (1)(a) When any practitioner, professional school personnel,
27 registered or licensed nurse, social service counselor, psychologist,
28 pharmacist, licensed or certified child care providers or their
29 employees, employee of the department, or juvenile probation officer
30 has reasonable cause to believe that a child or adult dependent or
31 developmentally disabled person, has suffered abuse or neglect, he or
32 she shall report such incident, or cause a report to be made, to the
33 proper law enforcement agency or to the department as provided in RCW
34 26.44.040.

35 (b) The reporting requirement shall also apply to any adult who has
36 reasonable cause to believe that a child or adult dependent or
37 developmentally disabled person, who resides with them, has suffered
38 severe abuse, and is able or capable of making a report. For the

1 purposes of this subsection, "severe abuse" means any of the following:
2 Any single act of abuse that causes physical trauma of sufficient
3 severity that, if left untreated, could cause death; any single act of
4 sexual abuse that causes significant bleeding, deep bruising, or
5 significant external or internal swelling; or more than one act of
6 physical abuse, each of which causes bleeding, deep bruising,
7 significant external or internal swelling, bone fracture, or
8 unconsciousness.

9 (c) The report shall be made at the first opportunity, but ; and
10 in no case longer than forty-eight hours after there is reasonable
11 cause to believe that the child or adult has suffered abuse or neglect.
12 The report shall include the identity of the accused if known.

13 (2) The reporting requirement of subsection (1) of this section
14 does not apply to the discovery of abuse or neglect that occurred
15 during childhood if it is discovered after the child has become an
16 adult. However, if there is reasonable cause to believe other
17 children, dependent adults, or developmentally disabled persons are or
18 may be at risk of abuse or neglect by the accused, the reporting
19 requirement of subsection (1) of this section shall apply.

20 (3) Any other person who has reasonable cause to believe that a
21 child or adult dependent or developmentally disabled person has
22 suffered abuse or neglect may report such incident to the proper law
23 enforcement agency or to the department of social and health services
24 as provided in RCW 26.44.040.

25 (4) The department, upon receiving a report of an incident of abuse
26 or neglect pursuant to this chapter, involving a child or adult
27 dependent or developmentally disabled person who has died or has had
28 physical injury or injuries inflicted upon him or her other than by
29 accidental means or who has been subjected to sexual abuse, shall
30 report such incident to the proper law enforcement agency. In
31 emergency cases, where the child, adult dependent, or developmentally
32 disabled person's welfare is endangered, the department shall notify
33 the proper law enforcement agency within twenty-four hours after a
34 report is received by the department. In all other cases, the
35 department shall notify the law enforcement agency within seventy-two
36 hours after a report is received by the department. If the department
37 makes an oral report, a written report shall also be made to the proper
38 law enforcement agency within five days thereafter.

1 (5) Any law enforcement agency receiving a report of an incident of
2 abuse or neglect pursuant to this chapter, involving a child or adult
3 dependent or developmentally disabled person who has died or has had
4 physical injury or injuries inflicted upon him or her other than by
5 accidental means, or who has been subjected to sexual abuse, shall
6 report such incident in writing as provided in RCW 26.44.040 to the
7 proper county prosecutor or city attorney for appropriate action
8 whenever the law enforcement agency's investigation reveals that a
9 crime may have been committed. The law enforcement agency shall also
10 notify the department of all reports received and the law enforcement
11 agency's disposition of them. In emergency cases, where the child,
12 adult dependent, or developmentally disabled person's welfare is
13 endangered, the law enforcement agency shall notify the department
14 within twenty-four hours. In all other cases, the law enforcement
15 agency shall notify the department within seventy-two hours after a
16 report is received by the law enforcement agency.

17 (6) Any county prosecutor or city attorney receiving a report under
18 subsection (5) of this section shall notify the victim, any persons the
19 victim requests, and the local office of the department, of the
20 decision to charge or decline to charge a crime, within five days of
21 making the decision.

22 (7) The department may conduct ongoing case planning and
23 consultation with those persons or agencies required to report under
24 this section, with consultants designated by the department, and with
25 designated representatives of Washington Indian tribes if the client
26 information exchanged is pertinent to cases currently receiving child
27 protective services or department case services for the developmentally
28 disabled. Upon request, the department shall conduct such planning and
29 consultation with those persons required to report under this section
30 if the department determines it is in the best interests of the child
31 or developmentally disabled person. Information considered privileged
32 by statute and not directly related to reports required by this section
33 shall not be divulged without a valid written waiver of the privilege.

34 (8) Any case referred to the department by a physician licensed
35 under chapter 18.57 or 18.71 RCW on the basis of an expert medical
36 opinion that child abuse, neglect, or sexual assault has occurred and
37 that the child's safety will be seriously endangered if returned home,
38 the department shall file a dependency petition unless a second
39 licensed physician of the parents' choice believes that such expert

1 medical opinion is incorrect. If the parents fail to designate a
2 second physician, the department may make the selection. If a
3 physician finds that a child has suffered abuse or neglect but that
4 such abuse or neglect does not constitute imminent danger to the
5 child's health or safety, and the department agrees with the
6 physician's assessment, the child may be left in the parents' home
7 while the department proceeds with reasonable efforts to remedy
8 parenting deficiencies.

9 (9) Persons or agencies exchanging information under subsection (7)
10 of this section shall not further disseminate or release the
11 information except as authorized by state or federal statute.
12 Violation of this subsection is a misdemeanor.

13 (10) Upon receiving reports of abuse or neglect, the department or
14 law enforcement agency may interview children. The interviews may be
15 conducted on school premises, at day-care facilities, at the child's
16 home, or at other suitable locations outside of the presence of
17 parents. Parental notification of the interview shall occur at the
18 earliest possible point in the investigation that will not jeopardize
19 the safety or protection of the child or the course of the
20 investigation. Prior to commencing the interview the department or law
21 enforcement agency shall determine whether the child wishes a third
22 party to be present for the interview and, if so, shall make reasonable
23 efforts to accommodate the child's wishes. Unless the child objects,
24 the department or law enforcement agency shall make reasonable efforts
25 to include a third party in any interview so long as the presence of
26 the third party will not jeopardize the course of the investigation.

27 (11) Upon receiving a report of incidents, conditions, or
28 circumstances of child abuse and neglect, the department shall have
29 access to all relevant records of the child in the possession of
30 mandated reporters and their employees.

31 (12) The department shall maintain investigation records and
32 conduct timely and periodic reviews of all cases constituting abuse and
33 neglect. The department shall maintain a log of screened-out
34 nonabusive cases.

35 (13) The department ~~((of social and health services))~~ shall~~((~~
36 ~~within funds appropriated for this purpose,~~) use a risk assessment
37 ~~((tool))~~ process when investigating child abuse and neglect referrals.
38 ~~((The tool shall be used, on a pilot basis, in three local office~~
39 ~~service areas.))~~ The department shall present the risk factors at all

1 hearings in which the placement of a dependent child is an issue. The
2 department shall, within funds appropriated for this purpose, offer
3 enhanced community-based services to persons who are determined not to
4 require further state intervention.

5 The department shall provide annual reports to the ~~((ways and~~
6 ~~means))~~ appropriate committees of the senate and house of
7 representatives on the ~~((use))~~ effectiveness of the ~~((tool by December~~
8 ~~1, 1989. The report shall include recommendations on the continued use~~
9 ~~and possible expanded use of the tool))~~ risk assessment process.

10 (14) Upon receipt of ~~((such))~~ a report of abuse or neglect the law
11 enforcement agency may arrange to interview the person making the
12 report and any collateral sources to determine if any malice is
13 involved in the reporting.

14 **Sec. 14.** RCW 26.44.040 and 1987 c 206 s 4 are each amended to read
15 as follows:

16 An immediate oral report shall be made by telephone or otherwise to
17 the proper law enforcement agency or the department of social and
18 health services and, upon request, shall be followed by a report in
19 writing. Such reports shall contain the following information, if
20 known:

21 (1) The name, address, and age of the child or adult dependent or
22 developmentally disabled person;

23 (2) The name and address of the child's parents, stepparents,
24 guardians, or other persons having custody of the child or the
25 residence of the adult dependent or developmentally disabled person;

26 (3) The nature and extent of the injury or injuries;

27 (4) The nature and extent of the neglect;

28 (5) The nature and extent of the sexual abuse;

29 (6) Any evidence of previous injuries, including their nature and
30 extent; and

31 (7) Any other information which may be helpful in establishing the
32 cause of the child's or adult dependent or developmentally disabled
33 person's death, injury, or injuries and the identity of the alleged
34 perpetrator or perpetrators.

35 **Sec. 15.** RCW 26.44.063 and 1988 c 190 s 3 are each amended to read
36 as follows:

1 (1) It is the intent of the legislature to minimize trauma to a
2 child involved in an allegation of sexual or physical abuse. The
3 legislature declares that removing the child from the home often has
4 the effect of further traumatizing the child. It is, therefore, the
5 legislature's intent that the alleged offender, rather than the child,
6 shall be removed from the home and that this should be done at the
7 earliest possible point of intervention in accordance with RCW
8 10.31.100, 13.34.130, this section, and RCW 26.44.130.

9 (2) In any judicial proceeding in which it is alleged that a child
10 has been subjected to sexual or physical abuse, if the court finds
11 reasonable grounds to believe that an incident of sexual or physical
12 abuse has occurred, the court may, on its own motion, or the motion of
13 the guardian ad litem or other parties, issue a temporary restraining
14 order or preliminary injunction restraining or enjoining the person
15 accused of committing the abuse from:

16 (a) Molesting or disturbing the peace of the alleged victim;

17 (b) Entering the family home of the alleged victim except as
18 specifically authorized by the court; or

19 (c) Having any contact with the alleged victim, except as
20 specifically authorized by the court.

21 (3) In issuing a temporary restraining order or preliminary
22 injunction, the court may impose any additional restrictions that the
23 court in its discretion determines are necessary to protect the child
24 from further abuse or emotional trauma pending final resolution of the
25 abuse allegations.

26 (4) The court shall issue a temporary restraining order prohibiting
27 a person from entering the family home if the court finds that the
28 order would eliminate the need for an out-of-home placement to protect
29 the child's right to nurturance, health, and safety and is sufficient
30 to protect the child from further sexual or physical abuse or coercion.

31 (5) The court may issue a temporary restraining order without
32 requiring notice to the party to be restrained or other parties only if
33 it finds on the basis of the moving affidavit or other evidence that
34 irreparable injury could result if an order is not issued until the
35 time for responding has elapsed.

36 (6) A temporary restraining order or preliminary injunction:

37 (a) Does not prejudice the rights of a party or any child which are
38 to be adjudicated at subsequent hearings in the proceeding; and

39 (b) May be revoked or modified.

1 (7) The person having physical custody of the child shall have an
2 affirmative duty to assist in the enforcement of the restraining order
3 including but not limited to a duty to notify the court as soon as
4 practicable of any violation of the order, a duty to request the
5 assistance of law enforcement officers to enforce the order, and a duty
6 to notify the department of social and health services of any violation
7 of the order as soon as practicable if the department is a party to the
8 action. Failure by the custodial party to discharge these affirmative
9 duties shall be subject to contempt proceedings.

10 (8) Willful violation of a court order entered under this section
11 is a misdemeanor. A written order shall contain the court's directive
12 and shall bear the legend: "Violation of this order with actual notice
13 of its terms is a criminal offense under chapter 26.44 RCW, is also
14 subject to contempt proceedings, and will subject a violator to
15 arrest."

16 **Sec. 16.** RCW 26.44.067 and 1989 c 373 s 23 are each amended to
17 read as follows:

18 (1) Any person having had actual notice of the existence of a
19 restraining order issued by a court of competent jurisdiction pursuant
20 to RCW 26.44.063 who refuses to comply with the provisions of such
21 order (~~(when requested by any peace officer of the state)~~) shall be
22 guilty of a misdemeanor.

23 (2) The notice requirements of subsection (1) of this section may
24 be satisfied by the peace officer giving oral or written evidence to
25 the person subject to the order by reading from or handing to that
26 person a copy certified by a notary public or the clerk of the court to
27 be an accurate copy of the original court order which is on file. The
28 copy may be supplied by the court or any party.

29 (3) The remedies provided in this section shall not apply unless
30 restraining orders subject to this section shall bear this legend:
31 VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL
32 OFFENSE UNDER CHAPTER 26.44 RCW AND IS ALSO SUBJECT TO CONTEMPT
33 PROCEEDINGS.

34 (4) It is a defense to prosecution under subsection (1) of this
35 section that the court order was issued contrary to law or court rule.
36 No right of action shall accrue against any peace officer acting upon
37 a properly certified copy of a court order lawful on its face if such
38 officer employs otherwise lawful means to effect the arrest.

1 **Sec. 17.** RCW 26.44.100 and 1985 c 183 s 1 are each amended to read
2 as follows:

3 The legislature finds parents and children often are not aware of
4 their due process rights when agencies are investigating allegations of
5 child abuse and neglect. The legislature reaffirms that all citizens,
6 including parents, shall be afforded due process, that protection of
7 children remains the priority of the legislature, and that this
8 protection includes protecting the family unit from unnecessary
9 disruption. To facilitate this goal, the legislature wishes to ensure
10 that parents and children be advised in writing and orally, if
11 feasible, of their basic rights and other specific information as set
12 forth in this ~~((aet))~~ chapter, provided that nothing contained in this
13 ~~((aet))~~ chapter shall cause any delay in protective custody action.

14 **NEW SECTION. Sec. 18.** A new section is added to chapter 26.44 RCW
15 to read as follows:

16 (1) If a person who has unsupervised visitation rights with a minor
17 child pursuant to a court order is accused of sexually or physically
18 abusing a child and the alleged abuse has been reported to the proper
19 authorities for investigation, the law enforcement officer conducting
20 the investigation may file an affidavit with the prosecuting attorney
21 stating that the person is currently under investigation for sexual or
22 physical abuse of a child and that there is a risk of harm to the child
23 if a temporary restraining order is not entered. Upon receipt of the
24 affidavit, the prosecuting attorney shall determine whether there is a
25 risk of harm to the child if a temporary restraining order is not
26 entered. If the prosecutor determines there is a risk of harm, the
27 prosecutor shall immediately file a motion for an order to show cause
28 seeking to restrict visitation with the child, and seek a temporary
29 restraining order. The restraining order shall be issued for up to
30 ninety days or until the investigation has been concluded in favor of
31 the alleged abuser, whichever is shorter.

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

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37 By Conference Committee

1
2 On page 1, line 1 of the title, after "children;" strike the
3 remainder of the title and insert "amending RCW 13.34.145, 13.34.180,
4 13.34.190, 13.34.232, 13.34.110, 13.34.120, 13.34.150, 13.34.162,
5 26.44.020, 26.44.030, 26.44.040, 26.44.063, 26.44.067, and 26.44.100;
6 adding new sections to chapter 13.34 RCW; adding new sections to
7 chapter 26.44 RCW; and prescribing penalties."

--- END ---