

2 **2SHB 2856** - S COMM AMD

3 By Committee on Human Services & Corrections

4

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

7 "NEW SECTION. **Sec. 1.** This chapter may be known and cited as the
8 family and children's ombudsman act.

9 NEW SECTION. **Sec. 2.** Unless the context clearly requires
10 otherwise, the definitions in this section apply throughout this
11 chapter.

12 (1) "Administrative act" means any of the following, whether final
13 or not:

14 (a) An action, omission, decision, recommendation, practice, or
15 other procedure of the department or a child-placing agency with
16 respect to a particular family or child relating to family and
17 children's services as defined in subsection (3) of this section; or

18 (b) An action, omission, decision, recommendation, practice, or
19 other procedure of a state institution that receives children, or a
20 facility or residence subject to licensing under chapter 74.15 RCW,
21 with respect to a particular family member or child that may adversely
22 affect the health, safety, welfare, and rights of the family member or
23 child.

24 (2) "Child-placing agency" has the same meaning as in RCW
25 74.15.020.

26 (3) "Family and children's services" means adoption, out-of-home
27 care, child day care, child protective services, child welfare
28 services, and juvenile rehabilitative services provided by the
29 department or through contract, and services provided by the department
30 or through contract for sexually aggressive youth, at-risk youth and
31 families in conflict, children with mental health or substance abuse
32 problems, and children with developmental disabilities.

33 (4) "Child or children" means any unemancipated person under the
34 age of eighteen.

35 (5) "Committee" means the legislative ombudsman committee.

1 (6) "Department" means the department of social and health
2 services.

3 (7) "Office" means the office of the family and children's
4 ombudsman.

5 (8) "Ombudsman" means the family and children's ombudsman.

6 (9) "Secretary" means the secretary of the department of social and
7 health services or the secretary's designee.

8 (10) "State-licensed facility or residence" means those facilities
9 or residences that directly serve children and are subject to licensing
10 by the department or have programs subject to certification by the
11 department, or a facility where a child has been placed by superior
12 court or the department.

13 NEW SECTION. **Sec. 3.** As a means of monitoring and ensuring
14 compliance with administrative acts, relevant statutes, rules, and
15 policies pertaining to family and children services and the placement,
16 supervision, and treatment of children in the state's care or in state-
17 licensed facilities or residences, there is created the legislative
18 ombudsman committee. The committee shall consist of three senators and
19 three representatives from the legislature. The senate members of the
20 committee shall be appointed by the president of the senate. The house
21 members of the committee shall be appointed by the speaker of the
22 house. Not more than two members from each chamber shall be from the
23 same political party. Members shall be appointed before the close of
24 each regular session of the legislature during an odd-numbered year.

25 NEW SECTION. **Sec. 4.** The term of membership of the committee
26 shall be from the close of the session in which they were appointed or
27 elected as provided in RCW 44.28.010 until the close of the next
28 regular session during an odd-numbered year so long as they remain
29 members. A position that becomes vacant prior to the expiration of the
30 members's term shall be filled by the appointing authority.

31 NEW SECTION. **Sec. 5.** The committee shall have the following
32 powers:

33 (1) Selection of its officers and adopt rules for orderly
34 procedure;

- 1 (2) Provide a list of candidates for the governor to utilize in
2 nominating the ombudsman. No person may be placed on the list without
3 an affirmative vote of at least two members from each chamber;
4 (3) Request investigations by the ombudsman of administrative acts;
5 (4) Receive reports of the ombudsman;
6 (5)(a) Obtain access to all relevant records in the possession of
7 the ombudsman, except as prohibited by law; and (b) make
8 recommendations to all branches of government;
9 (6) Request legislation;
10 (7) Conduct hearings into such matters as it deems necessary.

11 NEW SECTION. **Sec. 6.** Upon receipt of records from the ombudsman,
12 the committee is subject to the same confidentiality restrictions as
13 the ombudsman under section 20 of this act.

14 NEW SECTION. **Sec. 7.** Members of the committee shall serve without
15 additional compensation, but shall be reimbursed in accordance with RCW
16 44.04.120 while on business authorized by the committee.

17 NEW SECTION. **Sec. 8.** As a means of promoting public awareness and
18 understanding of family and children services, identifying system
19 issues and responses for the governor and the legislature to act upon,
20 and monitoring and ensuring compliance with administrative acts,
21 relevant statutes, rules, and policies pertaining to family and
22 children's services and the placement, supervision, and treatment of
23 children in the state's care or in state-licensed facilities or
24 residences, the office of the family and children's ombudsman is
25 established within the office of the governor. The ombudsman shall
26 report directly to the governor and shall exercise his or her powers
27 and duties independently of the secretary.

28 NEW SECTION. **Sec. 9.** (1) The governor shall appoint the ombudsman
29 from the list submitted by the committee under section 5(2) of this
30 act, subject to confirmation by the senate. The ombudsman shall be a
31 person of recognized judgment, independence, objectivity, and
32 integrity, and shall be qualified by training or experience, or both,
33 in family and children's services law and policy. The governor shall
34 consult with and receive recommendations from the committee prior to
35 the appointment.

1 (2) An ombudsman shall not have been employed by the department
2 within two years immediately preceding his or her appointment to the
3 office.

4 (3) No ombudsman or any member of his or her immediate family may
5 have or have had within two years immediately preceding his or her
6 appointment to the office any contract with the department for the
7 provision of family and children's services or for consultative
8 services.

9 NEW SECTION. **Sec. 10.** (1) The ombudsman may appoint such
10 personnel as necessary for the general administration of the office.
11 The ombudsman and personnel appointed by the ombudsman are exempt from
12 state civil service law, chapter 41.06 RCW.

13 (2) Any power or duty vested in or transferred to the ombudsman by
14 law or executive order may be delegated by the ombudsman to any other
15 assistant or subordinate, but the ombudsman shall be responsible for
16 the official acts of the officers and employees of the office.

17 NEW SECTION. **Sec. 11.** The person appointed ombudsman shall hold
18 office for a term of three years and shall continue to hold office
19 until reappointed or until his or her successor is appointed and
20 confirmed. The governor may remove the ombudsman only for neglect of
21 duty, misconduct, or inability to perform duties. Any vacancy shall be
22 filled by similar appointment for the remainder of the unexpired term.

23 NEW SECTION. **Sec. 12.** The ombudsman shall perform the following
24 duties:

25 (1) Provide information as appropriate on the rights and
26 responsibilities of individuals receiving family and children's
27 services, and on the procedures for providing these services;

28 (2) Investigate, upon his or her own initiative or upon receipt of
29 a complaint, an administrative act alleged to be contrary to law, rule,
30 or policy, imposed without an adequate statement of reason, or based on
31 irrelevant, immaterial, or erroneous grounds; however, the ombudsman
32 may decline to investigate any complaint as provided by rules adopted
33 under this chapter;

34 (3) Monitor the procedures as established, implemented, and
35 practiced by the department to carry out its responsibilities in
36 delivering family and children's services with a view toward

1 appropriate preservation of families and ensuring children s health and
2 safety;

3 (4) Review periodically the facilities and procedures of state
4 institutions serving children, and state-licensed facilities or
5 residences;

6 (5) Review reports relating to the unexpected deaths of minors in
7 the care of the department receiving family and children's services and
8 make recommendations as appropriate;

9 (6) Recommend changes in the procedures for addressing the needs of
10 families and children;

11 (7) Submit annually to the committee and to the governor by
12 November 1 a report analyzing the work of the office including
13 recommendations;

14 (8) Coordinate the activities of the regional offices throughout
15 the state;

16 (9) Grant the committee access to all relevant records in the
17 possession of the ombudsman unless prohibited by law;

18 (10) Provide for recruiting and training of volunteers and
19 promoting the development of citizen organizations to assist the
20 office. A volunteer shall be able to identify problems of individuals
21 receiving family and children's services and of children in state-
22 licensed facilities or residences. Volunteers may be used to assist
23 the ombudsman in carrying out the duties of the office;

24 (11) Establish procedures for the administration of the office;

25 (12) Take whatever steps are appropriate to make persons aware of
26 the services of the office, its purpose, and how it can be contacted;
27 and

28 (13) Adopt rules necessary to implement this chapter.

29 NEW SECTION. **Sec. 13.** (1) Upon deciding to investigate a
30 complaint, the ombudsman shall notify the complainant and the
31 department, child-placing agency, or state-licensed facility or
32 residence of the ombudsman's intention to investigate. If the
33 ombudsman declines to investigate a complaint he or she shall notify
34 the complainant. If the ombudsman discontinues an investigation he or
35 she shall notify the complainant and the department, child-placing
36 agency, or state-licensed facility or residence of the decision and the
37 reasons for the action.

1 (2) The ombudsman may require a complainant to pursue all
2 administrative remedies or means of complaint open to the complainant
3 before pursuing a complaint with the ombudsman.

4 (3) If the ombudsman determines in the course of an investigation
5 that an individual's action is likely to have been in violation of
6 state or federal criminal law, the ombudsman shall immediately report
7 that fact to the appropriate law enforcement agency and the department
8 and, if the complaint is against a child-placing agency or state-
9 licensed facility or residence, the ombudsman shall report that fact to
10 the secretary.

11 (4) The ombudsman or any volunteer shall report suspected abuse or
12 neglect of any child, adult dependent, or developmentally disabled
13 person as required in chapter 26.44 RCW.

14 NEW SECTION. **Sec. 14.** The department, a child-placing agency, and
15 a family and children's services provider shall do all of the
16 following:

17 (1) Upon the ombudsman's request, grant the ombudsman or the
18 ombudsman's designee access to all relevant information, records, and
19 documents in their possession that the ombudsman considers necessary in
20 an investigation except as prohibited by law;

21 (2) Assist the ombudsman to obtain releases of confidential records
22 when necessary;

23 (3) When deciding whether to initiate or continue an administrative
24 act, consider any findings or recommendations made by the ombudsman;

25 (4) Upon deciding not to act on a finding or recommendation made by
26 the ombudsman, provide the ombudsman with a written statement setting
27 forth the reason or reasons for the decision; and

28 (5) Provide the ombudsman upon request with progress reports
29 concerning their administrative processing of a complaint.

30 NEW SECTION. **Sec. 15.** A new section is added to chapter 43.20A
31 RCW to read as follows:

32 The secretary shall provide the employees of the department,
33 licensees, contractors, and all other relevant individuals, including
34 the public, information regarding the office of the family and
35 children's ombudsman created under chapter 44.-- RCW (sections 1
36 through 14 and 17 through 22 of this act) and the rights and
37 responsibilities established under that chapter.

1 **Sec. 16.** RCW 13.50.010 and 1994 sp.s. c 7 s 541 are each amended
2 to read as follows:

3 (1) For purposes of this chapter:

4 (a) "Juvenile justice or care agency" means any of the following:
5 Police, diversion units, court, prosecuting attorney, defense attorney,
6 detention center, attorney general, the legislative ombudsman
7 committee, the office of family and children's ombudsman, the
8 department of social and health services and its contracting agencies,
9 schools; and, in addition, persons or public or private agencies having
10 children committed to their custody;

11 (b) "Official juvenile court file" means the legal file of the
12 juvenile court containing the petition or information, motions,
13 memorandums, briefs, findings of the court, and court orders;

14 (c) "Social file" means the juvenile court file containing the
15 records and reports of the probation counselor;

16 (d) "Records" means the official juvenile court file, the social
17 file, and records of any other juvenile justice or care agency in the
18 case.

19 (2) Each petition or information filed with the court may include
20 only one juvenile and each petition or information shall be filed under
21 a separate docket number. The social file shall be filed separately
22 from the official juvenile court file.

23 (3) It is the duty of any juvenile justice or care agency to
24 maintain accurate records. To this end:

25 (a) The agency may never knowingly record inaccurate information.
26 Any information in records maintained by the department of social and
27 health services relating to a petition filed pursuant to chapter 13.34
28 RCW that is found by the court, upon proof presented, to be false or
29 inaccurate shall be corrected or expunged from such records by the
30 agency;

31 (b) An agency shall take reasonable steps to assure the security of
32 its records and prevent tampering with them; and

33 (c) An agency shall make reasonable efforts to insure the
34 completeness of its records, including action taken by other agencies
35 with respect to matters in its files.

36 (4) Each juvenile justice or care agency shall implement procedures
37 consistent with the provisions of this chapter to facilitate inquiries
38 concerning records.

1 (5) Any person who has reasonable cause to believe information
2 concerning that person is included in the records of a juvenile justice
3 or care agency and who has been denied access to those records by the
4 agency may make a motion to the court for an order authorizing that
5 person to inspect the juvenile justice or care agency record concerning
6 that person. The court shall grant the motion to examine records
7 unless it finds that in the interests of justice or in the best
8 interests of the juvenile the records or parts of them should remain
9 confidential.

10 (6) A juvenile, or his or her parents, or any person who has
11 reasonable cause to believe information concerning that person is
12 included in the records of a juvenile justice or care agency may make
13 a motion to the court challenging the accuracy of any information
14 concerning the moving party in the record or challenging the continued
15 possession of the record by the agency. If the court grants the
16 motion, it shall order the record or information to be corrected or
17 destroyed.

18 (7) The person making a motion under subsection (5) or (6) of this
19 section shall give reasonable notice of the motion to all parties to
20 the original action and to any agency whose records will be affected by
21 the motion.

22 (8) The court may permit inspection of records by, or release of
23 information to, any clinic, hospital, or agency which has the subject
24 person under care or treatment. The court may also permit inspection
25 by or release to individuals or agencies, including juvenile justice
26 advisory committees of county law and justice councils, engaged in
27 legitimate research for educational, scientific, or public purposes.
28 The court may also permit inspection of, or release of information
29 from, records which have been sealed pursuant to RCW 13.50.050(11).
30 Access to records or information for research purposes shall be
31 permitted only if the anonymity of all persons mentioned in the records
32 or information will be preserved. Each person granted permission to
33 inspect juvenile justice or care agency records for research purposes
34 shall present a notarized statement to the court stating that the names
35 of juveniles and parents will remain confidential.

36 (9) Juvenile detention facilities shall release records to the
37 juvenile disposition standards commission under RCW 13.40.025 upon
38 request. The commission shall not disclose the names of any juveniles

1 or parents mentioned in the records without the named individual's
2 written permission.

3 (10) Requirements in this chapter relating to the court's authority
4 to compel disclosure shall not apply to the legislative ombudsman
5 committee or the office of the family and children's ombudsman.

6 NEW SECTION. Sec. 17. (1) The ombudsman shall prepare a report of
7 the findings of an investigation and make recommendations to the
8 department, child-placing agency, or state-licensed facility or
9 residence if the ombudsman finds one or more of the following:

10 (a) A matter should be further considered by the department, child-
11 placing agency, or state-licensed facility or residence;

12 (b) An administrative act should be upheld, modified, or canceled;

13 (c) An explanation should be given for an administrative act; or

14 (d) Other action should be taken by the department, child-placing
15 agency, or state-licensed facility or residence.

16 (2) Before publicly announcing a conclusion or recommendation that
17 expressly or by implication criticizes an individual, the department,
18 child-placing agency, or state-licensed facility or residence, the
19 ombudsman shall consult with that individual, the secretary, child-
20 placing agency, or state-licensed facility or residence for purposes of
21 comment. When publishing an opinion adverse to the individual, the
22 department, child-placing agency, or state-licensed facility or
23 residence, the ombudsman shall include in the publication any written
24 statement of reasonable length made to the ombudsman by the individual,
25 secretary, child-placing agency, or state-licensed facility or
26 residence in defense or mitigation of the action. The ombudsman may
27 request to be notified by the secretary, child-placing agency, or
28 state-licensed facility or residence, within a specified time, of any
29 action taken on any recommendation presented.

30 (3) The ombudsman shall notify the complainant of the actions taken
31 by the ombudsman and by the secretary, child-placing agency, or state-
32 licensed facility or residence.

33 (4) The ombudsman shall provide the complainant with a copy of his
34 or her recommendations on a complaint.

35 NEW SECTION. Sec. 18. (1) The ombudsman shall have the following
36 rights and powers:

1 (a) To copy and subpoena records held by the department except as
2 prohibited by law;

3 (b) To apply for and accept grants, gifts, and bequests of funds
4 from other states, federal and interstate agencies, independent
5 authorities, and private firms, individuals, and foundations, for the
6 purpose of carrying out his or her lawful responsibilities. The funds
7 shall be deposited in the child, youth, and family ombudsman account
8 created in section 19 of this act;

9 (c) To appoint advisory committees as appropriate to carry out the
10 duties of the office;

11 (d) To request legal assistance, including appointment of special
12 counsel through the office of the attorney general;

13 (e) To mediate disputes between a complainant and the department
14 where appropriate; and

15 (f) To submit to the governor and legislature budgetary and
16 legislative recommendations relating to children and family services.

17 (2) Actions of the office shall be solely advisory to the governor
18 and the department. The office shall not be delegated any
19 administrative authority or responsibility, and its functions shall not
20 supplant existing avenues for recourse or appeals.

21 NEW SECTION. **Sec. 19.** The ombudsman may apply for and accept
22 contributions, grants, gifts in cash or otherwise, and bequests of
23 funds from other states, federal and interstate agencies, independent
24 authorities, and private firms, individuals, and foundations, for the
25 purpose of carrying out his or her lawful responsibilities. All moneys
26 received by the ombudsman or any employee thereof from contributions,
27 grants, or gifts and not through appropriation by the legislature shall
28 be deposited in an account in the custody of the state treasurer to be
29 known as the child, youth, and family ombudsman account. Disbursements
30 of such funds shall be on the authorization of the ombudsman or a duly
31 authorized representative of the ombudsman and only for the purposes
32 stated in this chapter. The account is subject to chapter 43.88 RCW,
33 but no appropriation is required to permit expenditure of the funds.

34 NEW SECTION. **Sec. 20.** The ombudsman shall treat all matters under
35 investigation, including the identities of service recipients,
36 complainants, and individuals from whom information is acquired, as
37 confidential, except as far as disclosures may be necessary to enable

1 the ombudsman to perform the duties of the office and to support any
2 recommendations resulting from an investigation. However, the
3 ombudsman shall honor the request of a service recipient, complainant,
4 or individual from whom information is acquired, or the legal
5 representative of any of these individuals, not to disclose his or her
6 identity. Upon receipt of information that by law is confidential or
7 privileged, the ombudsman shall maintain the confidentiality of such
8 information and shall not further disclose or disseminate the
9 information except as provided by applicable state or federal law. A
10 record of the office of the ombudsman is confidential, shall only be
11 used for purposes set forth in this chapter, and is not subject to
12 court subpoena.

13 NEW SECTION. **Sec. 21.** (1) An ombudsman, including a volunteer
14 ombudsman, is not liable for good faith performance of responsibilities
15 under this chapter.

16 (2) No discriminatory, disciplinary, or retaliatory action may be
17 taken against any employee of the department, child-placing agency, or
18 state-licensed facility or residence, a recipient of family and
19 children's services, or a volunteer, for any communication made, or
20 information given or disclosed, to aid the ombudsman in carrying out
21 his or her responsibilities, unless the communication or information is
22 knowingly false or made, given, or disclosed in violation of law. This
23 subsection does not infringe the rights of an employer to supervise,
24 discipline, or terminate an employee for other reasons.

25 (3) An individual, the department, a child-placing agency, or a
26 state-licensed facility or residence shall not hinder the lawful
27 actions of the ombudsman or members of the ombudsman's office.

28 (4) All communications by the ombudsman, if reasonably related to
29 the requirements of that individual's responsibilities under this
30 chapter and done in good faith, are privileged and that privilege shall
31 serve as a defense in any defamation action.

32 (5) A representative of the office shall not be required to testify
33 in court as to any confidential matter.

34 NEW SECTION. **Sec. 22.** The authority granted the ombudsman under
35 this chapter is in addition to the authority granted under the
36 provisions of any other act or rule under which the remedy or right of
37 appeal or objection is provided for a person, or any procedures

1 provided for the inquiry into or investigation of any matter. The
2 authority granted the ombudsman does not limit or affect the remedy or
3 right of appeal or objection and is not an exclusive remedy or
4 procedure.

5 NEW SECTION. **Sec. 23.** A new section is added to chapter 41.06 RCW
6 to read as follows:

7 In addition to the exemptions under RCW 41.06.070, the provisions
8 of this chapter shall not apply in the office of the family and
9 children's ombudsman to the ombudsman and all personnel in the office.

10 **Sec. 24.** RCW 26.44.030 and 1995 c 311 s 17 are each amended to
11 read as follows:

12 (1)(a) When any practitioner, county coroner or medical examiner,
13 law enforcement officer, professional school personnel, registered or
14 licensed nurse, social service counselor, psychologist, pharmacist,
15 licensed or certified child care providers or their employees, employee
16 of the department, or juvenile probation officer or state family and
17 children's ombudsman or any volunteer in the ombudsman's office has
18 reasonable cause to believe that a child or adult dependent or
19 developmentally disabled person, has suffered abuse or neglect, he or
20 she shall report such incident, or cause a report to be made, to the
21 proper law enforcement agency or to the department as provided in RCW
22 26.44.040.

23 (b) The reporting requirement shall also apply to any adult who has
24 reasonable cause to believe that a child or adult dependent or
25 developmentally disabled person, who resides with them, has suffered
26 severe abuse, and is able or capable of making a report. For the
27 purposes of this subsection, "severe abuse" means any of the following:
28 Any single act of abuse that causes physical trauma of sufficient
29 severity that, if left untreated, could cause death; any single act of
30 sexual abuse that causes significant bleeding, deep bruising, or
31 significant external or internal swelling; or more than one act of
32 physical abuse, each of which causes bleeding, deep bruising,
33 significant external or internal swelling, bone fracture, or
34 unconsciousness.

35 (c) The report shall be made at the first opportunity, but in no
36 case longer than forty-eight hours after there is reasonable cause to

1 believe that the child or adult has suffered abuse or neglect. The
2 report shall include the identity of the accused if known.

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

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

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

29 (5) Any law enforcement agency receiving a report of an incident of
30 abuse or neglect pursuant to this chapter, involving a child or adult
31 dependent or developmentally disabled person who has died or has had
32 physical injury or injuries inflicted upon him or her other than by
33 accidental means, or who has been subjected to sexual abuse, shall
34 report such incident in writing as provided in RCW 26.44.040 to the
35 proper county prosecutor or city attorney for appropriate action
36 whenever the law enforcement agency's investigation reveals that a
37 crime may have been committed. The law enforcement agency shall also
38 notify the department of all reports received and the law enforcement
39 agency's disposition of them. In emergency cases, where the child,

1 adult dependent, or developmentally disabled person's welfare is
2 endangered, the law enforcement agency shall notify the department
3 within twenty-four hours. In all other cases, the law enforcement
4 agency shall notify the department within seventy-two hours after a
5 report is received by the law enforcement agency.

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

11 (7) The department may conduct ongoing case planning and
12 consultation with those persons or agencies required to report under
13 this section, with consultants designated by the department, and with
14 designated representatives of Washington Indian tribes if the client
15 information exchanged is pertinent to cases currently receiving child
16 protective services or department case services for the developmentally
17 disabled. Upon request, the department shall conduct such planning and
18 consultation with those persons required to report under this section
19 if the department determines it is in the best interests of the child
20 or developmentally disabled person. Information considered privileged
21 by statute and not directly related to reports required by this section
22 shall not be divulged without a valid written waiver of the privilege.

23 (8) Any case referred to the department by a physician licensed
24 under chapter 18.57 or 18.71 RCW on the basis of an expert medical
25 opinion that child abuse, neglect, or sexual assault has occurred and
26 that the child's safety will be seriously endangered if returned home,
27 the department shall file a dependency petition unless a second
28 licensed physician of the parents' choice believes that such expert
29 medical opinion is incorrect. If the parents fail to designate a
30 second physician, the department may make the selection. If a
31 physician finds that a child has suffered abuse or neglect but that
32 such abuse or neglect does not constitute imminent danger to the
33 child's health or safety, and the department agrees with the
34 physician's assessment, the child may be left in the parents' home
35 while the department proceeds with reasonable efforts to remedy
36 parenting deficiencies.

37 (9) Persons or agencies exchanging information under subsection (7)
38 of this section shall not further disseminate or release the

1 information except as authorized by state or federal statute.
2 Violation of this subsection is a misdemeanor.

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

17 (11) Upon receiving a report of child abuse and neglect, the
18 department or investigating law enforcement agency shall have access to
19 all relevant records of the child in the possession of mandated
20 reporters and their employees.

21 (12) The department shall maintain investigation records and
22 conduct timely and periodic reviews of all cases constituting abuse and
23 neglect. The department shall maintain a log of screened-out
24 nonabusive cases.

25 (13) The department shall use a risk assessment process when
26 investigating child abuse and neglect referrals. The department shall
27 present the risk factors at all hearings in which the placement of a
28 dependent child is an issue. The department shall, within funds
29 appropriated for this purpose, offer enhanced community-based services
30 to persons who are determined not to require further state
31 intervention.

32 The department shall provide annual reports to the legislature on
33 the effectiveness of the risk assessment process.

34 (14) Upon receipt of a report of abuse or neglect the law
35 enforcement agency may arrange to interview the person making the
36 report and any collateral sources to determine if any malice is
37 involved in the reporting.

1 NEW SECTION. **Sec. 25.** The family and children's ombudsman office
2 shall commence operation not later than January 1, 1997.

3 NEW SECTION. **Sec. 26.** Sections 1 through 14 and 17 through 22 of
4 this act shall constitute a new chapter in Title 44 RCW.

5 NEW SECTION. **Sec. 27.** Sections 2 through 11, 19, and 23 of this
6 act are necessary for the immediate preservation of the public peace,
7 health, or safety, or support of the state government and its existing
8 public institutions, and shall take effect immediately."

9 **2SHB 2856** - S COMM AMD
10 By Committee on Human Services & Corrections

11

12 On page 1, line 2 of the title, after "ombudsman;" strike the
13 remainder of the title and insert "amending RCW 13.50.010 and
14 26.44.030; adding a new section to chapter 43.20A RCW; adding a new
15 section to chapter 41.06 RCW; adding a new chapter to Title 44 RCW;
16 creating a new section; and declaring an emergency."

--- END ---