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**SUBSTITUTE SENATE BILL 6648**

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**State of Washington**

**54th Legislature**

**1996 Regular Session**

**By** Senate Committee on Human Services & Corrections (originally sponsored by Senators Kohl, Long and Hargrove; by request of Governor Lowry)

Read first time 02/02/96.

1 AN ACT Relating to establishing the office of the child, youth, and  
2 family ombudsman; amending RCW 13.50.010 and 26.44.030; adding a new  
3 section to chapter 43.20A RCW; adding a new section to chapter 41.06  
4 RCW; adding a new chapter to Title 44 RCW; and creating a new section.

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

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

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

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

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

17 (b) An action, omission, decision, recommendation, practice, or  
18 other procedure of a state institution that receives children, or a

1 facility or residence subject to licensing under chapter 74.15 RCW,  
2 with respect to a particular family member or child that may adversely  
3 affect the health, safety, welfare, and rights of the family member or  
4 child.

5 (2) "Child-placing agency" has the same meaning as in RCW  
6 74.15.020.

7 (3) "Family and children's services" means adoption, out-of-home  
8 care, child day care, child protective services, child welfare  
9 services, and juvenile rehabilitative services provided by the  
10 department or through contract, and services provided by the department  
11 or through contract for sexually aggressive youth, at-risk youth and  
12 families in conflict, children with mental health or substance abuse  
13 problems, and children with developmental disabilities.

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

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

17 (6) "Department" means the department of social and health  
18 services.

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

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

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

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

29 NEW SECTION. **Sec. 3.** As a means of monitoring and ensuring  
30 compliance with administrative acts, relevant statutes, rules, and  
31 policies pertaining to family and children services and the placement,  
32 supervision, and treatment of children in the state's care or in state-  
33 licensed facilities or residences, there is created the legislative  
34 ombudsman committee. The committee shall consist of three senators and  
35 three representatives from the legislature. The senate members of the  
36 committee shall be appointed by the president of the senate. The house  
37 members of the committee shall be appointed by the speaker of the  
38 house. Not more than two members from each chamber shall be from the

1 same political party. Members shall be appointed before the close of  
2 each regular session of the legislature during an odd-numbered year.

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

9 NEW SECTION. **Sec. 5.** The committee shall have the following  
10 powers:

11 (1) Selection of its officers and adopt rules for orderly  
12 procedure;

13 (2) Provide a list of candidates for the governor to utilize in  
14 nominating the ombudsman. No person may be placed on the list without  
15 an affirmative vote of at least two members from each chamber;

16 (3) Request investigations by the ombudsman of administrative acts;

17 (4) Receive reports of the ombudsman;

18 (5)(a) Obtain access to all relevant records in the possession of  
19 the ombudsman, except as prohibited by law; and (b) make  
20 recommendations to all branches of government;

21 (6) Request legislation;

22 (7) Conduct hearings into such matters as it deems necessary.

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

26 NEW SECTION. **Sec. 7.** Members of the committee shall serve without  
27 additional compensation, but shall be reimbursed in accordance with RCW  
28 44.04.120 while on business authorized by the committee.

29 NEW SECTION. **Sec. 8.** As a means of promoting public awareness and  
30 understanding of family and children services, identifying system  
31 issues and responses for the governor and the legislature to act upon,  
32 and monitoring and ensuring compliance with administrative acts,  
33 relevant statutes, rules, and policies pertaining to family and  
34 children's services and the placement, supervision, and treatment of

1 children in the state s care or in state-licensed facilities or  
2 residences, the office of the family and children's ombudsman is  
3 established within the office of the governor. The ombudsman shall  
4 report directly to the governor and shall exercise his or her powers  
5 and duties independently of the secretary.

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

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

17 (3) No ombudsman or any member of his or her immediate family may  
18 have or have had within two years immediately preceding his or her  
19 appointment to the office any contract with the department for the  
20 provision of family and children's services or for consultative  
21 services.

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

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

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

1        NEW SECTION.    **Sec. 12.**    The ombudsman shall perform the following  
2 duties:

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

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

12        (3) Monitor the procedures as established, implemented, and  
13 practiced by the department to carry out its responsibilities in  
14 delivering family and children's services with a view toward  
15 appropriate preservation of families and ensuring children s health and  
16 safety;

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

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

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

25        (7) Submit annually to the committee and to the governor by  
26 November 1 a report analyzing the work of the office including  
27 recommendations;

28        (8) Coordinate the activities of the regional offices throughout  
29 the state;

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

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

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

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

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

5 NEW SECTION. **Sec. 13.** (1) Upon deciding to investigate a  
6 complaint, the ombudsman shall notify the complainant and the  
7 department, child-placing agency, or state-licensed facility or  
8 residence of the ombudsman's intention to investigate. If the  
9 ombudsman declines to investigate a complaint he or she shall notify  
10 the complainant. If the ombudsman discontinues an investigation he or  
11 she shall notify the complainant and the department, child-placing  
12 agency, or state-licensed facility or residence of the decision and the  
13 reasons for the action.

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

17 (3) If the ombudsman determines in the course of an investigation  
18 that an individual's action is likely to have been in violation of  
19 state or federal criminal law, the ombudsman shall immediately report  
20 that fact to the appropriate law enforcement agency and the department  
21 and, if the complaint is against a child-placing agency or state-  
22 licensed facility or residence, the ombudsman shall report that fact to  
23 the secretary.

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

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

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

34 (2) Assist the ombudsman to obtain releases of confidential records  
35 when necessary;

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

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

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

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

8 The secretary shall provide the employees of the department,  
9 licensees, contractors, and all other relevant individuals, including  
10 the public, information regarding the office of the family and  
11 children's ombudsman created under chapter 44.-- RCW (sections 1  
12 through 14 and 17 through 22 of this act) and the rights and  
13 responsibilities established under that chapter.

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

16 (1) For purposes of this chapter:

17 (a) "Juvenile justice or care agency" means any of the following:  
18 Police, diversion units, court, prosecuting attorney, defense attorney,  
19 detention center, attorney general, the legislative ombudsman  
20 committee, the office of family and children's ombudsman, the  
21 department of social and health services and its contracting agencies,  
22 schools; and, in addition, persons or public or private agencies having  
23 children committed to their custody;

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

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

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

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

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

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

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

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

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

15 (5) Any person who has reasonable cause to believe information  
16 concerning that person is included in the records of a juvenile justice  
17 or care agency and who has been denied access to those records by the  
18 agency may make a motion to the court for an order authorizing that  
19 person to inspect the juvenile justice or care agency record concerning  
20 that person. The court shall grant the motion to examine records  
21 unless it finds that in the interests of justice or in the best  
22 interests of the juvenile the records or parts of them should remain  
23 confidential.

24 (6) A juvenile, or his or her parents, or any person who has  
25 reasonable cause to believe information concerning that person is  
26 included in the records of a juvenile justice or care agency may make  
27 a motion to the court challenging the accuracy of any information  
28 concerning the moving party in the record or challenging the continued  
29 possession of the record by the agency. If the court grants the  
30 motion, it shall order the record or information to be corrected or  
31 destroyed.

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

36 (8) The court may permit inspection of records by, or release of  
37 information to, any clinic, hospital, or agency which has the subject  
38 person under care or treatment. The court may also permit inspection  
39 by or release to individuals or agencies, including juvenile justice



1 advisory committees of county law and justice councils, engaged in  
2 legitimate research for educational, scientific, or public purposes.  
3 The court may also permit inspection of, or release of information  
4 from, records which have been sealed pursuant to RCW 13.50.050(11).  
5 Access to records or information for research purposes shall be  
6 permitted only if the anonymity of all persons mentioned in the records  
7 or information will be preserved. Each person granted permission to  
8 inspect juvenile justice or care agency records for research purposes  
9 shall present a notarized statement to the court stating that the names  
10 of juveniles and parents will remain confidential.

11 (9) Juvenile detention facilities shall release records to the  
12 juvenile disposition standards commission under RCW 13.40.025 upon  
13 request. The commission shall not disclose the names of any juveniles  
14 or parents mentioned in the records without the named individual's  
15 written permission.

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

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

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

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

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

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

29 (2) Before publicly announcing a conclusion or recommendation that  
30 expressly or by implication criticizes an individual, the department,  
31 child-placing agency, or state-licensed facility or residence, the  
32 ombudsman shall consult with that individual, the secretary, child-  
33 placing agency, or state-licensed facility or residence for purposes of  
34 comment. When publishing an opinion adverse to the individual, the  
35 department, child-placing agency, or state-licensed facility or  
36 residence, the ombudsman shall include in the publication any written  
37 statement of reasonable length made to the ombudsman by the individual,  
38 secretary, child-placing agency, or state-licensed facility or

1 residence in defense or mitigation of the action. The ombudsman may  
2 request to be notified by the secretary, child-placing agency, or  
3 state-licensed facility or residence, within a specified time, of any  
4 action taken on any recommendation presented.

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

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

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

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

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

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

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

24 (e) To mediate disputes between a complainant and the department  
25 where appropriate; and

26 (f) To submit to the governor budgetary and legislative  
27 recommendations relating to children and family services.

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

32 NEW SECTION. Sec. 19. The ombudsman may apply for and accept  
33 contributions, grants, gifts in cash or otherwise, and bequests of  
34 funds from other states, federal and interstate agencies, independent  
35 authorities, and private firms, individuals, and foundations, for the  
36 purpose of carrying out his or her lawful responsibilities. All moneys  
37 received by the ombudsman or any employee thereof from contributions,

1 grants, or gifts and not through appropriation by the legislature shall  
2 be deposited in an account in the custody of the state treasurer to be  
3 known as the child, youth, and family ombudsman account. Disbursements  
4 of such funds shall be on the authorization of the ombudsman or a duly  
5 authorized representative of the ombudsman and only for the purposes  
6 stated in this chapter. The account is subject to chapter 43.88 RCW,  
7 but no appropriation is required to permit expenditure of the funds.

8 NEW SECTION. **Sec. 20.** The ombudsman shall treat all matters under  
9 investigation, including the identities of service recipients,  
10 complainants, and individuals from whom information is acquired, as  
11 confidential, except as far as disclosures may be necessary to enable  
12 the ombudsman to perform the duties of the office and to support any  
13 recommendations resulting from an investigation. However, the  
14 ombudsman shall honor the request of a service recipient, complainant,  
15 or individual from whom information is acquired, or the legal  
16 representative of any of these individuals, not to disclose his or her  
17 identity. Upon receipt of information that by law is confidential or  
18 privileged, the ombudsman shall maintain the confidentiality of such  
19 information and shall not further disclose or disseminate the  
20 information except as provided by applicable state or federal law. A  
21 record of the office of the ombudsman is confidential, shall only be  
22 used for purposes set forth in this chapter, and is not subject to  
23 court subpoena.

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

27 (2) No discriminatory, disciplinary, or retaliatory action may be  
28 taken against any employee of the department, child-placing agency, or  
29 state-licensed facility or residence, a recipient of family and  
30 children's services, or a volunteer, for any communication made, or  
31 information given or disclosed, to aid the ombudsman in carrying out  
32 his or her responsibilities, unless the communication or information is  
33 knowingly false or made, given, or disclosed in violation of law. This  
34 subsection does not infringe the rights of an employer to supervise,  
35 discipline, or terminate an employee for other reasons.

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

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

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

10 NEW SECTION. **Sec. 22.** The authority granted the ombudsman under  
11 this chapter is in addition to the authority granted under the  
12 provisions of any other act or rule under which the remedy or right of  
13 appeal or objection is provided for a person, or any procedures  
14 provided for the inquiry into or investigation of any matter. The  
15 authority granted the ombudsman does not limit or affect the remedy or  
16 right of appeal or objection and is not an exclusive remedy or  
17 procedure.

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

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

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

25 (1)(a) When any practitioner, county coroner or medical examiner,  
26 law enforcement officer, professional school personnel, registered or  
27 licensed nurse, social service counselor, psychologist, pharmacist,  
28 licensed or certified child care providers or their employees, employee  
29 of the department, or juvenile probation officer or state family and  
30 children's ombudsman or any volunteer in the ombudsman's office has  
31 reasonable cause to believe that a child or adult dependent or  
32 developmentally disabled person, has suffered abuse or neglect, he or  
33 she shall report such incident, or cause a report to be made, to the  
34 proper law enforcement agency or to the department as provided in RCW  
35 26.44.040.

1 (b) The reporting requirement shall also apply to any adult who has  
2 reasonable cause to believe that a child or adult dependent or  
3 developmentally disabled person, who resides with them, has suffered  
4 severe abuse, and is able or capable of making a report. For the  
5 purposes of this subsection, "severe abuse" means any of the following:  
6 Any single act of abuse that causes physical trauma of sufficient  
7 severity that, if left untreated, could cause death; any single act of  
8 sexual abuse that causes significant bleeding, deep bruising, or  
9 significant external or internal swelling; or more than one act of  
10 physical abuse, each of which causes bleeding, deep bruising,  
11 significant external or internal swelling, bone fracture, or  
12 unconsciousness.

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

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

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

29 (4) The department, upon receiving a report of an incident of abuse  
30 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 to the proper law enforcement agency. In  
35 emergency cases, where the child, adult dependent, or developmentally  
36 disabled person's welfare is endangered, the department shall notify  
37 the proper law enforcement agency within twenty-four hours after a  
38 report is received by the department. In all other cases, the  
39 department shall notify the law enforcement agency within seventy-two

1 hours after a report is received by the department. If the department  
2 makes an oral report, a written report shall also be made to the proper  
3 law enforcement agency within five days thereafter.

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

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

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

37 (8) Any case referred to the department by a physician licensed  
38 under chapter 18.57 or 18.71 RCW on the basis of an expert medical  
39 opinion that child abuse, neglect, or sexual assault has occurred and

1 that the child's safety will be seriously endangered if returned home,  
2 the department shall file a dependency petition unless a second  
3 licensed physician of the parents' choice believes that such expert  
4 medical opinion is incorrect. If the parents fail to designate a  
5 second physician, the department may make the selection. If a  
6 physician finds that a child has suffered abuse or neglect but that  
7 such abuse or neglect does not constitute imminent danger to the  
8 child's health or safety, and the department agrees with the  
9 physician's assessment, the child may be left in the parents' home  
10 while the department proceeds with reasonable efforts to remedy  
11 parenting deficiencies.

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

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

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

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

38 (13) The department shall use a risk assessment process when  
39 investigating child abuse and neglect referrals. The department shall

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

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

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

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

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

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