

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE HOUSE BILL 2556**

Chapter 314, Laws of 1998

(partial veto)

55th Legislature  
1998 Regular Session

CHILD ABUSE AND TREATMENT ACT AND THE ADOPTION AND SAFE FAMILIES  
ACT--CONFORMITY WITH FEDERAL STATUTES

EFFECTIVE DATE: 6/11/98 - Except sections 14 through 16 which become effective on 4/3/98; section 9 which becomes effective on 10/1/98; and sections 30 and 41 through 44 which become effective on 1/1/99.

Passed by the House March 12, 1998  
Yeas 98 Nays 0

CLYDE BALLARD  
**Speaker of the  
House of Representatives**

Passed by the Senate March 12, 1998  
Yeas 48 Nays 0

BRAD OWEN  
**President of the Senate**

Approved April 3, 1998, with the exception of sections 11, 18, 19, 20, 21, 22, 23, 24, 26, 27, 28 and 39, which are vetoed.

GARY LOCKE  
**Governor of the State of Washington**

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2556** as passed by the House of Representatives and the Senate on the dates hereon set forth.

TIMOTHY A. MARTIN  
**Chief Clerk**

FILED

April 3, 1998 - 2:16 p.m.

**Secretary of State  
State of Washington**

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**SUBSTITUTE HOUSE BILL 2556**

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AS RECOMMENDED BY CONFERENCE COMMITTEE

Passed Legislature - 1998 Regular Session

**State of Washington                      55th Legislature                      1998 Regular Session**

**By** House Committee on Children & Family Services (originally sponsored by Representatives Cooke, Tokuda and O'Brien; by request of Department of Social and Health Services)

Read first time 02/05/98. Referred to Committee on .

1            AN ACT Relating to amendments concerning the child abuse prevention  
2 and treatment act and the adoption and safe families act; amending RCW  
3 13.34.020, 13.34.130, 13.34.180, 13.34.190, 74.15.130, 26.44.100,  
4 70.190.010, 70.190.060, 70.190.130, and 13.34.070; reenacting and  
5 amending RCW 13.34.145, 26.44.020, 74.13.031, and 70.47.060; adding a  
6 new section to chapter 26.44 RCW; adding new sections to chapter 13.34  
7 RCW; adding new sections to chapter 70.96A RCW; adding new sections to  
8 chapter 74.09 RCW; adding new sections to chapter 18.71 RCW; adding new  
9 sections to chapter 18.57 RCW; adding new sections to chapter 18.79  
10 RCW; creating new sections; prescribing penalties; making an  
11 appropriation; providing effective dates; providing expiration dates;  
12 and declaring an emergency.

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

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

16            The legislature declares that the family unit is a fundamental  
17 resource of American life which should be nurtured. Toward the  
18 continuance of this principle, the legislature declares that the family  
19 unit should remain intact unless a child's right to conditions of basic

1 nurture, health, or safety is jeopardized. When the rights of basic  
2 nurture, physical and mental health, and safety of the child and the  
3 legal rights of the parents are in conflict, the rights and safety of  
4 the child should prevail. In making reasonable efforts under this  
5 chapter, the child's health and safety shall be the paramount concern.  
6 The right of a child to basic nurturing includes the right to a safe,  
7 stable, and permanent home and a speedy resolution of any proceeding  
8 under this chapter.

9       **Sec. 2.** RCW 13.34.130 and 1997 c 280 s 1 are each amended to read  
10 as follows:

11       If, after a fact-finding hearing pursuant to RCW 13.34.110, it has  
12 been proven by a preponderance of the evidence that the child is  
13 dependent within the meaning of RCW 13.34.030; after consideration of  
14 the predisposition report prepared pursuant to RCW 13.34.110 and after  
15 a disposition hearing has been held pursuant to RCW 13.34.110, the  
16 court shall enter an order of disposition pursuant to this section.

17       (1) The court shall order one of the following dispositions of the  
18 case:

19       (a) Order a disposition other than removal of the child from his or  
20 her home, which shall provide a program designed to alleviate the  
21 immediate danger to the child, to mitigate or cure any damage the child  
22 has already suffered, and to aid the parents so that the child will not  
23 be endangered in the future. In selecting a program, the court should  
24 choose those services that least interfere with family autonomy,  
25 provided that the services are adequate to protect the child.

26       (b) Order that the child be removed from his or her home and  
27 ordered into the custody, control, and care of a relative or the  
28 department of social and health services or a licensed child placing  
29 agency for placement in a foster family home or group care facility  
30 licensed pursuant to chapter 74.15 RCW or in a home not required to be  
31 licensed pursuant to chapter 74.15 RCW. Unless there is reasonable  
32 cause to believe that the safety or welfare of the child would be  
33 jeopardized or that efforts to reunite the parent and child will be  
34 hindered, such child shall be placed with a person who is related to  
35 the child as defined in RCW 74.15.020(4)(a) and with whom the child has  
36 a relationship and is comfortable, and who is willing and available to  
37 care for the child. Placement of the child with a relative under this  
38 subsection shall be given preference by the court. An order for out-

1 of-home placement may be made only if the court finds that reasonable  
2 efforts have been made to prevent or eliminate the need for removal of  
3 the child from the child's home and to make it possible for the child  
4 to return home, specifying the services that have been provided to the  
5 child and the child's parent, guardian, or legal custodian, and that  
6 preventive services have been offered or provided and have failed to  
7 prevent the need for out-of-home placement, unless the health, safety,  
8 and welfare of the child cannot be protected adequately in the home,  
9 and that:

10 (i) There is no parent or guardian available to care for such  
11 child;

12 (ii) The parent, guardian, or legal custodian is not willing to  
13 take custody of the child;

14 (iii) The court finds, by clear, cogent, and convincing evidence,  
15 a manifest danger exists that the child will suffer serious abuse or  
16 neglect if the child is not removed from the home and an order under  
17 RCW 26.44.063 would not protect the child from danger; or

18 (iv) The extent of the child's disability is such that the parent,  
19 guardian, or legal custodian is unable to provide the necessary care  
20 for the child and the parent, guardian, or legal custodian has  
21 determined that the child would benefit from placement outside of the  
22 home.

23 (2) If the court has ordered a child removed from his or her home  
24 pursuant to subsection (1)(b) of this section, the court may order that  
25 a petition seeking termination of the parent and child relationship be  
26 filed if the court finds ~~((it))~~: (a) Termination is recommended by the  
27 supervising agency ~~((, that it))~~; (b) termination is in the best  
28 interests of the child; and (c) that ~~((it is not reasonable to provide  
29 further services to reunify the family))~~ because of the existence of  
30 aggravated circumstances ~~((make it unlikely that services will  
31 effectuate the return of the child to the child's parents in the near  
32 future))~~, reasonable efforts to unify the family are not required.  
33 Notwithstanding the existence of aggravated circumstances, reasonable  
34 efforts may be required if the court or department determines it is in  
35 the best interest of the child. In determining whether aggravated  
36 circumstances exist, the court shall consider one or more of the  
37 following:

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

4       (~~(b)~~) (ii) Conviction of the parent of criminal mistreatment of  
5 the child in the first or second degree as defined in RCW 9A.42.020 and  
6 9A.42.030;

7       (~~(c)~~) (iii) Conviction of the parent of one of the following  
8 assault crimes, when the child is the victim: Assault in the first or  
9 second degree as defined in RCW 9A.36.011 and 9A.36.021 or assault of  
10 a child in the first or second degree as defined in RCW 9A.36.120 or  
11 9A.36.130;

12       (~~(d)~~) (iv) Conviction of the parent of murder, manslaughter, or  
13 homicide by abuse of the child's other parent, sibling, or another  
14 child;

15       (~~(e)~~) (v) Conviction of the parent of attempting, soliciting, or  
16 conspiracy to commit a crime listed in (c)(i), (ii), (iii), or (iv) of  
17 this subsection;

18       (vi) A finding by a court that a parent is a sexually violent  
19 predator as defined in RCW 71.09.020;

20       (~~(f)~~) (vii) Failure of the parent to complete available treatment  
21 ordered under this chapter or the equivalent laws of another state,  
22 where such failure has resulted in a prior termination of parental  
23 rights to another child and the parent has failed to effect significant  
24 change in the interim. In the case of a parent of an Indian child, as  
25 defined in the Indian Child Welfare Act, P.L. 95-608 (25 U.S.C. 1903),  
26 the court shall also consider tribal efforts to assist the parent in  
27 completing treatment and make it possible for the child to return home;

28       (viii) An infant under three years of age has been abandoned as  
29 defined in RCW 13.34.030(4)(a);

30       (ix) The mother has given birth to three or more drug-affected  
31 infants, resulting in the department filing a petition under section 23  
32 of this act.

33       (3) If reasonable efforts are not ordered under subsection (2) of  
34 this section a permanency plan hearing shall be held within thirty  
35 days. Reasonable efforts shall be made to place the child in a timely  
36 manner in accordance with the permanency plan, and to complete whatever  
37 steps are necessary to finalize the permanent placement of the child;

38       (4) Whenever a child is ordered removed from the child's home, the  
39 agency charged with his or her care shall provide the court with:

1 (a) A permanency plan of care that shall identify one of the  
2 following outcomes as a primary goal and may identify additional  
3 outcomes as alternative goals: Return of the child to the home of the  
4 child's parent, guardian, or legal custodian; adoption; guardianship;  
5 or long-term relative or foster care, until the child is age eighteen,  
6 with a written agreement between the parties and the care provider; and  
7 independent living, if appropriate and if the child is age sixteen or  
8 older. Whenever a permanency plan identifies independent living as a  
9 goal, the plan shall also specifically identify the services that will  
10 be provided to assist the child to make a successful transition from  
11 foster care to independent living. Before the court approves  
12 independent living as a permanency plan of care, the court shall make  
13 a finding that the provision of services to assist the child in making  
14 a transition from foster care to independent living will allow the  
15 child to manage his or her financial affairs and to manage his or her  
16 personal, social, educational, and nonfinancial affairs. The  
17 department shall not discharge a child to an independent living  
18 situation before the child is eighteen years of age unless the child  
19 becomes emancipated pursuant to chapter 13.64 RCW.

20 (b) Unless the court has ordered, pursuant to subsection (2) of  
21 this section, that a termination petition be filed, a specific plan as  
22 to where the child will be placed, what steps will be taken to return  
23 the child home, and what actions the agency will take to maintain  
24 parent-child ties. All aspects of the plan shall include the goal of  
25 achieving permanence for the child.

26 (i) The agency plan shall specify what services the parents will be  
27 offered in order to enable them to resume custody, what requirements  
28 the parents must meet in order to resume custody, and a time limit for  
29 each service plan and parental requirement.

30 (ii) The agency shall be required to encourage the maximum parent-  
31 child contact possible, including regular visitation and participation  
32 by the parents in the care of the child while the child is in  
33 placement. Visitation may be limited or denied only if the court  
34 determines that such limitation or denial is necessary to protect the  
35 child's health, safety, or welfare.

36 (iii) A child shall be placed as close to the child's home as  
37 possible, preferably in the child's own neighborhood, unless the court  
38 finds that placement at a greater distance is necessary to promote the  
39 child's or parents' well-being.

1 (iv) The agency charged with supervising a child in placement shall  
2 provide all reasonable services that are available within the agency,  
3 or within the community, or those services which the department of  
4 social and health services has existing contracts to purchase. It  
5 shall report to the court if it is unable to provide such services.

6 (c) If the court has ordered, pursuant to subsection (2) of this  
7 section, that a termination petition be filed, a specific plan as to  
8 where the child will be placed, what steps will be taken to achieve  
9 permanency for the child, services to be offered or provided to the  
10 child, and, if visitation would be in the best interests of the child,  
11 a recommendation to the court regarding visitation between parent and  
12 child pending a fact-finding hearing on the termination petition. The  
13 agency shall not be required to develop a plan of services for the  
14 parents or provide services to the parents.

15 ~~((+4))~~ (5) If the court determines that the continuation of  
16 reasonable efforts to prevent or eliminate the need to remove the child  
17 from his or her home or to safely return the child home should not be  
18 part of the permanency plan of care for the child, reasonable efforts  
19 shall be made to place the child in a timely manner and to complete  
20 whatever steps are necessary to finalize the permanent placement of the  
21 child.

22 (6) If there is insufficient information at the time of the  
23 disposition hearing upon which to base a determination regarding the  
24 suitability of a proposed placement with a relative, the child shall  
25 remain in foster care and the court shall direct the supervising agency  
26 to conduct necessary background investigations as provided in chapter  
27 74.15 RCW and report the results of such investigation to the court  
28 within thirty days. However, if such relative appears otherwise  
29 suitable and competent to provide care and treatment, the criminal  
30 history background check need not be completed before placement, but as  
31 soon as possible after placement. Any placements with relatives,  
32 pursuant to this section, shall be contingent upon cooperation by the  
33 relative with the agency case plan and compliance with court orders  
34 related to the care and supervision of the child including, but not  
35 limited to, court orders regarding parent-child contacts and any other  
36 conditions imposed by the court. Noncompliance with the case plan or  
37 court order shall be grounds for removal of the child from the  
38 relative's home, subject to review by the court.

1       (~~(5)~~) (7) Except for children whose cases are reviewed by a  
2 citizen review board under chapter 13.70 RCW, the status of all  
3 children found to be dependent shall be reviewed by the court at least  
4 every six months from the beginning date of the placement episode or  
5 the date dependency is established, whichever is first, at a hearing in  
6 which it shall be determined whether court supervision should continue.  
7 The review shall include findings regarding the agency and parental  
8 completion of disposition plan requirements, and if necessary, revised  
9 permanency time limits. The supervising agency shall provide a foster  
10 parent, preadoptive parent, or relative with notice of, and their right  
11 to an opportunity to be heard in, a review hearing pertaining to the  
12 child, but only if that person is currently providing care to that  
13 child at the time of the hearing. This section shall not be construed  
14 to grant party status to any person who has been provided an  
15 opportunity to be heard.

16       (a) A child shall not be returned home at the review hearing unless  
17 the court finds that a reason for removal as set forth in this section  
18 no longer exists. The parents, guardian, or legal custodian shall  
19 report to the court the efforts they have made to correct the  
20 conditions which led to removal. If a child is returned, casework  
21 supervision shall continue for a period of six months, at which time  
22 there shall be a hearing on the need for continued intervention.

23       (b) If the child is not returned home, the court shall establish in  
24 writing:

25       (i) Whether reasonable services have been provided to or offered to  
26 the parties to facilitate reunion, specifying the services provided or  
27 offered;

28       (ii) Whether the child has been placed in the least-restrictive  
29 setting appropriate to the child's needs, including whether  
30 consideration and preference has been given to placement with the  
31 child's relatives;

32       (iii) Whether there is a continuing need for placement and whether  
33 the placement is appropriate;

34       (iv) Whether there has been compliance with the case plan by the  
35 child, the child's parents, and the agency supervising the placement;

36       (v) Whether progress has been made toward correcting the problems  
37 that necessitated the child's placement in out-of-home care;

38       (vi) Whether the parents have visited the child and any reasons why  
39 visitation has not occurred or has been infrequent;



1 (vii) Whether additional services are needed to facilitate the  
2 return of the child to the child's parents; if so, the court shall  
3 order that reasonable services be offered specifying such services; and

4 (viii) The projected date by which the child will be returned home  
5 or other permanent plan of care will be implemented.

6 (c) The court at the review hearing may order that a petition  
7 seeking termination of the parent and child relationship be filed.

8 **Sec. 3.** RCW 13.34.145 and 1995 c 311 s 20 and 1995 c 53 s 2 are  
9 each reenacted and amended to read as follows:

10 (1) A permanency plan shall be developed no later than sixty days  
11 from the time the supervising agency assumes responsibility for  
12 providing services, including placing the child, or at the time of a  
13 hearing under RCW 13.34.130, whichever occurs first. The permanency  
14 planning process continues until a permanency planning goal is achieved  
15 or dependency is dismissed. The planning process shall include  
16 reasonable efforts to return the child to the parent's home.

17 (a) Whenever a child is placed in out-of-home care pursuant to RCW  
18 13.34.130, the agency that has custody of the child shall provide the  
19 court with a written permanency plan of care directed towards securing  
20 a safe, stable, and permanent home for the child as soon as possible.  
21 The plan shall identify one of the following outcomes as the primary  
22 goal and may also identify additional outcomes as alternative goals:  
23 Return of the child to the home of the child's parent, guardian, or  
24 legal custodian; adoption; guardianship; or long-term relative or  
25 foster care, until the child is age eighteen, with a written agreement  
26 between the parties and the care provider; and independent living, if  
27 appropriate and if the child is age sixteen or older and the provisions  
28 of subsection (2) of this section are met.

29 (b) The identified outcomes and goals of the permanency plan may  
30 change over time based upon the circumstances of the particular case.

31 (c) Permanency planning goals should be achieved at the earliest  
32 possible date, preferably before the child has been in out-of-home care  
33 for fifteen months. In cases where parental rights have been  
34 terminated, the child is legally free for adoption, and adoption has  
35 been identified as the primary permanency planning goal, it shall be a  
36 goal to complete the adoption within six months following entry of the  
37 termination order.

1 (2) Whenever a permanency plan identifies independent living as a  
2 goal, the plan shall also specifically identify the services that will  
3 be provided to assist the child to make a successful transition from  
4 foster care to independent living. Before the court approves  
5 independent living as a permanency plan of care, the court shall make  
6 a finding that the provision of services to assist the child in making  
7 a transition from foster care to independent living will allow the  
8 child to manage his or her financial affairs and to manage his or her  
9 personal, social, educational, and nonfinancial affairs. The  
10 department shall not discharge a child to an independent living  
11 situation before the child is eighteen years of age unless the child  
12 becomes emancipated pursuant to chapter 13.64 RCW.

13 ~~((a) For children ten and under,~~) A permanency planning  
14 hearing shall be held in all cases where the child has remained in out-  
15 of-home care for at least nine months and an adoption decree or  
16 guardianship order has not previously been entered. The hearing shall  
17 take place no later than twelve months following commencement of the  
18 current placement episode.

19 ~~((b) For children over ten, a permanency planning hearing shall be  
20 held in all cases where the child has remained in out-of-home care for  
21 at least fifteen months and an adoption decree or guardianship order  
22 has not previously been entered. The hearing shall take place no later  
23 than eighteen months following commencement of the current placement  
24 episode.))~~

25 (4) Whenever a child is removed from the home of a dependency  
26 guardian or long-term relative or foster care provider, and the child  
27 is not returned to the home of the parent, guardian, or legal custodian  
28 but is placed in out-of-home care, a permanency planning hearing shall  
29 take place no later than twelve ~~((or eighteen))~~ months, as provided in  
30 subsection (3) of this section, following the date of removal unless,  
31 prior to the hearing, the child returns to the home of the dependency  
32 guardian or long-term care provider, the child is placed in the home of  
33 the parent, guardian, or legal custodian, an adoption decree or  
34 guardianship order is entered, or the dependency is dismissed.

35 (5) No later than ten working days prior to the permanency planning  
36 hearing, the agency having custody of the child shall submit a written  
37 permanency plan to the court and shall mail a copy of the plan to all  
38 parties and their legal counsel, if any.

1 (6) At the permanency planning hearing, the court shall enter  
2 findings as required by RCW 13.34.130(~~(+5)~~) (7) and shall review the  
3 permanency plan prepared by the agency. If the child has resided in  
4 the home of a foster parent or relative for more than six months prior  
5 to the permanency planning hearing, the court shall also enter a  
6 finding regarding whether the foster parent or relative was informed of  
7 the hearing as required in RCW 74.13.280 and 13.34.130(7). If a goal  
8 of long-term foster or relative care has been achieved prior to the  
9 permanency planning hearing, the court shall review the child's status  
10 to determine whether the placement and the plan for the child's care  
11 remain appropriate. In cases where the primary permanency planning  
12 goal has not yet been achieved, the court shall inquire regarding the  
13 reasons why the primary goal has not been achieved and determine what  
14 needs to be done to make it possible to achieve the primary goal. In  
15 all cases, the court shall:

16 (a)(i) Order the permanency plan prepared by the agency to be  
17 implemented; or

18 (ii) Modify the permanency plan, and order implementation of the  
19 modified plan; and

20 (b)(i) Order the child returned home only if the court finds that  
21 a reason for removal as set forth in RCW 13.34.130 no longer exists; or

22 (ii) Order the child to remain in out-of-home care for a limited  
23 specified time period while efforts are made to implement the  
24 permanency plan.

25 (7) If the court orders the child returned home, casework  
26 supervision shall continue for at least six months, at which time a  
27 review hearing shall be held pursuant to RCW 13.34.130(~~(+5)~~) (7), and  
28 the court shall determine the need for continued intervention.

29 (8) Following the first permanency planning hearing, the court  
30 shall hold a further permanency planning hearing in accordance with  
31 this section at least once every twelve months until a permanency  
32 planning goal is achieved or the dependency is dismissed, whichever  
33 occurs first.

34 (9) Except as otherwise provided in RCW 13.34.235, the status of  
35 all dependent children shall continue to be reviewed by the court at  
36 least once every six months, in accordance with RCW 13.34.130(~~(+5)~~)  
37 (7), until the dependency is dismissed. Prior to the second permanency  
38 planning hearing, the agency that has custody of the child shall  
39 consider whether to file a petition for termination of parental rights.

1 (10) Nothing in this chapter may be construed to limit the ability  
2 of the agency that has custody of the child to file a petition for  
3 termination of parental rights or a guardianship petition at any time  
4 following the establishment of dependency. Upon the filing of such a  
5 petition, a fact-finding hearing shall be scheduled and held in  
6 accordance with this chapter unless the agency requests dismissal of  
7 the petition prior to the hearing or unless the parties enter an agreed  
8 order terminating parental rights, establishing guardianship, or  
9 otherwise resolving the matter.

10 (11) The approval of a permanency plan that does not contemplate  
11 return of the child to the parent does not relieve the supervising  
12 agency of its obligation to provide reasonable services, under this  
13 chapter, intended to effectuate the return of the child to the parent,  
14 including but not limited to, visitation rights.

15 (12) Nothing in this chapter may be construed to limit the  
16 procedural due process rights of any party in a termination or  
17 guardianship proceeding filed under this chapter.

18 **Sec. 4.** RCW 13.34.180 and 1997 c 280 s 2 are each amended to read  
19 as follows:

20 A petition seeking termination of a parent and child relationship  
21 may be filed in juvenile court by any party to the dependency  
22 proceedings concerning that child. Such petition shall conform to the  
23 requirements of RCW 13.34.040, shall be served upon the parties as  
24 provided in RCW 13.34.070(8), and shall allege:

25 (1) That the child has been found to be a dependent child under RCW  
26 13.34.030(4); and

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

29 (3) That the child has been removed or will, at the time of the  
30 hearing, have been removed from the custody of the parent for a period  
31 of at least six months pursuant to a finding of dependency under RCW  
32 13.34.030(4); and

33 (4) That the services ordered under RCW 13.34.130 have been  
34 expressly and understandably offered or provided and all necessary  
35 services, reasonably available, capable of correcting the parental  
36 deficiencies within the foreseeable future have been expressly and  
37 understandably offered or provided; and

1 (5) That there is little likelihood that conditions will be  
2 remedied so that the child can be returned to the parent in the near  
3 future. A parent's failure to substantially improve parental  
4 deficiencies within twelve months following entry of the dispositional  
5 order shall give rise to a rebuttable presumption that there is little  
6 likelihood that conditions will be remedied so that the child can be  
7 returned to the parent in the near future. The presumption shall not  
8 arise unless the petitioner makes a showing that all necessary services  
9 reasonably capable of correcting the parental deficiencies within the  
10 foreseeable future have been clearly offered or provided. In  
11 determining whether the conditions will be remedied the court may  
12 consider, but is not limited to, the following factors:

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

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

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

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

34 (8) In lieu of the allegations in subsections (2) through (6) of  
35 this section, the petition may allege that the parent has been found by  
36 a court of competent jurisdiction:

37 (a) To have committed, against another child of such parent, murder  
38 in the first degree, murder in the second degree, or homicide by abuse  
39 as defined in chapter 9A.32 RCW;

1 (b) To have committed, against another child of such parent,  
2 manslaughter in the first degree or manslaughter in the second degree,  
3 as defined in chapter 9A.32 RCW;

4 (c) To have attempted, conspired, or solicited to commit one or  
5 more of the crimes listed in (a) or (b) of this subsection; or

6 (d) To have committed assault in the first or second degree, as  
7 defined in chapter 9A.36 RCW, against the surviving child or another  
8 child of the parent.

9 ~~((A parent's failure to substantially improve parental deficiencies~~  
10 ~~within twelve months following entry of the dispositional order shall~~  
11 ~~give rise to a rebuttable presumption that there is little likelihood~~  
12 ~~that conditions will be remedied so that the child can be returned to~~  
13 ~~the parent in the near future. The presumption shall not arise unless~~  
14 ~~the petitioner makes a showing that all necessary services reasonably~~  
15 ~~capable of correcting the parental deficiencies within the foreseeable~~  
16 ~~future have been offered or provided.))~~

17 Notice of rights shall be served upon the parent, guardian, or  
18 legal custodian with the petition and shall be in substantially the  
19 following form:

20 "NOTICE

21 A petition for termination of parental rights has been filed  
22 against you. You have important legal rights and you must take  
23 steps to protect your interests. This petition could result in  
24 permanent loss of your parental rights.

25 1. You have the right to a fact-finding hearing before  
26 a judge.

27 2. You have the right to have a lawyer represent you at  
28 the hearing. A lawyer can look at the files in your case, talk  
29 to the department of social and health services and other  
30 agencies, tell you about the law, help you understand your  
31 rights, and help you at hearings. If you cannot afford a  
32 lawyer, the court will appoint one to represent you. To get a  
33 court-appointed lawyer you must contact:       (explain local  
34 procedure)      .

35 3. At the hearing, you have the right to speak on your  
36 own behalf, to introduce evidence, to examine witnesses, and to

1 receive a decision based solely on the evidence presented to  
2 the judge.

3 You should be present at this hearing.

4 You may call       (insert agency)       for more information  
5 about your child. The agency's name and telephone number are  
6       (insert name and telephone number)      ."

7 **Sec. 5.** RCW 13.34.190 and 1993 c 412 s 3 are each amended to read  
8 as follows:

9 After hearings pursuant to RCW 13.34.110, the court may enter an  
10 order terminating all parental rights to a child if the court finds  
11 that:

12 (1)(a) The allegations contained in the petition as provided in RCW  
13 13.34.180 (1) through (6) are established by clear, cogent, and  
14 convincing evidence; or

15 ((+2)) (b) RCW 13.34.180 (3) and (4) may be waived because the  
16 allegations under RCW 13.34.180 (1), (2), (5), and (6) are established  
17 beyond a reasonable doubt and when an infant has been abandoned, as  
18 defined in RCW 13.34.030, the abandonment has been proved beyond a  
19 reasonable doubt; or

20 ((+3)) (c) The allegation under RCW 13.34.180(7) is established  
21 beyond a reasonable doubt. In determining whether RCW 13.34.180 (5)  
22 and (6) are established beyond a reasonable doubt, the court shall  
23 consider whether one or more of the aggravated circumstances listed in  
24 RCW 13.34.130(2) exist; or

25 (d) The allegation under RCW 13.34.180(8) is established beyond a  
26 reasonable doubt; and

27 ((+4)) (2) Such an order is in the best interests of the child.

28 **Sec. 6.** RCW 74.15.130 and 1995 c 302 s 5 are each amended to read  
29 as follows:

30 (1) An agency may be denied a license, or any license issued  
31 pursuant to chapter 74.15 RCW and RCW 74.13.031 may be suspended,  
32 revoked, modified, or not renewed by the secretary upon proof (a) that  
33 the agency has failed or refused to comply with the provisions of  
34 chapter 74.15 RCW and RCW 74.13.031 or the requirements promulgated  
35 pursuant to the provisions of chapter 74.15 RCW and RCW 74.13.031; or  
36 (b) that the conditions required for the issuance of a license under  
37 chapter 74.15 RCW and RCW 74.13.031 have ceased to exist with respect

1 to such licenses. RCW 43.20A.205 governs notice of a license denial,  
2 revocation, suspension, or modification and provides the right to an  
3 adjudicative proceeding.

4 (2) In any adjudicative proceeding regarding the denial,  
5 modification, suspension, or revocation of a foster family home  
6 license, the department's decision shall be upheld if there is  
7 reasonable cause to believe that:

8 (a) The applicant or licensee lacks the character, suitability, or  
9 competence to care for children placed in out-of-home care, however, no  
10 unfounded report of child abuse or neglect may be used to deny  
11 employment or a license;

12 (b) The applicant or licensee has failed or refused to comply with  
13 any provision of chapter 74.15 RCW, RCW 74.13.031, or the requirements  
14 adopted pursuant to such provisions; or

15 (c) The conditions required for issuance of a license under chapter  
16 74.15 RCW and RCW 74.13.031 have ceased to exist with respect to such  
17 licenses.

18 (3) In any adjudicative proceeding regarding the denial,  
19 modification, suspension, or revocation of any license under this  
20 chapter, other than a foster family home license, the department's  
21 decision shall be upheld if it is supported by a preponderance of the  
22 evidence.

23 (4) The department may assess civil monetary penalties upon proof  
24 that an agency has failed or refused to comply with the rules adopted  
25 under the provisions of this chapter and RCW 74.13.031 or that an  
26 agency subject to licensing under this chapter and RCW 74.13.031 is  
27 operating without a license except that civil monetary penalties shall  
28 not be levied against a licensed foster home. Monetary penalties  
29 levied against unlicensed agencies that submit an application for  
30 licensure within thirty days of notification and subsequently become  
31 licensed will be forgiven. These penalties may be assessed in addition  
32 to or in lieu of other disciplinary actions. Civil monetary penalties,  
33 if imposed, may be assessed and collected, with interest, for each day  
34 an agency is or was out of compliance. Civil monetary penalties shall  
35 not exceed seventy-five dollars per violation for a family day-care  
36 home and two hundred fifty dollars per violation for group homes, child  
37 day-care centers, and child-placing agencies. Each day upon which the  
38 same or substantially similar action occurs is a separate violation  
39 subject to the assessment of a separate penalty. The department shall



1 provide a notification period before a monetary penalty is effective  
2 and may forgive the penalty levied if the agency comes into compliance  
3 during this period. The department may suspend, revoke, or not renew  
4 a license for failure to pay a civil monetary penalty it has assessed  
5 pursuant to this chapter within ten days after such assessment becomes  
6 final. Chapter 43.20A RCW governs notice of a civil monetary penalty  
7 and provides the right of an adjudicative proceeding. The  
8 preponderance of evidence standard shall apply in adjudicative  
9 proceedings related to assessment of civil monetary penalties.

10 **Sec. 7.** RCW 26.44.020 and 1997 c 386 s 45, 1997 c 386 s 24, 1997  
11 c 282 s 4, and 1997 c 132 s 2 are each reenacted and amended to read as  
12 follows:

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

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

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

19 (3) "Practitioner of the healing arts" or "practitioner" means a  
20 person licensed by this state to practice podiatric medicine and  
21 surgery, optometry, chiropractic, nursing, dentistry, osteopathic  
22 medicine and surgery, or medicine and surgery or to provide other  
23 health services. The term "practitioner" shall include a duly  
24 accredited Christian Science practitioner: PROVIDED, HOWEVER, That a  
25 person who is being furnished Christian Science treatment by a duly  
26 accredited Christian Science practitioner shall not be considered, for  
27 that reason alone, a neglected person for the purposes of this chapter.

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

30 (5) "Department" means the state department of social and health  
31 services.

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

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

37 (8) "Social service counselor" shall mean anyone engaged in a  
38 professional capacity during the regular course of employment in

1 encouraging or promoting the health, welfare, support or education of  
2 children, or providing social services to adults or families, including  
3 mental health, drug and alcohol treatment, and domestic violence  
4 programs, whether in an individual capacity, or as an employee or agent  
5 of any public or private organization or institution.

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

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

14 (11) "Clergy" shall mean any regularly licensed or ordained  
15 minister, priest or rabbi of any church or religious denomination,  
16 whether acting in an individual capacity or as an employee or agent of  
17 any public or private organization or institution.

18 (12) "Abuse or neglect" shall mean the injury, sexual abuse, sexual  
19 exploitation, negligent treatment, or maltreatment of a child, adult  
20 dependent, or developmentally disabled person by any person under  
21 circumstances which indicate that the child's or adult's health,  
22 welfare, and safety is harmed, excluding conduct permitted under RCW  
23 9A.16.100. An abused child is a child who has been subjected to child  
24 abuse or neglect as defined herein.

25 (13) "Child protective services section" shall mean the child  
26 protective services section of the department.

27 (14) "Adult dependent persons" shall be defined as those persons  
28 over the age of eighteen years who have been found to be legally  
29 incompetent or disabled pursuant to chapter 11.88 RCW.

30 (15) "Sexual exploitation" includes: (a) Allowing, permitting, or  
31 encouraging a child to engage in prostitution by any person; or (b)  
32 allowing, permitting, encouraging, or engaging in the obscene or  
33 pornographic photographing, filming, or depicting of a child by any  
34 person.

35 (16) "Negligent treatment or maltreatment" means an act or omission  
36 which evidences a serious disregard of consequences of such magnitude  
37 as to constitute a clear and present danger to the child's health,  
38 welfare, and safety. The fact that siblings share a bedroom is not, in  
39 and of itself, "negligent treatment or maltreatment."

1 (17) "Developmentally disabled person" means a person who has a  
2 disability defined in RCW 71A.10.020.

3 (18) "Child protective services" means those services provided by  
4 the department designed to protect children from child abuse and  
5 neglect and safeguard such children from future abuse and neglect, and  
6 conduct investigations of child abuse and neglect reports.  
7 Investigations may be conducted regardless of the location of the  
8 alleged abuse or neglect. Child protective services includes referral  
9 to services to ameliorate conditions which endanger the welfare of  
10 children, the coordination of necessary programs and services relevant  
11 to the prevention, intervention, and treatment of child abuse and  
12 neglect, and services to children to ensure that each child has a  
13 permanent home. In determining whether protective services should be  
14 provided, the department shall not decline to provide such services  
15 solely because of the child's unwillingness or developmental inability  
16 to describe the nature and severity of the abuse or neglect.

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

22 (20) "Sexually aggressive youth" means a child who is defined in  
23 RCW 74.13.075(1)(b) as being a "sexually aggressive youth."

24 (21) "Unfounded" means available ((evidence)) information indicates  
25 that, more likely than not, child abuse or neglect did not occur.

26 **Sec. 8.** RCW 26.44.100 and 1997 c 282 s 2 are each amended to read  
27 as follows:

28 (1) The legislature finds parents and children often are not aware  
29 of their due process rights when agencies are investigating allegations  
30 of child abuse and neglect. The legislature reaffirms that all  
31 citizens, including parents, shall be afforded due process, that  
32 protection of children remains the priority of the legislature, and  
33 that this protection includes protecting the family unit from  
34 unnecessary disruption. To facilitate this goal, the legislature  
35 wishes to ensure that parents and children be advised in writing and  
36 orally, if feasible, of their basic rights and other specific  
37 information as set forth in this chapter, provided that nothing

1 contained in this chapter shall cause any delay in protective custody  
2 action.

3 (2) The department shall notify the alleged perpetrator of the  
4 allegations of child abuse and neglect at the earliest possible point  
5 in the investigation that will not jeopardize the safety and protection  
6 of the child or the investigation process.

7 Whenever the department completes an investigation of a child abuse  
8 or neglect report under chapter 26.44 RCW, the department shall notify  
9 the alleged perpetrator of the report and the department's  
10 investigative findings. The notice shall also advise the alleged  
11 perpetrator that:

12 (a) A written response to the report may be provided to the  
13 department and that such response will be filed in the record following  
14 receipt by the department;

15 (b) Information in the department's record may be considered in  
16 subsequent investigations or proceedings related to child protection or  
17 child custody;

18 (c) (~~There is currently information in the department's record~~  
19 ~~that may~~) Founded reports of child abuse and neglect may be considered  
20 in determining (~~that~~) whether the person is disqualified from being  
21 licensed to provide child care, employed by a licensed child care  
22 agency, or authorized by the department to care for children; and

23 (d) (~~A person who has demonstrated a good faith desire to work in~~  
24 ~~a licensed agency may request an informal meeting with the department~~  
25 ~~to have an opportunity to discuss and contest the information currently~~  
26 ~~in the record.~~) An alleged perpetrator named in a founded report of  
27 child abuse or neglect has the right to seek review of the finding as  
28 provided in this chapter.

29 (3) The notification required by this section shall be made by  
30 (~~regular~~) certified mail, return receipt requested, to the person's  
31 last known address.

32 (4) The duty of notification created by this section is subject to  
33 the ability of the department to ascertain the location of the person  
34 to be notified. The department shall exercise reasonable, good-faith  
35 efforts to ascertain the location of persons entitled to notification  
36 under this section.

37 NEW SECTION. Sec. 9. A new section is added to chapter 26.44 RCW  
38 to read as follows:

1 (1) A person who is named as an alleged perpetrator after October  
2 1, 1998, in a founded report of child abuse or neglect has the right to  
3 seek review and amendment of the finding as provided in this section.

4 (2) Within twenty calendar days after receiving written notice from  
5 the department under RCW 26.44.100 that a person is named as an alleged  
6 perpetrator in a founded report of child abuse or neglect, he or she  
7 may request that the department review the finding. The request must  
8 be made in writing. If a request for review is not made as provided in  
9 this subsection, the alleged perpetrator may not further challenge the  
10 finding and shall have no right to agency review or to an adjudicative  
11 hearing or judicial review of the finding.

12 (3) Upon receipt of a written request for review, the department  
13 shall review and, if appropriate, may amend the finding. Management  
14 level staff within the children's administration designated by the  
15 secretary shall be responsible for the review. The review must be  
16 conducted in accordance with procedures the department establishes by  
17 rule. Upon completion of the review, the department shall notify the  
18 alleged perpetrator in writing of the agency's determination. The  
19 notification must be sent by certified mail, return receipt requested,  
20 to the person's last known address.

21 (4) If, following agency review, the report remains founded, the  
22 person named as the alleged perpetrator in the report may request an  
23 adjudicative hearing to contest the finding. The adjudicative  
24 proceeding is governed by chapter 34.05 RCW and this section. The  
25 request for an adjudicative proceeding must be filed within thirty  
26 calendar days after receiving notice of the agency review  
27 determination. If a request for an adjudicative proceeding is not made  
28 as provided in this subsection, the alleged perpetrator may not further  
29 challenge the finding and shall have no right to agency review or to an  
30 adjudicative hearing or judicial review of the finding.

31 (5) Reviews and hearings conducted under this section are  
32 confidential and shall not be open to the public. Information about  
33 reports, reviews, and hearings may be disclosed only in accordance with  
34 federal and state laws pertaining to child welfare records and child  
35 protective services reports.

36 (6) The department may adopt rules to implement this section.

37 **Sec. 10.** RCW 74.13.031 and 1997 c 386 s 32 and 1997 c 272 s 1 are  
38 each reenacted and amended to read as follows:

1 The department shall have the duty to provide child welfare  
2 services and shall:

3 (1) Develop, administer, supervise, and monitor a coordinated and  
4 comprehensive plan that establishes, aids, and strengthens services for  
5 the protection and care of homeless, runaway, dependent, or neglected  
6 children.

7 (2) Within available resources, recruit an adequate number of  
8 prospective adoptive and foster homes, both regular and specialized,  
9 i.e. homes for children of ethnic minority, including Indian homes for  
10 Indian children, sibling groups, handicapped and emotionally disturbed,  
11 teens, pregnant and parenting teens, and annually report to the  
12 governor and the legislature concerning the department's success in:  
13 (a) Meeting the need for adoptive and foster home placements; (b)  
14 reducing the foster parent turnover rate; (c) completing home studies  
15 for legally free children; and (d) implementing and operating the  
16 passport program required by RCW 74.13.285. The report shall include  
17 a section entitled "Foster Home Turn-Over, Causes and Recommendations."

18 (3) Investigate complaints of ~~((alleged neglect, abuse, or~~  
19 ~~abandonment of children))~~ any recent act or failure to act on the part  
20 of a parent or caretaker that results in death, serious physical or  
21 emotional harm, or sexual abuse or exploitation, or that presents an  
22 imminent risk of serious harm, and on the basis of the findings of such  
23 investigation, offer child welfare services in relation to the problem  
24 to such parents, legal custodians, or persons serving in loco parentis,  
25 and/or bring the situation to the attention of an appropriate court, or  
26 another community agency: PROVIDED, That an investigation is not  
27 required of nonaccidental injuries which are clearly not the result of  
28 a lack of care or supervision by the child's parents, legal custodians,  
29 or persons serving in loco parentis. If the investigation reveals that  
30 a crime against a child may have been committed, the department shall  
31 notify the appropriate law enforcement agency.

32 (4) Offer, on a voluntary basis, family reconciliation services to  
33 families who are in conflict.

34 (5) Monitor out-of-home placements, on a timely and routine basis,  
35 to assure the safety, well-being, and quality of care being provided is  
36 within the scope of the intent of the legislature as defined in RCW  
37 74.13.010 and 74.15.010, and annually submit a report measuring the  
38 extent to which the department achieved the specified goals to the  
39 governor and the legislature.

1 (6) Have authority to accept custody of children from parents and  
2 to accept custody of children from juvenile courts, where authorized to  
3 do so under law, to provide child welfare services including placement  
4 for adoption, and to provide for the physical care of such children and  
5 make payment of maintenance costs if needed. Except where required by  
6 Public Law 95-608 (25 U.S.C. Sec. 1915), no private adoption agency  
7 which receives children for adoption from the department shall  
8 discriminate on the basis of race, creed, or color when considering  
9 applications in their placement for adoption.

10 (7) Have authority to provide temporary shelter to children who  
11 have run away from home and who are admitted to crisis residential  
12 centers.

13 (8) Have authority to purchase care for children; and shall follow  
14 in general the policy of using properly approved private agency  
15 services for the actual care and supervision of such children insofar  
16 as they are available, paying for care of such children as are accepted  
17 by the department as eligible for support at reasonable rates  
18 established by the department.

19 (9) Establish a children's services advisory committee which shall  
20 assist the secretary in the development of a partnership plan for  
21 utilizing resources of the public and private sectors, and advise on  
22 all matters pertaining to child welfare, licensing of child care  
23 agencies, adoption, and services related thereto. At least one member  
24 shall represent the adoption community.

25 (10) Have authority to provide continued foster care or group care  
26 for individuals from eighteen through twenty years of age to enable  
27 them to complete their high school or vocational school program.

28 (11) Have authority within funds appropriated for foster care  
29 services to purchase care for Indian children who are in the custody of  
30 a federally recognized Indian tribe or tribally licensed child-placing  
31 agency pursuant to parental consent, tribal court order, or state  
32 juvenile court order; and the purchase of such care shall be subject to  
33 the same eligibility standards and rates of support applicable to other  
34 children for whom the department purchases care.

35 Notwithstanding any other provision of RCW 13.32A.170 through  
36 13.32A.200 and 74.13.032 through 74.13.036, or of this section all  
37 services to be provided by the department of social and health services  
38 under subsections (4), (6), and (7) of this section, subject to the  
39 limitations of these subsections, may be provided by any program

1 offering such services funded pursuant to Titles II and III of the  
2 federal juvenile justice and delinquency prevention act of 1974.

3 *\*Sec. 11. RCW 70.190.010 and 1996 c 132 s 2 are each amended to*  
4 *read as follows:*

5 *Unless the context clearly requires otherwise, the definitions in*  
6 *this section apply throughout this chapter.*

7 (1) *"Administrative costs" means the costs associated with*  
8 *procurement; payroll processing; personnel functions; management;*  
9 *maintenance and operation of space and property; data processing and*  
10 *computer services; accounting; budgeting; auditing; indirect costs; and*  
11 *organizational planning, consultation, coordination, and training.*

12 (2) *"Assessment" has the same meaning as provided in RCW 43.70.010.*

13 (3) *"At-risk" children are children who engage in or are victims of*  
14 *at-risk behaviors.*

15 (4) *"At-risk behaviors" means violent delinquent acts, teen*  
16 *substance abuse, teen pregnancy and male parentage, teen suicide*  
17 *attempts, dropping out of school, child abuse or neglect, and domestic*  
18 *violence.*

19 (5) *"Community public health and safety networks" or "networks"*  
20 *means the organizations authorized under RCW 70.190.060.*

21 (6) *"Comprehensive plan" means a two-year plan that examines*  
22 *available resources and unmet needs for a county or multicounty area,*  
23 *barriers that limit the effective use of resources, and a plan to*  
24 *address these issues that is broadly supported by local residents.*

25 (7) *"Participating state agencies" means the office of the*  
26 *superintendent of public instruction, the department of social and*  
27 *health services, the department of health, the employment security*  
28 *department, the department of community, trade, and economic*  
29 *development, and such other departments as may be specifically*  
30 *designated by the governor.*

31 (8) *"Family policy council" or "council" means the superintendent*  
32 *of public instruction, the secretary of social and health services, the*  
33 *secretary of health, the commissioner of the employment security*  
34 *department, and the director of the department of community, trade, and*  
35 *economic development or their designees, ((one)) two legislators from*  
36 *each caucus of the senate and house of representatives, and one*  
37 *representative of the governor.*



1       (9) "Fiduciary interest" means (a) the right to compensation from  
2 a health, educational, social service, or justice system organization  
3 that receives public funds, or (b) budgetary or policy-making authority  
4 for an organization listed in (a) of this subsection. A person who  
5 acts solely in an advisory capacity and receives no compensation from  
6 a health, educational, social service, or justice system organization,  
7 and who has no budgetary or policy-making authority is deemed to have  
8 no fiduciary interest in the organization.

9       (10) "Outcome" or "outcome based" means defined and measurable  
10 outcomes used to evaluate progress in reducing the rate of at-risk  
11 children and youth through reducing risk factors and increasing  
12 protective factors.

13       (11) "Matching funds" means an amount no less than twenty-five  
14 percent of the amount budgeted for a network. The network's matching  
15 funds may be in-kind goods and services. Funding sources allowable for  
16 match include appropriate federal or local levy funds, private  
17 charitable funding, and other charitable giving. Basic education funds  
18 shall not be used as a match. State general funds shall not be used as  
19 a match for violence reduction and drug enforcement account funds  
20 created under RCW 69.50.520.

21       (12) "Policy development" has the same meaning as provided in RCW  
22 43.70.010.

23       (13) "Protective factors" means those factors determined by the  
24 department of health to be empirically associated with behaviors that  
25 contribute to socially acceptable and healthy nonviolent behaviors.  
26 Protective factors include promulgation, identification, and acceptance  
27 of community norms regarding appropriate behaviors in the area of  
28 delinquency, early sexual activity, alcohol and substance abuse,  
29 educational opportunities, employment opportunities, and absence of  
30 crime.

31       (14) "Risk factors" means those factors determined by the  
32 department of health to be empirically associated with at-risk  
33 behaviors that contribute to violence.

34 \*Sec. 11 was vetoed. See message at end of chapter.

35       **Sec. 12.** RCW 70.190.060 and 1996 c 132 s 3 are each amended to  
36 read as follows:

37       (1) The legislature authorizes community public health and safety  
38 networks to reconnect parents and other citizens with children, youth,

1 families, and community institutions which support health and safety.  
2 The networks have only those powers and duties expressly authorized  
3 under this chapter. The networks should empower parents and other  
4 citizens by being a means of expressing their attitudes, spirit, and  
5 perspectives regarding safe and healthy family and community life. The  
6 legislature intends that parent and other citizen perspectives exercise  
7 a controlling influence over policy and program operations of  
8 professional organizations concerned with children and family issues  
9 within networks in a manner consistent with the Constitution and state  
10 law. It is not the intent of the legislature that health, social  
11 service, or educational professionals dominate community public health  
12 and safety network processes or programs, but rather that these  
13 professionals use their skills to lend support to parents and other  
14 citizens in expressing their values as parents and other citizens  
15 identify community needs and establish community priorities. To this  
16 end, the legislature intends full participation of parents and other  
17 citizens in community public health and safety networks. The intent is  
18 that local community values are reflected in the operations of the  
19 network.

20 (2) A group of persons described in subsection (3) of this section  
21 may apply to be a community public health and safety network.

22 (3) Each community public health and safety network shall be  
23 composed of twenty-three people, thirteen of whom shall be citizens who  
24 live within the network boundary with no fiduciary interest. In  
25 selecting these members, first priority shall be given to members of  
26 community mobilization advisory boards, city or county children's  
27 services commissions, human services advisory boards, or other such  
28 organizations. The thirteen persons shall be selected as follows:  
29 Three by chambers of commerce, three by school board members, three by  
30 county legislative authorities, three by city legislative authorities,  
31 and one high school student, selected by student organizations. The  
32 remaining ten members shall live or work within the network boundary  
33 and shall include local representation selected by the following groups  
34 and entities: Cities; counties; federally recognized Indian tribes;  
35 parks and recreation programs; law enforcement agencies; state  
36 children's service workers; employment assistance workers; private  
37 social service providers, broad-based nonsecular organizations, or  
38 health service providers; and public education.

1       (4) Each of the twenty-three people who are members of each  
2 community public health and safety network must sign an annual  
3 declaration under penalty of perjury or a notarized statement that  
4 clearly, in plain and understandable language, states whether or not he  
5 or she has a fiduciary interest. If a member has a fiduciary interest,  
6 the nature of that interest must be made clear, in plain understandable  
7 language, on the signed statement.

8       (5) Members of the network shall serve terms of three years.

9       The terms of the initial members of each network shall be as  
10 follows: (a) One-third shall serve for one year; (b) one-third shall  
11 serve for two years; and (c) one-third shall serve for three years.  
12 Initial members may agree which shall serve fewer than three years or  
13 the decision may be made by lot. Any vacancy occurring during the term  
14 may be filled by the chair for the balance of the unexpired term.

15       (~~(5)~~) (6) Not less than sixty days before the expiration of a  
16 network member's term, the chair shall submit the name of a nominee to  
17 the network for its approval. The network shall comply with subsection  
18 (3) of this section.

19       (~~(6)~~) (7) Networks are subject to the open public meetings act  
20 under chapter 42.30 RCW and the public records provisions of RCW  
21 42.17.270 through 42.17.310.

22       **Sec. 13.** RCW 70.190.130 and 1996 c 132 s 8 are each amended to  
23 read as follows:

24       (1) The council shall only disburse funds to a network after a  
25 comprehensive plan has been prepared by the network and approved by the  
26 council. In approving the plan the council shall consider whether the  
27 network:

28       (a) Promoted input from the widest practical range of agencies and  
29 affected parties, including public hearings;

30       (b) Reviewed the indicators of violence data compiled by the local  
31 public health departments and incorporated a response to those  
32 indicators in the plan;

33       (c) Obtained a declaration by the largest health department within  
34 the network boundary, indicating whether the plan meets minimum  
35 standards for assessment and policy development relating to social  
36 development according to RCW 43.70.555;

37       (d) Included a specific mechanism of data collection and  
38 transmission based on the rules established under RCW 43.70.555;

1 (e) Considered all relevant causes of violence in its community and  
2 did not isolate only one or a few of the elements to the exclusion of  
3 others and demonstrated evidence of building community capacity through  
4 effective neighborhood and community development;

5 (f) Considered youth employment and job training programs outlined  
6 in this chapter as a strategy to reduce the rate of at-risk children  
7 and youth;

8 (g) Integrated local programs that met the network's priorities and  
9 were deemed successful by the network;

10 (h) Committed to make measurable reductions in the rate of at-risk  
11 children and youth by reducing the rate of state-funded out-of-home  
12 placements and make reductions in at least three of the following rates  
13 of youth: Violent criminal acts, substance abuse, pregnancy and male  
14 parentage, suicide attempts, dropping out of school, child abuse or  
15 neglect, and domestic violence; and

16 (i) Held a public hearing on its proposed comprehensive plan and  
17 submitted to the council all of the written comments received at the  
18 hearing and a copy of the minutes taken at the hearing.

19 (2) The council may establish a maximum amount to be expended by a  
20 network for purposes of planning and administrative duties, that shall  
21 not, in total, exceed ten percent of funds available to a network. The  
22 council shall make recommendations to the legislature regarding the  
23 specific maximum amounts that can be spent by a network or group of  
24 networks on planning and administrative duties. The recommendation may  
25 provide differing percentages, considering the size of the budgets of  
26 each network and giving consideration to whether there should be a  
27 higher percentage for administrative and planning purposes in budgets  
28 for smaller networks and a smaller percentage of the budgets for  
29 administration and planning purposes in larger networks.

30 (3) The council may determine that a network is not in compliance  
31 with this chapter if it fails to comply with statutory requirements.  
32 Upon a determination of noncompliance, the council may suspend or  
33 revoke a network's status or contract and specify a process and  
34 deadline for the network's compliance.

35 NEW SECTION. Sec. 14. The legislature finds that it is critically  
36 important to the basic nurture, health, and safety of children that the  
37 state examine a state-wide program relating to child abuse and neglect

1 that includes citizen review panels as required by the federal child  
2 abuse prevention and treatment act, 42 U.S.C. Sec. 5106a.

3 NEW SECTION. **Sec. 15.** The Washington state institute for public  
4 policy shall conduct, or contract for, a study regarding the creation  
5 of citizen review panels to meet the requirements of federal law, and  
6 located independent of the department of social and health services.  
7 The study shall include an examination of a system of independent  
8 citizen review panels to:

9 (1) Examine the policies and procedures of state agencies and,  
10 where appropriate, specific cases, to evaluate the extent to which the  
11 agencies are effectively discharging their child protection  
12 responsibilities according to the state law and the state plan required  
13 under 42 U.S.C. Sec. 5106a.

14 (2) Examine child protection standards set forth in the federal and  
15 state law.

16 (3) Examine any other criteria that the panel considers important  
17 to ensure the protection of children, including a review of the extent  
18 to which the state child protective services system is coordinated with  
19 the foster care and adoption programs established under part E, Title  
20 IV of the Social Security Act.

21 (4) Examine whether the panels should report possible criminal  
22 activity to the local prosecuting attorney in the county in which the  
23 case resides.

24 (5) Examine whether, if the panel finds possible civil infractions,  
25 whether the findings should be turned over to the aggrieved individual,  
26 if the conditions set forth in RCW 74.13.500 through 74.13.525 are met,  
27 and who should turn the findings over, and whether the individual  
28 should be awarded attorneys' fees, costs, damages, including punitive  
29 damages, if the individual prevails in court.

30 The study shall include an examination of the barriers to broad  
31 access to information, whether the panels should have access to the  
32 information and specific recommendations on how the panels can obtain  
33 access to such information from the department of social and health  
34 services, criminal justice agencies, law enforcement, schools, and  
35 medical providers, and other sources that have relevant information,  
36 including reports and records made and maintained by the department and  
37 its contracting agencies, while preserving the confidentiality of the  
38 records.

1 The study shall also include a review of the department of social  
2 and health services' current committees and teams that have citizen  
3 membership and participation, to determine whether any of these  
4 committees and teams should be consolidated.

5 An interim report of the study shall be submitted to the  
6 legislative children's oversight committee by September 15, 1998. The  
7 final study and recommendations shall be submitted to the appropriate  
8 committees of the house of representatives and the senate by December  
9 1, 1998.

10 NEW SECTION. **Sec. 16.** The sum of twelve thousand dollars, or as  
11 much thereof as may be necessary, is appropriated for the fiscal year  
12 ending June 30, 1998, from the general fund to The Evergreen State  
13 College for the Washington state institute for public policy for the  
14 purposes of sections 14 and 15 of this act.

15 **Sec. 17.** RCW 70.47.060 and 1997 c 337 s 2, 1997 c 335 s 2, 1997 c  
16 245 s 6, and 1997 c 231 s 206 are each reenacted and amended to read as  
17 follows:

18 The administrator has the following powers and duties:

19 (1) To design and from time to time revise a schedule of covered  
20 basic health care services, including physician services, inpatient and  
21 outpatient hospital services, prescription drugs and medications, and  
22 other services that may be necessary for basic health care. In  
23 addition, the administrator may, to the extent that funds are  
24 available, offer as basic health plan services chemical dependency  
25 services, mental health services and organ transplant services;  
26 however, no one service or any combination of these three services  
27 shall increase the actuarial value of the basic health plan benefits by  
28 more than five percent excluding inflation, as determined by the office  
29 of financial management. All subsidized and nonsubsidized enrollees in  
30 any participating managed health care system under the Washington basic  
31 health plan shall be entitled to receive covered basic health care  
32 services in return for premium payments to the plan. The schedule of  
33 services shall emphasize proven preventive and primary health care and  
34 shall include all services necessary for prenatal, postnatal, and well-  
35 child care. However, with respect to coverage for groups of subsidized  
36 enrollees who are eligible to receive prenatal and postnatal services  
37 through the medical assistance program under chapter 74.09 RCW, the

1 administrator shall not contract for such services except to the extent  
2 that such services are necessary over not more than a one-month period  
3 in order to maintain continuity of care after diagnosis of pregnancy by  
4 the managed care provider. The schedule of services shall also include  
5 a separate schedule of basic health care services for children,  
6 eighteen years of age and younger, for those subsidized or  
7 nonsubsidized enrollees who choose to secure basic coverage through the  
8 plan only for their dependent children. In designing and revising the  
9 schedule of services, the administrator shall consider the guidelines  
10 for assessing health services under the mandated benefits act of 1984,  
11 RCW ((48.42.080)) 48.47.030, and such other factors as the  
12 administrator deems appropriate.

13 However, with respect to coverage for subsidized enrollees who are  
14 eligible to receive prenatal and postnatal services through the medical  
15 assistance program under chapter 74.09 RCW, the administrator shall not  
16 contract for such services except to the extent that the services are  
17 necessary over not more than a one-month period in order to maintain  
18 continuity of care after diagnosis of pregnancy by the managed care  
19 provider.

20 (2)(a) To design and implement a structure of periodic premiums due  
21 the administrator from subsidized enrollees that is based upon gross  
22 family income, giving appropriate consideration to family size and the  
23 ages of all family members. The enrollment of children shall not  
24 require the enrollment of their parent or parents who are eligible for  
25 the plan. The structure of periodic premiums shall be applied to  
26 subsidized enrollees entering the plan as individuals pursuant to  
27 subsection (9) of this section and to the share of the cost of the plan  
28 due from subsidized enrollees entering the plan as employees pursuant  
29 to subsection (10) of this section.

30 (b) To determine the periodic premiums due the administrator from  
31 nonsubsidized enrollees. Premiums due from nonsubsidized enrollees  
32 shall be in an amount equal to the cost charged by the managed health  
33 care system provider to the state for the plan plus the administrative  
34 cost of providing the plan to those enrollees and the premium tax under  
35 RCW 48.14.0201.

36 (c) An employer or other financial sponsor may, with the prior  
37 approval of the administrator, pay the premium, rate, or any other  
38 amount on behalf of a subsidized or nonsubsidized enrollee, by

1 arrangement with the enrollee and through a mechanism acceptable to the  
2 administrator.

3 (d) To develop, as an offering by every health carrier providing  
4 coverage identical to the basic health plan, as configured on January  
5 1, 1996, a basic health plan model plan with uniformity in enrollee  
6 cost-sharing requirements.

7 (3) To design and implement a structure of enrollee cost sharing  
8 due a managed health care system from subsidized and nonsubsidized  
9 enrollees. The structure shall discourage inappropriate enrollee  
10 utilization of health care services, and may utilize copayments,  
11 deductibles, and other cost-sharing mechanisms, but shall not be so  
12 costly to enrollees as to constitute a barrier to appropriate  
13 utilization of necessary health care services.

14 (4) To limit enrollment of persons who qualify for subsidies so as  
15 to prevent an overexpenditure of appropriations for such purposes.  
16 Whenever the administrator finds that there is danger of such an  
17 overexpenditure, the administrator shall close enrollment until the  
18 administrator finds the danger no longer exists.

19 (5) To limit the payment of subsidies to subsidized enrollees, as  
20 defined in RCW 70.47.020. The level of subsidy provided to persons who  
21 qualify may be based on the lowest cost plans, as defined by the  
22 administrator.

23 (6) To adopt a schedule for the orderly development of the delivery  
24 of services and availability of the plan to residents of the state,  
25 subject to the limitations contained in RCW 70.47.080 or any act  
26 appropriating funds for the plan.

27 (7) To solicit and accept applications from managed health care  
28 systems, as defined in this chapter, for inclusion as eligible basic  
29 health care providers under the plan. The administrator shall endeavor  
30 to assure that covered basic health care services are available to any  
31 enrollee of the plan from among a selection of two or more  
32 participating managed health care systems. In adopting any rules or  
33 procedures applicable to managed health care systems and in its  
34 dealings with such systems, the administrator shall consider and make  
35 suitable allowance for the need for health care services and the  
36 differences in local availability of health care resources, along with  
37 other resources, within and among the several areas of the state.  
38 Contracts with participating managed health care systems shall ensure  
39 that basic health plan enrollees who become eligible for medical



1 assistance may, at their option, continue to receive services from  
2 their existing providers within the managed health care system if such  
3 providers have entered into provider agreements with the department of  
4 social and health services.

5 (8) To receive periodic premiums from or on behalf of subsidized  
6 and nonsubsidized enrollees, deposit them in the basic health plan  
7 operating account, keep records of enrollee status, and authorize  
8 periodic payments to managed health care systems on the basis of the  
9 number of enrollees participating in the respective managed health care  
10 systems.

11 (9) To accept applications from individuals residing in areas  
12 served by the plan, on behalf of themselves and their spouses and  
13 dependent children, for enrollment in the Washington basic health plan  
14 as subsidized or nonsubsidized enrollees, to establish appropriate  
15 minimum-enrollment periods for enrollees as may be necessary, and to  
16 determine, upon application and on a reasonable schedule defined by the  
17 authority, or at the request of any enrollee, eligibility due to  
18 current gross family income for sliding scale premiums. Funds received  
19 by a family as part of participation in the adoption support program  
20 authorized under RCW 26.33.320 and 74.13.100 through 74.13.145 shall  
21 not be counted toward a family's current gross family income for the  
22 purposes of this chapter. No subsidy may be paid with respect to any  
23 enrollee whose current gross family income exceeds twice the federal  
24 poverty level or, subject to RCW 70.47.110, who is a recipient of  
25 medical assistance or medical care services under chapter 74.09 RCW.  
26 If, as a result of an eligibility review, the administrator determines  
27 that a subsidized enrollee's income exceeds twice the federal poverty  
28 level and that the enrollee knowingly failed to inform the plan of such  
29 increase in income, the administrator may bill the enrollee for the  
30 subsidy paid on the enrollee's behalf during the period of time that  
31 the enrollee's income exceeded twice the federal poverty level. If a  
32 number of enrollees drop their enrollment for no apparent good cause,  
33 the administrator may establish appropriate rules or requirements that  
34 are applicable to such individuals before they will be allowed to  
35 reenroll in the plan.

36 (10) To accept applications from business owners on behalf of  
37 themselves and their employees, spouses, and dependent children, as  
38 subsidized or nonsubsidized enrollees, who reside in an area served by  
39 the plan. The administrator may require all or the substantial

1 majority of the eligible employees of such businesses to enroll in the  
2 plan and establish those procedures necessary to facilitate the orderly  
3 enrollment of groups in the plan and into a managed health care system.  
4 The administrator may require that a business owner pay at least an  
5 amount equal to what the employee pays after the state pays its portion  
6 of the subsidized premium cost of the plan on behalf of each employee  
7 enrolled in the plan. Enrollment is limited to those not eligible for  
8 medicare who wish to enroll in the plan and choose to obtain the basic  
9 health care coverage and services from a managed care system  
10 participating in the plan. The administrator shall adjust the amount  
11 determined to be due on behalf of or from all such enrollees whenever  
12 the amount negotiated by the administrator with the participating  
13 managed health care system or systems is modified or the administrative  
14 cost of providing the plan to such enrollees changes.

15 (11) To determine the rate to be paid to each participating managed  
16 health care system in return for the provision of covered basic health  
17 care services to enrollees in the system. Although the schedule of  
18 covered basic health care services will be the same for similar  
19 enrollees, the rates negotiated with participating managed health care  
20 systems may vary among the systems. In negotiating rates with  
21 participating systems, the administrator shall consider the  
22 characteristics of the populations served by the respective systems,  
23 economic circumstances of the local area, the need to conserve the  
24 resources of the basic health plan trust account, and other factors the  
25 administrator finds relevant.

26 (12) To monitor the provision of covered services to enrollees by  
27 participating managed health care systems in order to assure enrollee  
28 access to good quality basic health care, to require periodic data  
29 reports concerning the utilization of health care services rendered to  
30 enrollees in order to provide adequate information for evaluation, and  
31 to inspect the books and records of participating managed health care  
32 systems to assure compliance with the purposes of this chapter. In  
33 requiring reports from participating managed health care systems,  
34 including data on services rendered enrollees, the administrator shall  
35 endeavor to minimize costs, both to the managed health care systems and  
36 to the plan. The administrator shall coordinate any such reporting  
37 requirements with other state agencies, such as the insurance  
38 commissioner and the department of health, to minimize duplication of  
39 effort.

1 (13) To evaluate the effects this chapter has on private employer-  
2 based health care coverage and to take appropriate measures consistent  
3 with state and federal statutes that will discourage the reduction of  
4 such coverage in the state.

5 (14) To develop a program of proven preventive health measures and  
6 to integrate it into the plan wherever possible and consistent with  
7 this chapter.

8 (15) To provide, consistent with available funding, assistance for  
9 rural residents, underserved populations, and persons of color.

10 (16) In consultation with appropriate state and local government  
11 agencies, to establish criteria defining eligibility for persons  
12 confined or residing in government-operated institutions.

13 ***\*NEW SECTION. Sec. 18. The legislature finds that all children***  
14 *have the right to be born healthy and free of the consequences of*  
15 *substance abuse by the mother during pregnancy. Individuals who abuse*  
16 *substances are unable to make reasoned decisions that help ensure the*  
17 *birth of a healthy infant. The availability of long-term*  
18 *pharmaceutical birth control, when combined with other treatment*  
19 *regimens, may allow women to regain control of their lives and make*  
20 *long-term decisions in the best interest of themselves and their*  
21 *children. The legislature finds that it may be unreasonable to*  
22 *continue efforts to reunify the family when a mother has given birth to*  
23 *a third or subsequent infant affected by her substance abuse.*

24 *\*Sec. 18 was vetoed. See message at end of chapter.*

25 ***\*NEW SECTION. Sec. 19. A new section is added to chapter 13.34***  
26 *RCW to read as follows:*

27 *(1) A physician licensed under chapter 18.71 or 18.57 RCW, or an*  
28 *advanced registered nurse practitioner under chapter 18.79 RCW,*  
29 *primarily responsible for the care of a newborn infant, who has*  
30 *reasonable cause to believe the infant has been exposed to*  
31 *nonprescription use of controlled substances shall: (a) Conduct*  
32 *reasonably available and appropriate tests to determine whether the*  
33 *infant is drug-affected; (b) notify the department of the name and*  
34 *address of the parent or parents of the infant who is drug-affected;*  
35 *and (c) retain the infant in the birthing facility for medical*  
36 *treatment or place the infant in appropriate pediatric interim care*  
37 *services with the concurrence of the department for sufficient time for*

1 the infant to undergo withdrawal from the effects of the controlled  
2 substances. The withdrawal shall be under the supervision of  
3 appropriate health care professionals.

4 (2) The physician or nurse practitioner who was responsible for the  
5 birth shall, as soon as practical, inform the mother of a drug-affected  
6 infant of: (a) The availability of publicly funded tubal ligation  
7 surgery as provided under section 34 of this act; (b) available drug  
8 treatment and counseling; and (c) birth control counseling and  
9 education. The mother may accept the offer of a tubal ligation up to  
10 six months following its tender.

11 (3) A physician or nurse practitioner who makes any determination  
12 under this section shall not be liable in any cause of action as a  
13 result of his or her determination except for acts of gross negligence  
14 or intentional misconduct.

15 (4) For the purpose of this section, "newborn infant" means an  
16 infant within seven days after birth.

17 (5) This section expires June 30, 2002.

18 \*Sec. 19 was vetoed. See message at end of chapter.

19 \*NEW SECTION. Sec. 20. A new section is added to chapter 13.34  
20 RCW to read as follows:

21 (1) The department, upon receipt of a report under section 19 of  
22 this act, shall investigate and, in appropriate cases, file a  
23 dependency petition. In the event the department does not file a  
24 petition, it shall refer the mother to available chemical dependency  
25 treatment programs or a model project.

26 (2) The department and the mother may enter an agreement in which  
27 the mother agrees to chemical dependency treatment on an inpatient or  
28 outpatient basis or be referred to a model project created under  
29 section 30 of this act. The agreement must specify completion dates  
30 for each of the conditions. All agreements expire twelve months from  
31 the date of execution. If the conditions have not been fulfilled at  
32 the time the agreement expires, the department shall investigate and in  
33 appropriate cases, file a dependency petition.

34 (3) If the department and mother enter an agreement under  
35 subsection (2) of this section, the department shall, if a dependency  
36 petition has been filed, request the court to defer the entry of an  
37 order of dependency for as long as the mother remains in treatment or  
38 enrolled in the model project, subject to the department's monitoring

1 for compliance. As a condition of deferral of the order of dependency,  
2 the parents, if both are available and known, shall stipulate to facts  
3 sufficient to constitute a dependency and the court shall order  
4 treatment or enrollment in a model project and prohibit nonprescription  
5 use of controlled substances. In the event that an available parent  
6 unreasonably refuses to stipulate to facts constituting a dependency,  
7 the court may proceed with the hearing on the petition.

8 (4) This section expires June 30, 2002.

9 \*Sec. 20 was vetoed. See message at end of chapter.

10 \*NEW SECTION. Sec. 21. A new section is added to chapter 13.34  
11 RCW to read as follows:

12 (1) If the department receives a report under section 19 of this  
13 act of a mother who has given birth to a second drug-affected infant,  
14 the department:

15 (a) May request the court to proceed immediately with the entry of  
16 a dependency for the first drug-affected infant; and

17 (b) Shall investigate and, unless there are compelling reasons to  
18 the contrary, file a dependency petition on the second drug-affected  
19 infant. If the department does not file a petition, it shall refer the  
20 woman to available chemical dependency treatment programs or a model  
21 project.

22 (2) The department and the mother may enter an agreement in which  
23 the mother agrees to: (a) Enter chemical dependency inpatient  
24 treatment or a model project, together with an aftercare program that  
25 includes participation in a model project when feasible; and (b)  
26 medically appropriate pharmaceutical pregnancy prevention that is  
27 administered not less than once every thirty days. The selection of  
28 the pregnancy prevention method shall be based on an evaluation of the  
29 medical and physical consequences to the mother and shall remain in  
30 effect until the dependency petition is dismissed or the court  
31 determines it is no longer medically appropriate. The agreement must  
32 specify completion dates for each of the conditions. All agreements  
33 expire twelve months from the date of execution. If the conditions  
34 have not been fulfilled at the time the agreement expires, the  
35 department shall investigate and in appropriate cases, file a  
36 dependency petition.

37 (3) If the department and the mother enter an agreement under  
38 subsection (2) of this section, the department shall, if a dependency

1 petition has been filed, request the court to defer the entry of an  
2 order of dependency on the second drug-affected infant for as long as  
3 the mother remains in treatment or enrolled in the model project,  
4 subject to the department's monitoring for compliance. As a condition  
5 of deferral of the order of dependency, the parents, if both are  
6 available and known, shall stipulate to facts sufficient to constitute  
7 a dependency and the court shall order treatment or enrollment in a  
8 model project and prohibit nonprescription use of controlled  
9 substances. In the event that an available parent unreasonably refuses  
10 to stipulate to facts constituting a dependency, the court may proceed  
11 with the hearing on the petition.

12 (4) This section expires June 30, 2002.

13 \*Sec. 21 was vetoed. See message at end of chapter.

14 \*NEW SECTION. Sec. 22. A new section is added to chapter 13.34  
15 RCW to read as follows:

16 (1) The department may request the court to dismiss the petition  
17 deferred under section 20 or 21 of this act at any time. No petition  
18 may be vacated or dismissed unless the mother demonstrates by clear and  
19 convincing evidence that she has not used controlled substances in a  
20 nonprescription manner for at least twelve consecutive months and can  
21 safely provide for the child's welfare without continuing supervision  
22 by the department or court.

23 (2) This section expires June 30, 2002.

24 \*Sec. 22 was vetoed. See message at end of chapter.

25 \*NEW SECTION. Sec. 23. A new section is added to chapter 13.34  
26 RCW to read as follows:

27 (1) If the department receives a report under section 19 of this  
28 act of a mother who has given birth to a third or subsequent drug-  
29 affected infant, the department shall:

30 (a) Request the court to proceed immediately with the entry of a  
31 finding of dependency on all drug-affected children born before the  
32 third or subsequent birth unless an order of dependency has been  
33 vacated or dismissed; and

34 (b) File a dependency petition on any drug-affected infant subject  
35 to this section as well as any other child born before the third or  
36 subsequent birth of a drug-affected infant.

37 (2) This section expires June 30, 2002.

38 \*Sec. 23 was vetoed. See message at end of chapter.

1        *\*NEW SECTION.*    *Sec. 24.*    *A new section is added to chapter 13.34*  
2 *RCW to read as follows:*

3        *(1) Following a filing of a petition under section 23 of this act:*

4        *(a) The court shall order evaluation by a designated chemical*  
5 *dependency specialist, as defined in RCW 70.96A.020 who shall undertake*  
6 *the processes described in RCW 70.96A.140.*

7        *(b) If the court has ordered removal of a child or children, the*  
8 *out-of-home placement order shall remain in effect until the petition*  
9 *is dismissed or the mother has successfully completed inpatient*  
10 *treatment and any aftercare program for controlled substances ordered*  
11 *by the court.*

12        *(2) This section expires June 30, 2002.*

13        *\*Sec. 24 was vetoed. See message at end of chapter.*

14        *NEW SECTION.*    *Sec. 25.*    *By July 1, 1999, the department of social*  
15 *and health services, in consultation with the department of health,*  
16 *shall adopt rules to implement this act, including a definition of*  
17 *"drug-affected infant," which shall be limited to infants who are*  
18 *affected by a mother's nonprescription use of controlled substances.*

19        *\*NEW SECTION.*    *Sec. 26.*    *A new section is added to chapter 13.34*  
20 *RCW to read as follows:*

21        *(1) A physician licensed under chapter 18.71 or 18.57 RCW, or an*  
22 *advanced registered nurse practitioner under chapter 18.79 RCW,*  
23 *primarily responsible for the care of a newborn infant, who has*  
24 *reasonable cause to believe the infant has been physiologically*  
25 *affected by the mother's alcohol abuse during her pregnancy shall: (a)*  
26 *Conduct reasonably available and appropriate tests to determine whether*  
27 *the infant is alcohol-affected; (b) notify the department of the name*  
28 *and address of the parent or parents of the infant who is alcohol-*  
29 *affected; and (c) retain the infant in the birthing facility for*  
30 *medical treatment or place the infant in appropriate pediatric interim*  
31 *care services with the concurrence of the department for sufficient*  
32 *time for the infant to undergo withdrawal from the effects of the*  
33 *alcohol. The withdrawal shall be under the supervision of appropriate*  
34 *medical professionals.*

35        *(2) The physician or nurse practitioner who was responsible for the*  
36 *birth shall, as soon as practical, inform the mother of an alcohol-*  
37 *affected infant of: (a) The availability of publicly funded tubal*

1 ligation surgery as provided under section 35 of this act; (b)  
2 available alcohol treatment and counseling; and (c) birth control  
3 counseling and education. The mother may accept the offer of a tubal  
4 ligation up to six months following its tender.

5 (3) A physician or nurse practitioner who makes any determination  
6 under this section shall not be liable in any cause of action as a  
7 result of his or her determination except for acts of gross negligence  
8 or intentional misconduct.

9 (4) For the purposes of this section, "newborn infant" means an  
10 infant within seven days after birth.

11 (5) This section expires June 30, 2002.

12 \*Sec. 26 was vetoed. See message at end of chapter.

13 \*NEW SECTION. Sec. 27. A new section is added to chapter 13.34  
14 RCW to read as follows:

15 (1) The department, upon receipt of a report under section 26 of  
16 this act, shall investigate and, in appropriate cases, file a  
17 dependency petition. In the event the department does not file a  
18 petition, it shall refer the mother to available alcohol dependency  
19 treatment programs or a model project.

20 (2) The department and the mother may enter an agreement in which  
21 the mother agrees to alcohol treatment on an inpatient or outpatient  
22 basis or be referred to a model project created under section 30 of  
23 this act. The agreement must specify completion dates for each of the  
24 conditions. All agreements expire twelve months from the date of  
25 execution. If the conditions have not been fulfilled at the time the  
26 agreement expires, the department shall investigate and in appropriate  
27 cases, file a dependency petition.

28 (3) If the department and mother enter an agreement under  
29 subsection (2) of this section, the department shall, if a dependency  
30 petition has been filed, request the court to defer the entry of an  
31 order of dependency for as long as the mother remains in treatment or  
32 enrolled in the model project, subject to the department's monitoring  
33 for compliance. As a condition of deferral of the order of dependency,  
34 the parents, if both are available and known, shall stipulate to facts  
35 sufficient to constitute a dependency and the court shall order  
36 treatment or enrollment in a model project and prohibit alcohol abuse.  
37 In the event that an available parent unreasonably refuses to stipulate



1 to facts constituting a dependency, the court may proceed with the  
2 hearing on the petition.

3 (4) This section expires June 30, 2002.

4 \*Sec. 27 was vetoed. See message at end of chapter.

5 \*NEW SECTION. Sec. 28. A new section is added to chapter 13.34  
6 RCW to read as follows:

7 (1) The department may request the court to dismiss the petition  
8 deferred under section 27 of this act at any time. No petition may be  
9 vacated or dismissed unless the mother demonstrates by clear and  
10 convincing evidence that she has not abused alcohol for at least twelve  
11 consecutive months and can safely provide for the child's welfare  
12 without continuing supervision by the department or court.

13 (2) This section expires June 30, 2002.

14 \*Sec. 28 was vetoed. See message at end of chapter.

15 NEW SECTION. Sec. 29. By July 1, 1999, the department of social  
16 and health services, in consultation with the department of health,  
17 shall adopt rules to implement this act, including a definition of  
18 "alcohol-affected infant," which shall be limited to infants who are  
19 affected by a mother's abuse of alcohol.

20 NEW SECTION. Sec. 30. To the extent funds are appropriated, the  
21 department shall operate a model project to provide services to women  
22 who give birth to infants exposed to the nonprescription use of  
23 controlled substances or abuse of alcohol by the mother during  
24 pregnancy. Within available funds, the project may be offered in one  
25 site in each of the three department's administrative regions that have  
26 the highest incidence of drug-affected or alcohol-affected infants  
27 annually. The project shall accept women referred to it by the  
28 department following the birth of a drug-affected or alcohol-affected  
29 infant. The model project shall be concluded by July 1, 2002.

30 NEW SECTION. Sec. 31. To the extent funds are appropriated, the  
31 institute for public policy shall study the cost-effectiveness of this  
32 act and report to the governor and legislature not later than January  
33 1, 2002. The study shall measure the reduction in the birth rate of  
34 drug-affected infants among women and shall compare the reduction with  
35 the rate of birth of drug-affected infants born to women referred to  
36 chemical dependency treatment programs. The study shall identify the

1 factors that promote or discourage the ability of women to avoid giving  
2 birth to drug-affected infants.

3 NEW SECTION. **Sec. 32.** To the extent funds are appropriated, the  
4 institute for public policy study referenced in section 31 of this act  
5 shall include alcohol-affected births.

6 NEW SECTION. **Sec. 33.** A new section is added to chapter 70.96A  
7 RCW to read as follows:

8 (1) Any treatment program or model project in which a mother is  
9 enrolled under sections 20 through 22 of this act shall provide family  
10 planning, which means the process of limiting or spacing the birth of  
11 children, education, counseling, information, and services. Family  
12 planning does not include pregnancy termination.

13 (2) This section expires June 30, 2002.

14 NEW SECTION. **Sec. 34.** A new section is added to chapter 74.09 RCW  
15 to read as follows:

16 The department may make available, or cause to be made available,  
17 pharmaceutical birth control services, information, and counseling to  
18 any person who enters chemical dependency treatment under section 20 or  
19 21 of this act. Within available funds, the department may pay for any  
20 tubal ligations requested under section 19 of this act if the mother's  
21 income is less than two hundred percent of the federal poverty level.  
22 The department shall report by December 1st of each year to the  
23 governor and legislature: (1) The number of tubal ligations performed  
24 as a result of chapter . . . , Laws of 1998 (this act); (2) the number  
25 of women who decline to undergo the surgery; (3) the number of women  
26 who obtain pharmaceutical birth control, by type of birth control; and  
27 (4) the number of women who are reported to the department.

28 NEW SECTION. **Sec. 35.** A new section is added to chapter 74.09 RCW  
29 to read as follows:

30 The department may make available, or cause to be made available,  
31 pharmaceutical birth control services, information, and counseling to  
32 any person who enters chemical dependency treatment under section 27 of  
33 this act. Within available funds, the department may pay for any tubal  
34 ligations requested under section 26 of this act if the mother's income  
35 is less than two hundred percent of the federal poverty level. The

1 department shall report by December 1st of each year to the governor  
2 and legislature: (1) The number of tubal ligations performed as a  
3 result of chapter . . . , Laws of 1998 (this act); (2) the number of  
4 women who decline to undergo the surgery; (3) the number of women who  
5 obtain pharmaceutical birth control, by type of birth control; and (4)  
6 the number of women who are reported to the department.

7 NEW SECTION. **Sec. 36.** A new section is added to chapter 18.71 RCW  
8 to read as follows:

9 (1) Nothing in section 19 of this act imposes any additional duties  
10 or responsibilities on, or removes any duties or responsibilities from,  
11 a physician licensed under this chapter, except as specifically  
12 included in chapter 13.34 RCW and sections 33 and 34 of this act.

13 (2) This section expires June 30, 2002.

14 NEW SECTION. **Sec. 37.** A new section is added to chapter 18.57 RCW  
15 to read as follows:

16 (1) Nothing in section 19 of this act imposes any additional duties  
17 or responsibilities on, or removes any duties or responsibilities from,  
18 an osteopath licensed under this chapter, except as specifically  
19 included in chapter 13.34 RCW and sections 33 and 34 of this act.

20 (2) This section expires June 30, 2002.

21 NEW SECTION. **Sec. 38.** A new section is added to chapter 18.79 RCW  
22 to read as follows:

23 (1) Nothing in section 19 of this act imposes any additional duties  
24 or responsibilities on, or removes any duties or responsibilities from,  
25 an advanced registered nurse practitioner licensed under this chapter,  
26 except as specifically included in chapter 13.34 RCW and sections 33  
27 and 34 of this act.

28 (2) This section expires June 30, 2002.

29 *\*Sec. 39. RCW 13.34.070 and 1993 c 358 s 1 are each amended to*  
30 *read as follows:*

31 *(1) Upon the filing of the petition, the clerk of the court shall*  
32 *issue a summons, one directed to the child, if the child is twelve or*  
33 *more years of age, and another to the parents, guardian, or custodian,*  
34 *and such other persons as appear to the court to be proper or necessary*  
35 *parties to the proceedings, requiring them to appear personally before*

1 the court at the time fixed to hear the petition. If the child is  
2 developmentally disabled and not living at home, the notice shall be  
3 given to the child's custodian as well as to the child's parent. The  
4 developmentally disabled child shall not be required to appear unless  
5 requested by the court. Where the custodian is summoned, the parent or  
6 guardian or both shall also be served with a summons. The fact-finding  
7 hearing on the petition shall be held no later than seventy-five days  
8 after the filing of the petition, unless exceptional reasons for a  
9 continuance are found. In cases where an infant has been affected by  
10 the mother's substance abuse, exceptional reasons for a continuance  
11 exist if the mother and the department have executed an agreement that  
12 will take more than seventy-five days to fulfill. The party requesting  
13 the continuance shall have the burden of proving by a preponderance of  
14 the evidence that exceptional circumstances do exist. To ensure that  
15 the hearing on the petition occurs within the seventy-five day time  
16 limit, the court shall schedule and hear the matter on an expedited  
17 basis.

18 (2) A copy of the petition shall be attached to each summons.

19 (3) The summons shall advise the parties of the right to counsel.  
20 The summons shall also inform the child's parent, guardian, or legal  
21 custodian of his or (~~her~~) her right to appointed counsel, if  
22 indigent, and of the procedure to use to secure appointed counsel.

23 (4) The summons shall advise the parents that they may be held  
24 responsible for the support of the child if the child is placed in out-  
25 of-home care.

26 (5) The judge may endorse upon the summons an order directing any  
27 parent, guardian, or custodian having the custody or control of the  
28 child to bring the child to the hearing.

29 (6) If it appears from affidavit or sworn statement presented to  
30 the judge that there is probable cause for the issuance of a warrant of  
31 arrest or that the child needs to be taken into custody pursuant to RCW  
32 13.34.050, the judge may endorse upon the summons an order that an  
33 officer serving the summons shall at once take the child into custody  
34 and take him to the place of shelter designated by the court.

35 (7) If the person summoned as provided in this section is subject  
36 to an order of the court pursuant to subsection (5) or (6) of this  
37 section, and if the person fails to abide by the order, he may be  
38 proceeded against as for contempt of court. The order endorsed upon  
39 the summons shall conspicuously display the following legend:

1 NOTICE:  
2 VIOLATION OF THIS ORDER  
3 IS SUBJECT TO PROCEEDING  
4 FOR CONTEMPT OF COURT  
5 PURSUANT TO RCW 13.34.070.

6 (8) If a party to be served with a summons can be found within the  
7 state, the summons shall be served upon the party personally as soon as  
8 possible following the filing of the petition, but in no case later  
9 than fifteen court days before the fact-finding hearing, or such time  
10 as set by the court. If the party is within the state and cannot be  
11 personally served, but the party's address is known or can with  
12 reasonable diligence be ascertained, the summons may be served upon the  
13 party by mailing a copy thereof by certified mail as soon as possible  
14 following the filing of the petition, but in no case later than fifteen  
15 court days before the hearing, or such time as set by the court. If a  
16 party other than the child is without the state but can be found or the  
17 address is known, or can with reasonable diligence be ascertained,  
18 service of the summons may be made either by delivering a copy thereof  
19 to the party personally or by mailing a copy thereof to the party by  
20 certified mail at least ten court days before the fact-finding hearing,  
21 or such time as set by the court.

22 (9) Service of summons may be made under the direction of the court  
23 by any person eighteen years of age or older who is not a party to the  
24 proceedings or by any law enforcement officer, probation counselor, or  
25 department of social and health services social worker.

26 (10) In any proceeding brought under this chapter where the court  
27 knows or has reason to know that the child involved is a member of an  
28 Indian tribe, notice of the pendency of the proceeding shall also be  
29 sent by registered mail, return receipt requested, to the child's  
30 tribe. If the identity or location of the tribe cannot be determined,  
31 such notice shall be transmitted to the secretary of the interior of  
32 the United States.

33 \*Sec. 39 was vetoed. See message at end of chapter.

34 NEW SECTION. Sec. 40. (1) The departments of health and social  
35 and health services, shall develop a comprehensive plan for providing  
36 services to mothers who (a) have delivered a drug or alcohol exposed or  
37 affected infant, and (b) meet the definition of at-risk eligible

1 persons in RCW 74.09.790 and who have a child up to three years of age.  
2 The services to be provided by the plan will include those defined in  
3 RCW 74.09.790. The plan shall provide for the coordination of services  
4 through community-based programs and among: (a) The departments; (b)  
5 the departments' divisions; and (c) other state agencies. The plan  
6 shall include recommendations to the legislature for implementing the  
7 plan and any alternative methods for addressing the needs of these  
8 mothers and their children.

9 (2) In developing the plan, the department of health shall  
10 inventory the community-based programs that may be accessed to provide  
11 services to these mothers and their children; evaluate implementing  
12 services for these mothers through extension of the maternity care  
13 access system; and evaluate the fiscal impact of the plan. In  
14 performing the fiscal evaluation, the department shall calculate  
15 potential long-term cost savings to the state resulting from reduced  
16 use of the medical, juvenile justice, public assistance, and dependency  
17 systems by children and mothers receiving services under the plan.

18 (3) The department shall submit a report describing the plan to  
19 the appropriate committees of the house of representatives and senate  
20 by November 1, 1998.

21 NEW SECTION. **Sec. 41.** A new section is added to chapter 70.96A  
22 RCW to read as follows:

23 (1) Any treatment program or model project in which a mother is  
24 enrolled under section 27 of this act shall provide family planning,  
25 which means the process of limiting or spacing the birth of children,  
26 education, counseling, information, and services. Family planning does  
27 not include pregnancy termination.

28 (2) This section expires June 30, 2002.

29 NEW SECTION. **Sec. 42.** A new section is added to chapter 18.71 RCW  
30 to read as follows:

31 (1) Nothing in section 26 of this act imposes any additional duties  
32 or responsibilities on, or removes any duties or responsibilities from,  
33 a physician licensed under this chapter, except as specifically  
34 included in chapter 13.34 RCW and sections 35 and 41 of this act.

35 (2) This section expires June 30, 2002.

1        NEW SECTION.    **Sec. 43.**    A new section is added to chapter 18.57 RCW  
2 to read as follows:

3        (1) Nothing in section 26 of this act imposes any additional duties  
4 or responsibilities on, or removes any duties or responsibilities from,  
5 an osteopath licensed under this chapter, except as specifically  
6 included in chapter 13.34 RCW and sections 35 and 41 of this act.

7        (2) This section expires June 30, 2002.

8        NEW SECTION.    **Sec. 44.**    A new section is added to chapter 18.79 RCW  
9 to read as follows:

10       (1) Nothing in section 26 of this act imposes any additional duties  
11 or responsibilities on, or removes any duties or responsibilities from,  
12 an advanced registered nurse practitioner licensed under this chapter,  
13 except as specifically included in chapter 13.34 RCW and sections 35  
14 and 41 of this act.

15       (2) This section expires June 30, 2002.

16       NEW SECTION.    **Sec. 45.**    Section 9 of this act takes effect October  
17 1, 1998.

18       NEW SECTION.    **Sec. 46.**    Sections 18 through 24, 26 through 28, 30  
19 through 39, and 41 through 44 of this act take effect January 1, 1999.

20       NEW SECTION.    **Sec. 47.**    Sections 14 through 16 of this act are  
21 necessary for the immediate preservation of the public peace, health,  
22 or safety, or support of the state government and its existing public  
23 institutions, and take effect immediately.

24       NEW SECTION.    **Sec. 48.**    The department of community, trade, and  
25 economic development shall contract with The Evergreen State College  
26 for completion of the study by the Washington institute for public  
27 policy ordered pursuant to sections 14 through 16 of this act. The  
28 department of community, trade, and economic development shall contract  
29 with the department of social and health services for the purpose of  
30 implementing sections 18 through 44 of this act. No funds for  
31 administrative expenses may be deducted by the department of community,  
32 trade, and economic development prior to allocation as provided in this  
33 section.

Passed the House March 12, 1998.  
Passed the Senate March 12, 1998.  
Approved by the Governor April 3, 1998, with the exception of  
certain items that were vetoed.  
Filed in Office of Secretary of State April 3, 1998.

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

2 "I am returning herewith, without my approval as to sections 11,  
3 18, 19, 20, 21, 22, 23, 24, 26, 27, 28 and 39, Substitute House Bill  
4 No. 2556 entitled:

5 "AN ACT Relating to amendments concerning the child abuse  
6 prevention and treatment act and the adoption and safe families  
7 act;"

8 This bill enacts changes in state law required to conform with  
9 federal mandates. It also addresses a number of other matters,  
10 including the Family Policy Council and Community Health and Safety  
11 Networks, citizen review panels for child abuse and neglect, a  
12 definition of "income" within the Basic Health Plan, and dependency  
13 matters related to drug- and alcohol-affected infants and their  
14 mothers.

15 I have vetoed the following sections of SHB 2556:

16 Section 11. The 1994 Youth Violence Reduction Act describes  
17 specific roles and responsibilities for the Family Policy Council, and  
18 provides for representation from both the executive and legislative  
19 branches of government. Since the Legislature already has the  
20 authority to exercise its powers of oversight for the council, it is  
21 not necessary to amend the council's structure.

22 Section 19 describes the requirements for testing an infant when a  
23 physician or nurse caring for the child believes that the infant was  
24 born drug-affected, for notifying DSHS, and for retaining the infant in  
25 a birthing facility or in a pediatric center during withdrawal.  
26 Section 26 is the comparable language for a newborn suspected of being  
27 alcohol-affected. I support the purposes of these sections. However,  
28 there are serious questions relating to the efficacy of the medical  
29 approaches and the requirements that would be imposed by these  
30 sections.

31 The activities and aims of sections 18, 20, 21, 22, 23, 24, 27, 28  
32 and 39 are defined with reference to sections 19 and 26. Without these  
33 latter two sections, the former sections are left without purpose.

34 I have other concerns about the above sections as well. The intent  
35 section, section 18, might be read to say that, beginning with the  
36 birth of a woman's third child, it is unreasonable to continue efforts  
37 to reunify drug-affected babies with that mother. I am certain that  
38 the sponsors of this bill did not intend for that interpretation.

39 Sections 20, 21, 23, 24, 27 and 39 are premised upon a foundation  
40 that giving birth to a drug-affected baby is sufficient to establish  
41 dependency. This foundation is not supported in RCW 13.34, the  
42 dependency statutes. These sections need to be crafted better to work  
43 with RCW 13.34. Sections 22 and 28 are contrary to Civil Rule 41(a)  
44 which permits a plaintiff to have an action dismissed by the court.



1 I urge the sponsors of this bill to work with the appropriate  
2 medical professional organizations and state agencies to perfect this  
3 legislation.

4 For these reasons, I have vetoed sections 11, 18, 19, 20, 21, 22,  
5 23, 24, 26, 27, 28 and 39 of Substitute House Bill No. 2556.

6 With the exception of sections 11, 18, 19, 20, 21, 22, 23, 24, 26,  
7 27, 28 and 39, Substitute House Bill No. 2556 is approved."