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ENGROSSED SUBSTITUTE SENATE BILL 5480

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State of Washington

56th Legislature

1999 Regular Session

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Patterson, Hargrove, Long, Eide, Franklin, Shin, McCaslin, Haugen, Goings, Gardner, Prentice, Kline, T. Sheldon, Wojahn, Benton, Spanel, B. Sheldon, Bauer, McAuliffe, Jacobsen, Rossi, Horn, Johnson, West, Winsley, Oke and Rasmussen)

Read first time 03/03/99.

1 AN ACT Relating to drug-affected infants; amending RCW 13.34.030,  
2 13.34.070, 74.09.310, 18.71.950, 18.57.920, and 18.79.903; reenacting  
3 and amending RCW 13.34.130; adding new sections to chapter 13.34 RCW;  
4 creating new sections; and repealing RCW 18.57.930, 18.71.960,  
5 18.79.904, 70.96A.330, and 70.96A.340.

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

7 **Sec. 1.** RCW 13.34.030 and 1998 c 130 s 1 are each amended to read  
8 as follows:

9 For purposes of this chapter:

10 (1) "Chemical dependency treatment" means a service certified by  
11 the department as qualified in helping individuals successfully recover  
12 from the nonprescription use of controlled substances.

13 (2) "Child" and "juvenile" means any individual under the age of  
14 eighteen years.

15 ((+2+)) (3) "Current placement episode" means the period of time  
16 that begins with the most recent date that the child was removed from  
17 the home of the parent, guardian, or legal custodian for purposes of  
18 placement in out-of-home care and continues until the child returns  
19 home, an adoption decree, a permanent custody order, or guardianship

1 order is entered, or the dependency is dismissed, whichever occurs  
2 soonest. If the most recent date of removal occurred prior to the  
3 filing of a dependency petition under this chapter or after filing but  
4 prior to entry of a disposition order, such time periods shall be  
5 included when calculating the length of a child's current placement  
6 episode.

7 ~~((+3+))~~ (4) "Department" means the department of social and health  
8 services.

9 (5) "Dependency finding" means a determination by the court that a  
10 child is a dependent child.

11 (6) "Dependency guardian" means the person, nonprofit corporation,  
12 or Indian tribe appointed by the court pursuant to RCW 13.34.232 for  
13 the limited purpose of assisting the court in the supervision of the  
14 dependency.

15 ~~((+4+))~~ (7) "Dependency petition" means a petition filed under this  
16 chapter.

17 (8) "Dependent child" means any child:

18 (a) Who has been abandoned; that is, where the child's parent,  
19 guardian, or other custodian has expressed either by statement or  
20 conduct, an intent to forego, for an extended period, parental rights  
21 or parental responsibilities despite an ability to do so. If the court  
22 finds that the petitioner has exercised due diligence in attempting to  
23 locate the parent, no contact between the child and the child's parent,  
24 guardian, or other custodian for a period of three months creates a  
25 rebuttable presumption of abandonment, even if there is no expressed  
26 intent to abandon;

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

29 (c) Who has no parent, guardian, or custodian capable of adequately  
30 caring for the child, such that the child is in circumstances which  
31 constitute a danger of substantial damage to the child's psychological  
32 or physical development.

33 ~~((+5+))~~ (9) "Drug-affected infant" has the definition created by  
34 the department of health in conjunction with the department of social  
35 and health services under RCW 13.34.801 and the infant requires  
36 treatment for withdrawal from controlled substances the infant was  
37 exposed to from the mother's use of nonprescription controlled  
38 substances or the infant requires treatment and services related to  
39 conditions that extend beyond the point of withdrawal.

1        (10) "Family planning" means the process of limiting or spacing the  
2 birth of children, education, counseling, information, and services.  
3 "Family planning" does not include pregnancy termination.

4        (11) "Guardian" means the person or agency that: (a) Has been  
5 appointed as the guardian of a child in a legal proceeding other than  
6 a proceeding under this chapter; and (b) has the legal right to custody  
7 of the child pursuant to such appointment. The term "guardian" shall  
8 not include a "dependency guardian" appointed pursuant to a proceeding  
9 under this chapter.

10        ~~((+6))~~ (12) "Guardian ad litem" means a person, appointed by the  
11 court to represent the best interest of a child in a proceeding under  
12 this chapter, or in any matter which may be consolidated with a  
13 proceeding under this chapter. A "court-appointed special advocate"  
14 appointed by the court to be the guardian ad litem for the child, or to  
15 perform substantially the same duties and functions as a guardian ad  
16 litem, shall be deemed to be guardian ad litem for all purposes and  
17 uses of this chapter.

18        ~~((+7))~~ (13) "Guardian ad litem program" means a court-authorized  
19 volunteer program, which is or may be established by the superior court  
20 of the county in which such proceeding is filed, to manage all aspects  
21 of volunteer guardian ad litem representation for children alleged or  
22 found to be dependent. Such management shall include but is not  
23 limited to: Recruitment, screening, training, supervision, assignment,  
24 and discharge of volunteers.

25        ~~((+8))~~ (14) "Newborn infant" means an infant within seven days  
26 after birth.

27        (15) "Out-of-home care" means placement in a foster family home or  
28 group care facility licensed pursuant to chapter 74.15 RCW or placement  
29 in a home, other than that of the child's parent, guardian, or legal  
30 custodian, not required to be licensed pursuant to chapter 74.15 RCW.

31        ~~((+9))~~ (16) "Preventive services" means preservation services, as  
32 defined in chapter 74.14C RCW, and other reasonably available services  
33 capable of preventing the need for out-of-home placement while  
34 protecting the child.

35        (17) "Test" means use of a medically accepted standard of care for  
36 determining whether a newborn infant is a drug-affected infant.

37        NEW SECTION. Sec. 2. A new section is added to chapter 13.34 RCW  
38 to read as follows:

1 In an effort to reduce the harmful effects of drug-affected  
2 infants:

3 (1)(a) A woman's primary health care provider shall:

4 (i) Screen pregnant and lactating women for nonprescription use of  
5 controlled substances while pregnant. Screening criteria may include,  
6 but is not limited to, the criteria developed by the department of  
7 health pursuant to chapter 70.83E RCW;

8 (ii) Convey to the infant's primary health care provider screening  
9 findings that would suggest the need for testing of the infant, or  
10 conduct the testing; and

11 (iii) Inform each woman identified by screening for testing of her  
12 infant that if her infant is born drug-affected she can have a tubal  
13 ligation at no cost to her within six months following the birth if she  
14 is eligible for support under RCW 74.09.310, and how to access  
15 appropriate chemical dependency treatment.

16 (b) The provider shall not be liable for a decision regarding  
17 testing or reporting unless the decision amounts to gross negligence or  
18 intentional misconduct.

19 (2)(a) The health care provider of a newborn infant shall:

20 (i) Test any infant the provider reasonably believes is drug-  
21 affected; and

22 (ii) Notify the department of the name and address of the parent or  
23 parents of a drug-affected infant.

24 (b) The provider shall not be liable for a decision regarding  
25 testing or reporting unless the decision amounts to gross negligence or  
26 intentional misconduct.

27 (3) The department shall investigate all reports received under  
28 this section.

29 NEW SECTION. **Sec. 3.** A new section is added to chapter 13.34 RCW  
30 to read as follows:

31 When an infant is determined to be a first drug-affected infant,  
32 the department shall file a dependency petition in appropriate cases.  
33 The drug-affected status of an infant is not by itself sufficient to  
34 establish a finding that the drug-affected infant is dependent.

35 (1) The department and the mother may enter an agreement in which  
36 the mother agrees to chemical dependency treatment on an inpatient or  
37 outpatient basis. The mother must be offered education regarding  
38 family planning and medically appropriate pharmaceutical pregnancy

1 prevention during the course of chemical dependency treatment with a  
2 preference for those methods administered not less than once every  
3 thirty days. In addition, the agreement shall:

4 (a) Specify completion dates for each of the conditions of  
5 treatment;

6 (b) Expire within twelve months of the date of execution; and

7 (c) Not be renegotiated or extended beyond twelve months of the  
8 date of execution unless the conditions, which were negotiated, cannot  
9 be fulfilled in twelve months and the reason the conditions cannot be  
10 fulfilled are completely beyond the control of the mother.

11 (2) If the department has filed a dependency petition and the  
12 department and the mother enter an agreement under subsection (1) of  
13 this section, the department shall request the court defer entry of a  
14 dependency finding for as long as the mother abides by the terms of the  
15 agreement subject to the department's monitoring compliance.

16 (3) As a condition of deferral of the dependency finding, the  
17 parties shall stipulate to facts sufficient to constitute a dependency.  
18 In the event a party unreasonably refuses to stipulate to facts  
19 sufficient to constitute a dependency, the court may proceed with  
20 hearings on the petition.

21 (4) If the court orders deferral of the dependency finding, the  
22 court shall order performance of the agreement and shall prohibit  
23 nonprescription use of controlled substances.

24 (5) The department or any party to the petition may request the  
25 court dismiss a deferred finding at any time if the mother demonstrates  
26 by clear and convincing evidence that she has not used controlled  
27 substances for at least twelve consecutive months unless the court  
28 finds compelling reasons to shorten the time after consulting with the  
29 substance abuse provider, but under no circumstances less than six  
30 months, and she can safely provide for the child's welfare without  
31 continuing supervision by the department or court.

32 (6) In the event the department does not file a petition or enter  
33 an agreement, the department shall refer the mother to available  
34 chemical dependency treatment.

35 NEW SECTION. **Sec. 4.** A new section is added to chapter 13.34 RCW  
36 to read as follows:

37 When an infant is determined to be a second drug-affected infant,  
38 the department shall file a dependency petition for the second drug-

1 affected infant unless compelling reasons exist to the contrary. The  
2 department may proceed immediately with a dependency petition on the  
3 first drug-affected infant. The drug-affected status of an infant is  
4 not by itself sufficient to establish a finding that the drug-affected  
5 infant is dependent.

6 (1) The department and the mother may enter an agreement in which  
7 the mother agrees to inpatient chemical dependency treatment unless the  
8 department determines outpatient treatment is in the best interest of  
9 the child and participation in a model project developed under RCW  
10 13.34.800 for aftercare services if the model project is available.  
11 The mother must be offered education regarding family planning and  
12 medically appropriate pharmaceutical pregnancy prevention during the  
13 course of chemical dependency treatment with a preference for those  
14 methods administered not less than once every thirty days. In  
15 addition, the agreement shall:

16 (a) Specify completion dates for each of the conditions of  
17 treatment;

18 (b) Expire within twelve months of the date of execution; and

19 (c) Not be renegotiated or extended beyond twelve months of the  
20 date of execution unless the conditions, which were negotiated, cannot  
21 be fulfilled in twelve months and the reason the conditions cannot be  
22 fulfilled are completely outside the control of the mother.

23 (2) If the department has filed a dependency petition and the  
24 department and the mother enter an agreement under subsection (1) of  
25 this section, the department shall request the court defer entry of a  
26 dependency finding for as long as the mother abides by the terms of the  
27 agreement subject to the department's monitoring compliance.

28 (3) As a condition of deferral of the dependency finding, the  
29 parties shall stipulate to facts sufficient to constitute a dependency.  
30 In the event a party unreasonably refuses to stipulate to facts  
31 sufficient to constitute a dependency, the court may proceed with  
32 hearings on the petition.

33 (4) If the court orders deferral of the dependency finding, the  
34 court shall order performance of the agreement and shall prohibit  
35 nonprescription use of controlled substances.

36 (5) The department or the mother may request the court dismiss a  
37 deferred finding at any time if the mother demonstrates by clear and  
38 convincing evidence that she has not used controlled substances for at  
39 least twelve consecutive months unless the court finds compelling

1 reasons to shorten the time after consulting with the substance abuse  
2 provider, but under no circumstances less than six months, and she can  
3 safely provide for the child's welfare without continuing supervision  
4 by the department or court.

5 (6) In the event the department does not file a petition or enter  
6 an agreement, the department shall refer the mother to available  
7 chemical dependency treatment programs.

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

10 Unless compelling reasons exist to the contrary, the department  
11 shall file a dependency petition when an infant is determined to be a  
12 third or subsequent drug-affected infant. Unless compelling reasons  
13 exist to the contrary, the department shall proceed with dependency  
14 petitions on all drug-affected children born before the third or  
15 subsequent birth. The drug-affected status of an infant is not by  
16 itself sufficient to establish a finding that the drug-affected infant  
17 is dependent.

18 (1) The court shall order evaluation by a designated chemical  
19 dependency specialist, as defined in RCW 70.96A.020, who shall  
20 undertake the processes described in RCW 70.96A.140. If the mother  
21 enters chemical dependency treatment, the mother must be offered  
22 education regarding family planning and medically appropriate  
23 pharmaceutical pregnancy prevention during the course of chemical  
24 dependency treatment with a preference for those methods administered  
25 not less than once every thirty days.

26 (2) If the court has ordered removal of a child or children, the  
27 out-of-home placement order shall remain in effect until the petition  
28 is dismissed or the mother has successfully completed inpatient  
29 chemical dependency treatment and an aftercare chemical dependency  
30 treatment program unless compelling reasons exist to the contrary. The  
31 mother must establish to the court that she can safely provide for the  
32 welfare of her child or children.

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

35 Nothing in sections 2 through 5 of this act may be interpreted to  
36 prohibit or compel action in the best interests of the child by the  
37 department independent from the drug-affected status of an infant.

1        NEW SECTION.    **Sec. 7.**    A new section is added to chapter 13.34 RCW  
2 to read as follows:

3        Notwithstanding sections 2 through 5 of this act, no provider of  
4 chemical dependency treatment services may be required by law or  
5 contract in any circumstance to participate in the provision of family  
6 planning services if the provider objects to so doing for reasons of  
7 conscience or religion. Each provider of chemical dependency treatment  
8 that invokes the exemption provided under this section shall promptly  
9 provide written notice to persons admitted to treatment listing the  
10 family planning services the provider refuses to provide for the reason  
11 of conscience or religion and how a person admitted to treatment may  
12 access family planning in an expeditious manner. When negotiating  
13 contracts for chemical dependency treatment services, the department  
14 shall prioritize contracted services under sections 3 through 5 of this  
15 act for the purpose of maximizing the number of providers who can show  
16 effective measurable outcomes in reducing chemical dependency and the  
17 birth of drug-affected infants through effective treatment regardless  
18 of whether or not they provide family planning services.

19        **Sec. 8.**    RCW 13.34.070 and 1993 c 358 s 1 are each amended to read  
20 as follows:

21        (1) Upon the filing of the petition, the clerk of the court shall  
22 issue a summons, one directed to the child, if the child is twelve or  
23 more years of age, and another to the parents, guardian, or custodian,  
24 and such other persons as appear to the court to be proper or necessary  
25 parties to the proceedings, requiring them to appear personally before  
26 the court at the time fixed to hear the petition. If the child is  
27 developmentally disabled and not living at home, the notice shall be  
28 given to the child's custodian as well as to the child's parent. The  
29 developmentally disabled child shall not be required to appear unless  
30 requested by the court. Where the custodian is summoned, the parent or  
31 guardian or both shall also be served with a summons. The fact-finding  
32 hearing on the petition shall be held no later than seventy-five days  
33 after the filing of the petition, unless exceptional reasons for a  
34 continuance are found. In cases of a drug-affected infant, exceptional  
35 reasons for a continuance exist if the mother and the department have  
36 executed an agreement that will take more than seventy-five days to  
37 fulfill. The party requesting the continuance shall have the burden of  
38 proving by a preponderance of the evidence that exceptional



1 circumstances do exist. To ensure that the hearing on the petition  
2 occurs within the seventy-five day time limit, the court shall schedule  
3 and hear the matter on an expedited basis.

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

5 (3) The summons shall advise the parties of the right to counsel.  
6 The summons shall also inform the child's parent, guardian, or legal  
7 custodian of his or (~~{her}~~) her right to appointed counsel, if  
8 indigent, and of the procedure to use to secure appointed counsel.

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

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

15 (6) If it appears from affidavit or sworn statement presented to  
16 the judge that there is probable cause for the issuance of a warrant of  
17 arrest or that the child needs to be taken into custody pursuant to RCW  
18 13.34.050, the judge may endorse upon the summons an order that an  
19 officer serving the summons shall at once take the child into custody  
20 and take him to the place of shelter designated by the court.

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

26 NOTICE:

27 VIOLATION OF THIS ORDER

28 IS SUBJECT TO PROCEEDING

29 FOR CONTEMPT OF COURT

30 PURSUANT TO RCW 13.34.070.

31 (8) If a party to be served with a summons can be found within the  
32 state, the summons shall be served upon the party personally as soon as  
33 possible following the filing of the petition, but in no case later  
34 than fifteen court days before the fact-finding hearing, or such time  
35 as set by the court. If the party is within the state and cannot be  
36 personally served, but the party's address is known or can with  
37 reasonable diligence be ascertained, the summons may be served upon the  
38 party by mailing a copy thereof by certified mail as soon as possible

1 following the filing of the petition, but in no case later than fifteen  
2 court days before the hearing, or such time as set by the court. If a  
3 party other than the child is without the state but can be found or the  
4 address is known, or can with reasonable diligence be ascertained,  
5 service of the summons may be made either by delivering a copy thereof  
6 to the party personally or by mailing a copy thereof to the party by  
7 certified mail at least ten court days before the fact-finding hearing,  
8 or such time as set by the court.

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

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

20 **Sec. 9.** RCW 13.34.130 and 1998 c 314 s 2 and 1998 c 130 s 2 are  
21 each reenacted and amended to read as follows:

22 If, after a fact-finding hearing pursuant to RCW 13.34.110, it has  
23 been proven by a preponderance of the evidence that the child is  
24 dependent within the meaning of RCW 13.34.030; after consideration of  
25 the predisposition report prepared pursuant to RCW 13.34.110 and after  
26 a disposition hearing has been held pursuant to RCW 13.34.110, the  
27 court shall enter an order of disposition pursuant to this section.

28 (1) The court shall order one of the following dispositions of the  
29 case:

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

37 (b) Order that the child be removed from his or her home and  
38 ordered into the custody, control, and care of a relative or the

1 department of social and health services or a licensed child placing  
2 agency for placement in a foster family home or group care facility  
3 licensed pursuant to chapter 74.15 RCW or in a home not required to be  
4 licensed pursuant to chapter 74.15 RCW. Unless there is reasonable  
5 cause to believe that the safety or welfare of the child would be  
6 jeopardized or that efforts to reunite the parent and child will be  
7 hindered, such child shall be placed with a person who is related to  
8 the child as defined in RCW 74.15.020(~~(+4)~~) (2)(a) and with whom the  
9 child has a relationship and is comfortable, and who is willing and  
10 available to care for the child. Placement of the child with a  
11 relative under this subsection shall be given preference by the court.  
12 An order for out-of-home placement may be made only if the court finds  
13 that reasonable efforts have been made to prevent or eliminate the need  
14 for removal of the child from the child's home and to make it possible  
15 for the child to return home, specifying the services that have been  
16 provided to the child and the child's parent, guardian, or legal  
17 custodian, and that preventive services have been offered or provided  
18 and have failed to prevent the need for out-of-home placement, unless  
19 the health, safety, and welfare of the child cannot be protected  
20 adequately in the home, and that:

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

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

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

29 (iv) The extent of the child's disability is such that the parent,  
30 guardian, or legal custodian is unable to provide the necessary care  
31 for the child and the parent, guardian, or legal custodian has  
32 determined that the child would benefit from placement outside of the  
33 home.

34 (2) If the court has ordered a child removed from his or her home  
35 pursuant to subsection (1)(b) of this section, the court may order that  
36 a petition seeking termination of the parent and child relationship be  
37 filed if the court finds: (a) Termination is recommended by the  
38 supervising agency; (b) termination is in the best interests of the  
39 child; and (c) that because of the existence of aggravated

1 circumstances, reasonable efforts to unify the family are not required.  
2 Notwithstanding the existence of aggravated circumstances, reasonable  
3 efforts may be required if the court or department determines it is in  
4 the best interest of the child. In determining whether aggravated  
5 circumstances exist, the court shall consider one or more of the  
6 following:

7 (i) Conviction of the parent of rape of the child in the first,  
8 second, or third degree as defined in RCW 9A.44.073, 9A.44.076, and  
9 9A.44.079;

10 (ii) Conviction of the parent of criminal mistreatment of the child  
11 in the first or second degree as defined in RCW 9A.42.020 and  
12 9A.42.030;

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

17 (iv) Conviction of the parent of murder, manslaughter, or homicide  
18 by abuse of the child's other parent, sibling, or another child;

19 (v) Conviction of the parent of attempting, soliciting, or  
20 conspiracy to commit a crime listed in (c)(i), (ii), (iii), or (iv) of  
21 this subsection;

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

24 (vii) Failure of the parent to complete available treatment ordered  
25 under this chapter or the equivalent laws of another state, where such  
26 failure has resulted in a prior termination of parental rights to  
27 another child and the parent has failed to effect significant change in  
28 the interim. In the case of a parent of an Indian child, as defined in  
29 the Indian Child Welfare Act, P.L. 95-608 (25 U.S.C. (~~{Sec.}~~)) Sec.  
30 1903), the court shall also consider tribal efforts to assist the  
31 parent in completing treatment and make it possible for the child to  
32 return home;

33 (viii) An infant under three years of age has been abandoned as  
34 defined in RCW 13.34.030(~~(+4)~~) (8)(a);

35 (ix) The mother has given birth to three or more drug-affected  
36 infants, resulting in the department filing a petition under (~~section~~  
37 ~~23 of this act~~) section 5 of this act.

38 (3) If reasonable efforts are not ordered under subsection (2) of  
39 this section a permanency (~~(plan [planning])~~) planning hearing shall be

1 held within thirty days. Reasonable efforts shall be made to place the  
2 child in a timely manner in accordance with the permanency plan, and to  
3 complete whatever steps are necessary to finalize the permanent  
4 placement of the child.

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

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

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

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

36 (ii) The agency shall be required to encourage the maximum parent-  
37 child contact possible, including regular visitation and participation  
38 by the parents in the care of the child while the child is in  
39 placement. Visitation may be limited or denied only if the court

1 determines that such limitation or denial is necessary to protect the  
2 child's health, safety, or welfare.

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

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

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

21 (5) If the court determines that the continuation of reasonable  
22 efforts to prevent or eliminate the need to remove the child from his  
23 or her home or to safely return the child home should not be part of  
24 the permanency plan of care for the child, reasonable efforts shall be  
25 made to place the child in a timely manner and to complete whatever  
26 steps are necessary to finalize the permanent placement of the child.

27 (6) If there is insufficient information at the time of the  
28 disposition hearing upon which to base a determination regarding the  
29 suitability of a proposed placement with a relative, the child shall  
30 remain in foster care and the court shall direct the supervising agency  
31 to conduct necessary background investigations as provided in chapter  
32 74.15 RCW and report the results of such investigation to the court  
33 within thirty days. However, if such relative appears otherwise  
34 suitable and competent to provide care and treatment, the criminal  
35 history background check need not be completed before placement, but as  
36 soon as possible after placement. Any placements with relatives,  
37 pursuant to this section, shall be contingent upon cooperation by the  
38 relative with the agency case plan and compliance with court orders  
39 related to the care and supervision of the child including, but not

1 limited to, court orders regarding parent-child contacts and any other  
2 conditions imposed by the court. Noncompliance with the case plan or  
3 court order shall be grounds for removal of the child from the  
4 relative's home, subject to review by the court.

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

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

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

29 (i) Whether reasonable services have been provided to or offered to  
30 the parties to facilitate reunion, specifying the services provided or  
31 offered;

32 (ii) Whether the child has been placed in the least-restrictive  
33 setting appropriate to the child's needs, including whether  
34 consideration and preference has been given to placement with the  
35 child's relatives;

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

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

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

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

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

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

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

12 **Sec. 10.** RCW 74.09.310 and 1998 c 314 s 34 are each amended to  
13 read as follows:

14 The department may make available, or cause to be made available,  
15 pharmaceutical birth control services, information, and counseling to  
16 any person who enters chemical dependency treatment under (~~section 20~~  
17 ~~or 21 of this act~~) sections 3 through 5 of this act. Within available  
18 funds, the department may pay for any tubal ligations requested under  
19 (~~section 19 of this act~~) section 2 of this act if the mother's income  
20 is less than two hundred percent of the federal poverty level. The  
21 department shall report by December 1st of each year to the governor  
22 and legislature: (1) The number of tubal ligations performed as a  
23 result of (~~chapter 314, Laws of 1998~~) this act; (2) the number of  
24 women who decline to undergo the surgery; (3) the number of women who  
25 obtain pharmaceutical birth control, by type of birth control; and (4)  
26 the number of women who are reported to the department.

27 **Sec. 11.** RCW 18.71.950 and 1998 c 314 s 36 are each amended to  
28 read as follows:

29 (~~(1)~~) Nothing in (~~section 19 of this act~~) sections 2 through 5  
30 of this act imposes any additional duties or responsibilities on, or  
31 removes any duties or responsibilities from, a physician licensed under  
32 this chapter, except as specifically included in chapter 13.34 RCW  
33 (~~and RCW 70.96A.330~~) and RCW 74.09.310.

34 (~~(2) This section expires June 30, 2002.~~)

35 **Sec. 12.** RCW 18.57.920 and 1998 c 314 s 37 are each amended to  
36 read as follows:



1       (~~(1)~~) Nothing in (~~(section 19 of this act)~~) sections 2 through 5  
2 of this act imposes any additional duties or responsibilities on, or  
3 removes any duties or responsibilities from, an osteopath licensed  
4 under this chapter, except as specifically included in chapter 13.34  
5 RCW (~~and RCW 70.96A.330~~) and RCW 74.09.310.

6       (~~(2) This section expires June 30, 2002.~~)

7       **Sec. 13.** RCW 18.79.903 and 1998 c 314 s 38 are each amended to  
8 read as follows:

9       (~~(1)~~) Nothing in (~~(section 19 of this act)~~) sections 2 through 5  
10 of this act imposes any additional duties or responsibilities on, or  
11 removes any duties or responsibilities from, an advanced registered  
12 nurse practitioner licensed under this chapter, except as specifically  
13 included in chapter 13.34 RCW (~~and RCW 70.96A.330~~) and RCW 74.09.310.

14       (~~(2) This section expires June 30, 2002.~~)

15       NEW SECTION. **Sec. 14.** The following acts or parts of acts are  
16 each repealed:

- 17       (1) RCW 18.57.930 (Application--1998 c 314) and 1998 c 314 s 43;
- 18       (2) RCW 18.71.960 (Application--1998 c 314) and 1998 c 314 s 42;
- 19       (3) RCW 18.79.904 (Application--1998 c 314) and 1998 c 314 s 44;
- 20       (4) RCW 70.96A.330 (Treatment programs and model projects--  
21 Provision of family planning) and 1998 c 314 s 33; and
- 22       (5) RCW 70.96A.340 (Treatment programs and model projects--  
23 Provision of family planning) and 1998 c 314 s 41.

24       NEW SECTION. **Sec. 15.** This act applies only to drug-affected  
25 infants born on or after the effective date of this act.

26       NEW SECTION. **Sec. 16.** If any provision of this act or its  
27 application to any person or circumstance is held invalid, the  
28 remainder of the act or the application of the provision to other  
29 persons or circumstances is not affected.

30       NEW SECTION. **Sec. 17.** The Washington institute for public policy  
31 shall evaluate the outcomes of this act and report its findings to the  
32 legislature and governor not later than December 1, 2001. The  
33 evaluation shall include:

- 1       (1) The number of women who use nonprescription controlled  
2 substances during pregnancy and give birth to drug-affected infants;
- 3       (2) The number of women who use nonprescription controlled  
4 substances during pregnancy and give birth to subsequent drug-affected  
5 infants;
- 6       (3) The number of women who accept pharmaceutical pregnancy  
7 prevention while in chemical dependency treatment;
- 8       (4) The number of women who continue to engage in pharmaceutical  
9 pregnancy prevention or other reliable pregnancy prevention methods  
10 after concluding chemical dependency treatment;
- 11       (5) The number of women who accept the offer of free tubal  
12 ligation;
- 13       (6) The rate of successful completion of chemical dependency  
14 treatment among women who enter treatment under this act;
- 15       (7) The number of dependencies filed and deferred under this act  
16 and outcomes of the deferrals; and
- 17       (8) A description of the mother's chemical dependency including  
18 identification of the drugs and/or alcohol abused.

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