

ESSB 5922 - H AMD

By Representative Dickerson

1 Strike everything after the enacting clause and insert the
2 following:

3 " **Sec. 1.** RCW 26.44.100 and 1998 c 314 s 8 are each amended to
4 read as follows:

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

17 (2) The department shall notify the alleged perpetrator of (the
18 allegations of child abuse ((and)) or neglect ((at the earliest
19 possible point in the investigation that will not jeopardize the
20 safety and protection of the child or the investigation process))at
21 the initial point of contact with the alleged perpetrator, in a
22 manner consistent with the laws maintaining the confidentiality of
23 the persons making the complaints or allegations. Investigations of
24 child abuse and neglect should be conducted so that relevant
25 evidence of offenses is not concealed or destroyed, child victims
26 are not subjected to undue influence, and actions are not taken
27 that would jeopardize the safety or protection of the child.

28 Whenever the department completes an investigation of a child
29 abuse or neglect report under chapter 26.44 RCW, the department
30 shall notify the alleged perpetrator of the report and the

1 department's investigative findings. The notice shall also advise
2 the alleged perpetrator that:

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

6 (b) Information in the department's record may be considered in
7 subsequent investigations or proceedings related to child
8 protection or child custody;

9 (c) Founded reports of child abuse and neglect may be
10 considered in determining whether the person is disqualified from
11 being licensed to provide child care, employed by a licensed child
12 care agency, or authorized by the department to care for children;
13 and

14 (d) An alleged perpetrator named in a founded report of child
15 abuse or neglect has the right to seek review of the finding as
16 provided in this chapter.

17 (3) The notification required by this section shall be made by
18 certified mail, return receipt requested, to the person's last
19 known address.

20 (4) The duty of notification created by this section is subject
21 to the ability of the department to ascertain the location of the
22 person to be notified. The department shall exercise reasonable,
23 good-faith efforts to ascertain the location of persons entitled to
24 notification under this section.

25 (5) The department shall provide training to all persons who
26 conduct investigations under this section that shall include, but
27 is not limited to, training regarding the legal duties of the
28 department from the initial time of contact during investigation
29 through treatment in order to protect children and families.

30 NEW SECTION. Sec. 2. The legislature finds that whenever
31 possible, children should remain in the home of their parents. It
32 is only when the safety of the child is a concern that the child
33 should be removed from the home.

34 The legislature finds that the safety of a child is put in
35 jeopardy when a child is subject to chronic neglect. The
36 legislature recognizes that chronic neglect may be more dangerous
37 to a child than physical or sexual abuse, and must be treated as

1 such by those charged with the protection of children in this
2 state.

3 It is the intent of the legislature that the department of
4 social and health services be permitted to intervene in cases of
5 chronic neglect where the well-being of the child is at risk. One
6 incident of neglect may not rise to the level requiring state
7 intervention; however, a pattern of neglect has been shown to cause
8 damage to the health and well-being of the child subject to the
9 neglect.

10 It is the intent of the legislature that when chronic neglect
11 has been found to exist in a family, the legal system reinforce the
12 need for the parent to engage in services that will decrease the
13 likelihood of future neglect. However, if the parents fail to
14 comply with the necessary services, the state must intervene to
15 protect the children who are at risk.

16 **Sec. 3.** RCW 13.34.138 and 2003 c 227 s 5 are each amended to
17 read as follows:

18 (1) Except for children whose cases are reviewed by a citizen
19 review board under chapter 13.70 RCW, the status of all children
20 found to be dependent shall be reviewed by the court at least every
21 six months from the beginning date of the placement episode or the
22 date dependency is established, whichever is first, at a hearing in
23 which it shall be determined whether court supervision should
24 continue. The initial review hearing shall be an in-court review
25 and shall be set six months from the beginning date of the
26 placement episode or no more than ninety days from the entry of the
27 disposition order, whichever comes first. The initial review
28 hearing may be a permanency planning hearing when necessary to meet
29 the time frames set forth in RCW 13.34.145(3) or 13.34.134. The
30 review shall include findings regarding the agency and parental
31 completion of disposition plan requirements, and if necessary,
32 revised permanency time limits. This review shall consider both
33 the agency's and parent's efforts that demonstrate consistent
34 measurable progress over time in meeting the disposition plan
35 requirements. The requirements for the initial review hearing,
36 including the in-court requirement, shall be accomplished within
37 existing resources. The supervising agency shall provide a foster
38 parent, preadoptive parent, or relative with notice of, and their

1 right to an opportunity to be heard in, a review hearing pertaining
2 to the child, but only if that person is currently providing care
3 to that child at the time of the hearing. This section shall not
4 be construed to grant party status to any person who has been
5 provided an opportunity to be heard.

6 (a) A child shall not be returned home at the review hearing
7 unless the court finds that a reason for removal as set forth in
8 RCW 13.34.130 no longer exists. The parents, guardian, or legal
9 custodian shall report to the court the efforts they have made to
10 correct the conditions which led to removal. If a child is
11 returned, casework supervision shall continue for a period of six
12 months, at which time there shall be a hearing on the need for
13 continued intervention.

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

16 (i) Whether reasonable services have been provided to or
17 offered to the parties to facilitate reunion, specifying the
18 services provided or offered;

19 (ii) Whether the child has been placed in the least-restrictive
20 setting appropriate to the child's needs, including whether
21 consideration and preference has been given to placement with the
22 child's relatives;

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

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

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

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

33 (vii) Whether additional services, including housing
34 assistance, are needed to facilitate the return of the child to the
35 child's parents; if so, the court shall order that reasonable
36 services be offered specifying such services; and

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

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

3 (2)(a) In any case in which the court orders that a dependent
4 child may be returned to or remain in the child's home, the in-home
5 placement shall be contingent upon the following:

6 (i) The cooperation by the parents with the agency case plan;

7 (ii) The compliance of the parents with court orders related to
8 the care and supervision of the child; and

9 (iii) The continued participation of the parents in remedial
10 services.

11 (b) The following may be grounds for removal of the child from
12 the home, subject to review by the court:

13 (i) Noncompliance by the parents with the case plan or court
14 order;

15 (ii) The parent's inability, unwillingness, or failure to
16 participate in services or treatment for themselves or the child;
17 or

18 (iii) The failure of the parents to successfully and
19 substantially complete services or treatment for themselves or the
20 child.

21 (3) The court's ability to order housing assistance under RCW
22 13.34.130 and this section is: (a) Limited to cases in which
23 homelessness or the lack of adequate and safe housing is the
24 primary reason for an out-of-home placement; and (b) subject to the
25 availability of funds appropriated for this specific purpose.

26 ~~((+3))~~ (4) The court shall consider the child's relationship
27 with siblings in accordance with RCW 13.34.130(3).

28 **Sec. 4.** RCW 26.44.015 and 1999 c 176 s 28 are each amended to
29 read as follows:

30 (1) This chapter shall not be construed to authorize
31 interference with child-raising practices, including reasonable
32 parental discipline, which are not injurious to the child's health,
33 welfare, ~~((and))~~ or safety.

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

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

1 **Sec. 5.** RCW 26.44.020 and 2000 c 162 s 19 are each amended to
2 read as follows:

3 The definitions in this section apply throughout this chapter
4 unless the context clearly requires otherwise.

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

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

10 (3) "Practitioner of the healing arts" or "practitioner" means
11 a person licensed by this state to practice podiatric medicine and
12 surgery, optometry, chiropractic, nursing, dentistry, osteopathic
13 medicine and surgery, or medicine and surgery or to provide other
14 health services. The term "practitioner" includes a duly
15 accredited Christian Science practitioner: PROVIDED, HOWEVER, That
16 a person who is being furnished Christian Science treatment by a
17 duly accredited Christian Science practitioner will not be
18 considered, for that reason alone, a neglected person for the
19 purposes of this chapter.

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

22 (5) "Department" means the state department of social and
23 health services.

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

26 (7) "Professional school personnel" include, but are not
27 limited to, teachers, counselors, administrators, child care
28 facility personnel, and school nurses.

29 (8) "Social service counselor" means anyone engaged in a
30 professional capacity during the regular course of employment in
31 encouraging or promoting the health, welfare, support or education
32 of children, or providing social services to adults or families,
33 including mental health, drug and alcohol treatment, and domestic
34 violence programs, whether in an individual capacity, or as an
35 employee or agent of any public or private organization or
36 institution.

37 (9) "Psychologist" means any person licensed to practice
38 psychology under chapter 18.83 RCW, whether acting in an individual

1 capacity or as an employee or agent of any public or private
2 organization or institution.

3 (10) "Pharmacist" means any registered pharmacist under chapter
4 18.64 RCW, whether acting in an individual capacity or as an
5 employee or agent of any public or private organization or
6 institution.

7 (11) "Clergy" means any regularly licensed or ordained
8 minister, priest, or rabbi of any church or religious denomination,
9 whether acting in an individual capacity or as an employee or agent
10 of any public or private organization or institution.

11 (12) "Abuse or neglect" means ~~((the injury,))~~ sexual abuse,
12 sexual exploitation, ~~((negligent treatment, or maltreatment))~~ or
13 nonaccidental injury of a child by any person under circumstances
14 which ~~((indicate that))~~ cause harm to the child's health, welfare,
15 ~~((and))~~ or safety ~~((is harmed))~~, excluding conduct permitted under
16 RCW 9A.16.100; or the negligent treatment or maltreatment of a
17 child by a person responsible for or providing care to the child
18 under circumstances which cause harm to or present a substantial
19 threat of harm to the child's health, welfare, or safety. An
20 abused child is a child who has been subjected to child abuse or
21 neglect as defined in this section.

22 (13) "Child protective services section" means the child
23 protective services section of the department.

24 (14) "Sexual exploitation" includes: (a) Allowing, permitting,
25 or encouraging a child to engage in prostitution by any person; or
26 (b) allowing, permitting, encouraging, or engaging in the obscene
27 or pornographic photographing, filming, or depicting of a child by
28 any person.

29 (15) "Negligent treatment or maltreatment" means an act or
30 ~~((omission))~~ a failure to act, or the cumulative effects of a
31 pattern of conduct, behavior, or inaction, that evidences a serious
32 disregard of consequences of such magnitude as to ~~((constitute a~~
33 ~~clear and present danger))~~ cause harm to or present a substantial
34 threat of harm to ~~((the))~~ a child's ~~((health, welfare, and safety.~~
35 ~~The fact that siblings share a bedroom is not, in and of itself,~~
36 ~~negligent treatment or maltreatment))~~ physical, mental, or
37 cognitive condition or development. Poverty, homelessness, or
38 exposure to domestic violence as defined in RCW 26.50.010 that is

1 perpetrated against someone other than the child do not constitute
2 negligent treatment or maltreatment in and of themselves.

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

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

24 (18) "Sexually aggressive youth" means a child who is defined
25 in RCW 74.13.075(1)(b) as being a sexually aggressive youth.

26 (19) "Unfounded" means available information indicates that,
27 more likely than not, child abuse or neglect did not occur. No
28 unfounded allegation of child abuse or neglect may be disclosed to
29 a child-placing agency, private adoption agency, or any other
30 provider licensed under chapter 74.15 RCW.

31 NEW SECTION. Sec. 6. A new section is added to chapter 26.44
32 RCW to read as follows:

33 (1) If the department, upon investigation of a report that a
34 child has been abused or neglected as defined in this chapter,
35 determines that the child has been subject to or is at risk of
36 negligent treatment or maltreatment, the department may offer
37 services to the child's parents, guardians, or legal custodians (a)
38 to ameliorate the conditions that endangered the welfare of the

1 child or that place the child at risk of future abuse or neglect,
2 or (b) to address or treat the effects of mistreatment or neglect
3 upon the child. If the child's parents, guardians, or legal
4 custodians are available and willing to participate on a voluntary
5 basis in in-home services, and the department determines that in-
6 home services on a voluntary basis are appropriate for the family,
7 the department may offer such services.

8 (2) In cases where the department has offered appropriate and
9 reasonable services under subsection (1) of this section, and the
10 parents, guardians, or legal custodians refuse to accept or fail to
11 obtain appropriate treatment or services, or are unable or
12 unwilling to participate in or successfully and substantially
13 complete the treatment or services identified by the department,
14 the department may initiate a dependency proceeding under chapter
15 13.34 RCW on the basis that the negligent treatment or maltreatment
16 by the parent, guardian, or legal custodian constitutes neglect.

17 (3) Nothing in this section precludes the department from
18 filing a dependency petition as provided in chapter 13.34 RCW if it
19 determines that such action is necessary to protect the child from
20 abuse or neglect or safeguard the child from future abuse or
21 neglect.

22 (4) Nothing in this section shall be construed to create in any
23 person an entitlement to services or financial assistance in paying
24 for services or to create judicial authority to order the provision
25 of services to any person or family if the services are unavailable
26 or unsuitable or if the child or family is not eligible for such
27 services.

28 **Sec. 7.** RCW 74.13.031 and 2004 c 183 s 3 are each amended to
29 read as follows:

30 The department shall have the duty to provide child welfare
31 services and shall:

32 (1) Develop, administer, supervise, and monitor a coordinated
33 and comprehensive plan that establishes, aids, and strengthens
34 services for the protection and care of runaway, dependent, or
35 neglected children.

36 (2) Within available resources, recruit an adequate number of
37 prospective adoptive and foster homes, both regular and
38 specialized, i.e. homes for children of ethnic minority, including

1 Indian homes for Indian children, sibling groups, handicapped and
2 emotionally disturbed, teens, pregnant and parenting teens, and
3 annually report to the governor and the legislature concerning the
4 department's success in: (a) Meeting the need for adoptive and
5 foster home placements; (b) reducing the foster parent turnover
6 rate; (c) completing home studies for legally free children; and
7 (d) implementing and operating the passport program required by RCW
8 74.13.285. The report shall include a section entitled "Foster
9 Home Turn-Over, Causes and Recommendations."

10 (3) Investigate (~~complaints of any recent act or failure to~~
11 ~~act~~) reports of child abuse or neglect as defined in chapter 26.44
12 RCW on the part of a parent, guardian, or legal custodian of the
13 child, member of the household of such persons, agency as defined
14 in chapter 74.15 RCW providing care to the child, or other
15 caretaker (~~(that results in death, serious physical or emotional~~
16 ~~harm, or sexual abuse or exploitation, or that presents an imminent~~
17 ~~risk of serious harm)) of the child who is serving in place of the
18 parent, and on the basis of the findings of such investigation,
19 offer child welfare services in relation to the problem to such
20 (~~(parents, legal custodians, or))~~ persons (~~(serving in loco~~
21 ~~parentis))~~), and/or bring the situation to the attention of an
22 appropriate court, or another community agency: PROVIDED, That an
23 investigation is not required of nonaccidental injuries which are
24 clearly not the result of a lack of care or supervision by the
25 child's parents, guardians, legal custodians, or persons serving in
26 (~~(loco parentis))~~ place of a parent. If the investigation reveals
27 that a crime against a child may have been committed, the
28 department shall notify the appropriate law enforcement agency.~~

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

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

37 (6) Have authority to accept custody of children from parents
38 and to accept custody of children from juvenile courts, where
39 authorized to do so under law, to provide child welfare services

1 including placement for adoption, and to provide for the physical
2 care of such children and make payment of maintenance costs if
3 needed. Except where required by Public Law 95-608 (25 U.S.C. Sec.
4 1915), no private adoption agency which receives children for
5 adoption from the department shall discriminate on the basis of
6 race, creed, or color when considering applications in their
7 placement for adoption.

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

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

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

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

27 (11) Refer cases to the division of child support whenever
28 state or federal funds are expended for the care and maintenance of
29 a child, including a child with a developmental disability who is
30 placed as a result of an action under chapter 13.34 RCW, unless the
31 department finds that there is good cause not to pursue collection
32 of child support against the parent or parents of the child.

33 (12) Have authority within funds appropriated for foster care
34 services to purchase care for Indian children who are in the
35 custody of a federally recognized Indian tribe or tribally licensed
36 child-placing agency pursuant to parental consent, tribal court
37 order, or state juvenile court order; and the purchase of such care
38 shall be subject to the same eligibility standards and rates of

1 support applicable to other children for whom the department
2 purchases care.

3 Notwithstanding any other provision of RCW 13.32A.170 through
4 13.32A.200 and 74.13.032 through 74.13.036, or of this section all
5 services to be provided by the department of social and health
6 services under subsections (4), (6), and (7) of this section,
7 subject to the limitations of these subsections, may be provided by
8 any program offering such services funded pursuant to Titles II and
9 III of the federal juvenile justice and delinquency prevention act
10 of 1974.

11 (13) Within amounts appropriated for this specific purpose,
12 provide preventive services to families with children that prevent
13 or shorten the duration of an out-of-home placement.

14 (14) Have authority to provide independent living services to
15 youths, including individuals eighteen through twenty years of age,
16 who are or have been in foster care.

17 NEW SECTION. **Sec. 8.** The legislature recognizes that the
18 fiscal and workload impact of this act may not be fully determined
19 until after it is implemented and that such impact may further be
20 affected by the funding or availability of community-based
21 prevention and remedial services. For that reason, the department
22 of social and health services shall report on the implementation of
23 this act to the appropriate legislative committees and the governor
24 by December 1, 2006. The report shall include information
25 regarding any change over previous years in the number and type of
26 child abuse and neglect referrals received and investigations
27 conducted, any change in in-home and out-of-home dependency
28 placements and/or filings, any increased service costs, barriers to
29 implementation, and an assessment of the fiscal and workload impact
30 on the department. Such information shall be reviewed by the
31 legislature for possible amendment of this act or additional
32 allocation of resources to the department for implementation
33 purposes.

34 NEW SECTION. **Sec. 9.** This act takes effect January 1, 2006.

35 NEW SECTION. **Sec. 10.** This act may be known and cited as the
36 Justice and Raiden Act."

1 Correct the title.

EFFECT:

Changes the notification requirement to require the Department of Social and Health Services to notify the alleged perpetrator of child abuse or neglect of the complaints or allegations at the initial point of contact with the alleged perpetrator. The notification must be consistent with the laws maintaining the confidentiality of the person making the complaint or allegation.

Clarifies that investigations of child abuse and neglect should be conducted so that relevant evidence of offenses is not concealed or destroyed, child victims are not subjected to undue influence, and actions are not taken that would jeopardize the safety or protection of the child.

Adds the requirement that training be provided to the Department to ensure caseworkers receive training in the legal duties of the Department.

Changes the definitions of "abuse or neglect" and "negligent treatment or maltreatment" of a child to include language pertaining to chronic neglect for the purposes of an investigation of child abuse or neglect.

Permits the Department to offer voluntary services to a parent to correct the deficiencies that placed the child at risk for child abuse or neglect.

Permits the Department to file a dependency petition if a parent fails to comply with treatment to correct the deficiencies that placed the child at risk for child abuse or neglect.