
SUBSTITUTE HOUSE BILL 1482

State of Washington

59th Legislature

2005 Regular Session

By House Committee on Children & Family Services (originally sponsored by Representatives Dickerson, Kagi, Simpson, Appleton, Morrell, Ormsby, Moeller, Kenney, McDermott, O'Brien, McIntire and Chase)

READ FIRST TIME 02/16/05.

1 AN ACT Relating to child abuse and neglect; amending RCW 13.34.138,
2 26.44.015, 26.44.020, and 74.13.031; adding a new section to chapter
3 26.44 RCW; creating new sections; and providing an effective date.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that whenever
6 possible, children should remain in the home of their parents. It is
7 only when the safety of the child is a concern that the child should be
8 removed from the home.

9 The legislature finds that the safety of a child is put in jeopardy
10 when a child is subject to chronic neglect. The legislature recognizes
11 that chronic neglect may be more dangerous to a child than physical or
12 sexual abuse, and must be treated as such by those charged with the
13 protection of children in this state.

14 It is the intent of the legislature that the department of social
15 and health services be permitted to intervene in cases of chronic
16 neglect where the well-being of the child is at risk. One incident of
17 neglect may not rise to the level requiring state intervention;
18 however, a pattern of neglect has been shown to cause damage to the
19 health and well-being of the child subject to the neglect.

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

7 **Sec. 2.** RCW 13.34.138 and 2003 c 227 s 5 are each amended to read
8 as follows:

9 (1) Except for children whose cases are reviewed by a citizen
10 review board under chapter 13.70 RCW, the status of all children found
11 to be dependent shall be reviewed by the court at least every six
12 months from the beginning date of the placement episode or the date
13 dependency is established, whichever is first, at a hearing in which it
14 shall be determined whether court supervision should continue. The
15 initial review hearing shall be an in-court review and shall be set six
16 months from the beginning date of the placement episode or no more than
17 ninety days from the entry of the disposition order, whichever comes
18 first. The initial review hearing may be a permanency planning hearing
19 when necessary to meet the time frames set forth in RCW 13.34.145(3) or
20 13.34.134. The review shall include findings regarding the agency and
21 parental completion of disposition plan requirements, and if necessary,
22 revised permanency time limits. This review shall consider both the
23 agency's and parent's efforts that demonstrate consistent measurable
24 progress over time in meeting the disposition plan requirements. The
25 requirements for the initial review hearing, including the in-court
26 requirement, shall be accomplished within existing resources. The
27 supervising agency shall provide a foster parent, preadoptive parent,
28 or relative with notice of, and their right to an opportunity to be
29 heard in, a review hearing pertaining to the child, but only if that
30 person is currently providing care to that child at the time of the
31 hearing. This section shall not be construed to grant party status to
32 any person who has been provided an opportunity to be heard.

33 (a) A child shall not be returned home at the review hearing unless
34 the court finds that a reason for removal as set forth in RCW 13.34.130
35 no longer exists. The parents, guardian, or legal custodian shall
36 report to the court the efforts they have made to correct the

1 conditions which led to removal. If a child is returned, casework
2 supervision shall continue for a period of six months, at which time
3 there shall be a hearing on the need for continued intervention.

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

6 (i) Whether reasonable services have been provided to or offered to
7 the parties to facilitate reunion, specifying the services provided or
8 offered;

9 (ii) Whether the child has been placed in the least-restrictive
10 setting appropriate to the child's needs, including whether
11 consideration and preference has been given to placement with the
12 child's relatives;

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

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

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

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

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

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

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

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

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

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

35 (iii) The continued participation of the parents in remedial
36 services.

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

1 (i) Noncompliance by the parents with the case plan or court order;
2 (ii) The parent's inability, unwillingness, or failure to
3 participate in services or treatment for themselves or the child; or
4 (iii) The failure of the parents to successfully and substantially
5 complete services or treatment for themselves or the child.

6 (3) The court's ability to order housing assistance under RCW
7 13.34.130 and this section is: (a) Limited to cases in which
8 homelessness or the lack of adequate and safe housing is the primary
9 reason for an out-of-home placement; and (b) subject to the
10 availability of funds appropriated for this specific purpose.

11 ~~((3))~~ (4) The court shall consider the child's relationship with
12 siblings in accordance with RCW 13.34.130(3).

13 **Sec. 3.** RCW 26.44.015 and 1999 c 176 s 28 are each amended to read
14 as follows:

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

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

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

24 **Sec. 4.** RCW 26.44.020 and 2000 c 162 s 19 are each amended to read
25 as follows:

26 The definitions in this section apply throughout this chapter
27 unless the context clearly requires otherwise.

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

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

33 (3) "Practitioner of the healing arts" or "practitioner" means a
34 person licensed by this state to practice podiatric medicine and
35 surgery, optometry, chiropractic, nursing, dentistry, osteopathic
36 medicine and surgery, or medicine and surgery or to provide other

1 health services. The term "practitioner" includes a duly accredited
2 Christian Science practitioner: PROVIDED, HOWEVER, That a person who
3 is being furnished Christian Science treatment by a duly accredited
4 Christian Science practitioner will not be considered, for that reason
5 alone, a neglected person for the purposes of this chapter.

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

8 (5) "Department" means the state department of social and health
9 services.

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

12 (7) "Professional school personnel" include, but are not limited
13 to, teachers, counselors, administrators, child care facility
14 personnel, and school nurses.

15 (8) "Social service counselor" means anyone engaged in a
16 professional capacity during the regular course of employment in
17 encouraging or promoting the health, welfare, support or education of
18 children, or providing social services to adults or families, including
19 mental health, drug and alcohol treatment, and domestic violence
20 programs, whether in an individual capacity, or as an employee or agent
21 of any public or private organization or institution.

22 (9) "Psychologist" means any person licensed to practice psychology
23 under chapter 18.83 RCW, whether acting in an individual capacity or as
24 an employee or agent of any public or private organization or
25 institution.

26 (10) "Pharmacist" means any registered pharmacist under chapter
27 18.64 RCW, whether acting in an individual capacity or as an employee
28 or agent of any public or private organization or institution.

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

33 (12) "Abuse or neglect" means (~~the injury,~~) sexual abuse, sexual
34 exploitation, (~~negligent treatment, or maltreatment~~) or nonaccidental
35 injury of a child by any person under circumstances which (~~indicate~~
36 ~~that~~) cause harm to the child's health, welfare, (~~and~~) or safety
37 (~~is harmed~~), excluding conduct permitted under RCW 9A.16.100; or the
38 negligent treatment or maltreatment of a child by a person responsible

1 for or providing care to the child under circumstances which cause harm
2 to or present a substantial threat of harm to the child's health,
3 welfare, or safety. An abused child is a child who has been subjected
4 to child abuse or neglect as defined in this section.

5 (13) "Child protective services section" means the child protective
6 services section of the department.

7 (14) "Sexual exploitation" includes: (a) Allowing, permitting, or
8 encouraging a child to engage in prostitution by any person; or (b)
9 allowing, permitting, encouraging, or engaging in the obscene or
10 pornographic photographing, filming, or depicting of a child by any
11 person.

12 (15) "Negligent treatment or maltreatment" means an act or
13 ~~((omission))~~ a failure to act, or the cumulative effects of a pattern
14 of conduct, behavior, or inaction, that evidences a serious disregard
15 of consequences of such magnitude as to ~~((constitute a clear and~~
16 ~~present danger))~~ cause harm to or present a substantial threat of harm
17 to ((the)) a child's ((health, welfare, and safety. The fact that
18 ~~siblings share a bedroom is not, in and of itself, negligent treatment~~
19 ~~or maltreatment))~~ physical, mental, or cognitive condition or
20 development. Poverty, homelessness, or exposure to domestic violence
21 as defined in RCW 26.50.010 that is perpetrated against someone other
22 than the child do not constitute negligent treatment or maltreatment in
23 and of themselves.

24 (16) "Child protective services" means those services provided by
25 the department designed to protect children from child abuse and
26 neglect and safeguard such children from future abuse and neglect, and
27 conduct investigations of child abuse and neglect reports.
28 Investigations may be conducted regardless of the location of the
29 alleged abuse or neglect. Child protective services includes referral
30 to services to ameliorate conditions that endanger the welfare of
31 children, the coordination of necessary programs and services relevant
32 to the prevention, intervention, and treatment of child abuse and
33 neglect, and services to children to ensure that each child has a
34 permanent home. In determining whether protective services should be
35 provided, the department shall not decline to provide such services
36 solely because of the child's unwillingness or developmental inability
37 to describe the nature and severity of the abuse or neglect.

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

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

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

13 NEW SECTION. **Sec. 5.** A new section is added to chapter 26.44 RCW
14 to read as follows:

15 (1) If the department, upon investigation of a report that a child
16 has been abused or neglected as defined in this chapter, determines
17 that the child has been subject to or is at risk of negligent treatment
18 or maltreatment, the department may offer services to the child's
19 parents, guardians, or legal custodians (a) to ameliorate the
20 conditions that endangered the welfare of the child or that place the
21 child at risk of future abuse or neglect, or (b) to address or treat
22 the effects of mistreatment or neglect upon the child. If the child's
23 parents, guardians, or legal custodians are available and willing to
24 participate on a voluntary basis in in-home services, and the
25 department determines that in-home services on a voluntary basis are
26 appropriate for the family, the department may offer such services.

27 (2) In cases where the department has offered appropriate and
28 reasonable services under subsection (1) of this section, and the
29 parents, guardians, or legal custodians refuse to accept or fail to
30 obtain appropriate treatment or services, or are unable or unwilling to
31 participate in or successfully and substantially complete the treatment
32 or services identified by the department, the department may initiate
33 a dependency proceeding under chapter 13.34 RCW on the basis that the
34 negligent treatment or maltreatment by the parent, guardian, or legal
35 custodian constitutes neglect.

36 (3) Nothing in this section precludes the department from filing a

1 dependency petition as provided in chapter 13.34 RCW if it determines
2 that such action is necessary to protect the child from abuse or
3 neglect or safeguard the child from future abuse or neglect.

4 (4) Nothing in this section shall be construed to create in any
5 person an entitlement to services or financial assistance in paying for
6 services or to create judicial authority to order the provision of
7 services to any person or family if the services are unavailable or
8 unsuitable or if the child or family is not eligible for such services.

9 **Sec. 6.** RCW 74.13.031 and 2004 c 183 s 3 are each amended to read
10 as follows:

11 The department shall have the duty to provide child welfare
12 services and shall:

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

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

27 (3) Investigate (~~complaints of any recent act or failure to act~~)
28 reports of child abuse or neglect as defined in chapter 26.44 RCW on
29 the part of a parent, guardian, or legal custodian of the child, member
30 of the household of such persons, agency as defined in chapter 74.15
31 RCW providing care to the child, or other caretaker (~~(that results in~~
32 ~~death, serious physical or emotional harm, or sexual abuse or~~
33 ~~exploitation, or that presents an imminent risk of serious harm)) of
34 the child who is serving in place of the parent, and on the basis of
35 the findings of such investigation, offer child welfare services in
36 relation to the problem to such (~~parents, legal custodians, or~~)
37 persons (~~serving in loco parentis~~), and/or bring the situation to the~~

1 attention of an appropriate court, or another community agency:
2 PROVIDED, That an investigation is not required of nonaccidental
3 injuries which are clearly not the result of a lack of care or
4 supervision by the child's parents, guardians, legal custodians, or
5 persons serving in (~~loco parentis~~) place of a parent. If the
6 investigation reveals that a crime against a child may have been
7 committed, the department shall notify the appropriate law enforcement
8 agency.

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

11 (5) Monitor out-of-home placements, on a timely and routine basis,
12 to assure the safety, well-being, and quality of care being provided is
13 within the scope of the intent of the legislature as defined in RCW
14 74.13.010 and 74.15.010, and annually submit a report measuring the
15 extent to which the department achieved the specified goals to the
16 governor and the legislature.

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

26 (7) Have authority to provide temporary shelter to children who
27 have run away from home and who are admitted to crisis residential
28 centers.

29 (8) Have authority to purchase care for children; and shall follow
30 in general the policy of using properly approved private agency
31 services for the actual care and supervision of such children insofar
32 as they are available, paying for care of such children as are accepted
33 by the department as eligible for support at reasonable rates
34 established by the department.

35 (9) Establish a children's services advisory committee which shall
36 assist the secretary in the development of a partnership plan for
37 utilizing resources of the public and private sectors, and advise on

1 all matters pertaining to child welfare, licensing of child care
2 agencies, adoption, and services related thereto. At least one member
3 shall represent the adoption community.

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

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

13 (12) Have authority within funds appropriated for foster care
14 services to purchase care for Indian children who are in the custody of
15 a federally recognized Indian tribe or tribally licensed child-placing
16 agency pursuant to parental consent, tribal court order, or state
17 juvenile court order; and the purchase of such care shall be subject to
18 the same eligibility standards and rates of support applicable to other
19 children for whom the department purchases care.

20 Notwithstanding any other provision of RCW 13.32A.170 through
21 13.32A.200 and 74.13.032 through 74.13.036, or of this section all
22 services to be provided by the department of social and health services
23 under subsections (4), (6), and (7) of this section, subject to the
24 limitations of these subsections, may be provided by any program
25 offering such services funded pursuant to Titles II and III of the
26 federal juvenile justice and delinquency prevention act of 1974.

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

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

33 NEW SECTION. **Sec. 7.** The legislature recognizes that the fiscal
34 and workload impact of this act may not be fully determined until after
35 it is implemented and that such impact may further be affected by the
36 funding or availability of community-based prevention and remedial
37 services. For that reason, the department of social and health

1 services shall report on the implementation of this act to the
2 appropriate legislative committees and the governor by December 1,
3 2006. The report shall include information regarding any change over
4 previous years in the number and type of child abuse and neglect
5 referrals received and investigations conducted, any change in in-home
6 and out-of-home dependency placements and/or filings, any increased
7 service costs, barriers to implementation, and an assessment of the
8 fiscal and workload impact on the department. Such information shall
9 be reviewed by the legislature for possible amendment of this act or
10 additional allocation of resources to the department for implementation
11 purposes.

12 NEW SECTION. **Sec. 8.** This act takes effect January 1, 2006.

13 NEW SECTION. **Sec. 9.** This act may be known and cited as the
14 Justice and Raiden Act.

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