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**SUBSTITUTE SENATE BILL 5381**

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**State of Washington**

**60th Legislature**

**2007 Regular Session**

**By** Senate Committee on Human Services & Corrections (originally sponsored by Senators Hargrove, Stevens, Regala, McAuliffe and Shin)

READ FIRST TIME 02/23/07.

1 AN ACT Relating to the safety of dependent children; amending RCW  
2 13.34.138, 13.34.025, 74.13.330, and 71.24.035; adding a new section to  
3 chapter 26.44 RCW; adding a new section to chapter 43.101 RCW; adding  
4 a new section to chapter 13.34 RCW; and creating new sections.

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

6 **Sec. 1.** RCW 13.34.138 and 2005 c 512 s 3 are each amended to read  
7 as follows:

8 (1) Except for children whose cases are reviewed by a citizen  
9 review board under chapter 13.70 RCW, the status of all children found  
10 to be dependent shall be reviewed by the court at least every six  
11 months from the beginning date of the placement episode or the date  
12 dependency is established, whichever is first, at a hearing in which it  
13 shall be determined whether court supervision should continue. The  
14 initial review hearing shall be an in-court review and shall be set six  
15 months from the beginning date of the placement episode or no more than  
16 ninety days from the entry of the disposition order, whichever comes  
17 first. The initial review hearing may be a permanency planning hearing  
18 when necessary to meet the time frames set forth in RCW 13.34.145(3) or  
19 13.34.134. The review shall include findings regarding the agency and

1 parental completion of disposition plan requirements, and if necessary,  
2 revised permanency time limits. This review shall consider both the  
3 agency's and parent's efforts that demonstrate consistent measurable  
4 progress over time in meeting the disposition plan requirements. The  
5 requirements for the initial review hearing, including the in-court  
6 requirement, shall be accomplished within existing resources. The  
7 supervising agency shall provide a foster parent, preadoptive parent,  
8 or relative with notice of, and their right to an opportunity to be  
9 heard in, a review hearing pertaining to the child, but only if that  
10 person is currently providing care to that child at the time of the  
11 hearing. This section shall not be construed to grant party status to  
12 any person who has been provided an opportunity to be heard.

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

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

22 (i) Whether reasonable services have been provided to or offered to  
23 the parties to facilitate reunion, specifying the services provided or  
24 offered;

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

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

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

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

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

37 (vii) Whether additional services, including housing assistance,

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

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

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

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

11 (i) The compliance of the parents with court orders related to the  
12 care and supervision of the child, including compliance with an agency  
13 case plan; and

14 (ii) The continued participation of the parents, if applicable, in  
15 available substance abuse or mental health treatment if substance abuse  
16 or mental illness was a contributing factor to the removal of the  
17 child.

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

20 (i) Noncompliance by the parents with the agency case plan or court  
21 order;

22 (ii) The parent's inability, unwillingness, or failure to  
23 participate in available services or treatment for themselves or the  
24 child, including substance abuse treatment if a parent's substance  
25 abuse was a contributing factor to the abuse or neglect; or

26 (iii) The failure of the parents to successfully and substantially  
27 complete available services or treatment for themselves or the child,  
28 including substance abuse treatment if a parent's substance abuse was  
29 a contributing factor to the abuse or neglect.

30 (c) In a pending dependency case in which the court orders that a  
31 dependent child may be returned home and that child is later removed  
32 from the home, the court shall hold a review hearing within thirty days  
33 from the date of removal to determine whether the permanency plan  
34 should be changed, a termination petition should be filed, or other  
35 action is warranted. The best interests of the child shall be the  
36 court's primary consideration in the review hearing.

37 (3) The court's ability to order housing assistance under RCW  
38 13.34.130 and this section is: (a) Limited to cases in which

1 homelessness or the lack of adequate and safe housing is the primary  
2 reason for an out-of-home placement; and (b) subject to the  
3 availability of funds appropriated for this specific purpose.

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

6 **Sec. 2.** RCW 13.34.025 and 2002 c 52 s 2 are each amended to read  
7 as follows:

8 (1) The department of social and health services shall develop  
9 methods for coordination of services to parents and children in child  
10 dependency cases. To the maximum extent possible under current funding  
11 levels, the department must:

12 ((+1)) (a) Coordinate and integrate services to children and  
13 families, using service plans and activities that address the  
14 children's and families' multiple needs, including ensuring that  
15 siblings have regular visits with each other, as appropriate.  
16 Assessment criteria should screen for multiple needs;

17 ((+2)) (b) Coordinate within the divisions of the department, and  
18 enter into contracts with service providers, to give priority access to  
19 court-ordered services, such as substance abuse treatment, mental  
20 health services, domestic violence treatment, parent-child therapy, and  
21 parenting classes to parents who are defendants in dependency  
22 proceedings, providing funds for such services if the parent is unable  
23 to pay;

24 (c) Develop treatment plans for the individual needs of the client  
25 in a manner that minimizes the number of contacts the client is  
26 required to make; and

27 ((+3)) (d) Access training for department staff to increase skills  
28 across disciplines to assess needs for mental health, substance abuse,  
29 developmental disabilities, and other areas.

30 (2) If the department determines that a child's parent or primary  
31 caregiver, as identified in the child's permanency plan, must engage in  
32 services necessary to ensure the safety of the child, and the  
33 department makes reasonable efforts to provide those services, but the  
34 primary caregiver fails to engage in those services, then the  
35 department must notify the court that the primary caregiver has failed  
36 to engage in the necessary services.

1        NEW SECTION.    **Sec. 3.**    A new section is added to chapter 26.44 RCW  
2 to read as follows:

3        (1) Each county shall revise and expand its existing child sexual  
4 abuse investigation protocol to address investigations of child  
5 fatality, child physical abuse, and criminal child neglect cases and to  
6 incorporate the statewide guidelines for first responders to child  
7 fatalities developed by the criminal justice training commission. The  
8 protocols shall address the coordination of child fatality, child  
9 physical abuse, and criminal child neglect investigations between the  
10 county and city prosecutor's offices, law enforcement, children's  
11 protective services, local advocacy groups, emergency medical services,  
12 and any other local agency involved in the investigation of such cases.  
13 The protocol revision and expansion shall be developed by the  
14 prosecuting attorney in collaboration with the agencies referenced in  
15 this section.

16        (2) Revised and expanded protocols under this section shall be  
17 adopted and in place by July 1, 2008. Thereafter, the protocols shall  
18 be reviewed every two years to determine whether modifications are  
19 needed.

20        NEW SECTION.    **Sec. 4.**    A new section is added to chapter 43.101 RCW  
21 to read as follows:

22        (1) The commission, in consultation with the department of social  
23 and health services, the Washington association of sheriffs and police  
24 chiefs, and the Washington association of prosecuting attorneys, shall  
25 develop a curriculum related to child abuse and neglect to be included  
26 in the basic law enforcement training that must be successfully  
27 completed within the first fifteen months of employment of all law  
28 enforcement personnel.

29        (2) The curriculum must be incorporated into the basic law  
30 enforcement training program by July 1, 2008.

31        NEW SECTION.    **Sec. 5.**    (1) The joint legislative audit and review  
32 committee shall analyze gaps throughout the state in the availability  
33 and accessibility of services identified in the federal adoption and  
34 safe families act as it existed on the effective date of this section.

35        (2) The joint legislative audit and review committee shall submit

1 to appropriate committees of the legislature a report and  
2 recommendations by December 1, 2007.

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

5 (1) The administrative office of the courts, in consultation with  
6 the attorney general's office and the department of social and health  
7 services, shall compile an annual report, providing information about  
8 cases that fail to meet statutory guidelines to achieve permanency for  
9 dependent children.

10 (2) The administrative office of the courts shall submit the annual  
11 report required by this section to appropriate committees of the  
12 legislature by December 1st of each year, beginning on December 1,  
13 2007.

14 **Sec. 7.** RCW 74.13.330 and 1990 c 284 s 23 are each amended to read  
15 as follows:

16 Foster parents are responsible for the protection, care,  
17 supervision, and nurturing of the child in placement. As an integral  
18 part of the foster care team, foster parents shall, if appropriate and  
19 they desire to: Participate in the development of the service plan for  
20 the child and the child's family; assist in family visitation,  
21 including monitoring; ~~((and))~~ model effective parenting behavior for  
22 the natural family; and be available to help with the child's  
23 transition back to the natural family.

24 **Sec. 8.** RCW 71.24.035 and 2006 c 333 s 201 are each amended to  
25 read as follows:

26 (1) The department is designated as the state mental health  
27 authority.

28 (2) The secretary shall provide for public, client, and licensed  
29 service provider participation in developing the state mental health  
30 program, developing contracts with regional support networks, and any  
31 waiver request to the federal government under medicaid.

32 (3) The secretary shall provide for participation in developing the  
33 state mental health program for children and other underserved  
34 populations, by including representatives on any committee established  
35 to provide oversight to the state mental health program.

1 (4) The secretary shall be designated as the regional support  
2 network if the regional support network fails to meet state minimum  
3 standards or refuses to exercise responsibilities under RCW 71.24.045.

4 (5) The secretary shall:

5 (a) Develop a biennial state mental health program that  
6 incorporates regional biennial needs assessments and regional mental  
7 health service plans and state services for mentally ill adults and  
8 children. The secretary shall also develop a six-year state mental  
9 health plan;

10 (b) Assure that any regional or county community mental health  
11 program provides access to treatment for the region's residents,  
12 including parents who are defendants in dependency cases, in the  
13 following order of priority: (i) The acutely mentally ill; (ii)  
14 chronically mentally ill adults and severely emotionally disturbed  
15 children; and (iii) the seriously disturbed. Such programs shall  
16 provide:

17 (A) Outpatient services;

18 (B) Emergency care services for twenty-four hours per day;

19 (C) Day treatment for mentally ill persons which includes training  
20 in basic living and social skills, supported work, vocational  
21 rehabilitation, and day activities. Such services may include  
22 therapeutic treatment. In the case of a child, day treatment includes  
23 age-appropriate basic living and social skills, educational and  
24 prevocational services, day activities, and therapeutic treatment;

25 (D) Screening for patients being considered for admission to state  
26 mental health facilities to determine the appropriateness of admission;

27 (E) Employment services, which may include supported employment,  
28 transitional work, placement in competitive employment, and other work-  
29 related services, that result in mentally ill persons becoming engaged  
30 in meaningful and gainful full or part-time work. Other sources of  
31 funding such as the division of vocational rehabilitation may be  
32 utilized by the secretary to maximize federal funding and provide for  
33 integration of services;

34 (F) Consultation and education services; and

35 (G) Community support services;

36 (c) Develop and adopt rules establishing state minimum standards  
37 for the delivery of mental health services pursuant to RCW 71.24.037  
38 including, but not limited to:

1 (i) Licensed service providers. These rules shall permit a county-  
2 operated mental health program to be licensed as a service provider  
3 subject to compliance with applicable statutes and rules. The  
4 secretary shall provide for deeming of compliance with state minimum  
5 standards for those entities accredited by recognized behavioral health  
6 accrediting bodies recognized and having a current agreement with the  
7 department;

8 (ii) Regional support networks; and

9 (iii) Inpatient services, evaluation and treatment services and  
10 facilities under chapter 71.05 RCW, resource management services, and  
11 community support services;

12 (d) Assure that the special needs of minorities, the elderly,  
13 disabled, children, ~~((and))~~ low-income persons, and parents who are  
14 defendants in dependency cases are met within the priorities  
15 established in this section;

16 (e) Establish a standard contract or contracts, consistent with  
17 state minimum standards and RCW 71.24.320, 71.24.330, and 71.24.3201,  
18 which shall be used in contracting with regional support networks. The  
19 standard contract shall include a maximum fund balance, which shall be  
20 consistent with that required by federal regulations or waiver  
21 stipulations;

22 (f) Establish, to the extent possible, a standardized auditing  
23 procedure which minimizes paperwork requirements of regional support  
24 networks and licensed service providers. The audit procedure shall  
25 focus on the outcomes of service and not the processes for  
26 accomplishing them;

27 (g) Develop and maintain an information system to be used by the  
28 state and regional support networks that includes a tracking method  
29 which allows the department and regional support networks to identify  
30 mental health clients' participation in any mental health service or  
31 public program on an immediate basis. The information system shall not  
32 include individual patient's case history files. Confidentiality of  
33 client information and records shall be maintained as provided in this  
34 chapter and in RCW 71.05.390, 71.05.420, and 71.05.440;

35 (h) License service providers who meet state minimum standards;

36 (i) Certify regional support networks that meet state minimum  
37 standards;

1 (j) Periodically monitor the compliance of certified regional  
2 support networks and their network of licensed service providers for  
3 compliance with the contract between the department, the regional  
4 support network, and federal and state rules at reasonable times and in  
5 a reasonable manner;

6 (k) Fix fees to be paid by evaluation and treatment centers to the  
7 secretary for the required inspections;

8 (l) Monitor and audit regional support networks and licensed  
9 service providers as needed to assure compliance with contractual  
10 agreements authorized by this chapter;

11 (m) Adopt such rules as are necessary to implement the department's  
12 responsibilities under this chapter; and

13 (n) Assure the availability of an appropriate amount, as determined  
14 by the legislature in the operating budget by amounts appropriated for  
15 this specific purpose, of community-based, geographically distributed  
16 residential services.

17 (6) The secretary shall use available resources only for regional  
18 support networks, except to the extent authorized, and in accordance  
19 with any priorities or conditions specified, in the biennial  
20 appropriations act.

21 (7) Each certified regional support network and licensed service  
22 provider shall file with the secretary, on request, such data,  
23 statistics, schedules, and information as the secretary reasonably  
24 requires. A certified regional support network or licensed service  
25 provider which, without good cause, fails to furnish any data,  
26 statistics, schedules, or information as requested, or files fraudulent  
27 reports thereof, may have its certification or license revoked or  
28 suspended.

29 (8) The secretary may suspend, revoke, limit, or restrict a  
30 certification or license, or refuse to grant a certification or license  
31 for failure to conform to: (a) The law; (b) applicable rules and  
32 regulations; (c) applicable standards; or (d) state minimum standards.

33 (9) The superior court may restrain any regional support network or  
34 service provider from operating without certification or a license or  
35 any other violation of this section. The court may also review,  
36 pursuant to procedures contained in chapter 34.05 RCW, any denial,  
37 suspension, limitation, restriction, or revocation of certification or

1 license, and grant other relief required to enforce the provisions of  
2 this chapter.

3 (10) Upon petition by the secretary, and after hearing held upon  
4 reasonable notice to the facility, the superior court may issue a  
5 warrant to an officer or employee of the secretary authorizing him or  
6 her to enter at reasonable times, and examine the records, books, and  
7 accounts of any regional support network or service provider refusing  
8 to consent to inspection or examination by the authority.

9 (11) Notwithstanding the existence or pursuit of any other remedy,  
10 the secretary may file an action for an injunction or other process  
11 against any person or governmental unit to restrain or prevent the  
12 establishment, conduct, or operation of a regional support network or  
13 service provider without certification or a license under this chapter.

14 (12) The standards for certification of evaluation and treatment  
15 facilities shall include standards relating to maintenance of good  
16 physical and mental health and other services to be afforded persons  
17 pursuant to this chapter and chapters 71.05 and 71.34 RCW, and shall  
18 otherwise assure the effectuation of the purposes of these chapters.

19 (13) The department shall distribute appropriated state and federal  
20 funds in accordance with any priorities, terms, or conditions specified  
21 in the appropriations act.

22 (14) The secretary shall assume all duties assigned to the  
23 nonparticipating regional support networks under chapters 71.05, 71.34,  
24 and 71.24 RCW. Such responsibilities shall include those which would  
25 have been assigned to the nonparticipating counties in regions where  
26 there are not participating regional support networks.

27 The regional support networks, or the secretary's assumption of all  
28 responsibilities under chapters 71.05, 71.34, and 71.24 RCW, shall be  
29 included in all state and federal plans affecting the state mental  
30 health program including at least those required by this chapter, the  
31 medicaid program, and P.L. 99-660. Nothing in these plans shall be  
32 inconsistent with the intent and requirements of this chapter.

33 (15) The secretary shall:

34 (a) Disburse funds for the regional support networks within sixty  
35 days of approval of the biennial contract. The department must either  
36 approve or reject the biennial contract within sixty days of receipt.

37 (b) Enter into biennial contracts with regional support networks.  
38 The contracts shall be consistent with available resources. No

1 contract shall be approved that does not include progress toward  
2 meeting the goals of this chapter by taking responsibility for: (i)  
3 Short-term commitments; (ii) residential care; and (iii) emergency  
4 response systems.

5 (c) Notify regional support networks of their allocation of  
6 available resources at least sixty days prior to the start of a new  
7 biennial contract period.

8 (d) Deny all or part of the funding allocations to regional support  
9 networks based solely upon formal findings of noncompliance with the  
10 terms of the regional support network's contract with the department.  
11 Regional support networks disputing the decision of the secretary to  
12 withhold funding allocations are limited to the remedies provided in  
13 the department's contracts with the regional support networks.

14 (16) The department, in cooperation with the state congressional  
15 delegation, shall actively seek waivers of federal requirements and  
16 such modifications of federal regulations as are necessary to allow  
17 federal medicaid reimbursement for services provided by free-standing  
18 evaluation and treatment facilities certified under chapter 71.05 RCW.  
19 The department shall periodically report its efforts to the appropriate  
20 committees of the senate and the house of representatives.

21 NEW SECTION. **Sec. 9.** This act may be known and cited as Sirita's  
22 law.

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