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## Children & Family Services Committee

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### BILL ANALYSIS HB 3008

**Title:** An act relating to mothers who have given birth to a child with drug addiction.

**Brief Description:** Requiring dependency investigations for infants born drug affected.

**Sponsors:** Representatives Cooke, Dickerson, Boldt, Wolfe, McDonald, Tokuda, Ballasiotes, Kastama, Lambert, Dunshee, Carrell, Cody, Talcott, Cole, Johnson, Wood, Carlson, Lantz, Reams, Costa, L. Thomas, Clements, Zellinsky, Alexander, Dyer, D. Schmidt, Radcliff, Conway and Anderson.

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**Meeting Date:** February 3, 1998.

**Bill Analysis Prepared by:** Douglas Ruth (786-7134).

*Background: Medical evidence suggests that prenatal drug exposure places the child at high risk of having medical, psychological and social problems after birth. Drug-affected infants are often born prematurely, have low birth weights and other significant medical problems. The long-term effects of drug exposure may lead to learning disabilities, hyperactivity, articulation and socialization problems, including anti-social behavior.*

*Although drug-affected infants may suffer from serious physical and emotional complications, the fact that the infant is drug-affected, by itself, is not grounds for finding that the child is a dependent child.*

*Currently, physicians are not required to test newborn infants to discover if the child is drug-affected or suffers from fetal alcohol syndrome.*

*Summary of Bill: The Department of Social and Health Services (DSHS) creates a pilot project with sites in each region. The pilot project shall provide family planning and counseling services to women who give birth to drug-affected infants. The services provided shall not include abortion.*

*Physicians are required to test newborns to determine if the child may be drug-affected. If the tests are positive, the physician must notify DSHS. The physician must retain the drug-affected infant at the hospital, or, with the department's approval, place the child in a pediatric care facility. Low-income mothers of drug-affected infants may voluntarily obtain publically funded tubal ligations for up to six months after the birth.*

*DSHS will investigate all physician reports and may file dependency petitions when appropriate. If the department does not file a petition, it will refer the mother to a pilot project or to a chemical dependency treatment program. As part of treatment, the department will make available pharmaceutical birth control services, information, and counseling.*

*For the first drug-affected infant, the mother may avoid a dependency order by entering into an agreement with DSHS. As part of the agreement, the mother must obtain chemically dependency treatment or enroll in the pilot project. The mother must also stipulate to the fact that the child is a dependent child. If the mother enters into an agreement, the department will request that the court defer entry of a dependency order for as long as the mother remains in treatment or the pilot project.*

*For the second birth of a drug-affected infant, DSHS may request the court to proceed with the dependency on the first infant if it has been deferred. DSHS must investigate and file a dependency on the second child, absent compelling reasons to the contrary. If compelling reasons exist, the department will refer the mother to the pilot project or to a treatment program.*

*As with the first child, a mother may avoid the filing of a dependency petition by entering into an agreement with DSHS. The mother must agree to participate in inpatient chemically dependency treatment or the pilot project, and submit to medically appropriate pharmaceutical birth control. The birth control is to continue until the court dismisses the dependency petition or finds that the birth control is no longer medically appropriate. Upon an agreement, the department will request that the dependency petition regarding the second infant be deferred for as long as the mother abides by the agreement. The mother must also stipulate to the fact that her child is a dependent child.*

*For the third, and any subsequent births of drug-affected infants, DSHS will request the court to enter a dependency order on all drug-affected children if dependency orders have been deferred. If dependency orders are not pending, DSHS will file a dependency petition for all other drug-affected children in the family. The court will order the mother evaluated by a chemical dependency specialist to determine if involuntary commitment for drug treatment is warranted. Birth of a third drug-affected infant also creates a presumption that termination of parental rights is in the best interest of the child.*

*If a dependency petition has been deferred because a woman has entered into an agreement with the department, a court cannot dismiss the petition until the mother demonstrates by clear and convincing evidence that she has remained drug free for 36 consecutive months and can provide for the child's welfare. If a dependency petition has been entered and a child is removed from the home, the child may not be returned until the mother has successfully completed an inpatient chemical dependency and after-care program or the petition is dismissed.*

*The department is required to define drug-affected infant.– The definition is to exclude infants affected by alcohol.*

*Washington State Institute for Public Policy (WSIPP) must study the effectiveness for the pilot project and report by September 1, 2002. The pilot project terminates on July 1, 2003.*

*DSHS must report annually on tubal ligations offered and accepted, number of reports filed by physicians, and the pharmaceutical birth control services utilized. DSHS must study whether the mothers of fetal alcohol syndrome (FAS) infants should be included in the program.*

**Appropriation:** None.

**Fiscal Note:** Requested 2/3/98.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

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