
SENATE BILL 6397

State of Washington **55th Legislature** **1998 Regular Session**

By Senators Fraser, Roach, Fairley, Kohl, Oke and Swecker

Read first time 01/16/98. Referred to Committee on Law & Justice.

1 AN ACT Relating to rape victim protection; amending RCW 13.34.030,
2 26.26.060, 26.26.170, and 13.34.200; adding a new section to chapter
3 9A.44 RCW; and declaring an emergency.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 9A.44 RCW
6 to read as follows:

7 Upon a conviction for any offense as defined by this chapter, the
8 attorney general or the prosecuting attorney in the county of
9 conviction shall initiate an action establishing paternity of any child
10 allegedly conceived and born as a consequence of the offense and an
11 action for termination of the offender's parental rights.

12 **Sec. 2.** RCW 13.34.030 and 1997 c 386 s 7 are each amended to read
13 as follows:

14 For purposes of this chapter:

15 (1) "Child" and "juvenile" means any individual under the age of
16 eighteen years.

17 (2) "Current placement episode" means the period of time that
18 begins with the most recent date that the child was removed from the

1 home of the parent, guardian, or legal custodian for purposes of
2 placement in out-of-home care and continues until the child returns
3 home, an adoption decree or guardianship order is entered, or the
4 dependency is dismissed, whichever occurs soonest. If the most recent
5 date of removal occurred prior to the filing of a dependency petition
6 under this chapter or after filing but prior to entry of a disposition
7 order, such time periods shall be included when calculating the length
8 of a child's current placement episode.

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

13 (4) "Dependent child" means any child:

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

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

25 (c) Who has no parent, guardian, or custodian capable of adequately
26 caring for the child, such that the child is in circumstances which
27 constitute a danger of substantial damage to the child's psychological
28 or physical development; or

29 (d) Who was conceived and born as a consequence of any sex offense
30 under chapter 9A.44 RCW.

31 (5) "Guardian" means the person or agency that: (a) Has been
32 appointed as the guardian of a child in a legal proceeding other than
33 a proceeding under this chapter; and (b) has the legal right to custody
34 of the child pursuant to such appointment. The term "guardian" shall
35 not include a "dependency guardian" appointed pursuant to a proceeding
36 under this chapter.

37 (6) "Guardian ad litem" means a person, appointed by the court to
38 represent the best interest of a child in a proceeding under this
39 chapter, or in any matter which may be consolidated with a proceeding

1 under this chapter. A "court-appointed special advocate" appointed by
2 the court to be the guardian ad litem for the child, or to perform
3 substantially the same duties and functions as a guardian ad litem,
4 shall be deemed to be guardian ad litem for all purposes and uses of
5 this chapter.

6 (7) "Guardian ad litem program" means a court-authorized volunteer
7 program, which is or may be established by the superior court of the
8 county in which such proceeding is filed, to manage all aspects of
9 volunteer guardian ad litem representation for children alleged or
10 found to be dependent. Such management shall include but is not
11 limited to: Recruitment, screening, training, supervision, assignment,
12 and discharge of volunteers.

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

17 (9) "Preventive services" means preservation services, as defined
18 in chapter 74.14C RCW, and other reasonably available services capable
19 of preventing the need for out-of-home placement while protecting the
20 child.

21 **Sec. 3.** RCW 26.26.060 and 1983 1st ex.s. c 41 s 5 are each amended
22 to read as follows:

23 (1)(a) A child, a child's natural mother, a man alleged or alleging
24 himself to be the father, a child's guardian, a child's personal
25 representative, the state of Washington, or any interested party may
26 bring an action at any time for the purpose of declaring the existence
27 or nonexistence of the father and child relationship.

28 (b) A man presumed to be a child's father under RCW 26.26.040 may
29 bring an action for the purpose of declaring the nonexistence of the
30 father and child relationship only if the action is brought within a
31 reasonable time after obtaining knowledge of relevant facts. After the
32 presumption has been rebutted, paternity of the child by another man
33 may be determined in the same action, if he has been made a party.

34 (2) In an action brought by the state pursuant to this chapter, the
35 state may be represented by either the prosecuting attorney for the
36 county where the action is brought or by the attorney general.

1 (3) Regardless of its terms, no agreement between an alleged or
2 presumed father and the mother or child, shall bar an action under this
3 section.

4 (4) If an action under this section is brought before the birth of
5 the child, all proceedings may be stayed until after the birth, except
6 service of process and discovery, including the taking of depositions
7 to perpetuate testimony.

8 (5) Actions under this chapter may be maintained as to any child,
9 whether born before or after the enactment of this chapter.

10 (6) A person convicted of any sex offense under chapter 9A.44 RCW
11 may not bring an action for the purposes of declaring the existence or
12 nonexistence of a father and child relationship with a child that was
13 conceived and born as a result of the offense.

14 **Sec. 4.** RCW 26.26.170 and 1975-'76 2nd ex.s. c 42 s 18 are each
15 amended to read as follows:

16 Any interested party, except a person convicted of any sex offense
17 under chapter 9A.44 RCW in regard to a child that was conceived and
18 born as a result of the offense, may bring an action to determine the
19 existence or nonexistence of a mother and child relationship. Insofar
20 as practicable, the provisions of this chapter applicable to the father
21 and child relationship apply.

22 **Sec. 5.** RCW 13.34.200 and 1977 ex.s. c 291 s 48 are each amended
23 to read as follows:

24 (1) Upon the termination of parental rights pursuant to RCW
25 13.34.180, all rights, powers, privileges, immunities, duties, and
26 obligations, including any rights to custody, control, visitation, or
27 support existing between the child and parent shall be severed and
28 terminated and the parent shall have no standing to appear at any
29 further legal proceedings concerning the child: PROVIDED, That any
30 support obligation existing prior to the effective date of the order
31 terminating parental rights shall not be severed or terminated. A duty
32 of child support shall not be severed or terminated if the person whose
33 parental rights have been terminated has been convicted of any sex
34 offense under chapter 9A.44 RCW, the consequence of which was the
35 conception and birth of the child. The rights of one parent may be
36 terminated without affecting the rights of the other parent and the
37 order shall so state.

1 (2) An order terminating the parent and child relationship shall
2 not disentitle a child to any benefit due the child from any third
3 person, agency, state, or the United States, nor shall any action under
4 this chapter be deemed to affect any rights and benefits that a native
5 American child derives from the child's descent from a member of a
6 federally recognized Indian tribe.

7 NEW SECTION. **Sec. 6.** This act is necessary for the immediate
8 preservation of the public peace, health, or safety, or support of the
9 state government and its existing public institutions, and takes effect
10 immediately.

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