

2 SSB 5392 - H COMM AMD
3 By Committee on Human Services

4

5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. **Sec. 1.** A new section is added to chapter 13.34 RCW
8 to read as follows:

9 (1) The provisions of this section shall apply when a court orders
10 a party to undergo an alcohol or substance abuse diagnostic
11 investigation and evaluation.

12 (2) The facility conducting the investigation and evaluation shall
13 make a written report to the court stating its findings and
14 recommendations including family-based services or treatment when
15 appropriate. If its findings and recommendations support treatment, it
16 shall also recommend a treatment plan setting out:

- 17 (a) Type of treatment;
- 18 (b) Nature of treatment;
- 19 (c) Length of treatment;
- 20 (d) A treatment time schedule; and
- 21 (e) Approximate cost of the treatment.

22 The affected person shall be included in developing the appropriate
23 plan of treatment. The plan of treatment must be signed by treatment
24 provider and the affected person. The initial written report based on
25 the treatment plan and response to treatment shall be sent to
26 appropriate persons six weeks after initiation of treatment, and after
27 three months, after six months, after twelve months, and thereafter
28 every six months if treatment exceeds twelve months. Reports are to be
29 filed in a timely manner. Close-out of the treatment record must
30 include summary of pretreatment and posttreatment, with final outcome
31 and disposition. The report shall also include recommendations for
32 ongoing stability and decrease in destructive behavior.

33 The report with the treatment plan shall be filed with the court
34 and a copy given to the person evaluated and the person's counsel. A
35 copy of the treatment plan shall also be given to the department's
36 caseworker and to the guardian ad litem. Any program for chemical

1 dependency shall meet the program requirements contained in chapter
2 70.96A RCW.

3 (3) If the court has ordered treatment pursuant to a dependency
4 proceeding it shall also require the treatment program to provide, in
5 the reports required by subsection (2) of this section, status reports
6 to the court, the department, the supervising child-placing agency if
7 any, and the person or person's counsel regarding: (a) The person's
8 cooperation with the treatment plan proposed; and (b) the person's
9 progress in treatment.

10 (4) In addition, if the party fails or neglects to carry out and
11 fulfill any term or condition of the treatment plan, the program or
12 agency administering the treatment shall report such breach to the
13 court, the department, the guardian ad litem, the supervising child-
14 placing agency if any, and the person or person's counsel, within
15 twenty-four hours, together with its recommendation. These reports
16 shall be made as a declaration by the person who is personally
17 responsible for providing the treatment.

18 (5) Nothing in this chapter may be construed as allowing the court
19 to require the department to pay for the cost of any alcohol or
20 substance abuse evaluation or treatment program.

21 NEW SECTION. **Sec. 2.** A new section is added to chapter 13.34 RCW
22 to read as follows:

23 (1) The court or the department, upon receiving a report under
24 section 1(4) of this act, may schedule a show cause hearing to
25 determine whether the person is in violation of the treatment
26 conditions. All parties shall be given notice of the hearing. The
27 court shall hold the hearing within ten days of the request for a
28 hearing. At the hearing, testimony, declarations, reports, or other
29 relevant information may be presented on the person's alleged failure
30 to comply with the treatment plan and the person shall have the right
31 to present similar information on his or her own behalf.

32 (2) If the court finds that there has been a violation of the
33 treatment conditions it shall modify the dependency order, as
34 necessary, to ensure the safety of the child. The modified order shall
35 remain in effect until the party is in full compliance with the
36 treatment requirements.

1 **Sec. 3.** RCW 13.34.110 and 1991 c 340 s 3 are each amended to read
2 as follows:

3 The court shall hold a fact-finding hearing on the petition and,
4 unless the court dismisses the petition, shall make written findings of
5 fact, stating the reasons therefor, and after it has announced its
6 findings of fact shall hold a hearing to consider disposition of the
7 case immediately following the fact-finding hearing or at a continued
8 hearing within fourteen days or longer for good cause shown. The
9 parties need not appear at the fact-finding or dispositional hearing if
10 ~~((all))~~ the parties, their attorneys, the guardian ad litem, and court-
11 appointed special advocates are all in agreement~~((+but))~~. The court
12 shall receive and review a social study before entering an order based
13 on agreement. No social file or social study may be considered by the
14 court in connection with the fact-finding hearing or prior to factual
15 determination, except as otherwise admissible under the rules of
16 evidence. Notice of the time and place of the continued hearing may be
17 given in open court. If notice in open court is not given to a party,
18 that party shall be notified by mail of the time and place of any
19 continued hearing.

20 All hearings may be conducted at any time or place within the
21 limits of the county, and such cases may not be heard in conjunction
22 with other business of any other division of the superior court. The
23 general public shall be excluded, and only such persons may be admitted
24 who are found by the judge to have a direct interest in the case or in
25 the work of the court. If a child resides in foster care or in the
26 home of a relative pursuant to a disposition order entered under RCW
27 13.34.130, the court may allow the child's foster parent or relative
28 care provider to attend dependency review proceedings pertaining to the
29 child for the sole purpose of providing information about the child to
30 the court.

31 Stenographic notes or any device which accurately records the
32 proceedings may be required as provided in other civil cases pursuant
33 to RCW 2.32.200.

34 **Sec. 4.** RCW 13.34.120 and 1987 c 524 s 5 are each amended to read
35 as follows:

36 (1) To aid the court in its decision on disposition, a social
37 study, consisting of a written evaluation of matters relevant to the
38 disposition of the case, shall be made by the person or agency filing

1 the petition. The study shall include all social records and may also
2 include facts relating to the child's cultural heritage, and shall be
3 made available to the court. The court shall consider the social file
4 ~~((and))~~, social study, guardian ad litem report, the court-appointed
5 special advocates report and any reports filed by a party at the
6 disposition hearing in addition to evidence produced at the fact-
7 finding hearing. At least ten working days before the disposition
8 hearing, the department shall mail to the parent and his or her
9 attorney a copy of the agency's social study and proposed service plan,
10 which shall be in writing or in a form understandable to the parents or
11 custodians. In addition, the department shall provide an opportunity
12 for parents to review and comment on the plan at the community service
13 office. If the parents disagree with the agency's plan or any part
14 thereof, the parents shall submit to the court at least twenty-four
15 hours before the hearing, in writing, or signed oral statement, an
16 alternative plan to correct the problems which led to the finding of
17 dependency. This section shall not interfere with the right of the
18 parents or custodians to submit oral arguments regarding the
19 disposition plan at the hearing.

20 (2) In addition to the requirements set forth in subsection (1) of
21 this section, a predisposition study to the court in cases of
22 dependency alleged pursuant to RCW 13.34.030(2) (b) or (c) shall
23 contain the following information:

24 (a) A statement of the specific harm or harms to the child that
25 intervention is designed to alleviate;

26 (b) A description of the specific programs, for both the parents
27 and child, that are needed in order to prevent serious harm to the
28 child; the reasons why such programs are likely to be useful; the
29 availability of any proposed services; and the agency's overall plan
30 for ensuring that the services will be delivered;

31 (c) If removal is recommended, a full description of the reasons
32 why the child cannot be protected adequately in the home, including a
33 description of any previous efforts to work with the parents and the
34 child in the home; the in-home treatment programs which have been
35 considered and rejected; and the parents' attitude toward placement of
36 the child;

37 (d) A statement of the likely harms the child will suffer as a
38 result of removal. This section should include an exploration of the

1 nature of the parent-child attachment and the meaning of separation and
2 loss to both the parents and the child;

3 (e) A description of the steps that will be taken to minimize harm
4 to the child that may result if separation occurs; and

5 (f) Behavior that will be expected before determination that
6 supervision of the family or placement is no longer necessary.

7 **Sec. 5.** RCW 13.34.145 and 1989 1st ex.s. c 17 s 18 are each
8 amended to read as follows:

9 (1) In all cases where a child has been placed in substitute care
10 for at least fifteen months, a permanency planning hearing shall be
11 held before the court no later than eighteen months following
12 commencement of the placement episode.

13 (2) At the permanency planning hearing, the court shall enter
14 findings as required by RCW (~~(13.34.130(4))~~) 13.34.130(5). In addition
15 the court shall: (a) Approve a permanent plan of care which can
16 include one of the following: Adoption, guardianship, or placement of
17 the child in the home of the child's parent; (b) require filing of a
18 petition for termination of parental rights; or (c) dismiss the
19 dependency, unless the court finds, based on clear, cogent, and
20 convincing evidence, that it is in the best interest of the child to
21 continue the dependency beyond eighteen months, based on a permanent
22 plan of care. Extensions may only be granted in increments of twelve
23 months or less.

24 **Sec. 6.** RCW 13.34.150 and 1990 c 246 s 6 are each amended to read
25 as follows:

26 Any order made by the court in the case of a dependent child may be
27 changed, modified, or set aside, only upon a showing of a change in
28 circumstance or as provided in section 2 of this act.

29 **Sec. 7.** RCW 13.34.162 and 1988 c 275 s 15 are each amended to read
30 as follows:

31 A determination of child support shall be based upon the child
32 support schedule and standards (~~(adopted)~~) provided under chapter 26.19
33 RCW (~~(26.19.040)~~).

34 NEW SECTION. **Sec. 8.** A new section is added to chapter 26.44 RCW
35 to read as follows:

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

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

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

9 (4) A person reporting injury, abuse, or neglect to an adult
10 dependent person shall not suffer negative consequences if the person
11 reporting believes in good faith that the adult dependent person has
12 been found legally incompetent or disabled.

13 **Sec. 9.** RCW 26.44.020 and 1988 c 142 s 1 are each amended to read
14 as follows:

15 For the purpose of and as used in this chapter:

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

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

21 (3) "Practitioner of the healing arts" or "practitioner" means a
22 person licensed by this state to practice (~~podiatry~~) podiatric
23 medicine and surgery, optometry, chiropractic, nursing, dentistry,
24 osteopathy and surgery, or medicine and surgery or to provide other
25 health services. The term "practitioner" shall include a duly
26 accredited Christian Science practitioner: PROVIDED, HOWEVER, That a
27 person who is being furnished Christian Science treatment by a duly
28 accredited Christian Science practitioner shall not be considered, for
29 that reason alone, a neglected person for the purposes of this chapter.

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

32 (5) "Department" means the state department of social and health
33 services.

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

36 (7) "Professional school personnel" shall include, but not be
37 limited to, teachers, counselors, administrators, child care facility
38 personnel, and school nurses.

1 (8) "Social service counselor" shall mean anyone engaged in a
2 professional capacity during the regular course of employment in
3 encouraging or promoting the health, welfare, support or education of
4 children, or providing social services to adults or families, including
5 mental health, drug and alcohol treatment, and domestic violence
6 programs, whether in an individual capacity, or as an employee or agent
7 of any public or private organization or institution.

8 (9) "Psychologist" shall mean any person licensed to practice
9 psychology under chapter 18.83 RCW, whether acting in an individual
10 capacity or as an employee or agent of any public or private
11 organization or institution.

12 (10) "Pharmacist" shall mean any registered pharmacist under the
13 provisions of chapter 18.64 RCW, whether acting in an individual
14 capacity or as an employee or agent of any public or private
15 organization or institution.

16 (11) "Clergy" shall mean any regularly licensed or ordained
17 minister, priest or rabbi of any church or religious denomination,
18 whether acting in an individual capacity or as an employee or agent of
19 any public or private organization or institution.

20 (12) "~~((Child)) Abuse or neglect~~" shall mean the injury, sexual
21 abuse, sexual exploitation, ~~((or)) negligent treatment,~~ or maltreatment
22 of a child, adult dependent, or developmentally disabled person by any
23 person under circumstances which indicate that the child's or adult's
24 health, welfare, and safety is harmed ~~((thereby))~~. An abused child is
25 a child who has been subjected to child abuse or neglect as defined
26 herein~~((:— PROVIDED, That this subsection shall not be construed to~~
27 ~~authorize— interference— with— child raising— practices,— including~~
28 ~~reasonable parental discipline, which are not proved to be injurious to~~
29 ~~the child's health, welfare, and safety:— AND PROVIDED FURTHER, That~~
30 ~~nothing in this section shall be used to prohibit the reasonable use of~~
31 ~~corporal punishment as a means of discipline. No parent or guardian~~
32 ~~shall be deemed abusive or neglectful solely by reason of the parent's~~
33 ~~or child's blindness, deafness, developmental disability, or other~~
34 ~~handicap))~~.

35 (13) "Child protective services section" shall mean the child
36 protective services section of the department.

37 (14) "Adult dependent persons ~~((not able to provide for their own~~
38 ~~protection through the criminal justice system))~~" shall be defined as
39 those persons over the age of eighteen years who have been found to be

1 legally incompetent or disabled pursuant to chapter 11.88 RCW ((~~or~~
2 ~~found disabled to such a degree pursuant to said chapter, that such~~
3 ~~protection is indicated: PROVIDED, That no persons reporting injury,~~
4 ~~abuse, or neglect to an adult dependent person as defined herein shall~~
5 ~~suffer negative consequences if such a judicial determination of~~
6 ~~incompetency or disability has not taken place and the person reporting~~
7 ~~believes in good faith that the adult dependent person has been found~~
8 ~~legally incompetent pursuant to chapter 11.88 RCW)).~~

9 (15) "Sexual exploitation" includes: (a) Allowing, permitting, or
10 encouraging a child to engage in prostitution by any person; or (b)
11 allowing, permitting, encouraging, or engaging in the obscene or
12 pornographic photographing, filming, or depicting of a child ((~~for~~
13 ~~commercial purposes as those acts are defined by state law)) by any
14 person.~~

15 (16) "Negligent treatment or maltreatment" means an act or omission
16 which evidences a serious disregard of consequences of such magnitude
17 as to constitute a clear and present danger to the child's health,
18 welfare, and safety.

19 (17) "Developmentally disabled person" means a person who has a
20 disability defined in RCW ((~~71.20.016~~)) 71A.10.020.

21 (18) "Child protective services" means those services provided by
22 the department designed to protect children from child abuse and
23 neglect and safeguard the general welfare of such children and shall
24 include investigations of child abuse and neglect reports, including
25 reports regarding child care centers and family child care homes, and
26 the development, management, and provision of or referral to services
27 to ameliorate conditions which endanger the welfare of children, the
28 coordination of necessary programs and services relevant to the
29 prevention, intervention, and treatment of child abuse and neglect, and
30 services to children to ensure that each child has a permanent home.
31 In determining whether protective services should be provided, the
32 department shall not decline to provide such services solely because of
33 the child's unwillingness or developmental inability to describe the
34 nature and severity of the abuse or neglect.

35 (19) "Malice" or "maliciously" means an evil intent, wish, or
36 design to vex, annoy, or injure another person. Such malice may be
37 inferred from an act done in wilful disregard of the rights of another,
38 or an act wrongfully done without just cause or excuse, or an act or
39 omission of duty betraying a wilful disregard of social duty.

1 **Sec. 10.** RCW 26.44.030 and 1991 c 111 s 1 are each amended to read
2 as follows:

3 (1) When any practitioner, professional school personnel,
4 registered or licensed nurse, social service counselor, psychologist,
5 pharmacist, licensed or certified child care providers or their
6 employees, employee of the department, or juvenile probation officer
7 has reasonable cause to believe that a child or adult dependent or
8 developmentally disabled person, has suffered abuse or neglect, he or
9 she shall report such incident, or cause a report to be made, to the
10 proper law enforcement agency or to the department as provided in RCW
11 26.44.040. The reporting requirement shall also apply to any adult who
12 has previously reported or been the subject of a child abuse and
13 neglect investigation involving a child or adult dependent or
14 developmentally disabled person residing with them and has reasonable
15 cause to believe that a child or adult dependent or developmentally
16 disabled person, who resides with them, has suffered abuse or neglect.
17 The report shall be made at the first opportunity, but in no case
18 longer than forty-eight hours after there is reasonable cause to
19 believe that the child or adult has suffered abuse or neglect. The
20 report shall include the identity of the accused if known.

21 (2) The reporting requirement of subsection (1) of this section
22 does not apply to the discovery of abuse or neglect that occurred
23 during childhood if it is discovered after the child has become an
24 adult. However, if there is reasonable cause to believe other
25 children, dependent adults, or developmentally disabled persons are or
26 may be at risk of abuse or neglect by the accused, the reporting
27 requirement of subsection (1) of this section shall apply.

28 (3) Any other person who has reasonable cause to believe that a
29 child or adult dependent or developmentally disabled person has
30 suffered abuse or neglect may report such incident to the proper law
31 enforcement agency or to the department of social and health services
32 as provided in RCW 26.44.040.

33 (4) The department, upon receiving a report of an incident of abuse
34 or neglect pursuant to this chapter, involving a child or adult
35 dependent or developmentally disabled person who has died or has had
36 physical injury or injuries inflicted upon him or her other than by
37 accidental means or who has been subjected to sexual abuse, shall
38 report such incident to the proper law enforcement agency. In
39 emergency cases, where the child, adult dependent, or developmentally

1 disabled person's welfare is endangered, the department shall notify
2 the proper law enforcement agency within twenty-four hours after a
3 report is received by the department. In all other cases, the
4 department shall notify the law enforcement agency within seventy-two
5 hours after a report is received by the department. If the department
6 makes an oral report, a written report shall also be made to the proper
7 law enforcement agency within five days thereafter.

8 (5) Any law enforcement agency receiving a report of an incident of
9 abuse or neglect pursuant to this chapter, involving a child or adult
10 dependent or developmentally disabled person who has died or has had
11 physical injury or injuries inflicted upon him or her other than by
12 accidental means, or who has been subjected to sexual abuse, shall
13 report such incident in writing as provided in RCW 26.44.040 to the
14 proper county prosecutor or city attorney for appropriate action
15 whenever the law enforcement agency's investigation reveals that a
16 crime may have been committed. The law enforcement agency shall also
17 notify the department of all reports received and the law enforcement
18 agency's disposition of them. In emergency cases, where the child,
19 adult dependent, or developmentally disabled person's welfare is
20 endangered, the law enforcement agency shall notify the department
21 within twenty-four hours. In all other cases, the law enforcement
22 agency shall notify the department within seventy-two hours after a
23 report is received by the law enforcement agency.

24 (6) Any county prosecutor or city attorney receiving a report under
25 subsection (5) of this section shall notify the victim, any persons the
26 victim requests, and the local office of the department, of the
27 decision to charge or decline to charge a crime, within five days of
28 making the decision.

29 (7) The department may conduct ongoing case planning and
30 consultation with those persons or agencies required to report under
31 this section, with consultants designated by the department, and with
32 designated representatives of Washington Indian tribes if the client
33 information exchanged is pertinent to cases currently receiving child
34 protective services or department case services for the developmentally
35 disabled. Upon request, the department shall conduct such planning and
36 consultation with those persons required to report under this section
37 if the department determines it is in the best interests of the child
38 or developmentally disabled person. Information considered privileged

1 by statute and not directly related to reports required by this section
2 shall not be divulged without a valid written waiver of the privilege.

3 (8) Any case referred to the department by a physician licensed
4 under chapter 18.57 or 18.71 RCW on the basis of an expert medical
5 opinion that child abuse, neglect, or sexual assault has occurred and
6 that the child's safety will be seriously endangered if returned home,
7 the department shall file a dependency petition unless a second
8 licensed physician of the parents' choice believes that such expert
9 medical opinion is incorrect. If the parents fail to designate a
10 second physician, the department may make the selection. If a
11 physician finds that a child has suffered abuse or neglect but that
12 such abuse or neglect does not constitute imminent danger to the
13 child's health or safety, and the department agrees with the
14 physician's assessment, the child may be left in the parents' home
15 while the department proceeds with reasonable efforts to remedy
16 parenting deficiencies.

17 (9) Persons or agencies exchanging information under subsection (7)
18 of this section shall not further disseminate or release the
19 information except as authorized by state or federal statute.
20 Violation of this subsection is a misdemeanor.

21 (10) Upon receiving reports of abuse or neglect, the department or
22 law enforcement agency may interview children. The interviews may be
23 conducted on school premises, at day-care facilities, at the child's
24 home, or at other suitable locations outside of the presence of
25 parents. Parental notification of the interview shall occur at the
26 earliest possible point in the investigation that will not jeopardize
27 the safety or protection of the child or the course of the
28 investigation. Prior to commencing the interview the department or law
29 enforcement agency shall determine whether the child wishes a third
30 party to be present for the interview and, if so, shall make reasonable
31 efforts to accommodate the child's wishes. Unless the child objects,
32 the department or law enforcement agency shall make reasonable efforts
33 to include a third party in any interview so long as the presence of
34 the third party will not jeopardize the course of the investigation.

35 (11) Upon receiving a report of incidents, conditions, or
36 circumstances of child abuse and neglect, the department shall have
37 access to all relevant records of the child in the possession of
38 mandated reporters and their employees.

1 (12) The department shall maintain investigation records and
2 conduct timely and periodic reviews of all cases constituting abuse and
3 neglect. The department shall maintain a log of screened-out
4 nonabusive cases.

5 (13) The department (~~(of social and health services)~~) shall(~~(~~
6 ~~within funds appropriated for this purpose,~~) use a risk assessment
7 (~~tool~~) process when investigating child abuse and neglect referrals.
8 (~~The tool shall be used, on a pilot basis, in three local office~~
9 ~~service areas.~~) The department shall present the risk factors at all
10 hearings in which the placement of a dependent child is an issue. The
11 department shall, within funds appropriated for this purpose, offer
12 enhanced community-based services to persons who are determined not to
13 require further state intervention.

14 The department shall provide annual reports to the (~~ways and~~
15 ~~means~~) appropriate committees of the senate and house of
16 representatives on the (~~use~~) effectiveness of the (~~tool by December~~
17 ~~1, 1989. The report shall include recommendations on the continued use~~
18 ~~and possible expanded use of the tool~~) risk assessment process.

19 (14) Upon receipt of (~~such~~) a report of abuse or neglect the law
20 enforcement agency may arrange to interview the person making the
21 report and any collateral sources to determine if any malice is
22 involved in the reporting.

23 **Sec. 11.** RCW 26.44.040 and 1987 c 206 s 4 are each amended to read
24 as follows:

25 An immediate oral report shall be made by telephone or otherwise to
26 the proper law enforcement agency or the department of social and
27 health services and, upon request, shall be followed by a report in
28 writing. Such reports shall contain the following information, if
29 known:

30 (1) The name, address, and age of the child or adult dependent or
31 developmentally disabled person;

32 (2) The name and address of the child's parents, stepparents,
33 guardians, or other persons having custody of the child or the
34 residence of the adult dependent or developmentally disabled person;

35 (3) The nature and extent of the injury or injuries;

36 (4) The nature and extent of the neglect;

37 (5) The nature and extent of the sexual abuse;

1 (6) Any evidence of previous injuries, including their nature and
2 extent; and

3 (7) Any other information which may be helpful in establishing the
4 cause of the child's or adult dependent or developmentally disabled
5 person's death, injury, or injuries and the identity of the alleged
6 perpetrator or perpetrators.

7 **Sec. 12.** RCW 26.44.063 and 1988 c 190 s 3 are each amended to read
8 as follows:

9 (1) It is the intent of the legislature to minimize trauma to a
10 child involved in an allegation of sexual or physical abuse. The
11 legislature declares that removing the child from the home often has
12 the effect of further traumatizing the child. It is, therefore, the
13 legislature's intent that the alleged offender, rather than the child,
14 shall be removed from the home and that this should be done at the
15 earliest possible point of intervention in accordance with RCW
16 10.31.100, 13.34.130, this section, and RCW 26.44.130.

17 (2) In any judicial proceeding in which it is alleged that a child
18 has been subjected to sexual or physical abuse, if the court finds
19 reasonable grounds to believe that an incident of sexual or physical
20 abuse has occurred, the court may, on its own motion, or the motion of
21 the guardian ad litem or other parties, issue a temporary restraining
22 order or preliminary injunction restraining or enjoining the person
23 accused of committing the abuse from:

24 (a) Molesting or disturbing the peace of the alleged victim;

25 (b) Entering the family home of the alleged victim except as
26 specifically authorized by the court; or

27 (c) Having any contact with the alleged victim, except as
28 specifically authorized by the court.

29 (3) In issuing a temporary restraining order or preliminary
30 injunction, the court may impose any additional restrictions that the
31 court in its discretion determines are necessary to protect the child
32 from further abuse or emotional trauma pending final resolution of the
33 abuse allegations.

34 (4) The court shall issue a temporary restraining order prohibiting
35 a person from entering the family home if the court finds that the
36 order would eliminate the need for an out-of-home placement to protect
37 the child's right to nurturance, health, and safety and is sufficient
38 to protect the child from further sexual or physical abuse or coercion.

1 (5) The court may issue a temporary restraining order without
2 requiring notice to the party to be restrained or other parties only if
3 it finds on the basis of the moving affidavit or other evidence that
4 irreparable injury could result if an order is not issued until the
5 time for responding has elapsed.

6 (6) A temporary restraining order or preliminary injunction:

7 (a) Does not prejudice the rights of a party or any child which are
8 to be adjudicated at subsequent hearings in the proceeding; and

9 (b) May be revoked or modified.

10 (7) The person having physical custody of the child shall have an
11 affirmative duty to assist in the enforcement of the restraining order
12 including but not limited to a duty to notify the court as soon as
13 practicable of any violation of the order, a duty to request the
14 assistance of law enforcement officers to enforce the order, and a duty
15 to notify the department of social and health services of any violation
16 of the order as soon as practicable if the department is a party to the
17 action. Failure by the custodial party to discharge these affirmative
18 duties shall be subject to contempt proceedings.

19 (8) Willful violation of a court order entered under this section
20 is a misdemeanor. A written order shall contain the court's directive
21 and shall bear the legend: "Violation of this order with actual notice
22 of its terms is a criminal offense under chapter 26.44 RCW, is also
23 subject to contempt proceedings, and will subject a violator to
24 arrest."

25 **Sec. 13.** RCW 26.44.067 and 1989 c 373 s 23 are each amended to
26 read as follows:

27 (1) Any person having had actual notice of the existence of a
28 restraining order issued by a court of competent jurisdiction pursuant
29 to RCW 26.44.063 who refuses to comply with the provisions of such
30 order (~~(when requested by any peace officer of the state)~~) shall be
31 guilty of a misdemeanor.

32 (2) The notice requirements of subsection (1) of this section may
33 be satisfied by the peace officer giving oral or written evidence to
34 the person subject to the order by reading from or handing to that
35 person a copy certified by a notary public or the clerk of the court to
36 be an accurate copy of the original court order which is on file. The
37 copy may be supplied by the court or any party.

1 (3) The remedies provided in this section shall not apply unless
2 restraining orders subject to this section shall bear this legend:
3 VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL
4 OFFENSE UNDER CHAPTER 26.44 RCW AND IS ALSO SUBJECT TO CONTEMPT
5 PROCEEDINGS.

6 (4) It is a defense to prosecution under subsection (1) of this
7 section that the court order was issued contrary to law or court rule.
8 No right of action shall accrue against any peace officer acting upon
9 a properly certified copy of a court order lawful on its face if such
10 officer employs otherwise lawful means to effect the arrest.

11 **Sec. 14.** RCW 26.44.100 and 1985 c 183 s 1 are each amended to read
12 as follows:

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

24 NEW SECTION. **Sec. 15.** A new section is added to chapter 26.44 RCW
25 to read as follows:

26 (1) If a person who has unsupervised visitation rights with a minor
27 child pursuant to a court order is accused of sexually or physically
28 abusing a child and the alleged abuse has been reported to the proper
29 authorities for investigation, the law enforcement officer conducting
30 the investigation may file an application for a preliminary injunction
31 with the court to enjoin the alleged abuser from exercising visitation
32 rights during the investigation. The investigating law enforcement
33 officer shall submit an affidavit stating that the person is currently
34 under investigation for sexual or physical abuse of a child, that there
35 is a risk of harm to the child if a preliminary injunction is not
36 entered, and that the prosecuting attorney has informed the officer
37 that the attorney does not have enough information at the time to

1 determine whether prosecution is warranted. The court shall schedule
2 an emergency hearing on the application for a preliminary injunction,
3 providing a minimum one-day notice requirement to the alleged abuser.
4 The preliminary injunction shall be issued for up to ninety days or
5 until the investigation has been concluded in favor of the alleged
6 abuser, whichever is shorter.

7 (2) Willful violation of a court order entered under this section
8 is a misdemeanor. The court order shall state: "Violation of this
9 order is a criminal offense under chapter 26.44 RCW and will subject
10 the violator to arrest."

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