

HOUSE BILL REPORT

SHB 2556

As Passed Legislature

Title: An act relating to amendments concerning the child abuse prevention and treatment act and the adoption and safe families act.

Brief Description: Making changes concerning the federal child abuse prevention and treatment act.

Sponsors: By House Committee on Child & Family Service (originally sponsored by Representatives Cooke, Tokuda and O'Brien; by request of Department of Social and Health Services).

Brief History:

Committee Activity:

Children & Family Services: 1/29/98, 2/5/98 [DPS];
Appropriations: 2/7/98 [DPS(CFS)].

Floor Activity:

Passed House: 2/13/98, 98-0.
Senate Amended.
House Concurred.
Passed Legislature.

HOUSE COMMITTEE ON CHILDREN & FAMILY SERVICES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Cooke, Chairman; Boldt, Vice Chairman; Bush, Vice Chairman; Tokuda, Ranking Minority Member; Kastama, Assistant Ranking Minority Member; Ballasiotes; Carrell; Dickerson; Gombosky; McDonald and Wolfe.

Staff: Douglas Ruth (786-7134).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill by Committee on Children & Family Services be substituted therefor and the substitute bill do pass. Signed by 29 members: Representatives Huff, Chairman; Alexander, Vice Chairman; Clements, Vice Chairman; Wensman, Vice Chairman; H. Sommers, Ranking Minority Member; Doumit, Assistant Ranking Minority Member; Gombosky, Assistant Ranking Minority Member; Benson; Carlson; Chopp; Cody; Cooke; Crouse; Grant; Keiser; Kenney; Kessler; Lambert; Lisk;

Mastin; McMorris; Parlette; Poulsen; Regala; D. Schmidt; Sehlin; Sheahan; Talcott and Tokuda.

Staff: Jason Hall (786-7145).

Background: Congress recently passed two acts relating to child abuse and adoption. The acts are known as the "Child Abuse Prevention and Treatment Act Amendments of 1996" and the "Adoption and Safe Families Act of 1997." These acts amended federal grant programs that provide funds to states for family preservation, foster care, adoption, and child abuse prevention and treatment. To be eligible for continued funding under these grant programs, states must make statutory changes to their child abuse and neglect statutes. The statutory changes are required to be in effect by October 1, 1998.

The Department of Social and Health Services (DSHS) and the Office of the Attorney General reviewed the federal mandates and suggested changes to meet the federal requirements.

Consistent with the requirements of the CAPTA legislation, the Family Policy Council assists in coordinating the state's efforts in providing services to children and families. The council's membership includes the chief administrator of the Superintendent of Public Instruction, the Department of Health, the Department of Social and Health Services, the Employment Security Department, the Department of Community, Trade, and Economic Development, and one legislator from each caucus of the House of Representatives and the Senate.

The council's duties were expanded in 1994 to include the implementation and oversight of the Community Public Health and Safety Networks (networks). The networks were created to empower citizens to exercise their influence over local policy and programs dealing with children and families. The network consist of 23 members, 13 of which must be citizens with no fiduciary interest in any organization concerning health, education, social service, or criminal justice. The networks' expenditures for planning and administrative duties are limited to 10 percent of available state funds.

The CAPTA legislation also requires states to establish citizen review panels. The purpose of these panels is to provide new opportunities for citizens to play an integral role in ensuring that states are meeting their responsibilities of protecting children from abuse and neglect. Each citizen review panel must evaluate the extent to which the state is effectively fulfilling its child protection duties in accordance with federal law. Washington may use existing entities to act as citizen review panels as long as the existing entities perform the functions set forth in the federal act.

One of the current issues regarding prevention and treatment of child abuse or neglect is drug or alcohol-affected infants. Medical evidence suggests that prenatal drug and alcohol 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. DSHS may take custody of infants who show evidence of drug or alcohol exposure, but 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:

AMENDMENTS TO CONFORM STATE LAW TO C.A.P.T.A.

The policy goal of Washington's dependency chapter is altered to emphasize that in providing "reasonable efforts" to reunify families, the paramount concern is the health and safety of the child.

If specified aggravating circumstances exist, dependency courts are not required to find that reasonable efforts have been made to eliminate the need to remove a child from the home. Two aggravated circumstances are added to the current list. First, the conviction of a parent of attempting, soliciting, or conspiring to commit any of the other circumstances listed. And second, the abandonment of a child three years old or younger. In certain circumstances, dependency courts may consider a tribe's reasonable efforts to reunify an Indian child and the child's parents.

A custodial agency caring for a child is relieved of the obligation to make reasonable efforts to reunify parent and child if such reunification efforts are inconsistent with the child's permanency plan created by the agency.

If reasonable efforts at reunification are not required, a dependency court must hold a permanency planning hearing within 30 days and reasonable efforts must be made to permanently place the child in a timely manner.

The foster parents, pre-adoptive parents, or relatives currently providing care to a dependent child must be given the opportunity to provide input to the judge who is overseeing implementation of a child's permanency plan. The court must notify the caretakers of all review hearings. This right to an opportunity to be heard and to receive notice do not create standing for these individuals.

The age of a child is eliminated as the determining factor for when a permanency planning hearing is required. Regardless of age, a court must hold a hearing no more than 12 months after the date of the child's removal from home.

Additional grounds for termination of parents' rights are created. A court may terminate parental rights if it is proved beyond a reasonable doubt that a child is

dependent, and that the parent has attempted, conspired, or committed first or second degree murder or first or second degree manslaughter of the parent's child, or committed first or second degree assault against the child, or another child. If a child is abandoned, the state must prove the abandonment beyond a reasonable doubt.

Licensing and employment decisions by the department may not be based on unfounded child abuse or neglect reports.

All persons named in founded reports of child abuse or neglect have the right to seek review of the finding. A review procedure is created. A person seeking review of the finding may request the department for a review within 20 days of receiving notice of the finding. Management level staff in the Children's Administration shall conduct the review. If appropriate, the finding may be changed. Within 30 days of receiving the notice of the decision, the person may request an adjudicative hearing. No standard of proof is given for this hearing. This hearing, as well as the original review, are confidential. If the person is dissatisfied with the hearing decision, the person may challenge the decision in court. However, if the requestor does not request a review or hearing according to the time lines and procedures described, he or she loses all rights to challenge the findings.

Notifications of allegations of abuse or neglect are made by certified mail, return receipt requested.

For the purpose of defining the department's authority to investigate child abuse and neglect reports, the definition of child abuse and neglect is changed. The language is changed to conform with federal law.

FAMILY POLICY COUNCIL

The Family Policy Council's legislative membership is expanded from four members to eight members.

Network members must sign a declaration indicating whether they have a fiduciary interest in any agency.

The council may recommend to the Legislature ceilings network spending on planning and administrative tasks.

CITIZEN REVIEW PANELS

The Washington Institute of Public Policy will study the creation of citizen review panels to oversee the department's child abuse prevention and treatment activities. The Institute will examine the value of having the panels evaluate specific cases, whether they should

have the authority to disclose evidence of civil infractions, and what level of access to state records is appropriate.

ADOPTION SUPPORT

Funds received from the adoption support program shall not be considered in determining a family's eligibility for the basic health plan.

DRUG-AFFECTED INFANTS

A process is established to test, report, and provide care for drug-affected and alcohol-affected infants. Mothers of these infants are given the choice of chemical dependency treatment or having a dependency petition filed for removal of their child. The consequences to giving birth to a drug -affected child increase as a woman has additional drug-affected infants. On the birth of a second child, the woman must use long-term pharmaceutical birth control and enter into treatment. After the birth of a third child, the court may enter a dependency order on all drug-affected children born before the third child. The court may also find the third child dependent without first requiring reasonable efforts at reunifying the mother and child. The court may then move straight to termination of the mother's parental rights.

Model projects are established to provide services to the mothers of drug or alcohol affected children. The Department of Health must develop a plan for increasing services to pregnant women at risk of giving birth to drug or alcohol affected infants.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of the session in which bill is passed, except section 9, which takes effect on October 1, 1998, sections 14 through 16, which take effect immediately, and sections 18 through 24, 26 through 28, 30 through 39, and 41 through 44, which take effect on January 1, 1999.

Testimony For: (Children & Family Services) These changes are needed to conform our state laws with federal law. The changes are intended to speed up permanent placement of dependent children.

(Appropriations) This bill matches changes in federal law and will improve the process of placing children in permanent homes.

Testimony Against: (Children & Family Services) None.

(Appropriations) None.

Testified: (Children & Family Services) Jennifer Strus, Director, Division for Program & Policy, Department of Social and Health Services (pro); and Laurie Lippold, Children's Home Society (pro).

(Appropriations) Representative Cooke, prime sponsor; and Laurie Lippold, Children's Home Society.