

FINAL BILL REPORT

SHB 2556

PARTIAL VETO

C 314 L 98

Synopsis as Enacted

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

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

House Committee on Children & Family Services

House Committee on Appropriations

Senate Committee on Human Services & Corrections

Senate Committee on Ways & Means

Background: The U.S. 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 (CAPTA) 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.

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. The networks were created to empower citizens to exercise their influence over local policy and programs dealing with children and families. A network consists 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 mandated in the federal act.

An issue in the 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, and have low birth weights and other significant medical problems. The 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.

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

Summary: Amendments to Conform State Law to CAPTA. 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: (1) the conviction of a parent of attempting, soliciting, or conspiring to commit any of the other listed circumstances; and (2) 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 the 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 does not grant status as a party in the proceedings 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.

Child care related 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 must 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. 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 a hearing according to these time lines and procedures, he or she forfeits 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 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 for network planning and administrative tasks spending.

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 whether having the panels evaluate specific cases is effective, whether the panels 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 for giving birth to a drug or alcohol-affected child increase as a woman has additional drug or alcohol-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 directly 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.

Votes on Final Passage:

House 98 0
Senate 46 3 (Senate amended)
House (House refused to concur)

Conference Committee

Senate 48 0
House 98 0

Effective: June 11, 1998
October 1, 1998 (Section 9)
April 3, 1998 (Sections 14 through 16)
January 1, 1999 (Sections 18 through 24, 26 through 28, 30 through 39, and 41 through 44)

Partial Veto Summary: The Governor vetoed the expansion of the membership of the Family Policy Council. Also vetoed were sections regarding the process for the testing, reporting and providing legal protection for drug-affected or alcohol-affected infants. The vetoed provisions include the sections requiring medical personnel to report drug or alcohol affected infants and the sections creating a mechanism to subject mothers of these infants to the dependency process if they do not enter chemical dependency treatment. Similarly, the legal consequences for giving birth to a second and third drug or alcohol affected infant were stricken from the bill.