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## Children & Family Services Committee

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### BILL ANALYSIS E3SSB 5278

**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:** Senate Committee on Ways & Means (originally sponsored by Senators Patterson, Hargrove, Winsley, Wood, Benton, Goings, Prince, Bauer, B. Sheldon, Heavey, Long, Anderson, Haugen and Oke).

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**Meeting Date:** February 24, 1998.

**Bill Analysis Prepared by:** Doug 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.

Medical research suggests that early interventions can help reduce the long-term medical impacts on the child from prenatal drug exposure.

Although drug-affected infants may suffer from serious physical and emotional complications, the fact that the infant is drug-affected, by itself, is not ground for finding that the child is a dependent. However, when the department learns of an infant who is suffering from prenatal exposure to controlled substances they often take custody of the child. Many of these children are placed in pediatric care facilities. Often these cases ultimately result in a dependency action, though the department may defer CPS action if the mother enters treatment.

Currently, physicians are not required to test newborn infants to discover if the child is drug-affected. Many physicians do report to the department infants which appear drug-affected.

**Summary of Bill:** Beginning July 1, 1999, and ending June 30, 2002:

- To the extent funds are appropriated, the Department of Social and Health Services (DSHS) may operate a pilot project with sites in each region.
  - Physicians are required to test newborns to determine if the physician believes the child may be drug-affected. If the tests are positive, the physician must notify DSHS. Drug-affected infants must remain in the hospital, or be placed 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. Physicians are exposed to liability only in cases of gross negligence or intentional misconduct.
  - DSHS must investigate all physician reports and may file dependency petitions when appropriate. If DSHS does not file a petition, it must refer the women to treatment.
  - Women who are reported for exposing their infant to controlled substances are given alternatives of treatment or legal action to determine if they have a continued right to parent. The bill progressively raises the stakes as a woman gives birth to more drug affected babies.
- ) For the first drug-affected infant: The mother and DSHS may enter an agreement in which the mother is required to obtain chemical dependency treatment, or enroll in a pilot project. The mother must also stipulate to facts sufficient to constitute a dependency. If the agreement is entered, the court is requested to defer the entry of an order of dependency for as long as the mother remains in treatment.
- 2) For the second birth of a drug-affected infant: DSHS may request the court to proceed with the dependency on the first infant. DSHS must file a dependency on the second child absent compelling reasons to the contrary. If DSHS does not file a petition, it must refer the woman to treatment or a pilot project. The mother may avoid a dependency action on the second child by entering into an agreement with DSHS to receive medically appropriate pharmaceutical birth control and inpatient chemical dependency treatment, or treatment through a pilot project. The mother must also stipulate to facts sufficient to constitute a dependency. If the agreement is entered, the court is requested to defer the entry of an order of dependency.
- ) For the third and subsequent births of drug-affected infants: DSHS must request the court to enter a dependency order on all drug-affected children born prior to the third drug-affected birth. The department must also file a dependency petition for the third and any other children in the family. The mother is referred to a chemical dependency specialist for evaluation for involuntary commitment for drug treatment. If any child is removed from the home, it may not be returned unless the mother has successfully completed treatment or the mother has been drug free for 36 consecutive months and demonstrates she can care for her child.

To the extent funds are appropriated, the Washington State Institute for Public Policy (WSIPP) must study the cost effectiveness and report by September 1, 2002.

DSHS must report annually on tubal ligations offered and accepted, number of reports filed by physicians, and the pharmaceutical birth control services utilized.

All treatment services for mothers of drug-affected infants shall provide family planning services, but not pregnancy termination services.

The bill does not cover babies born exposed to alcohol.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** Sections 9 and 13 take effect immediately; sections 1 through 8 and 10 through 12 take effect July 1, 1999.

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