

# SENATE BILL REPORT

## SB 5278

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As Reported By Senate Committee On:  
Ways & Means, January 20, 1998  
Human Services & Corrections, February 4, 1998  
Ways & Means, February 10, 1998

**Title:** An act relating to involuntary use of long-term pharmaceutical birth control for mothers who have given birth to a child with drug addiction.

**Brief Description:** Requiring court-ordered use of long-term pharmaceutical birth control for mothers who have given birth to a baby with drug addiction.

**Sponsors:** Senators Patterson, Hargrove, Winsley, Wood, Benton, Goings, Prince, Bauer, Sheldon, Heavey, Long, Anderson, Haugen and Oke.

**Brief History:**

**Committee Activity:** Human Services & Corrections: 2/5/97, 3/5/97 [DPS-WM]; 1/22/98, 2/4/98 [DP2S].

Ways & Means: 1/20/98 [w/oRec-HSC], 2/10/98 [DP3S].

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** That it be referred to Committee on Human Services & Corrections without recommendation.

Signed by Senators West, Chair; Strannigan, Vice Chair; Fraser, Hochstatter, Kohl, Long, Loveland, Rossi, Spanel, Swecker and Winsley.

**Staff:** Karen Barrett (786-7711)

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### SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

**Majority Report:** That Second Substitute Senate Bill No. 5278 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Long, Chair; Zarelli, Vice Chair; Franklin, Hargrove, Kohl, Schow and Stevens.

**Staff:** Joan Mell (786-7447)

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** That Third Substitute Senate Bill No. 5278 be substituted therefor, and the third substitute bill do pass.

Signed by Senators West, Chair; Brown, Fraser, Hochstatter, Kohl, Long, Loveland, McDonald, B. Sheldon, Snyder, Spanel and Swecker.

**Staff:** Karen Barrett (786-7711)

**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 researchers agree that early interventions can help reduce the long-term medical impacts on the child from prenatal drug exposure. It is suggested the state should be more proactive in its efforts to reduce the numbers and rates of maternal drug exposure. Community health care providers suggest the state target its prevention efforts towards women who are known drug abusers who have given birth to drug exposed infants.

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. Currently, physicians are not required to test newborn infants to discover if the child is drug-affected.

**Summary of Third Substitute Bill:** Beginning July 1, 1999 with new authority ending June 30, 2001:

- 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.
- DSHS must investigate all physician reports and may file dependency petitions when appropriate.

Alternatives are provided for women investigated by child protective services after giving birth to a drug-affected infant. The bill progressively raises the stakes for a continued right to parent their children as follows:

- For the first drug-affected infant: (1) the mother and DSHS may enter an agreement, in which the mother obtains chemically dependency treatment, or enrolls in a pilot project; (2) is offered pharmaceutical birth control, education and counseling; (3) the mother must remain drug free; and (4) the mother must 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 second birth of a drug-affected infant: (1) DSHS may request the court to proceed with the dependency on the first infant; (2) DSHS must file a dependency absent compelling reasons to the contrary; (3) the mother and DSHS may enter into an agreement in which the mother agrees to inpatient chemically dependency treatment or enroll in a pilot project; (4) is offered pharmaceutical birth control, education and counseling; (5) the agreement must include, when medically appropriate, the use of pharmaceutical pregnancy prevention which is administered not less than once every 30

days; (6) the mother must remain drug free; and (7) the mother must 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: (1) DSHS must request the court to enter a dependency order on all drug-affected children born prior to the third drug-affected birth; (2) DSHS must file a dependency petition for all other children in the family. The mother is referred to a chemical dependency specialist for evaluation for involuntary commitment for drug and alcohol treatment. The child should not be returned to the mother unless she has successfully completed an inpatient chemical dependency and after-care program.

The Department of Social and Health Services (DSHS) may operate a pilot project with sites in each region.

The Washington State Institute for Public Policy (WSIPP) must study the cost effectiveness and report by September 1, 2002. The pilot project terminates on June 30, 2001.

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

**Third Substitute Bill Compared to Second Substitute Bill:** The third substitute makes new medical reporting requirements and the dependency diversion options for drug affected mothers time limited. New sections of law would expire on June 30, 2001.

Study provisions are modified and to the extent funds are appropriated, the Institute for Public Policy must study the cost effectiveness and impact of these changes and report back to the Legislature and the Governor by September 1, 2002.

To the extent funds are appropriated, allows but does not require the department to operate a pilot project in every service delivery region. And within available funds, the department may cover the cost of tubal ligation procedures sought by low income women who have given birth to a drug affected infant.

A requirement is deleted that DSHS must study the cost and benefits associated with extending this program to mothers of children born affected by alcohol.

**Second Substitute Bill Compared to Substitute Bill:** The second substitute eliminates provisions regarding compelled birth control and instead requires referral of the mother to a chemical dependency specialist for evaluation for involuntary commitment for drug and alcohol treatment. A year is added to dates applicable to WSIPP.

**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.

**Testimony For:** This is an initial effort at dealing with a very difficult issue of prevention of child abuse. An effort is being made to provide safe environments for drug-affected children, and an opportunity for mothers of drug-affected infants to turn their lives around.

**Testimony Against:** None.

**Testified:** PRO: Laurie Lippold, Solutions for Chemically Dependent Mothers and Their Children; Judy Turpin, Childhaven.