

# FINAL BILL REPORT

## E2SSB 5710

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### PARTIAL VETO

C 386 L 97

Synopsis as Enacted

**Brief Description:** Changing provisions relating to juvenile care and treatment by the department of social and health services.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Hargrove, Long, Franklin, Stevens, Prentice, Zarelli and Schow).

**Senate Committee on Human Services & Corrections**

**Senate Committee on Ways & Means**

**House Committee on Children & Family Services**

**Background:** The Department of Social and Health and Services (DSHS) currently has four classifications of social workers. The lower two classifications are training positions and include very few full-time employees (FTEs). The social worker III position is the classification where the majority of cases are handled. The department has approximately 800 FTEs in this position. Those positions are almost evenly split between Child Protective Services positions and Child Welfare Services positions. The department also has approximately 120 FTEs in the social worker IV position, a supervisory classification. Social workers IV also handle caseloads.

Due to the large number of referrals, the department is presently unable to offer or provide social services to families where there is a low risk of abuse or neglect. Many of these families request services which are reserved for families who present higher risks to their children. It is suggested the department create a statewide "alternative response system" to provide community-based services to low-risk families on a volunteer basis.

In a dependency fact-finding hearing, the court may remove, or continue the present placement of, a child out of the home when it finds there exists a manifest danger that the child will suffer serious abuse or neglect. The legal standard for this determination is by a "preponderance of the evidence." The federal Indian Child Welfare Act requires the court to use the higher legal standard of "by clear and convincing evidence" to justify the removal of a Native American child from his or her home.

A developmentally disabled child may be found to be dependent because the parents are unable to meet the child's special needs. This finding makes the child eligible for certain state and federally funded programs for which the child would not otherwise be eligible. These cases are handled within the Children's Administration. A recent management report on DSHS suggests the cases could be handled more efficiently within the Division of Developmental Disabilities.

The status as a "juvenile justice or care agency" gives an agency or organization special authority to receive confidential juvenile criminal records and social files. It is suggested

that the Legislative Children's Oversight Committee and the children's ombudsman should be classified as juvenile justice or care agencies.

There are currently no restrictions on anonymous reporting of alleged child abuse or neglect.

Currently, many statutes refer to reports of abuse or neglect of children, adult dependent persons and developmentally disabled persons, as if those incidents have been confirmed. It is suggested the statutes should refer to "alleged" reports of abuse or neglect until the reported incidents are confirmed.

Crisis residential centers provide short-term emergency housing for runaway and at-risk youth who have experienced a family conflict and left their homes. Other community residential programs house children who have been victims of abuse or neglect. Concerns have been raised about juvenile offenders being placed in or directed to crisis residential centers and other community residential programs by DSHS upon their release from a Juvenile Rehabilitation Administration (JRA) institution.

The retail sales tax is imposed on sales of most articles of tangible personal property and some services. The total state and local rate varies from 7 percent to 8.2 percent, depending on the location. The use tax is imposed on the use of articles of tangible personal property when the sale of the property was not subject to sales tax. The use tax generally applies when property is acquired from out of state. Use tax is equal to the sales tax rate multiplied by the value of the property used.

Nonprofit health or social welfare organizations are exempt from sales and use taxes on items necessary for new construction of alternative housing for youth in crisis. The facility must be licensed as an agency for the care of children, expectant mothers, or the developmentally disabled. A youth in crisis is a person under 18 who is homeless, a runaway, abused, neglected, abandoned, or is suffering from a substance abuse or mental disorder. This exemption expires July 1, 1997.

A person commits the offense of unlawful harboring of a minor when the person provides shelter without the parent's consent and fails to assist law enforcement officers in locating or taking the minor into custody.

Indian tribes are considered sovereign nations within the United States and are immune from suit in state court. The scope of this immunity includes wage garnishment actions, actions to establish paternity and other child support enforcement mechanisms. Due to tribal immunity, the Division of Child Support (DCS) has a policy of refraining from issuing garnishment actions for child support against employees of Indian tribes, tribal enterprises and Indian-owned businesses on Indian reservations. The department has dealt with the sovereignty issue by negotiating intergovernmental agreements with tribes. DCS has entered into intergovernmental agreements with three Indian tribes. DCS' state-tribal relations program is pursuing agreements with several of the other Washington tribes.

**Summary:** *New Social Worker Classification.* The classification of social worker V is created within the Department of Social and Health Services, with no more than 21 positions. The positions are created to assist in the reduction of the caseloads, to provide training and

mentoring for other caseworkers, and to provide hands-on training and assistance in high-risk, complex, or large cases.

Social worker V employees are assigned by the secretary to regions where the average Child Protective Services' caseloads exceed the statewide average. They must carry no more than one-third the average number of cases for social workers in the region to which they are assigned. Social worker V employees are assigned to a region as a task force consisting of at least seven employees. The assignment is time-limited and cannot exceed two years in any one region. Upon completion of the work in the region, the task force members continue to remain in contact with the coworkers from the previous assignment for a period of 12 months in order to perform additional follow-up and mentoring.

The salary and fringe benefits of all social worker V positions are determined by the Washington Personnel Resources Board. Social worker V positions are exempt positions and are not included in the Washington management service.

The secretary must develop a plan for implementation for social worker V employees. The implementation plan must be submitted to the Governor and the Legislature by September 1, 1997 and be implemented by April 1, 1998.

The social worker V classification is subject to the conditions and limitations in the budget and may not result in additional personnel being added. The provisions relating to the social worker V classification expire June 30, 2005.

*Alternative Response System.* The department provides, by contract, alternative response systems throughout the state. The services are offered, on a volunteer basis, to families who present a low risk of child abuse or neglect. The court may order participation in public or private programs. The authority to operate the systems expires on July 1, 2005.

*Legal Standard.* The court is required to use the standard of clear and convincing evidence to remove a child from the home, on the basis that a manifest danger exists that the child will suffer serious abuse or neglect unless removed.

*Developmentally Disabled Children.* Developmentally disabled children may receive services through a voluntary placement agreement instead of the dependency process. Responsibility for these children is transferred to the Division of Developmental Disabilities. Funds and personnel related to this population are transferred.

*Juvenile Justice or Care Agency.* The Legislative Children's Oversight Committee and the Office of Family and Children's Ombudsman are classified as juvenile justice or care agencies. The employees and volunteers of the ombudsman's office are mandated reporters of abuse and neglect.

*Anonymous Reports of Abuse or Neglect.* The department must not investigate cases of anonymous reports of abuse or neglect unless: there is a serious threat of substantial harm to the child; a crime has occurred or is about to occur involving a child as a victim; or the department within the previous three years has a founded report— of abuse or neglect against a household member.

*Abuse and Neglect Definitions.* "Alleged" is inserted to modify "abuse or neglect" when those terms are used in reference to reports of, as opposed to findings of, abuse or neglect. Attorney fees and costs are awarded if access to records concerning a child, involved in a dependency or termination proceeding, is wrongfully denied.

*Role of Child Protective Services (CPS).* The role of CPS is narrowed to only its investigative functions. Child Welfare Services has the role of providing services for CPS cases. An exception is provided for small offices or offices in remote locations.

*Employee Misconduct.* The Personnel Appeals Board must expedite employee appeals where the employee is alleged to have committed misconduct that may have placed a child at serious risk of harm. The board's decision must be issued within 45 days of the hearing, but may be extended an additional 30 days for exceptional circumstances.

*Quality Assurance Reports.* The department must prepare an annual quality assurance report on performance outcomes, children's length of stay in out-of-home placement, adherence to permanency planning timelines, and the response time on CPS investigations.

*Controlled Substance Evaluations.* When an in-person contact is made on a CPS investigation with a person who is alleged to have committed the abuse or neglect, there must be a determination of whether it is probable that the use of alcohol or controlled substances is a contributing factor.

The department must provide appropriate chemical dependency training for persons who conduct CPS investigations. If there is probable cause to believe abuse of alcohol or controlled substances has contributed to the child abuse or neglect, the department must conduct a comprehensive chemical dependency evaluation. This activity must be performed subject to available funds. No new personnel are added as a result of this section.

*Sexually Aggressive Youth.* The Legislature intends that DSHS develop a policy for assessing sexual aggressiveness and vulnerability to sexual victimization of youth who are placed in state-operated or state-funded residential facilities.

DSHS must develop and implement a protective policy within JRA by January 1, 1998, that includes the following minimum guidelines: (1) an assessment process to identify youth with a moderate or high risk of sexually aggressive behavior; (2) an assessment process to identify youth who may be vulnerable to sexual victimization by other youth; (3) placement criteria to avoid assigning moderate or high risk youth to the same sleeping quarters as vulnerable youth; and (4) procedures for minimizing, within available funds, unsupervised contact between moderate or high risk youth and youth assessed as vulnerable to sexual victimization.

The assessments must be completed within 30 days after youth are committed to JRA. The results of the assessments must be used as part of JRA's formal inmate classification system. JRA is prohibited from placing offenders on parole status who have been assessed as moderate to high risk for sexually aggressive behavior in a department community residential placement with another child who is a dependent, at-risk, or CHINS youth and not also an offender.

*Alternative Housing.* The expiration date is extended to July 1, 1999 for the sales and use tax exemptions for items necessary for new construction of alternative housing for youth in crisis by nonprofit health or social welfare organizations.

*Unlawful Harboring.* The crime of unlawful harboring of a minor is expanded to include situations where the person provides shelter to the minor and engages the minor in a crime or contributes to the delinquency of a minor or involves the minor in a sex offense.

*Indian Tribal Agreements.* The department is authorized and directed to enter into cooperative agreements with Indian tribes to facilitate child support enforcement. Under agreements entered into by the department, the state and a tribe may develop procedures for establishing, modifying and enforcing child support orders, paternity orders and wage garnishment orders in tribal and state court. An agreement may also outline the financial responsibilities of each entity, create alternative dispute resolution procedures, identify culturally relevant factors, develop information sharing procedures, establish termination rules and provide consequences for violating the agreement.

**Votes on Final Passage:**

|        |    |   |                            |
|--------|----|---|----------------------------|
| Senate | 49 | 0 |                            |
| House  | 96 | 0 | (House amended)            |
| Senate |    |   | (Senate refused to concur) |

Conference Committee

|        |    |   |
|--------|----|---|
| House  | 98 | 0 |
| Senate | 44 | 0 |

**Effective:** July 1, 1997 (Sections 56 and 57)  
July 27, 1997  
January 1, 1998 (Sections 8-13, 21-34)

**Partial Veto Summary:** The Governor vetoed 16 sections of the bill, with the following effect:

- (1) *Social Worker V.* Removed all restrictions concerning the creation and use of the new social worker V position;
- (2) *Legal Standard.* Eliminated the higher legal standard relating to the placement of dependent children, as that provision was contained in ESSB 5491;
- (3) *Developmentally Disabled Children.* Removed the provisions which transferred the care of certain developmentally disabled children from the Children's Administration to the Division of Developmental Disabilities;
- (4) *Role of Child Protective Services.* Eliminated the section that gave the Secretary of DSHS the authority to allow CPS workers to provide both child protective and child welfare services in limited circumstances;

(5) *Unlawful Harboring.* Removed the sections which expanded the crime of unlawful harboring of a minor; and

(6) *Effective Dates.* Removed the delayed effective date for the voluntary placement agreements for developmentally disabled children.