
SECOND SUBSTITUTE HOUSE BILL 3008

State of Washington

55th Legislature

1998 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Cooke, Dickerson, Boldt, Wolfe, McDonald, Tokuda, Ballasiotes, Kastama, Lambert, Dunshee, Carrell, Cody, Talcott, Cole, Johnson, Wood, Carlson, Lantz, Reams, Costa, L. Thomas, Clements, Zellinsky, Alexander, Dyer, D. Schmidt, Radcliff, Conway and Anderson)

Read first time 02/07/98. Referred to Committee on .

1 AN ACT Relating to mothers who have given birth to a child with
2 drug addiction; adding new sections to chapter 13.34 RCW; adding new
3 sections to chapter 70.96A RCW; creating new sections; and providing an
4 effective date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature finds that all children have
7 the right to be born healthy and free of the consequences of the
8 nonprescription use of controlled substances and/or the abuse of
9 alcohol by the mother during pregnancy. Individuals who have a drug or
10 alcohol addiction are unable to make reasoned decisions that help
11 ensure the birth of a healthy infant. The availability of long-term
12 pharmaceutical birth control, when combined with other treatment
13 regimens, may allow women to regain control of their lives and make
14 long-term decisions in the best interest of themselves and their
15 children. The legislature further finds that a third or subsequent
16 drug-affected infant being born to the same mother means it may be
17 unreasonable to attempt to continue efforts to reunify the family and
18 that all reasonable reunification efforts that have previously been

1 made have proven futile and there is no likelihood that future efforts
2 will produce a different outcome.

3 NEW SECTION. **Sec. 2.** A new section is added to chapter 13.34 RCW
4 to read as follows:

5 (1) A physician licensed under chapter 18.71 RCW primarily
6 responsible for the supervision of the birth of an infant, or an
7 advanced registered nurse or nurse midwife licensed under chapter 18.79
8 RCW, who has reasonable cause to believe an infant has been exposed to
9 nonprescription use of controlled substances or alcohol shall: (a)
10 Conduct or arrange for appropriate tests to determine whether the
11 infant is drug-affected; and (b) notify the department of the name and
12 address of the parents of an infant who is drug-affected.

13 (2) The physician shall, as soon as practical, inform the mother of
14 a drug-affected infant of: (a) Her right to publicly funded tubal
15 ligation surgery as provided under section 12 of this act; (b)
16 available drug treatment and counseling; and (c) birth control
17 counseling and education. The mother may accept the offer of a tubal
18 ligation up to six months following its tender.

19 NEW SECTION. **Sec. 3.** A new section is added to chapter 13.34 RCW
20 to read as follows:

21 (1) The department, upon receipt of a report under section 2 of
22 this act, shall investigate and, if the department has reasonable cause
23 to believe that the infant is drug-affected, is in need of treatment
24 for conditions related to the infant's exposure to nonprescription use
25 of controlled substances or alcohol including withdrawal, and the
26 parents of the child cannot adequately care for the child's conditions,
27 the department shall take custody of the child for the purpose of
28 obtaining treatment for the child. Where medically indicated, the
29 department may place the infant in an appropriate birth facility or
30 pediatric care program, and access services for the treatment of the
31 child's drug-affected condition. The child's withdrawal shall be under
32 the supervision of appropriate medical professionals. The department
33 shall retain custody of the child until the court assumes custody,
34 until the department upon a documented and substantiated record
35 determines that the child's parents can adequately care for the
36 infant's condition, or until the department decides not to file a
37 dependency petition under subsection (2) of this section.

1 (2) After an investigation in response to a receipt of a report
2 under section 2 of this act, the department shall, in appropriate
3 cases, file a dependency petition under this chapter. In the event the
4 department does not file a petition, it shall refer the mother to
5 available chemical dependency treatment programs or a model project.

6 (3) The department and the mother may enter an agreement in which
7 the mother agrees to chemical dependency treatment on an inpatient or
8 outpatient basis or be referred to a model project created under
9 section 10 of this act.

10 (4) If the department and mother enter an agreement under
11 subsection (3) of this section, the department shall, if a dependency
12 petition has been filed, request the court to defer the entry of an
13 order of dependency for as long as the mother remains in treatment or
14 enrolled in the model project, subject to the department's monitoring
15 for compliance. As a condition of deferral of the order of dependency,
16 the parents, if both are available and known, shall stipulate to facts
17 sufficient to constitute a dependency and the court shall order
18 treatment or enrollment in a model project and prohibit nonprescription
19 use of controlled substances. In the event that an available parent
20 unreasonably refuses to stipulate to facts constituting a dependency,
21 the court may proceed with the hearing on the petition.

22 NEW SECTION. **Sec. 4.** A new section is added to chapter 13.34 RCW
23 to read as follows:

24 (1) If the department receives a report under section 2 of this act
25 of a mother who has given birth to a second drug-affected infant, the
26 department:

27 (a) May request the court to proceed immediately with the entry of
28 a dependency for the first drug-affected infant; and

29 (b) Shall investigate and, unless there are compelling reasons to
30 the contrary, file a dependency petition on the second drug-affected
31 infant. If the department does not file a petition, it shall refer the
32 woman to available chemical dependency treatment programs or a model
33 project.

34 (2) The department and the mother may enter an agreement in which
35 the mother agrees to: (a) Enter chemical dependency inpatient
36 treatment or a model project, together with an aftercare program that
37 includes participation in a model project when feasible; and (b)
38 medically appropriate pharmaceutical pregnancy prevention. The

1 selection of the pregnancy prevention method shall be based on an
2 evaluation of the medical and physical consequences to the mother and
3 shall remain in effect until the dependency petition is dismissed or
4 the court determines it is no longer medically appropriate.

5 (3) If the department and the mother enter an agreement under
6 subsection (2) of this section, the department shall request the court
7 to defer the entry of an order of dependency on the second drug-
8 affected infant for as long as the mother remains in treatment or
9 enrolled in the model project, subject to the department's monitoring
10 for compliance. As a condition of deferral of the order of dependency,
11 the parents, if both are available and known, shall stipulate to facts
12 sufficient to constitute a dependency and the court shall order
13 treatment or enrollment in a model project and prohibit nonprescription
14 use of controlled substances. In the event that an available parent
15 unreasonably refuses to stipulate to facts constituting a dependency,
16 the court may proceed with the hearing on the petition.

17 NEW SECTION. **Sec. 5.** A new section is added to chapter 13.34 RCW
18 to read as follows:

19 The department may request the court to dismiss the petition
20 deferred under section 3 or 4 of this act at any time, but a petition
21 may not be vacated or dismissed unless the mother demonstrates by clear
22 and convincing evidence that she has not used controlled substances in
23 a nonprescription manner for at least twelve consecutive months and can
24 safely provide for the child's welfare without continuing supervision
25 by the department or court.

26 NEW SECTION. **Sec. 6.** A new section is added to chapter 13.34 RCW
27 to read as follows:

28 If the department receives a report under section 2 of this act of
29 a mother who has given birth to a third or subsequent drug-affected
30 infant, the department shall:

31 (1) Request the court to proceed immediately with the entry of a
32 finding of dependency on all drug-affected children born before the
33 third or subsequent birth unless an order of dependency has been
34 vacated or dismissed; and

35 (2) File a dependency petition on any drug-affected infant subject
36 to this section as well as any other child born before the third or
37 subsequent birth of a drug-affected infant.

1 NEW SECTION. **Sec. 7.** A new section is added to chapter 13.34 RCW
2 to read as follows:

3 Following a filing of a petition under section 6 of this act:

4 (1) The court shall order evaluation by a designated chemical
5 dependency specialist, as defined in RCW 70.96A.020 who shall undertake
6 the processes described in RCW 70.96A.140.

7 (2) If the court has ordered removal of a child or children, the
8 out-of-home placement order shall remain in effect until the petition
9 is dismissed or the mother has successfully completed inpatient
10 treatment and any aftercare program for controlled substances ordered
11 by the court.

12 NEW SECTION. **Sec. 8.** A new section is added to chapter 13.34 RCW
13 to read as follows:

14 There is a rebuttable presumption in any petition filed under
15 section 6 of this act that termination of parental rights is in the
16 best interest of the child and it is unreasonable to provide services
17 to reunify the children with the mother. The court shall give great
18 weight to the fact that the mother has given birth to a third or
19 subsequent drug-affected infant.

20 NEW SECTION. **Sec. 9.** By July 1, 1999, the department of social
21 and health services, in consultation with the department of health,
22 shall adopt rules to implement this act, including a definition of
23 "drug-affected infant," which shall include infants who are affected by
24 a mother's abuse of alcohol during pregnancy.

25 NEW SECTION. **Sec. 10.** The department shall operate a model
26 project to provide services to women who give birth to infants exposed
27 to the nonprescription use of controlled substances by the mother
28 during pregnancy. The project shall be offered in one site in each of
29 three of the department's administrative regions which have the highest
30 incidence of drug-affected babies annually. The project shall accept
31 women referred to it by the department following the birth of a drug-
32 affected infant. The model project shall be concluded by July 1, 2003.

33 NEW SECTION. **Sec. 11.** A new section is added to chapter 70.96A
34 RCW to read as follows:

1 Any treatment program or model project in which a mother is
2 enrolled under sections 3 through 5 of this act shall provide family
3 planning, education, counseling, information, and services other than
4 pregnancy termination. "Family planning services" means the process of
5 limiting or spacing the birth of children. The process may include the
6 provision of acceptable and effective education, counseling,
7 reproductive health care, and testing.

8 NEW SECTION. **Sec. 12.** A new section is added to chapter 70.96A
9 RCW to read as follows:

10 The department shall make available, or cause to be made available,
11 pharmaceutical birth control services, information, and counseling to
12 any person who enters chemical dependency treatment under section 3 or
13 4 of this act. The department shall pay for any tubal ligations
14 requested under section 2 of this act if the mother's income is less
15 than two hundred percent of the federal poverty level. The department
16 shall report by December 1st of each year to the governor and
17 legislature: (1) The number of tubal ligations performed as a result
18 of chapter . . ., Laws of 1998 (this act); (2) the number of women who
19 decline to undergo the surgery; (3) the number of women who obtain
20 pharmaceutical birth control, by type of birth control; and (4) the
21 number of women who are reported to the department.

22 NEW SECTION. **Sec. 13.** The department of social and health
23 services shall study the costs and benefits associated with including
24 mothers of children born affected by alcohol or with fetal alcohol
25 syndrome in the services and responsibilities established in this act.
26 The study shall include a review of appropriate medical and social
27 science research. The department shall report to the governor and
28 legislature by December 1, 1998.

29 NEW SECTION. **Sec. 14.** Sections 1 through 8 and 10 through 12 of
30 this act take effect July 1, 1999.

31 NEW SECTION. **Sec. 15.** If specific funding for the purposes of
32 this act, referencing this act by bill or chapter number, is not

1 provided by June 30, 1998, in the omnibus appropriations act, this act
2 is null and void.

--- END ---