

HOUSE BILL ANALYSIS

HB 1764

Title: *An act relating to substance-affected infants; amending RCW 13.34.030, 13.34.070, 74.09.310, 18.71.950, 18.57.920, and 18.79.903; reenacting and amending RCW 13.34.130; adding new sections to chapter 13.34 RCW; repealing RCW 18.57.930, 18.71.960, 18.79.904, 70.96A.330, and 70.96A.340; and declaring an emergency.*

Brief Description: *Requiring identification of substance-affected infants and providing treatment services to their mothers.*

Sponsors: *Representatives Dickerson, McDonald, DeBolt, Kenney, Pflug, Kastama, Talcott, Kagi, Kessler, Eickmeyer, H. Sommers, Skinner, Lovick, Mitchell, Murray, Cairnes, Miloscia, Fortunato, Thomas, Wolfe, Lantz, Edmonds, Haigh and Ogden.*

HOUSE COMMITTEE ON CHILDREN & FAMILY SERVICES

Meeting Date: *February 17, 1999.*

Bill Analysis Prepared by: *Doug Ruth (786-7134).*

Background: 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 and alcohol affected infants are often born prematurely, have low birth weights and other significant medical problems. The long-term effects of drug and alcohol exposure may lead to learning disabilities, hyperactivity, articulation and socialization problems, including anti-social behavior. Approximately, 800 to 1,000 substance-affected infants are born each year.

The Department of Social and Health Services (DSHS) does investigate reports of substance-affected infants for evidence of child abuse or neglect. However, the fact that the infant is substance-affected, by itself, is not grounds for finding that the child is a dependent child.

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

Summary of Bill: A process is established to test, report, and provide care for drug-affected and alcohol-affected infants.

Health care providers are required to screen pregnant women for drug or alcohol use. The screening will consist of questions asked of the woman according to the screening

criteria and principles developed by the Department of Health. Health care providers must test an infant if the provider reasonably believes the infant is substance-affected.

Health care providers must inform women who may have a substance-affected infant of the options of getting a publically funded tubal ligation, chemical dependency treatment, and birth control services. If an infant is substance-affected, the provider is required to notify the Department of Social and Health Services. Providers may not be held liable for testing or reporting decisions unless their actions are grossly negligent or intentional.

First Report of a Substance Affected Infant

The department must investigate all reports and file a dependency petition if appropriate.

If the department does not file a petition, it will refer the mother to a chemical dependency treatment program. DSHS may provide pharmaceutical birth control services, information, and counseling as part of the program.

If the department does file a petition, the mother may avoid a dependency finding by entering into an agreement with DSHS. As part of the agreement, the mother must obtain chemical dependency treatment. The agreement is good for 12 months, but may be extended for good cause. If the mother enters into an agreement, the department will request that the court defer entry of a dependency order for as long as the mother remains in treatment

Second Report of a Substance Affected Infant

On the second report of a the birth of a substance-affected infant, DSHS may request the court proceed with the dependency on the first infant. DSHS must investigate and file a dependency on the second child, absent compelling reasons to the contrary. If compelling reasons exist, the department will refer the mother to a treatment program.

As with the first child, a mother may avoid the finding of a dependency by entering into an agreement with DSHS. The mother must agree to participate in inpatient chemical dependency treatment, the Birth to Three program, and submit to medically appropriate pharmaceutical birth control. The department will request that the dependency petition regarding the second infant be deferred for as long as the mother abides by the agreement. The agreement is valid for 12 months, unless extended for good cause.

For both the first and second substance-affected infant, a court may dismiss a dependency petition if the mother shows that she has not used drugs or abused alcohol for 12 consecutive months and can provide for the child's welfare.

Third Report of a Substance Affected Infant

For the third, and any subsequent births of substance-affected infants, DSHS will request the court proceed with any pending dependency findings. If dependency cases are not pending, DSHS will file dependency petitions on substance-affected children born previously. The court will order the mother evaluated by a chemical dependency specialist to determine if involuntary commitment for drug treatment is warranted. Birth of a third substance-affected infant also allows a court to expedite a mother's parental rights.

Deferred dependency petitions for any child may be dismissed if a mother demonstrates that she has remained drug free for 12 consecutive months and can provide for her child(ren)'s welfare. If a child is removed from a home, the child may not be returned until the dependency is dismissed or the mother has successfully completed an inpatient chemical dependency and after-care program and demonstrated she can care for the welfare of her children.

Appropriation: None.

Fiscal Note: Requested on February 15, 1999.

Effective Date: The bill contains an emergency clause and takes effect immediately.