

SENATE BILL REPORT

ESSB 5480

As Passed Senate, March 16, 1999

Title: An act relating to drug-affected infants.

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

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Patterson, Hargrove, Long, Eide, Franklin, Shin, McCaslin, Haugen, Goings, Gardner, Prentice, Kline, T. Sheldon, Wojahn, Benton, Spanel, B. Sheldon, Bauer, McAuliffe, Jacobsen, Rossi, Horn, Johnson, West, Winsley, Oke and Rasmussen).

Brief History:

Committee Activity: Human Services & Corrections: 3/2/99 [DPS-WM]

Ways & Means: 3/8/99 [DPS (HSC)].

Passed Senate, 3/16/99, 46-0.

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 5480 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Hargrove, Chair; Costa, Vice Chair; Franklin, Kohl-Welles, Long, Patterson, Sheahan, Stevens and Zarelli.

Staff: Joan K. Mell (786-7447)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5480 as recommended by Committee on Human Services & Corrections be substituted therefor, and the substitute bill do pass.

Signed by Senators Loveland, Chair; Bauer, Vice Chair; Brown, Vice Chair; Fairley, Fraser, Honeyford, Kline, Kohl-Welles, Long, Rasmussen, B. Sheldon, Snyder, Spanel, Thibaudeau, West, Winsley and Wojahn.

Staff: Brian Sims (786-7431)

Background: Medical research links prenatal drug exposure to developmental problems in children. Drug-affected infants are often born prematurely, have low birth weights and other significant medical problems. As the drug-affected infant matures he or she may experience learning disabilities, hyperactivity, articulation and socialization problems, including anti-social behavior.

The fact that an infant is drug-affected does not mean that a child is a dependent child. However, concerns exist about the family's need for services, not only to treat existing conditions, but to prevent future drug-affected births.

In the 1998 legislative session a version of this bill was introduced and passed both houses. The Governor vetoed a number of the provisions, eroding the legislation. A few provisions that went into effect required the Department of Social and Health Services develop definitions for drug affected infants. In addition, there was a companion bill that passed through the Senate Health and Long-Term Care Committee and went into effect, requiring the Department of Health to develop assessment and testing criteria for drug-affected infants.

The Department of Social and Health Services has been working on a plan for services to families of drug-affected infants.

Summary of Bill: A woman's primary health care provider must identify and then screen appropriate pregnant and lactating women to determine whether an infant is at risk of being drug-affected. If screening criteria suggests the infant should be tested, then the provider must conduct the test or provide the screening information to the infant's primary health care provider. The infant's primary health care provider must then perform the test, if not already performed.

The mother's doctor must advise the mother of her right to publicly-funded tubal ligation surgery and advise her how to access appropriate drug treatment or birth control counseling services, when the infant tests positive.

Drug-affected— is defined by the Department of Social and Health Services' definition created pursuant to previous legislation, and pertains to the mother's use of non-prescription controlled substances. An infant must require treatment for withdrawal or longer term treatment and services for developmental conditions that extend beyond the point of withdrawal.

Positive test findings must be reported by the health care provider to the Department of Social and Health Services. The department must investigate all referrals and file a dependency in appropriate cases. The drug-affected status of an infant is not by itself sufficient to support a dependency finding.

Mothers can agree to treatment as a condition that may defer any dependency action. The conditions of the agreement vary depending upon the number of drug-affected infants the mother has had. With the first drug-affected infant, a mother can agree to inpatient or out-patient treatment. With the second drug-affected infant, the mother can agree to inpatient treatment. With the third or subsequent birth of a drug-affected infant, the mother is referred for evaluation for involuntary inpatient commitment for chemical dependency treatment. Mothers must be offered education in family planning and pharmaceutical birth control. Providers may choose not to offer family planning, making a conscientious objection, but must explain to the mother where she can obtain family planning services.

Fact-finding hearings in a dependency action can be continued if the parties have agreed to conditions that take more than 75 days to fulfill. In termination proceedings, a third or subsequent drug-affected birth is an aggravating circumstance for the court's consideration.

A health care provider is only liable for acts of gross negligence or intentional misconduct as it relates to his or her duties under this act.

The Institute for Public Policy must study and report to the Legislature on the provisions of this act.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Mothers need supportive services when confronted with drug addiction affecting the birth of a child. Early screening and intervention is needed. The Department of Social and Health Services changes have been addressed by the substitute bill. Additional services will help these women.

Testimony Against: It is not clear whether children could be taken away from their family. Screening and other testing requirements on physicians do not assist physicians to help these mothers and infants. Testing and screening criteria are varied.

Testified: George LeClair, Children's Alliance (concerns); Donna Christensen, Catholic Community Services (concerns); Tom Pendergrass, MD, WA Chapter American Academy of Pediatricians, WSMA (con); Joseph Mancusous, WA Section ACOG (con); Deanne Kopkas, Sisters of Providence Health System (concerns); Lonnie Johns-Brown, Washington Chapter of NOW (pro); Laurie Lippold, Children's Home Society (pro).