
HOUSE BILL 2842

State of Washington

56th Legislature

2000 Regular Session

By Representatives Pflug, Boldt, D. Sommers, Cairnes, Edmonds and Mulliken

Read first time 01/21/2000. Referred to Committee on Children & Family Services.

1 AN ACT Relating to drug-affected infants; adding new sections to
2 chapter 13.34 RCW; and creating a new section.

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

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

6 When a newborn infant has been identified as being affected by the
7 nonprescription use of a controlled substance by a physician licensed
8 under chapter 18.71 or 18.57 RCW primarily responsible for the care of
9 a newborn infant, an advanced registered nurse who practices midwifery
10 licensed under chapter 18.79 RCW, or a midwife licensed under chapter
11 18.50 RCW, the department must be notified by the physician, nurse, or
12 midwife. Information given to the department shall include the name
13 and address of the parent or parents of an infant who has been affected
14 by the nonprescription use of a controlled substance.

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

17 (1) The department, upon receipt of a report under section 1 of
18 this act, shall investigate and, if the department has reasonable cause

1 to believe that the infant has been affected by the nonprescription use
2 of a controlled substance, the infant is in need of treatment for
3 conditions related to the infant being affected by the nonprescription
4 use of a controlled substance, and the parents of the child cannot
5 adequately care for the child's conditions, the department shall take
6 custody of the child for the purpose of obtaining treatment for the
7 child. Where medically indicated, the department may place the infant
8 in an appropriate birth facility or pediatric care program, and access
9 services for the treatment of the child's condition. The child's
10 withdrawal from the effects of the prenatal nonprescription use of a
11 controlled substance shall be under the supervision of appropriate
12 medical professionals. The department shall retain custody of the
13 child until the court assumes custody, until the department upon a
14 documented and substantiated record determines that the child's parents
15 can adequately care for the infant's condition, or until the department
16 decides not to file a dependency petition under subsection (2) of this
17 section.

18 (2) After an investigation in response to a receipt of a report
19 under section 1 of this act, the department shall, in appropriate
20 cases, file a dependency petition under this chapter. In the event the
21 department does not file a petition, it shall refer the mother to
22 available chemical dependency treatment programs.

23 (3) The department and the mother may enter an agreement in which
24 the mother agrees to chemical dependency treatment on an inpatient or
25 outpatient basis.

26 (4) If the department and mother enter an agreement under
27 subsection (3) of this section, the department shall, if a dependency
28 petition has been filed, request the court to defer the entry of an
29 order of dependency for as long as the mother remains in treatment,
30 subject to the department's monitoring for compliance. As a condition
31 of deferral of the order of dependency, the parents, if both are
32 available and known, shall stipulate to facts sufficient to constitute
33 a dependency and the court shall order treatment and prohibit
34 nonprescription use of controlled substances. In the event that an
35 available parent unreasonably refuses to stipulate to facts
36 constituting a dependency, the court may proceed with the hearing on
37 the petition.

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

3 (1) If the department receives a report under section 1 of this act
4 of a mother who has given birth to a second infant who has been
5 affected by the nonprescription use of a controlled substance, the
6 department:

7 (a) May request the court to proceed immediately with the entry of
8 a dependency for the first infant who was affected by the
9 nonprescription use of a controlled substance; and

10 (b) Shall investigate and, unless there are compelling reasons to
11 the contrary, file a dependency petition on the second infant who has
12 been affected by the nonprescription use of a controlled substance. If
13 the department does not file a petition, it shall refer the woman to
14 available chemical dependency treatment programs.

15 (2) The department and the mother may enter an agreement in which
16 the mother agrees to enter chemical dependency inpatient treatment.

17 (3) If the department and the mother enter an agreement under
18 subsection (2) of this section, the department shall request the court
19 to defer the entry of an order of dependency on the second infant for
20 as long as the mother remains in treatment, subject to the department's
21 monitoring for compliance. As a condition of deferral of the order of
22 dependency, the parents, if both are available and known, shall
23 stipulate to facts sufficient to constitute a dependency and the court
24 shall order treatment and prohibit nonprescription use of controlled
25 substances. In the event that an available parent unreasonably refuses
26 to stipulate to facts constituting a dependency, the court may proceed
27 with the hearing on the petition.

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

30 The department may request the court to dismiss the petition
31 deferred under section 2 or 3 of this act at any time, but a petition
32 may not be vacated or dismissed unless the mother demonstrates by clear
33 and convincing evidence that she has not used controlled substances in
34 a nonprescription manner for at least twelve consecutive months and can
35 safely provide for the child's welfare without continuing supervision
36 by the department or court.

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

3 If the department receives a report under section 1 of this act of
4 a mother who has given birth to a third or subsequent infant who has
5 been affected by the nonprescription use of a controlled substance the
6 department shall:

7 (1) Request the court to proceed immediately with the entry of a
8 finding of dependency on all children who were affected by the
9 nonprescription use of a controlled substance born before the third or
10 subsequent birth unless an order of dependency has been vacated or
11 dismissed; and

12 (2) File a dependency petition on any infant subject to this
13 section as well as any other child born before the third or subsequent
14 birth of an infant who was affected by the nonprescription use of a
15 controlled substance.

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

18 Following a filing of a petition under section 5 of this act:

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

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

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

29 There is a rebuttable presumption in any petition filed under
30 section 6 of this act that termination of parental rights is in the
31 best interest of the child and it is unreasonable to provide services
32 to reunify the children with the mother. The court shall give great
33 weight to the fact that the mother has given birth to a third or
34 subsequent infant born affected by the nonprescription use of a
35 controlled substance.

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

3 The department may make available, or cause to be made available,
4 pharmaceutical birth control services, information, and counseling to
5 any person who enters chemical dependency treatment under this act.

6 NEW SECTION. **Sec. 9.** A new section is added to chapter 13.34 RCW
7 to read as follows:

8 For the purposes of this act, "department" means the department of
9 social and health services.

10 NEW SECTION. **Sec. 10.** If specific funding for the purposes of
11 this act, referencing this act by bill or chapter number, is not
12 provided by June 30, 2000, in the omnibus appropriations act, this act
13 is null and void.

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