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HOUSE BILL 1561

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State of Washington

58th Legislature

2003 Regular Session

By Representatives Orcutt, Kagi, Pettigrew and Boldt; by request of Department of Social and Health Services

Read first time 01/30/2003. Referred to Committee on Children & Family Services.

1 AN ACT Relating to the elimination of reports to the legislature  
2 required of the department of social and health services; amending RCW  
3 43.20B.030, 74.13.036, and 74.14C.070; reenacting and amending RCW  
4 26.44.030; and repealing RCW 74.09.310, 74.09.320, 13.40.430, and  
5 72.23.450.

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

7 **Sec. 1.** RCW 43.20B.030 and 1997 c 130 s 5 are each amended to read  
8 as follows:

9 (1) Except as otherwise provided by law, there will be no  
10 collection of overpayments and other debts due the department after the  
11 expiration of six years from the date of notice of such overpayment or  
12 other debt unless the department has commenced recovery action in a  
13 court of law or unless an administrative remedy authorized by statute  
14 is in place. However, any amount due in a case thus extended shall  
15 cease to be a debt due the department at the expiration of ten years  
16 from the date of the notice of the overpayment or other debt unless a  
17 court-ordered remedy would be in effect for a longer period.

18 (2)((+a)) The department, at any time, may accept offers of  
19 compromise of disputed claims or may grant partial or total write-off

1 of any debt due the department if it is no longer cost-effective to  
2 pursue. The department shall adopt rules establishing the  
3 considerations to be made in the granting or denial of a partial or  
4 total write-off of debts.

5 ~~((b) Beginning December 1, 1997, the department shall report by  
6 December 1 each year to the commerce and labor committees of the senate  
7 and house of representatives, the senate ways and means committee, and  
8 the house appropriations committee, or successor committees, the  
9 following information:~~

- 10 ~~(i) The cumulative amount of debt due the department;~~
- 11 ~~(ii) The cumulative amount of debt that has been written off by the  
12 department as no longer cost-effective to pursue;~~
- 13 ~~(iii) The amount of debt due the department that has accrued in  
14 each of the previous five fiscal years; and~~
- 15 ~~(iv) The amount of debt that has been written off in each of the  
16 previous five fiscal years as no longer cost-effective to pursue.))~~

17 **Sec. 2.** RCW 74.13.036 and 1996 c 133 s 37 are each amended to read  
18 as follows:

19 (1) The department of social and health services shall oversee  
20 implementation of chapter 13.34 RCW and chapter 13.32A RCW. The  
21 oversight shall be comprised of working with affected parts of the  
22 criminal justice and child care systems as well as with local  
23 government, legislative, and executive authorities to effectively carry  
24 out these chapters. The department shall work with all such entities  
25 to ensure that chapters 13.32A and 13.34 RCW are implemented in a  
26 uniform manner throughout the state.

27 (2) The department shall develop a plan and procedures, in  
28 cooperation with the statewide advisory committee, to insure the full  
29 implementation of the provisions of chapter 13.32A RCW. Such plan and  
30 procedures shall include but are not limited to:

31 (a) Procedures defining and delineating the role of the department  
32 and juvenile court with regard to the execution of the child in need of  
33 services placement process;

34 (b) Procedures for designating department staff responsible for  
35 family reconciliation services;

36 (c) Procedures assuring enforcement of contempt proceedings in  
37 accordance with RCW 13.32A.170 and 13.32A.250; and

1 (d) Procedures for the continued education of all individuals in  
2 the criminal juvenile justice and child care systems who are affected  
3 by chapter 13.32A RCW, as well as members of the legislative and  
4 executive branches of government.

5 There shall be uniform application of the procedures developed by  
6 the department and juvenile court personnel, to the extent practicable.  
7 Local and regional differences shall be taken into consideration in the  
8 development of procedures required under this subsection.

9 (3) In addition to its other oversight duties, the department  
10 shall:

11 (a) Identify and evaluate resource needs in each region of the  
12 state;

13 (b) Disseminate information collected as part of the oversight  
14 process to affected groups and the general public;

15 (c) Educate affected entities within the juvenile justice and child  
16 care systems, local government, and the legislative branch regarding  
17 the implementation of chapters 13.32A and 13.34 RCW;

18 (d) Review complaints concerning the services, policies, and  
19 procedures of those entities charged with implementing chapters 13.32A  
20 and 13.34 RCW; and

21 (e) Report any violations and misunderstandings regarding the  
22 implementation of chapters 13.32A and 13.34 RCW.

23 (4) ~~((The secretary shall submit a quarterly report to the  
24 appropriate local government entities.~~

25 ~~(5))~~) The department shall provide an annual report to the  
26 legislature not later than December 1~~((, indicating))~~ of each year only  
27 when it has declined to accept custody of a child from a law  
28 enforcement agency or it has received a report of a child being  
29 released without placement. The report shall indicate the number of  
30 times it has declined to accept custody of a child from a law  
31 enforcement agency under chapter 13.32A RCW and the number of times it  
32 has received a report of a child being released without placement under  
33 RCW 13.32A.060(1)(c). The report shall include the dates, places, and  
34 reasons the department declined to accept custody and the dates and  
35 places children are released without placement.

36 **Sec. 3.** RCW 74.14C.070 and 1995 c 311 s 11 are each amended to  
37 read as follows:

1           The secretary of social and health services, or the secretary's  
2 regional designee, may transfer funds appropriated for foster care  
3 services to purchase preservation services and other preventive  
4 services for children at imminent risk of out-of-home placement or who  
5 face a substantial likelihood of out-of-home placement. This transfer  
6 may be made in those regions that lower foster care expenditures  
7 through efficient use of preservation services and permanency planning  
8 efforts. The transfer shall be equivalent to the amount of reduced  
9 foster care expenditures and shall be made in accordance with the  
10 provisions of this chapter and with the approval of the office of  
11 financial management. The ((~~secretary~~)) department shall present an  
12 annual report to the legislature regarding any transfers under this  
13 section only if transfers occur. The ((~~secretary~~)) department shall  
14 include caseload, expenditure, cost avoidance, identified improvements  
15 to the out-of-home care system, and outcome data related to the  
16 transfer in the report. The ((~~secretary~~)) department shall also  
17 include in the report information regarding:

18           (1) The percent of cases where a child is placed in out-of-home  
19 care after the provision of intensive family preservation services or  
20 family preservation services;

21           (2) The average length of time before ((~~such~~)) the child is placed  
22 out-of-home;

23           (3) The average length of time ((~~such~~)) the child is placed out-of-  
24 home; and

25           (4) The number of families that refused the offer of either family  
26 preservation services or intensive family preservation services.

27           **Sec. 4.** RCW 26.44.030 and 1999 c 267 s 20 and 1999 c 176 s 30 are  
28 each reenacted and amended to read as follows:

29           (1)(a) When any practitioner, county coroner or medical examiner,  
30 law enforcement officer, professional school personnel, registered or  
31 licensed nurse, social service counselor, psychologist, pharmacist,  
32 licensed or certified child care providers or their employees, employee  
33 of the department, juvenile probation officer, placement and liaison  
34 specialist, responsible living skills program staff, HOPE center staff,  
35 or state family and children's ombudsman or any volunteer in the  
36 ombudsman's office has reasonable cause to believe that a child has

1 suffered abuse or neglect, he or she shall report such incident, or  
2 cause a report to be made, to the proper law enforcement agency or to  
3 the department as provided in RCW 26.44.040.

4 (b) The reporting requirement also applies to department of  
5 corrections personnel who, in the course of their employment, observe  
6 offenders or the children with whom the offenders are in contact. If,  
7 as a result of observations or information received in the course of  
8 his or her employment, any department of corrections personnel has  
9 reasonable cause to believe that a child has suffered abuse or neglect,  
10 he or she shall report the incident, or cause a report to be made, to  
11 the proper law enforcement agency or to the department as provided in  
12 RCW 26.44.040.

13 (c) The reporting requirement shall also apply to any adult who has  
14 reasonable cause to believe that a child who resides with them, has  
15 suffered severe abuse, and is able or capable of making a report. For  
16 the purposes of this subsection, "severe abuse" means any of the  
17 following: Any single act of abuse that causes physical trauma of  
18 sufficient severity that, if left untreated, could cause death; any  
19 single act of sexual abuse that causes significant bleeding, deep  
20 bruising, or significant external or internal swelling; or more than  
21 one act of physical abuse, each of which causes bleeding, deep  
22 bruising, significant external or internal swelling, bone fracture, or  
23 unconsciousness.

24 (d) The report must be made at the first opportunity, but in no  
25 case longer than forty-eight hours after there is reasonable cause to  
26 believe that the child has suffered abuse or neglect. The report must  
27 include the identity of the accused if known.

28 (2) The reporting requirement of subsection (1) of this section  
29 does not apply to the discovery of abuse or neglect that occurred  
30 during childhood if it is discovered after the child has become an  
31 adult. However, if there is reasonable cause to believe other children  
32 are or may be at risk of abuse or neglect by the accused, the reporting  
33 requirement of subsection (1) of this section does apply.

34 (3) Any other person who has reasonable cause to believe that a  
35 child has suffered abuse or neglect may report such incident to the  
36 proper law enforcement agency or to the department of social and health  
37 services as provided in RCW 26.44.040.

1           (4) The department, upon receiving a report of an incident of  
2 alleged abuse or neglect pursuant to this chapter, involving a child  
3 who has died or has had physical injury or injuries inflicted upon him  
4 or her other than by accidental means or who has been subjected to  
5 alleged sexual abuse, shall report such incident to the proper law  
6 enforcement agency. In emergency cases, where the child's welfare is  
7 endangered, the department shall notify the proper law enforcement  
8 agency within twenty-four hours after a report is received by the  
9 department. In all other cases, the department shall notify the law  
10 enforcement agency within seventy-two hours after a report is received  
11 by the department. If the department makes an oral report, a written  
12 report must also be made to the proper law enforcement agency within  
13 five days thereafter.

14           (5) Any law enforcement agency receiving a report of an incident of  
15 alleged abuse or neglect pursuant to this chapter, involving a child  
16 who has died or has had physical injury or injuries inflicted upon him  
17 or her other than by accidental means, or who has been subjected to  
18 alleged sexual abuse, shall report such incident in writing as provided  
19 in RCW 26.44.040 to the proper county prosecutor or city attorney for  
20 appropriate action whenever the law enforcement agency's investigation  
21 reveals that a crime may have been committed. The law enforcement  
22 agency shall also notify the department of all reports received and the  
23 law enforcement agency's disposition of them. In emergency cases,  
24 where the child's welfare is endangered, the law enforcement agency  
25 shall notify the department within twenty-four hours. In all other  
26 cases, the law enforcement agency shall notify the department within  
27 seventy-two hours after a report is received by the law enforcement  
28 agency.

29           (6) Any county prosecutor or city attorney receiving a report under  
30 subsection (5) of this section shall notify the victim, any persons the  
31 victim requests, and the local office of the department, of the  
32 decision to charge or decline to charge a crime, within five days of  
33 making the decision.

34           (7) The department may conduct ongoing case planning and  
35 consultation with those persons or agencies required to report under  
36 this section, with consultants designated by the department, and with  
37 designated representatives of Washington Indian tribes if the client  
38 information exchanged is pertinent to cases currently receiving child

1 protective services. Upon request, the department shall conduct such  
2 planning and consultation with those persons required to report under  
3 this section if the department determines it is in the best interests  
4 of the child. Information considered privileged by statute and not  
5 directly related to reports required by this section must not be  
6 divulged without a valid written waiver of the privilege.

7 (8) Any case referred to the department by a physician licensed  
8 under chapter 18.57 or 18.71 RCW on the basis of an expert medical  
9 opinion that child abuse, neglect, or sexual assault has occurred and  
10 that the child's safety will be seriously endangered if returned home,  
11 the department shall file a dependency petition unless a second  
12 licensed physician of the parents' choice believes that such expert  
13 medical opinion is incorrect. If the parents fail to designate a  
14 second physician, the department may make the selection. If a  
15 physician finds that a child has suffered abuse or neglect but that  
16 such abuse or neglect does not constitute imminent danger to the  
17 child's health or safety, and the department agrees with the  
18 physician's assessment, the child may be left in the parents' home  
19 while the department proceeds with reasonable efforts to remedy  
20 parenting deficiencies.

21 (9) Persons or agencies exchanging information under subsection (7)  
22 of this section shall not further disseminate or release the  
23 information except as authorized by state or federal statute.  
24 Violation of this subsection is a misdemeanor.

25 (10) Upon receiving reports of alleged abuse or neglect, the  
26 department or law enforcement agency may interview children. The  
27 interviews may be conducted on school premises, at day-care facilities,  
28 at the child's home, or at other suitable locations outside of the  
29 presence of parents. Parental notification of the interview must occur  
30 at the earliest possible point in the investigation that will not  
31 jeopardize the safety or protection of the child or the course of the  
32 investigation. Prior to commencing the interview the department or law  
33 enforcement agency shall determine whether the child wishes a third  
34 party to be present for the interview and, if so, shall make reasonable  
35 efforts to accommodate the child's wishes. Unless the child objects,  
36 the department or law enforcement agency shall make reasonable efforts  
37 to include a third party in any interview so long as the presence of  
38 the third party will not jeopardize the course of the investigation.

1 (11) Upon receiving a report of alleged child abuse and neglect,  
2 the department or investigating law enforcement agency shall have  
3 access to all relevant records of the child in the possession of  
4 mandated reporters and their employees.

5 (12) The department shall maintain investigation records and  
6 conduct timely and periodic reviews of all cases constituting abuse and  
7 neglect. The department shall maintain a log of screened-out  
8 nonabusive cases.

9 (13) The department shall use a risk assessment process when  
10 investigating alleged child abuse and neglect referrals. The  
11 department shall present the risk factors at all hearings in which the  
12 placement of a dependent child is an issue. Substance abuse must be a  
13 risk factor. The department shall, within funds appropriated for this  
14 purpose, offer enhanced community-based services to persons who are  
15 determined not to require further state intervention.

16 ~~((The department shall provide annual reports to the legislature on  
17 the effectiveness of the risk assessment process.))~~

18 (14) Upon receipt of a report of alleged abuse or neglect the law  
19 enforcement agency may arrange to interview the person making the  
20 report and any collateral sources to determine if any malice is  
21 involved in the reporting.

22 (15) The department shall make reasonable efforts to learn the  
23 name, address, and telephone number of each person making a report of  
24 abuse or neglect under this section. The department shall provide  
25 assurances of appropriate confidentiality of the identification of  
26 persons reporting under this section. If the department is unable to  
27 learn the information required under this subsection, the department  
28 shall only investigate cases in which: (a) The department believes  
29 there is a serious threat of substantial harm to the child; (b) the  
30 report indicates conduct involving a criminal offense that has, or is  
31 about to occur, in which the child is the victim; or (c) the department  
32 has, after investigation, a report of abuse or neglect that has been  
33 founded with regard to a member of the household within three years of  
34 receipt of the referral.

35 NEW SECTION. **Sec. 5.** The following acts or parts of acts are each  
36 repealed:



1           (1) RCW 74.09.310 (Chemical dependency treatment--Provision of  
2 birth control services, information, and counseling--Report) and 1998  
3 c 314 s 34;  
4           (2) RCW 74.09.320 (Chemical dependency treatment--Provision of  
5 birth control services, information, and counseling--Report) and 1998  
6 c 314 s 35;  
7           (3) RCW 13.40.430 (Disparity in disposition of juvenile offenders--  
8 Data collection--Annual report) and 1993 c 373 s 2; and  
9           (4) RCW 72.23.450 (Annual report to the legislature) and 2000 c 22  
10 s 8.

--- END ---