

(2) In each instance of bail forfeiture or monetary penalty paid in lieu of a court appearance attendant to any violation of a law of this state or an ordinance of a city or county except an ordinance relating to vehicles unlawfully left or parked, an assessment which shall be in addition to such bail forfeited or penalty paid shall be collected and forwarded within thirty days of receipt of such assessment by the clerk of the court, or the county treasurer, to the state treasurer to be deposited in an account within the state general fund to be known as the criminal justice training account, hereby created, funds from which shall be appropriated by law to the Washington state criminal justice training commission as established by chapter 43.101 RCW. The amount of the assessment shall be as follows:

(a) When forfeiture or penalty is ten dollars to nineteen dollars and ninety-nine cents, three dollars;

(b) When forfeiture or penalty is twenty dollars to thirty-nine dollars and ninety-nine cents, five dollars;

(c) When forfeiture or penalty is forty dollars to fifty-nine dollars and ninety-nine cents, seven dollars;

(d) When forfeiture or penalty is sixty dollars to ninety-nine dollars and ninety-nine cents, twelve dollars; and

(e) When forfeiture or penalty is one hundred dollars or more, fifteen dollars.

(3) When any deposit of bail is made for a violation to which this section applies, the person making such deposit shall also deposit a sufficient amount to include the assessment prescribed in subsection (2) of this section.

(4) When bail is forfeited or a penalty paid, the assessment prescribed in this section shall be forwarded to the state treasurer pursuant to this section. If bail is returned, the assessment made thereon shall also be returned.

NEW SECTION. Sec. 2. This 1979 act shall take effect on July 1, 1980.

Passed the House May 2, 1979.

Passed the Senate April 30, 1979.

Approved by the Governor May 11, 1979.

Filed in Office of Secretary of State May 11, 1979.

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## CHAPTER 165

[Substitute House Bill No. 352]

### PARENT/CHILD RELATIONSHIP—TERMINATION—ADOPTION PROCEEDINGS

AN ACT Relating to domestic relations; amending section 9, chapter 291, Laws of 1977 ex. sess. and RCW 13.04.093; amending section 3, chapter 291, Laws of 1955 as last amended by section 26, chapter 42, Laws of 1975-'76 2nd ex. sess. and RCW 26.32.030; amending section 6, chapter 291, Laws of 1955 and RCW 26.32.060; amending section 3, chapter 172, Laws of 1971 ex. sess. and RCW 26.32.210; amending section 1, chapter 49,

Laws of 1903 as last amended by section 34, chapter 42, Laws of 1975-'76 2nd ex. sess. and RCW 26.37.010; amending section 12, chapter 291, Laws of 1955 and RCW 26.32-.120; amending section 1, chapter 82, Laws of 1970 ex. sess. as amended by section 21, chapter 80, Laws of 1977 ex. sess. and RCW 26.36.050; amending section 80, chapter ... (SSB 2768), Laws of 1979 and RCW 74.13.\_\_; amending section 17, chapter 172, Laws of 1967 as last amended by section 77, chapter 155, Laws of 1979 and RCW 74.13.031; adding new sections to chapter 26.32 RCW; repealing section 8, chapter 134, Laws of 1973, section 35, chapter 42, Laws of 1975-'76 2nd ex. sess. and RCW 26.37.015; repealing section 4, chapter 291, Laws of 1955, section 3, chapter 134, Laws of 1973, section 27, chapter 42, Laws of 1975-'76 2nd ex. sess. and RCW 26.32.040; repealing section 5, chapter 291, Laws of 1955, section 4, chapter 134, Laws of 1973, section 28, chapter 42, Laws of 1975-'76 2nd ex. sess. and RCW 26.32.050; repealing section 7, chapter 291, Laws of 1955, section 29, chapter 42, Laws of 1975-'76 2nd ex. sess. and RCW 26.32-.070; repealing section 8, chapter 291, Laws of 1955, section 5, chapter 134, Laws of 1973, section 30, chapter 42, Laws of 1975-'76 2nd ex. sess. and RCW 26.32.080; repealing section 6, chapter 134, Laws of 1973, section 31, chapter 42, Laws of 1975-'76 2nd ex. sess. and RCW 26.32.085; repealing section 13, chapter 291, Laws of 1955 and RCW 26.32.130; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Section 1. Unless the context clearly requires otherwise, the definitions in this section shall apply throughout this chapter.

(1) "Alleged father" means a person who is alleged or thought to be the natural father of a child and:

(a) Has never married the mother; or

(b) Whose marriage to the mother was terminated by a decree of dissolution entered more than three hundred days prior to the birth; or

(c) Was separated from the mother and a decree of separation was entered by a court more than three hundred days prior to the birth.

(2) "Court" means the superior court and any of its divisions.

(3) "Minor" means a person under the age of eighteen years.

(4) "Parent" means the natural or adoptive mother or father or legal father of a child, regardless of the marital status of the parent.

(5) "Guardian of the person" means a person, other than the parent of the child, or an agency appointed by a court having jurisdiction over the child, to promote the general welfare of the child, with the duty and authority to make decisions permanently affecting the child's health and development.

(6) "Guardian ad litem" means a person, appointed by a court having jurisdiction, to represent the child, the child's minor or incompetent parent, or the alleged father of the child in a judicial proceeding brought to terminate the parent and child relationship.

NEW SECTION. Sec. 2. (1) If a parent either directly or through an approved agency voluntarily petitions for the termination of the parent and child relationship with respect to a child, the court may order termination, subject to the provisions of this chapter. Any written consent of the parent previously given to an agency shall be personally acknowledged before the court if the court in its discretion determines that such acknowledgement is

reasonably necessary. The consent may be withdrawn at any time before the decree of termination is issued.

(2) If a petition seeking involuntary termination of a parent and child relationship has been filed, and the parent fails to respond after notification pursuant to sections 5, 8, and 10 of this act, the failure to respond constitutes consent to termination on the part of the parent involved.

(3) If a petition seeking involuntary termination of a parent and child relationship has been filed and the parent, against whom termination is sought, timely appears and contests the termination, the petition shall be treated as a petition for dependency and proceedings shall be held pursuant to RCW 13.34.180, except in the following cases:

(a) A petition contested by an alleged father, which shall be decided pursuant to section 12(1) of this act; and

(b) A petition filed by a parent and joined by the petitioner's spouse seeking termination with respect to the other parent, and contested by such other parent, which shall be decided pursuant to section 12 of this act.

NEW SECTION. Sec. 3. (1) A parent, either directly or through an approved agency, may file a petition seeking voluntary termination of the parent and child relationship.

(2) A petition seeking involuntary termination of the parent and child relationship may be filed by:

(a) The department of social and health services or a child-placing agency as defined in RCW 74.15.020;

(b) Either parent seeking termination with respect to the other parent; or

(c) A guardian, legal custodian, or guardian ad litem of the child.

NEW SECTION. Sec. 4. (1) A petition for termination of the parent and child relationship shall be entitled, "In the Interest of . . . . ., a person under the age of eighteen," and shall set forth with specificity:

(a) The name, sex, date and place of birth, and residence, if any, of the child;

(b) The name and residence of the petitioner and the petitioner's relationship to the child;

(c) The names, dates of birth, and addresses of the child's parents;

(d) Whether either of the child's parents is a minor;

(e) The names and addresses of any:

(i) Guardian of the person of the child;

(ii) Custodian of the child; and

(iii) Guardian ad litem of the child; and

(f) The specific facts which form the basis for the petition and the basis of the court's jurisdiction.

(2) If the information required under subsection (1) (b) and (f) of this section is not stated, the petition shall be dismissed; if any other facts required under this section are not known or cannot be ascertained by the petitioner, the petition shall so state.

(3) A copy of any voluntary relinquishment or consent to adoption previously executed by a parent shall accompany the petition.

NEW SECTION. Sec. 5. An action to terminate the parent and child relationship of an alleged father may also be commenced under this chapter as follows:

(1) In order to provide due notice at the earliest possible time to the alleged father who may have an interest in the custody of an expected child or in the mother's intended release of custody and consent to adoption, and in order to facilitate early placement of a child for adoption, a pregnant woman may file, without fee, in the court a verified petition for voluntary termination of her parental rights which evidences her intent to release the expected child for adoption. The petition shall indicate the approximate date and location of conception and the expected date of birth. It shall further allege that a particular person is the father of her expected child and shall request the court to notify the alleged father of his right to file a claim of paternity under chapter 26.26 RCW. The petition may allege that one of two or more men is the father, where circumstances warrant. On the filing of the petition, the court shall issue a notice of the petition and intent to release custody or consent to adoption, which notice shall be served upon the alleged father by any officer or person authorized to serve process of the court. Proof of personal service shall be filed with the court, or if personal service cannot be made, proof of service by publication under section 8(4) of this act shall be filed with the court.

(2) A notice of the petition and intent to release custody and consent to adoption shall:

(a) Indicate the approximate date and location of conception of the child and the expected date of birth;

(b) Inform the alleged father of his right under chapter 26.26 RCW to file a claim of paternity before the birth of the child, or to file a notice of intent to claim paternity directly as a responsive pleading in the cause of action commenced by the mother's petition under this section;

(c) Inform the alleged father of the rights to which his filing of a claim of paternity will entitle him under chapter 26.26 RCW; and

(d) Inform the alleged father, where the petition and notice under subsection (1) of this section is filed and served more than thirty days prior to birth, that his failure to file a claim of paternity before the expected date of birth of the child shall constitute a waiver of his right to receive the notice to which he would otherwise be entitled under section 8 of this act and shall result in termination of his rights and responsibilities with regard to the child.

(3) Proof of service of the petition and notice of intent to release custody and consent to adoption, or the alleged father's verified acknowledgement of his intent to release custody and consent to adoption, shall be filed with the court if the notice was given to the alleged father.

Sec. 6. Section 9, chapter 291, Laws of 1977 ex. sess. and RCW 13.04-.093 are each amended to read as follows:

~~It shall be the duty of the prosecuting attorney ((or the prosecuting attorney's deputy to present the evidence supporting any petition where the facts are contested, except in petitions to approve or disapprove alternative residential placement: PROVIDED, That it shall be the duty of the attorney general or the attorney general's assistant to present the evidence supporting any petition alleging dependency, or any petition seeking the termination of a parent and child relationship, which is filed in a class A or AA county, where the facts are contested: PROVIDED FURTHER, That the responsibility of the prosecuting attorney for proceedings relating to the commission of a juvenile offense shall be as provided in RCW 13.40.070 and 13.40.090))~~ to act in proceedings relating to the commission of a juvenile offense as provided in RCW 13.40.070 and 13.40.090 and in proceedings under RCW 72.23.070. It shall be the duty of the prosecuting attorney to handle delinquency cases under Title [chapter] 13.24 RCW and it shall be the duty of the attorney general to handle dependency cases under Title [chapter] 13.24 RCW. It shall be the duty of the attorney general in contested cases brought by the department to present the evidence supporting any petition alleging dependency or seeking the termination of a parent and child relationship or any contested case filed under section 3 (2) of this act or approving or disapproving alternative residential placement: PROVIDED, That in class 1 through 9 counties the attorney general may contract with the prosecuting attorney of the county to perform said duties of the attorney general.

NEW SECTION. Sec. 7. If the termination proceeding is contested pursuant to section 12 of this act, the court shall appoint a guardian ad litem to represent the child. In all other termination proceedings, the court may, in its discretion, appoint a guardian ad litem to represent the child. In termination proceedings in which either parent is a minor, the court shall appoint an unrelated and independent guardian ad litem for the minor parent.

NEW SECTION. Sec. 8. (1) Within thirty days after the filing of any petition under this chapter, the court shall set a time and place for a hearing and shall cause notice of the hearing to be given to the petitioner, the parents of the child, any father whose paternity of a child born out of wedlock has been established in a judicial proceeding to which he was a party before the filing of a termination petition, any guardian of the person of the child, any person having legal custody of the child, and any guardian ad

litem of any party. The hearing shall not be held until after the birth of the child.

(2) Notice of hearing shall also be served upon any alleged father unless notice is waived under section 5 of this act.

(3) Notice of the hearing and a copy of the petition, verified by the petitioner, the petitioner's agent or attorney, or the court clerk, shall be served on the persons named in this section at least five days before the hearing.

(4) If personal service on the parent or any alleged father, either within or without this state, cannot be effected, notice shall be given (a) by registered mail, mailed at least twenty days before the hearing to the person's last known address; and (b) by publication at least twenty days before the hearing. Publication shall be in a newspaper of general circulation likely to give notice in the city or town of the last known address of the parent, whether within or without this state, or, if no address is known or this publication is not feasible, in the city or town where the termination petition has been filed.

(5) Notice and appearance may be waived by a parent or an alleged father before the court or in a writing attested to by two or more credible witnesses who are at least eighteen years of age and subscribe their names thereto in the presence of the person executing the waiver. The waiver shall be acknowledged before a notary public and shall contain the current address of the parent or alleged father. The face of the waiver shall contain language explaining the meaning and consequences of the waiver and the meaning and consequences of termination of the parent and child relationship. A parent who has executed a waiver shall not be required to appear.

(6) If a person entitled to notice is known to the petitioner to be unable to read or understand English, all notices, if practicable, shall be given in that person's native language or through an interpreter.

NEW SECTION. Sec. 9. All petitions under this chapter shall be heard by the court without a jury. Proceedings of hearings shall be recorded. The general public shall be excluded and only those persons shall be admitted whose presence is requested by any person entitled to notice under this chapter or whom the judge finds to have a direct interest in the case or in the work of the court. Persons so admitted shall not disclose any information obtained at the hearing which would identify the individual child or parent involved. The court may require the presence of witnesses deemed necessary to the disposition of the petition, including persons making any report, study, or examination which is before the court if those persons are reasonably available, but a parent who has executed a waiver under section 8(5) of this act need not appear at the hearing. If the court finds that it is in the child's best interest, the child may be excluded from the hearing.

NEW SECTION. Sec. 10. If the natural father's identity is unknown to the petitioner, at the hearing pursuant to a petition the court shall inquire concerning the identity of the father, but may not compel disclosure by the

mother. If, after inquiry, the identity of the natural father remains unknown, the court shall order notice to be given by publication under section 8(4) of this act if this notice has not previously been given. The notice shall include the mother's name and the date and place of birth of the child. If notice under section 8(4) of this act has not been given before the hearing, the hearing shall be continued for at least thirty but no more than forty-five days.

NEW SECTION. Sec. 11. If the alleged father was served with a notice of the petition and intent to release or consent under section 5 of this act at least thirty days before the expected date of birth specified in the notice, and if the alleged father failed to file an intent to claim paternity under section 5 of this act before the expected date of birth of the child, the court shall permanently terminate the alleged father's paternal rights and responsibilities with regard to the child.

NEW SECTION. Sec. 12. If the alleged father appears and contests the termination of his parental rights and responsibilities by filing a claim under chapter 26.26 RCW, the court shall take the following action:

(1) If the alleged father has failed, without good cause for the failure, to establish any relationship with the child, and did not provide any support or care for the mother during pregnancy or for either the mother or child after the child's birth, until notice of hearing was served upon him, the court shall terminate his rights to the child.

(2) If the alleged father has, before notice of the hearing was served upon him, established any relationship with the child, or has provided any support or care for the mother during pregnancy, or for either the mother or child after the child's birth, the rights of the alleged father shall not be terminated except as otherwise provided by this chapter.

(3) The court shall inform the alleged father of the right to representation by legal counsel at all stages of the termination proceeding. The court shall appoint counsel to represent any indigent party requesting counsel. A waiver of counsel is not effective unless the court has first explained to the party the nature and meaning of the petition seeking termination of the parent and child relationship.

NEW SECTION. Sec. 13. In the case of a petition filed by a parent and joined by the petitioner's spouse seeking termination with respect to the other parent, and such other parent appears and contests the termination, the court shall determine whether such parent has deserted or abandoned the child under circumstances showing a wilful substantial lack of regard for parental obligations. If the court makes such a finding, it shall terminate his rights to the child.

NEW SECTION. Sec. 14. (1) An order terminating the parent and child relationship divests the parent and the child of all legal rights, powers,

privileges, immunities, duties, and obligations with respect to each other, except the right of the child to inherit from the parent.

(2) The parent and child relationship may be terminated with respect to one parent without affecting the legal relationship between the child and the other parent.

(3) The parent whose relationship with the child has been terminated is not thereafter entitled to notice of proceedings for the adoption of the child by another, nor has the parent any right to contest the adoption or otherwise to participate in the proceedings unless an appeal from the termination order is pending or otherwise ordered by the court.

(4) No order or decree entered under this chapter shall disentitle a child to any benefit due the child from any third person, agency, state, or the United States; nor shall any action under this chapter affect any rights and benefits that a native American child derives from the child's descent from a member of an Indian tribe or band.

Sec. 15. Section 3, chapter 291, Laws of 1955 as last amended by section 26, chapter 42, Laws of 1975-'76 2nd ex. sess. and RCW 26.32.030 are each amended to read as follows:

Written consent to ~~((such))~~ adoption must be filed ~~((prior to a hearing on))~~ with the petition for adoption, as follows:

(1) By the person to be adopted, if such person is fourteen years of age or older, but the filing of such consent shall not obviate the necessity of securing any other consent herein required;

~~(2) ((If the person to be adopted is a minor, then by each of his living parents, except as provided in RCW 26.32.040 and 26.32.050 as now or hereafter amended;~~

~~(3))~~ If a legal guardian has been appointed for the person of the child, then by such guardian; and

~~((4))~~ (3) If the person to be adopted is a minor and has been permanently committed upon due notice to his parents by any court of general jurisdiction to an approved agency, then by such approved agency ~~((, in which event neither notice to nor consent by its parents in the adoption proceeding shall be necessary. PROVIDED, That if the approved agency refuses to consent to the adoption, the court, in its discretion, may order that such consent be dispensed with))~~.

Sec. 16. Section 6, chapter 291, Laws of 1955 and RCW 26.32.060 are each amended to read as follows:

An adoption proceeding shall be instituted by filing a petition in the superior court of the proper county. Such petition may be filed under the same cause number as the termination proceeding regarding the child, where a filing fee has been paid. The petition shall contain allegations as to all requisite facts, including the new name, if any, to be given the child, the qualifications, religion and race of the adopter, and the race and tribal affiliation, if any, of the child, the religion of the child, if any, and if the



child's religion is unknown, then the petition shall state unknown, and shall be signed and verified under oath by the proposed adopter. If the petition is by one spouse to adopt a child of the other spouse, it shall be approved under oath by such other spouse. Where an agency under RCW 13.34.210, 26.32.010, or 26.32.200 is entitled to custody of the child, the petition must be accompanied by the consent of the agency unless the consent is waived by the court. In the case of an adoption petition not involving an agency, no other adoption petition may be filed until a final determination is made on the original petition unless additional filings are permitted by the court upon a showing of good cause.

Sec. 17. Section 3, chapter 172, Laws of 1971 ex. sess. and RCW 26.32.210 are each amended to read as follows:

(1) No petition for the adoption of a minor shall be granted unless a preplacement report and petitioner's sworn statement that he has caused to be filed all reports known to him on preplacement studies made of petitioner are on file with the court except as provided in RCW 26.32.270(2).

(2) ~~((No order of relinquishment as to a minor whom petitioner seeks to adopt shall be granted unless:~~

~~(a) A preplacement report and petitioner's sworn statement that he has caused to be filed all reports known to him on preplacement studies made of petitioner are on file with the court prior to the hearing on the order of relinquishment; or~~

~~(b) The order of relinquishment provides that the minor is to be relinquished to the custody of an agency.))~~ The child shall not be relocated into the home of the prospective adoptive parents before the completion of the preplacement report under RCW 26.32.230.

Sec. 18. Section 1, chapter 49, Laws of 1903 as last amended by section 34, chapter 42, Laws of 1975-'76 2nd ex. sess. and RCW 26.37.010 are each amended to read as follows:

Any benevolent or charitable society incorporated and licensed under the laws of this state for the purpose of receiving, caring for or placing out for adoption, or improving the condition of orphan, homeless, neglected or abused minor children of this state shall have authority to receive, control, and dispose of children under eighteen years of age ~~((under the following provisions:~~

~~(1) When the father and mother or the person or persons legally entitled to act as guardian of the person of any minor child shall, in writing, surrender such child to the charge and custody of said society, such child shall thereafter be in legal custody of such society for the purposes herein provided:~~

~~(2) In case of death or legal incapacity of a father or his abandonment or neglect to provide for his family, the mother shall have authority to make such surrender, and in case of the death or legal incapacity of a mother, or~~

her abandonment of such child, then the father shall have authority to make such surrender:

(3) In all cases where the person or persons legally authorized to make such surrender are not known, any judge of superior court may cause a notice of hearing to be published in any newspaper of general circulation printed and published in the county, and if he deems it best for such orphan, homeless, neglected or abused child, he may surrender it to any benevolent or charitable society incorporated under the laws of Washington and having for its object the care of such children:

(4) In cases where the child to be surrendered has not been acknowledged by either parent and action has not been taken to establish such relationship in accordance with RCW 26.26.020 through 26.26.190, and is surrendered in writing by either parent, but not both parents, then the court shall hold a hearing on the surrender in the manner provided under RCW 26.37.015, and if the parent who has not agreed to the surrender in writing does not contest the surrender at such hearing, then such parent shall be deemed to have surrendered the child and the court shall authorize the surrender. This subsection shall not apply to or bar surrenders authorized under subsection (2) of this section:

(5) When any child shall have been surrendered in accordance with any of the preceding clauses and such child shall have been accepted by such society, then, (but not otherwise), the rights of its natural parents or of the guardian of its person (if any) shall cease and such corporation shall become entitled to the custody of such child, and shall have authority to care for and educate such child or place it either temporarily or permanently in a suitable private home in such manner as shall best secure its welfare. Such corporation shall have authority when any such child has been surrendered to it in accordance with any of the preceding provisions, and it is still in its control, to consent to its adoption under the laws of Washington. The custody or control of any such child by any such corporation or by any other corporation, institution, society or person may be inquired into, and, in the discretion of the court, terminated at any time by the superior court of the county where the child may be, upon the complaint of any person, and a showing that such custody is not in the interest of the child).

Sec. 19. Section 12, chapter 291, Laws of 1955 and RCW 26.32.120 are each amended to read as follows:

Upon the conclusion of such hearing, if had, or upon filing the report of investigation, if any, or as soon as the procedure hereunder may permit, the court shall enter its decree either granting or denying the petition for adoption and change of name, if any, all as in its discretion it shall deem proper. If the decree denies the petition for adoption, the court shall make appropriate provision for the custody and care of the child. If the decree is for adoption, it shall provide:

(1) For the issuance of a certificate of birth of any child born in the state of Washington or in a foreign country, by the state registrar of vital statistics, in such form and containing such information as the court may deem proper and by such decree shall direct; and

(2) That the records of the registrar shall be secret unless otherwise provided by the court, and the same shall be disclosed only upon order of court for good cause shown((;

~~(3) That such adoption shall remain interlocutory for six months from date of entry of such decree, and shall become absolute at the expiration of said six months)) or under sections ... through ..., chapter ..., Laws of 1979 (Adoptive Records Act).~~

Such decree shall be final as to the parties thereto and those notified as herein provided unless appealed from within thirty days after entry thereof.

Sec. 20. Section 1, chapter 82, Laws of 1970 ex. sess. as amended by section 21, chapter 80, Laws of 1977 ex. sess. and RCW 26.36.050 are each amended to read as follows:

Every person, firm, society, association, or corporation receiving, securing a home for, or otherwise caring for a minor child shall transmit to the prospective adopting parent prior to placement and shall make available to all persons with whom a child has been placed by adoption a complete medical report containing all reasonably available information concerning the mental, physical and sensory handicaps of said child. Said report shall not reveal the identity of the natural parents of the child but shall include any reasonably available mental or physical health history of the natural parents that needs to be known by the adoptive parents to facilitate proper health care for the child. RCW 26.36.030 and ((RCW)) 26.36.060 shall not apply to any information made available by this section(~~PROVIDED, HOWEVER, That this section shall not apply to attorneys performing legal services in connection with adoptions~~)).

Sec. 21. Section 80, chapter ... (SSB 2768), Laws of 1979 and RCW 74.13. \_\_ are each amended to read as follows:

(1) A child taken into custody and taken to a crisis residential center established pursuant to section 78(2) of ((~~this 1979 act~~)) chapter ... (SSB 2768), Laws of 1979 may, if the center is unable to provide appropriate treatment, supervision, and structure to the child, be taken at department expense to another crisis residential center or the nearest regional crisis residential center. Placement in both centers shall not exceed seventy-two hours from the point of intake as provided in section 27 of ((~~this 1979 act~~)) chapter ... (SSB 2768), Laws of 1979.

(2) A child taken into custody and taken to a crisis residential center established by this chapter may be placed physically by the department or the department's designee and, at departmental expense and approval, in a secure detention facility operated by the county in which the center is located for a maximum of twenty-four hours, including Saturdays, Sundays,

and holidays, if the person in charge of the crisis residential center finds that the child is severely, emotionally, or behaviorally disturbed to the point that the child is suicidal, seriously assaultive, or seriously destructive towards others and the center is unable to provide appropriate supervision and structure. Any child who takes unauthorized leave from the center, if the person in charge of the center cannot provide supervision and structure adequate to ensure that the child will not again take unauthorized leave, may be taken to a secure detention facility subject to the provisions of this section: PROVIDED, That juveniles placed in such a facility pursuant to this section may not, to the extent possible, come in contact with alleged or convicted juvenile or adult offenders.

(3) Any child placed in secure detention pursuant to this section shall, during the period of confinement, be provided with appropriate treatment by the department or the department's designee, which shall include the services defined in section 79(2) of ~~((this 1979 act))~~ chapter ... (SSB 2768), Laws of 1979. If the child placed in secure detention is not returned home or if an alternative living arrangement agreeable to the parent and the child is not made within ~~((forty-eight))~~ twenty-four hours after the child's admission, the child shall be taken at the department's expense to a crisis residential center. Placement in the crisis residential center or centers plus placement in juvenile detention shall not exceed seventy-two hours from the point of intake as provided in section 27 of ~~((this 1979 act))~~ chapter ... (SSB 2768), Laws of 1979.

(4) Juvenile detention facilities used pursuant to this section shall first be certified by the department to ensure that juveniles placed in the facility pursuant to this section are provided with living conditions suitable to the well-being of the child. Where space is available, juvenile courts, when certified by the department to do so, shall provide secure placement for juveniles pursuant to this section, at department expense.

(5) It is the intent of the legislature that by December 1, 1980, crisis residential centers, supplemented by community mental health programs and mental health professionals, will be able to respond appropriately to children admitted to centers under this chapter and will be able to respond to the needs of such children with appropriate treatment, supervision, and structure.

Sec. 22. Section 17, chapter 172, Laws of 1967 as last amended by section 77, chapter 155, Laws of 1979 and RCW 74.13.031 are each amended to read as follows:

The department shall have the duty to provide child welfare services as defined in RCW 74.13.020, and shall:

(1) Develop, administer, ~~((and))~~ supervise, and monitor a coordinated and comprehensive plan that establishes, aids, and strengthens services for the protection and care of homeless, runaway, dependent, or neglected children.

(2) Develop a recruiting plan for recruiting an adequate number of prospective adoptive and foster homes, both regular and specialized, i.e. homes for children of ethnic minority, sibling groups, handicapped and emotionally disturbed, and annually submit the plan for review to the house and senate committees on social and health services. The plan shall include a section entitled "Foster Home Turn-Over, Causes and Recommendations."

(3) Investigate complaints of neglect, abuse, or abandonment of children by parents, legal custodians, or persons serving in loco parentis, and on the basis of the findings of such investigation, offer child welfare services in relation to the problem to such parents, legal custodians, or persons serving in loco parentis, and/or bring the situation to the attention of an appropriate court, or another community agency. If the investigation reveals that a crime may have been committed, the department shall notify the appropriate law enforcement agency.

~~((3))~~ (4) Offer, on a voluntary basis, crisis intervention to families who are in conflict.

~~((Crisis intervention services (a) shall consist of an interview or series of interviews with the child or his or her family, as needed, conducted within a brief period of time by qualified professional persons, and designed to alleviate personal or family situations which present a serious and imminent threat to the health or stability of the child or the family, and (b) may include, but are not limited to, the provision of or referral to services for suicide prevention, psychiatric or other medical care, or psychological, welfare, legal, educational, or other social services, as appropriate to the needs of the child and the family.~~

~~Nothing in this section shall prohibit an officer of the child welfare services from referring any child who, as a result of a mental or emotional disorder, or intoxication by alcohol or other drugs, is suicidal, seriously assaultive or seriously destructive towards others, or otherwise similarly evidences an immediate need for emergency medical evaluation and possible care, to a community mental health center pursuant to RCW 72.23.070.~~

~~(4) Have authority to accept for temporary residential care in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW a child who has been taken into limited custody pursuant to RCW 13.30.020; PROVIDED, That a juvenile shall in no event remain in temporary residential care for a period longer than seventy-two hours from the time of the juvenile's initial contact with the law enforcement officer except as otherwise provided in this section. Upon accepting the child, the staff of the facility shall notify the child's parents or custodian of his or her whereabouts, physical and emotional condition, and the circumstances surrounding his or her placement and shall undertake to make arrangements for the child's return home.~~

~~In every case crisis intervention services shall be provided as needed and the staff of the temporary facility shall seek to effect the child's return home~~

~~or alternative living arrangement agreeable to the child and the parent or custodian as soon as practicable.~~

~~(a) If, after his or her admission to a temporary residential facility, a child who is absent from home without permission and his or her parent or custodian agrees to the child's return home, the staff of the facility shall arrange transportation for the juvenile, as soon as practicable, to the county of residence of the parent or custodian, at the latter's expense to the extent of his or her ability to pay.~~

~~(b) If the child refuses to return home and if no other living arrangements agreeable to the child and the parent or custodian can be made, the staff of the facility shall arrange transportation for the child to a temporary nonsecure residential facility in the county of residence of the parent or custodian, at the expense of the latter to the extent of his or her ability to pay. If there is no such facility in the county of that residence, the nearest such facility to that residence shall be used.~~

~~(c) If a child's legal residence is outside the state of Washington and such child refuses to return home, the provisions of RCW 13.24.010 shall apply.~~

~~(d) If the parent or custodian refuses to permit the child to return home, and no other living arrangement agreeable to the child and the parent or custodian can be made, staff of the child welfare services section shall notify the juvenile court to appoint legal counsel for the child and shall file a dependency petition in the juvenile court in the jurisdiction of the residence of the parent or custodian.~~

~~(e) If a child and his or her parent or guardian agree to an arrangement for alternative residential placement, such placement may continue as long as there is agreement. During any alternative residential placement, there shall be provided to the child and to his or her family such services as may be appropriate to the particular case, to the end that the child may be reunited with the family as soon as practicable.~~

~~(f) If such child and his or her parent or custodian cannot agree to an arrangement for alternative residential placement in the first instance, or cannot agree to the continuation of such placement, the child or his or her parent or custodian may file with the juvenile court a petition to approve alternative residential placement pursuant to RCW 13.32.020. The child shall remain in the placement where he or she is located at the time a petition to approve alternative residential placement is filed until a placement decision is made pursuant to RCW 13.32.040.~~

~~(g) In no event shall alternative residential placement for a child in conflict with his or her family be arranged in a secure detention facility or in a secure institution except as provided in this subsection and RCW 13.34.140. A child in conflict with his or her parents may be detained in a secure detention facility operated by a county for a maximum of seventy-two hours if:~~

~~(i) The staff of the child welfare services section find that the child taken into limited custody has previously been placed in alternative residential care and has run away from such placement and that it is likely that the child will run away from another and different residential placement; or~~

~~(ii) The child refuses to return home and refuses to be placed in alternative residential care.~~

~~During such detention, efforts shall be continued to the end that the child may be returned home or other living arrangements agreeable to the child and his or her parent, guardian, or custodian are made. If an agreement concerning living arrangements for the child cannot be reached a petition shall be filed within forty-eight hours after initial detention of the child, pursuant to subsection (4)(f) of this section. The hearing on the petition shall be held within seventy-two hours, excluding Sundays and holidays, of the initial detention of the child. If the hearing on the petition is not held within these time limits the child shall be released from detention.~~

~~(5) Cooperate with other public and voluntary agencies and organizations in the development and coordination of programs and activities in behalf of children including but not limited to contracting with private and public entities to provide basic education and vocational training and crisis intervention services.~~

~~(6) Have authority to accept custody of children from parents, guardians, and/or juvenile courts, to provide child welfare services including placement for adoption, and to provide for the physical care of such children and to make payment of maintenance costs if needed.)~~

(5) Monitor out-of-home placements, on a timely and routine basis, to assure the safety, well-being, and quality of care being provided is within the scope of the intent of the legislature as defined in RCW 74.13.010 and 74.15.010, and annually submit a report delineating the results to the house and senate committees on social and health services.

(6) Have authority to accept custody of children from parents and to accept custody of children from juvenile courts, where authorized to do so under law, to provide child welfare services including placement for adoption, and to provide for the physical care of such children and make payment of maintenance costs if needed.

~~((6))~~ (7) Have authority to provide temporary shelter to children who have run away from home and who are admitted to crisis residential centers.

~~((7))~~ (8) Have authority to purchase care for children; and shall follow in general the policy of using properly approved private agency services for the actual care and supervision of such children insofar as they are available, paying for care of such children as are accepted by the department as eligible for support at reasonable rates established by the department.

~~((8))~~ (9) Establish a child welfare and day care advisory committee who shall act as an advisory committee to the state advisory committee and to the secretary in the development of policy on all matters pertaining to child welfare, day care, licensing of child care agencies, and services related thereto.

~~((9))~~ (10) Notwithstanding any other provision of ~~((sections 31 through 34 and 78 through 82 of this 1979 act))~~ RCW 13..... through 13..... (sections 31 through 34, chapter 155, Laws of 1979) and RCW 74.13... through 74.13... (sections 78 through 82, chapter 155, Laws of 1979), or of this section all services to be provided by the department of social and health services under subsections ~~((3) and))~~ (4), (6), and (7) of this section, subject to the limitations of these subsections, may be provided by any program offering such services funded pursuant to Titles II and III of the federal juvenile justice and delinquency prevention act of 1974 (P.L. No. 93-415; 42 U.S.C. 5634 et seq.; and 42 U.S.C. 5701 note as amended by P.L. 94-273, 94-503, and 95-115).

NEW SECTION. Sec. 23. The following acts or parts of acts are each repealed:

(1) Section 8, chapter 134, Laws of 1973, section 35, chapter 42, Laws of 1975-'76 2nd ex. sess. and RCW 26.37.015;

(2) Section 4, chapter 291, Laws of 1955, section 3, chapter 134, Laws of 1973, section 27, chapter 42, Laws of 1975-'76 2nd ex. sess. and RCW 26.32.040;

(3) Section 5, chapter 291, Laws of 1955, section 4, chapter 134, Laws of 1973, section 28, chapter 42, Laws of 1975-'76 2nd ex. sess. and RCW 26.32.050;

(4) Section 7, chapter 291, Laws of 1955, section 29, chapter 42, Laws of 1975-'76 2nd ex. sess. and RCW 26.32.070;

(5) Section 8, chapter 291, Laws of 1955, section 5, chapter 134, Laws of 1973, section 30, chapter 42, Laws of 1975-'76 2nd ex. sess. and RCW 26.32.080;

(6) Section 6, chapter 134, Laws of 1973, section 31, chapter 42, Laws of 1975-'76 2nd ex. sess. and RCW 26.32.085; and

(7) Section 13, chapter 291, Laws of 1955 and RCW 26.32.130.

NEW SECTION. Sec. 24. Sections 1 through 5 and 7 through 14 of this act shall be added to chapter 26.32 RCW.

NEW SECTION. Sec. 25. This act shall not apply to actions or proceedings commenced before the effective date of this act.

NEW SECTION. Sec. 26. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.



NEW SECTION. Sec. 27. Section 22 of this 1979 act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House May 2, 1979.

Passed the Senate April 28, 1979.

Approved by the Governor May 11, 1979.

Filed in Office of Secretary of State May 11, 1979.

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## CHAPTER 166

[Substitute House Bill No. 446]

### WATER USE PERMITS—STREAM FLOW AND LEVEL PROTECTION

AN ACT Relating to water rights; and adding a new section to chapter 90.03 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Section 1. There is added to chapter 90.03 RCW a new section to read as follows:

Whenever an application for a permit to make beneficial use of public waters is approved relating to a stream or other water body for which minimum flows or levels have been adopted and are in effect at the time of approval, the permit shall be conditioned to protect the levels or flows. No agency may establish minimum flows and levels or similar water flow or level restrictions for any stream or lake of the state other than the department of ecology whose authority to establish is exclusive, as provided in chapter 90.03 RCW and RCW 90.22.010 and 90.54.040. The provisions of other statutes, including but not limited to RCW 75.20.100 and chapter 43.21C RCW, may not be interpreted in a manner that is inconsistent with this section. In establishing such minimum flows, levels, or similar restrictions, the department shall, during all stages of development by the department of ecology of minimum flow proposals, consult with, and carefully consider the recommendations of, the department of fisheries, the state game commission, the state energy office, the department of agriculture, and representatives of the affected Indian tribes. Nothing herein shall preclude the department of fisheries, the game commission, the energy office, or the department of agriculture from presenting its views on minimum flow needs at any public hearing or to any person or agency, and the department of fisheries, the game commission, the energy office, and the department of agriculture are each empowered to participate in proceedings of the federal energy regulatory commission and other agencies to present its views on minimum flow needs. The department of ecology shall file with the speaker of the house of representatives and the president of the senate on the first