

CHAPTER 71

[Engrossed Senate Bill No. 3116]

JUVENILES—DEPENDENT CHILDREN—INCORRIGIBLES

AN ACT Relating to juveniles; amending section 6, chapter 302, Laws of 1961 as amended by section 1, chapter 137, Laws of 1967 and RCW 13.04.095; amending section 3, chapter 30, Laws of 1965 as amended by section 66, chapter 292, Laws of 1971 ex. sess. and RCW 74.13.020; amending section 17, chapter 172, Laws of 1967 as amended by section 2, chapter 101, Laws of 1973 1st ex. sess. and RCW 74.13.031; creating new sections; and providing an effective date.

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

NEW SECTION. Sec. 1. The purpose of this 1976 amendatory act is to provide a program of protective supervision, care and rehabilitation in the community for children adjudicated as incorrigible as defined by 13.04.010(7) RCW, with primary emphasis on achieving the foregoing purpose in a family environment whenever possible, separating the child from his or her parents only when necessary for his or her welfare.

Sec. 2. Section 6, chapter 302, Laws of 1961 as amended by section 1, chapter 137, Laws of 1967 and RCW 13.04.095 are each amended to read as follows:

When any child shall be found to be delinquent or dependent, within the meaning of this chapter, the court shall make such order for the care, custody, or commitment of the child as the child's welfare in the interest of the state require. Subject to further order, the court may commit the child:

(1) To the care of such child's parents, subject to supervision of the probation officer; or

(2) To the custody of a probation officer, subject to such conditions as the judge may impose; or

(3) To a reputable citizen or association able and willing to receive and care for such child; or

(4) To an appropriate private agency authorized to care for children; or

~~((5) To the department of public assistance; or~~

~~((6))~~ (5) To the department of ((institutions)) social and health services: PROVIDED, That only a child found to be delinquent may be placed in a facility established pursuant to chapter 72.05 RCW or chapters 72.16 through 72.20 RCW ((if the court finds such child to be delinquent, or a dependent child whose dependency arises from incorrigibility as defined by RCW 13.04.010(7))) except that a dependent child whose dependency arises from incorrigibility as defined by RCW 13.04.010(7) may be committed to a diagnostic and treatment facility for not more than thirty days if the court finds that (a) the conduct of the child evidences a substantial likelihood of degenerating into serious delinquent or criminal behavior if not corrected, and (b) other, less restrictive alternatives have failed, and (c) custodial treatment in a diagnostic and treatment facility is available and is reasonably expected to correct such degeneration: PROVIDED, That such housing and treatment shall be entirely separate from that of delinquents.

In no case shall a child be committed beyond the age of twenty-one years. A child committed to the department of institutions shall be subject to the supervision and control thereof and the department shall have the power to parole such child under such conditions as may be prescribed.

The department of ~~((institutions))~~ social and health services shall have the power to discharge such child from custody, and the court shall have the power to rescind the commitment of such child, whenever his or her reformation shall be deemed complete.

The court shall rescind the commitment of any dependent child who was, prior to March 21, 1967, committed to the department of institutions unless such child is incorrigible or delinquent within the meaning of this chapter and the department of institutions shall return the child forthwith to the committing court for such action: PROVIDED, That the court may commit such dependent child as otherwise provided in this chapter.

Sec. 3. Section 3, chapter 30, Laws of 1965 as amended by section 66, chapter 292, Laws of 1971 ex. sess. and RCW 74.13.020 are each amended to read as follows:

As used in Title 74 RCW, child welfare services shall be defined as public social services including adoption services which strengthen, supplement, or substitute for, parental care and supervision for the purpose of:

(1) Preventing or remedying, or assisting in the solution of problems which may result in the neglect, abuse, exploitation, or delinquency of children;

(2) Protecting and caring for homeless, dependent, incorrigible as defined in RCW 13.04.010(7) or neglected children;

(3) Protecting and promoting the welfare of children, including the strengthening of their own homes where possible, or, where needed;

(4) Providing adequate care of children away from their homes in foster family homes or day care or other child care agencies or facilities.

As used in this chapter, child means a person less than eighteen years of age.

Sec. 4. Section 17, chapter 172, Laws of 1967 as amended by section 2, chapter 101, Laws of 1973 1st ex. sess. 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 a plan that establishes, extends aid to, and strengthens services for the protection and care of homeless, dependent ~~((or))~~ children, incorrigible children as defined by RCW 13.04.010(7), neglected children, or children in danger of becoming delinquent.

(2) Investigate complaints of neglect, abuse, or abandonment of children by parents, guardians, 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, guardians, 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, notify the appropriate law enforcement agency.

(3) 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.

(4) 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. A child in need of detention, whether alleged to be dependent or delinquent, shall, prior to findings and disposition by the court pursuant to RCW 13.04.095 as now or hereafter amended, be the responsibility of and provided for by the juvenile court.

(5) 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.

(6) 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.

NEW SECTION. Sec. 5. The department of social and health services shall begin immediately to prepare for the effect of section 1 of this 1976 amendatory act, and shall submit a report to the legislature by December 1, 1976, regarding its preparation of alternatives to the commitment of incorrigibles to institutions which shall be consistent with the purposes of chapter 74.13 RCW. Such report shall also include:

(1) An inventory and evaluation of services for incorrigibles, in addition to institutions maintained by the department of social and health services;

(2) The efforts of the department of social and health services to augment such services; and

(3) The fiscal impact, if any, of section 1 of this 1976 amendatory act.

NEW SECTION. Sec. 6. Appropriations made to the department of social and health services for expenditure within the institutional rehabilitation services program pursuant to section 52(2), chapter 269, Laws of 1975 1st ex. sess. may be transferred upon approval by the legislative budget committee to the extent of savings made possible by the provisions of sections 1, 2, 3, and 4 of this 1976 amendatory act to provide child welfare services mandated by RCW 74.13.031 as now or hereafter amended for the care of dependent children whose dependency arises from an adjudication of incorrigibility as defined by RCW 13.04.010(7), notwithstanding the provision of section 50(3), chapter 269, Laws of 1975 ex. sess.

NEW SECTION. Sec. 7. Notwithstanding the effective date of this 1976 amendatory act, the amendment of RCW 13.04.095 accomplished by this amendatory act shall become effective on July 1, 1977, and shall apply retroactively to all persons previously committed pursuant to chapter 13.04 RCW.

Passed the Senate February 24, 1976.

Passed the House February 23, 1976.

Approved by the Governor March 3, 1976.

Filed in Office of Secretary of State March 3, 1976.