

CHAPTER 246

[Substitute Senate Bill No. 3253]

CHILD ABUSE—PLACEMENT DECISIONS—REPORTS OF ABUSE BY
CERTAIN PROFESSIONALS—LAW ENFORCEMENT PROCEDURES

AN ACT Relating to abused persons; amending section 34, chapter 291, Laws of 1977 ex. sess. as last amended by section 5, chapter 129, Laws of 1982 and RCW 13.34.060; amending section 41, chapter 291, Laws of 1977 ex. sess. as amended by section 46, chapter 155, Laws of 1979 and RCW 13.34.130; amending section 9, chapter 217, Laws of 1975 1st ex. sess. as amended by section 8, chapter 129, Laws of 1982 and RCW 26.44.056; and amending section 17, chapter 172, Laws of 1967 as last amended by section 3, chapter 118, Laws of 1982 and RCW 74.13.031.

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

Sec. 1. Section 34, chapter 291, Laws of 1977 ex. sess. as last amended by section 5, chapter 129, Laws of 1982 and RCW 13.34.060 are each amended to read as follows:

(1) A child taken into custody pursuant to RCW 13.34.050 or 26.44.050 shall be immediately placed in shelter care. "Shelter care" means temporary physical care in a facility licensed pursuant to RCW 74.15.030 or in a home not required to be licensed pursuant to that section. Whenever a child is taken into such custody pursuant to this section, the supervising agency may authorize routine medical and dental examination and care and all necessary emergency care. In no case may a child who is taken into custody pursuant to RCW 13.34.050 or 26.44.050 be detained in a secure detention facility. No child may be held longer than seventy-two hours, excluding Sundays and holidays, after such child is taken into custody unless a court order has been entered for continued shelter care. The child and his or her parent, guardian, or custodian shall be informed that they have a right to a shelter care hearing. The court shall hold a shelter care hearing if one is requested.

(2) The juvenile court counselor assigned to the matter shall make all reasonable efforts to advise the parents, guardian, or legal custodian of the time and place of any shelter care hearing, request that they be present, and inform them of their basic rights as provided in RCW 13.34.090.

(3) At the commencement of the shelter care hearing the court shall advise the parties of their basic rights as provided in RCW 13.34.090 and shall appoint counsel pursuant to RCW 13.34.090 if counsel has not been retained by the parent or guardian and if the parent or guardian is indigent, unless the court finds that the right to counsel has been expressly and voluntarily waived.

(4) The court shall examine the need for shelter care. All parties have the right to present testimony to the court regarding the need or lack of need for shelter care.

(5) The juvenile court probation counselor shall submit a recommendation to the court as to the further need for shelter care, except that such recommendation shall be submitted by the department of social and health services in cases where the petition alleging dependency has been filed by the department of social and health services, unless otherwise ordered by the court.

(6) The court shall release a child alleged to be dependent to the care, custody, and control of the child's parent, guardian, or legal custodian unless the court finds there is reasonable cause to believe that:

(a) The child has no parent, guardian, or legal custodian to provide supervision and care for such child; or

(b) The release of such child would present a serious threat of substantial harm to such child.

If the court does not release the child to his or her parent, guardian, or legal custodian, the court shall order continued shelter care or order placement with another suitable person, and the court shall set forth its reasons for the order.

(7) An order releasing the child on any conditions specified in this section may at any time be amended, with notice and hearing thereon, so as to return the child to shelter care for failure of the parties to conform to the conditions originally imposed.

(8) A shelter care order issued pursuant to this section may be amended at any time with notice and hearing thereon. The shelter care decision of placement shall be modified only upon a showing of change in circumstances. No child may be detained for longer than thirty days without an order, signed by the judge, authorizing continued shelter care.

Sec. 2. Section 41, chapter 291, Laws of 1977 ex. sess. as amended by section 46, chapter 155, Laws of 1979 and RCW 13.34.130 are each amended to read as follows:

If, after a fact-finding hearing pursuant to RCW 13.34.110, as now or hereafter amended, it has been proven by a preponderance of the evidence that the child is dependent within the meaning of RCW 13.34.030(2); after consideration of the predisposition report prepared pursuant to RCW 13.34.110 and after a disposition hearing has been held pursuant to RCW 13.34.110, the court shall enter an order of disposition pursuant to this section.

(1) The court shall order one of the following dispositions of the case:

(a) Order a disposition other than removal of the child from his or her home, which shall provide a program designed to alleviate the immediate danger to the child, to mitigate or cure any damage the child has already suffered, and to aid the parents so that the child will not be endangered in the future. In selecting a program, the court should choose those services that least interfere with family autonomy, provided that the services are adequate to protect the child.

(b) Order that the child be removed from his or her home and ordered into the custody, control, and care of a relative or the department of social and health services or a licensed child placing agency for placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW or in a home not required to be licensed pursuant to chapter 74.15 RCW. Such an order may be made only if:

- (i) There is no parent or guardian available to care for such child; or
- (ii) The child is unwilling to reside in the custody of the child's parent, guardian, or legal custodian; or
- (iii) The parent, guardian, or legal custodian is not willing to take custody of the child; or
- (iv) A manifest danger exists that the child will suffer serious abuse or neglect if the child is not removed from the home.

(2) Whenever a child is ordered removed from the child's home, the agency charged with his or her care shall provide the court with a specific plan as to where the child will be placed, what steps will be taken to return the child home, and what actions the agency will take to maintain parent-child ties.

(a) The agency plan shall specify what services the parents will be offered in order to enable them to resume custody and what requirements the parents must meet in order to resume custody.

(b) The agency shall be required to encourage the maximum parent-child contact possible, including regular visitation and participation by the parents in the care of the child while the child is in placement.

(c) A child shall be placed as close to the child's home as possible, preferably in the child's own neighborhood, unless the court finds that placement at a greater distance is necessary to promote the child's or parents' well-being.

(d) The agency charged with supervising a child in placement shall provide all reasonable services that are available within the agency, or within the community, or those services which the department of social and health services has existing contracts to purchase. It shall report to the court if it is unable to provide such services.

(3) The status of all children found to be dependent shall be reviewed by the court at least every six months at a hearing in which it shall be determined whether court supervision should continue.

(a) A child shall not be returned home at the review hearing unless the court finds that a reason for removal as set forth in this section ~~((still))~~ no longer exists. ~~((When))~~ The parents, guardian, or legal custodian shall report to the court the efforts they have made to correct the conditions which led to removal. If a child is returned, casework supervision shall continue for a period of six months, at which time there shall be a hearing on the need for continued intervention.

(b) If the child is not returned home, the court shall establish in writing:

(i) What services have been provided to or offered to the parties to facilitate reunion;

(ii) The extent to which the parents have visited the child and any reasons why visitation has not occurred or has been infrequent;

(iii) Whether the agency is satisfied with the cooperation given to it by the parents;

(iv) Whether additional services are needed to facilitate the return of the child to the child's parents; if so, the court shall order that reasonable services be offered; and

(v) When return of the child can be expected.

(c) The court at the review hearing may order that a petition seeking termination of the parent and child relationship be filed.

Sec. 3. Section 9, chapter 217, Laws of 1975 1st ex. sess. as amended by section 8, chapter 129, Laws of 1982 and RCW 26.44.056 are each amended to read as follows:

(1) An administrator of a hospital or similar institution or any physician, licensed pursuant to chapters 18.71 or 18.57 RCW, may detain a child without consent of a person legally responsible for the child whether or not medical treatment is required, if the circumstances or conditions of the child are such that the detaining individual has reasonable cause to believe that permitting the child to continue in his or her place of residence or in the care and custody of the parent, guardian, custodian or other person legally responsible for the child's care would present an imminent danger to that child's safety: PROVIDED, That such administrator or physician shall notify or cause to be notified the appropriate law enforcement agency or child protective services pursuant to RCW 26.44.040. Such notification shall be made as soon as possible and in no case longer than seventy-two hours. Such temporary protective custody by an administrator or doctor shall not be deemed an arrest. Child protective services may detain the child until the court assumes custody, but in no case longer than seventy-two hours, excluding Saturdays, Sundays, and holidays.

(2) Whenever an administrator or physician has reasonable cause to believe that a child would be in imminent danger if released to a parent, guardian, custodian, or other person or is in imminent danger if left in the custody of a parent, guardian, custodian, or other person, the administrator or physician may notify a law enforcement agency and the law enforcement agency shall take the child into custody or cause the child to be taken into custody. The law enforcement agency shall release the child to the custody of child protective services. Child protective services shall detain the child until the court assumes custody or upon a documented and substantiated record that in the professional judgment of the child protective services the child's safety will not be endangered if the child is returned. If the child is returned, the department shall establish a six-month plan to monitor and

assure the continued safety of the child's life or health. The monitoring period may be extended for good cause.

(3) A child protective services employee, an administrator, doctor, or law enforcement officer shall not be held liable in any civil action for the decision for taking the child into custody, if done in good faith under this section.

Sec. 4. Section 17, chapter 172, Laws of 1967 as last amended by section 3, chapter 118, Laws of 1982 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, 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: PROVIDED, That an investigation is not required of nonaccidental injuries which are clearly not the result of a lack of care or supervision by the child's parents, legal custodians, or persons serving in loco parentis. If the investigation reveals that a crime may have been committed, the department shall notify the appropriate law enforcement agency.

(4) Offer, on a voluntary basis, family reconciliation services to families who are in conflict.

(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. Except where required by Public Law 95-608 (25 U.S.C. Sec. 1915), no private adoption agency which receives

children for adoption from the department shall discriminate on the basis of race, creed, or color when considering applications in their placement for adoption.

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

(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.

(9) Establish a children's services advisory committee which shall assist the secretary in the development of a partnership plan for utilizing resources of the public and private sectors, and advise on all matters pertaining to child welfare, day care, licensing of child care agencies, and services related thereto. At least one-third of the membership shall be composed of child care providers.

(10) Have authority to provide continued foster care or group care for individuals from eighteen through twenty years of age to enable them to complete their high school or vocational school program.

Notwithstanding any other provision of RCW 13.32A.170 through 13.32A.200 and RCW 74.13.032 through 74.13.036, or of this section all services to be provided by the department of social and health services under subsections (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).

Passed the Senate April 24, 1983.

Passed the House April 24, 1983.

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CHAPTER 247

[Senate Bill No. 3255]

TOLL FACILITIES—PAYMENT EVASION BY PEDESTRIANS AND VEHICLES

AN ACT Relating to toll facilities; and amending section 1, chapter 259, Laws of 1961 as amended by section 91, chapter 136, Laws of 1979 ex. sess. and RCW 46.61.690.

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

Sec. 1. Section 1, chapter 259, Laws of 1961 as amended by section 91, chapter 136, Laws of 1979 ex. sess. and RCW 46.61.690 are each amended to read as follows: