

HOUSE BILL REPORT

HB 3124

As Reported by House Committee On:
Early Learning & Children's Services

Title: An act relating to requiring a report to child protective services when a child is present in the vehicle of a person arrested for driving or being in control of a vehicle while under the influence of alcohol or drugs.

Brief Description: Requiring a report to child protective services when a child is present in the vehicle of a person arrested for driving or being in control of a vehicle while under the influence of alcohol or drugs.

Sponsors: Representatives Roberts, Kagi, Simpson and Kenney.

Brief History:

Committee Activity:

Early Learning & Children's Services: 1/28/10, 1/29/10 [DPS].

Brief Summary of Substitute Bill

- Requires law enforcement officers to notify child protective services when a child is present in the car of a driver being arrested for a drug- or alcohol-related driving offense.

HOUSE COMMITTEE ON EARLY LEARNING & CHILDREN'S SERVICES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Kagi, Chair; Roberts, Vice Chair; Haler, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Angel, Goodman and Seaquist.

Staff: Sydney Forrester (786-7120).

Background:

Certain persons are required by law to notify child protective services or law enforcement when they have reasonable cause to believe a child has been abused or neglected. These persons are commonly called mandated reporters. As defined in state law, *negligent*

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

treatment or maltreatment means an act or failure to act that "evidences a serious disregard of consequences of such magnitude as to constitute a clear and present danger to the child's health, welfare, or safety."

In a study conducted by the Centers for Disease Control and Prevention of collisions involving drunk driving when children were present in the car during the years 1997 to 2002, 1,451 children were killed. This represents 68 percent of all child deaths from vehicle collisions. Of the children who died in these crashes, less than one-third were properly buckled in a child safety restraint.

Several states have laws addressing the increased risk created by driving while intoxicated with children in the car. These statutes fall into three general categories:

- **Separate Offense:** driving while under the influence of alcohol or drugs with a minor in the car is a distinct offense separate from other driving-while-intoxicated offenses.
- **Enhanced Penalty:** additional penalties are required when a defendant drives impaired with a child in the car.
- **Aggravating Circumstance:** the judge or jury may consider the existence of a child passenger as an aggravating factor for sentencing purposes.

Summary of Substitute Bill:

When a child is present in the car of a person being arrested for a drug- or alcohol-related driving offense, the arresting law enforcement officer must promptly notify child protective services. The officer is not required to take custody of the child, unless there is no one properly authorized to take custody of the child or the officer believes the child will be at imminent risk unless taken into emergency custody.

Substitute Bill Compared to Original Bill:

The substitute bill makes the following changes to the original bill:

1. Removes the Legislative findings concluding that an arrest on probable cause for a drug or alcohol-related driving offense when children were in the car constitutes negligent treatment or maltreatment.
2. Replaces references to specific driving offenses with a general reference to drug and alcohol-related driving offenses.
3. Adds a definition of "child" to the section of the substitute bill amending the chapter in the motor vehicle code.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) For some law enforcement officers, it may not be entirely clear whether a report to child protective services (CPS) is needed, and there is a need for clarity in this area of the law. We would recommend defining the term "child" and referencing all drug- and alcohol-related driving offenses.

(Available for questions) The Office of the Family and Children's Ombudsman (OFCO) supports the intent of this bill because it provides a clear guideline for law enforcement offices to make a report to CPS whenever children are present in the car of a driver being arrested for driving under the influence. Requiring this notice to CPS will provide the opportunity for CPS to review each situation and determine whether child abuse or neglect concerns require further action or investigation. This bill will ensure that CPS has the information necessary to fulfill its mission of protecting children from child abuse and neglect.

(Opposed) None.

Persons Testifying: (In support) Representative Roberts, prime sponsor; and Jason Barry, Washington State Patrol.

(Available for questions) Mary Meinig, Office of the Family and Children's Ombudsman.

Persons Signed In To Testify But Not Testifying: None.