

HOUSE BILL REPORT

HB 2684

As Reported By House Committee On:

Law & Justice

Title: An act relating to domestic relations.

Brief Description: Prescribing sanctions for false allegations of abuse in custody, visitation, or residential schedule disputes.

Sponsors: Representatives Wolfe, Lambert, Carrell, Mitchell, Sheahan, Patterson, Morris, Cooke, Scott, Dickerson, Backlund and Thompson.

Brief History:

Committee Activity:

Law & Justice: 1/30/96, 1/31/96 [DPS].

HOUSE COMMITTEE ON LAW & JUSTICE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 16 members: Representatives Sheahan, Chairman; Delvin, Vice Chairman; Hickel, Vice Chairman; Dellwo, Ranking Minority Member; Campbell; Carrell; Chappell; Cody; Lambert; McMahan; Morris; Murray; Robertson; Smith; Sterk and Veloria.

Minority Report: Do not pass. Signed by 1 member: Representative Costa, Assistant Ranking Minority Member.

Staff: Edie Adams (786-7180).

Background: When a court enters a decree for the dissolution of marriage or legal separation, the court must enter a parenting plan arrangement to provide for the physical care of any minor child and set forth the authority and responsibilities of each parent. The parenting plan must specify a dispute resolution process, the allocation of decision-making authority between the parents, and a residential schedule specifying the primary residential parent and the time the child spends with each parent.

In adopting a permanent parenting plan, the court must limit the residential time a parent may have with a child if the court finds that the parent has abandoned the child, has engaged in a pattern of physical, sexual, or emotional abuse of a child, or

has engaged in acts of domestic violence. In addition, the court may limit a parent's residential time with the child if the court finds that the parent engaged in abusive use of conflict which creates the danger of serious damage to the child's psychological development.

A person may be guilty of perjury or false swearing if the person makes, under oath, a materially false statement that the person knows is false. Prosecutions for perjury and false swearing are rare.

Summary of Substitute Bill: A court must sanction a parent involved in a custody or residential schedule dispute who intentionally and falsely accuses the other parent of physical or sexual abuse of the child or a child's sibling if the court finds by clear, convincing, and cogent evidence that (1) the allegation was false; (2) the parent making the allegation knew that it was false and made the allegation in bad faith; and (3) the parent made the allegation to influence the court's decision regarding custody or the residential or visitation schedule with the child. If the court finds that the parent made a false allegation of abuse, the court must order the parent to pay the accused parent all court costs and reasonable attorneys' fees incurred to defend against the false allegation and a civil penalty of not less than \$500.

The court must also impose these sanctions against a parent if the court finds by clear, convincing, and cogent evidence that the parent induced a relative or friend testifying on behalf of the parent to make intentionally and in bad faith a false allegation of physical or sexual abuse against the other parent to help the parent influence the court regarding custody or the residential or visitation schedule with the child. This does not apply to officials who investigated the case, such as guardians ad litem or medical or law enforcement professionals.

The court may find that making a false allegation of abuse constitutes an abusive use of conflict by the parent making the allegation, which may warrant the limitation of the parent's residential time with the child.

Sanctions for making a false allegation may be imposed in any proceeding involving the dissolution of marriage, nonparental actions for child custody, and paternity actions. The imposition of a penalty for making a false allegation of abuse does not preclude the prosecution of the person for making a false report of abuse under RCW 26.44.060.

Substitute Bill Compared to Original Bill: The substitute bill specifies that the penalty applies in any proceeding involving dissolution of marriage, nonparental actions for child custody, and paternity actions, and specifies that the penalty imposed by the bill does not prevent prosecution for making a false report under RCW 26.44.060.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: Knowingly making a false allegation of abuse is an increasingly used tool in custody disputes. False accusations against a parent ruin that parent's life, cut the parent out of the child's life, and require the parent to spend huge amounts of resources in proving his or her innocence.

Testimony Against: There are already mechanisms in state law to sanction parents who make false accusations of child abuse. False accusations are hard to prove and hard to corroborate. This creates a hearing within a hearing, which will increase the time and money spent in court. The bill will exacerbate the conflict between the parties. Piling on extra sanctions will not necessarily stop false accusations, but will have an affect on the people who need to come forward and report child abuse.

Testified: Representative Wolfe, prime sponsor; Michele Delo, Washington Families (pro); Martha Harden, Superior Court Judges Association (con); and Deborah Ruggles, Washington Coalition of Sexual Assault Programs (con).