

HOUSE BILL REPORT

ESB 5610

As Passed House - Amended:

April 7, 1995

Title: An act relating to false accusations of child abuse or neglect.

Brief Description: Penalizing false accusations of child abuse or neglect.

Sponsors: Senators Smith, Deccio, Oke, Winsley, Roach and Schow.

Brief History:

Committee Activity:

Law & Justice: 3/21/95, 3/31/95 [DP].

Floor Activity:

Amended.

Passed House: 4/7/95, 91-4.

HOUSE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass. Signed by 10 members: Representatives Sheahan, Chairman; Delvin, Vice Chairman; Hickel, Vice Chairman; Campbell; Carrell; Lambert; McMahan; Morris; Robertson and Smith.

Minority Report: Do not pass. Signed by 6 members: Representatives Appelwick, Ranking Minority Member; Costa, Assistant Ranking Minority Member; Chappell; Cody; Thibaudeau and Veloria.

Staff: Pat Shelledy (786-7149).

Background: Title 26 of the Revised Code of Washington governs actions regarding divorce, child custody and support, paternity, child abuse and neglect, domestic violence, and adoption, among others. In many of those actions, the court may establish a parenting plan or enter an order regarding child custody.

A person is guilty of perjury if the person makes a materially false statement that the person knows is false. Perjury is a class B felony if the statement is made under oath during the course of an official proceeding. Prosecutions for perjury are rare.

In a divorce or legal separation action, 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 in acts of domestic violence.

Summary of Bill: Three sanctions are established for making false accusations of child abuse or neglect during the course of a judicial proceeding conducted under Title 26 of the Revised Code of Washington relating to a parenting plan or child custody.

First, if a court determines that a false accusation was made during a judicial proceeding, the court may impose a monetary penalty against the party who made the false accusation or who induced another person to make the false allegation. The monetary penalty may not exceed \$1,000, and is payable to the person who is falsely accused. In addition, the court may provide that reasonable attorneys' fees may be imposed if the accused incurs attorneys' fees to recover the award. A "party" includes a witness, a party, or a party's attorney. The provision does not apply to unemancipated minors.

Second, a person who intentionally makes a false accusation of child abuse or neglect, or induces another person to make a false allegation during a judicial proceeding under Title 26 relating to a parenting plan or child custody is guilty of a class C felony.

Third, a presumption is created that a parent's residential time with a child should be limited if the court finds that the parent has intentionally made false accusations of child abuse or neglect during the proceedings.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: False allegations of abuse are extremely damaging, difficult to refute, and are used improperly in divorce cases for tactical advantage in a custody or visitation dispute. Attorneys are encouraging their clients to lie.

Testimony Against: The bill will have a chilling effect on reports of abuse. The court has a current remedy to punish people who make false accusations of abuse.

Testified: Charlie Bright, citizen (pro); Bob Hoyden, Washington Families for Non-custodial Rights (pro); Ann Simons, Washington Women United (con); and Deborah Ruggles, Washington Coalition of Sexual Assault Programs (con).