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**SUBSTITUTE HOUSE BILL 1608**

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**State of Washington**

**54th Legislature**

**1995 Regular Session**

**By** House Committee on Children & Family Services (originally sponsored by Representatives Backlund, Cooke, Stevens, Lambert, Sherstad, Carrell, Hargrove, Mulliken, Hymes, Chappell, Crouse, L. Thomas and Smith)

Read first time 03/01/95.

1 AN ACT Relating to parental discipline; amending RCW 9A.16.100;  
2 reenacting and amending RCW 26.44.020; and creating a new section.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** The legislature finds that the family unit  
5 is the foundation of our society. It is the duty of the legislature to  
6 protect the integrity and privacy of the state's families. It is the  
7 intent of the legislature to ensure that families have the freedom to  
8 use the reasonable child discipline methods they choose, including  
9 corporal punishment.

10 **Sec. 2.** RCW 26.44.020 and 1993 c 412 s 12 and 1993 c 402 s 1 are  
11 each reenacted and amended to read as follows:

12 For the purpose of and as used in this chapter:

13 (1) "Court" means the superior court of the state of Washington,  
14 juvenile department.

15 (2) "Law enforcement agency" means the police department, the  
16 prosecuting attorney, the state patrol, the director of public safety,  
17 or the office of the sheriff.

1 (3) "Practitioner of the healing arts" or "practitioner" means a  
2 person licensed by this state to practice podiatric medicine and  
3 surgery, optometry, chiropractic, nursing, dentistry, osteopathy and  
4 surgery, or medicine and surgery or to provide other health services.  
5 The term "practitioner" shall include a duly accredited Christian  
6 Science practitioner: PROVIDED, HOWEVER, That a person who is being  
7 furnished Christian Science treatment by a duly accredited Christian  
8 Science practitioner shall not be considered, for that reason alone, a  
9 neglected person for the purposes of this chapter.

10 (4) "Institution" means a private or public hospital or any other  
11 facility providing medical diagnosis, treatment or care.

12 (5) "Department" means the state department of social and health  
13 services.

14 (6) "Child" or "children" means any person under the age of  
15 eighteen years of age.

16 (7) "Professional school personnel" shall include, but not be  
17 limited to, teachers, counselors, administrators, child care facility  
18 personnel, and school nurses.

19 (8) "Social service counselor" shall mean anyone engaged in a  
20 professional capacity during the regular course of employment in  
21 encouraging or promoting the health, welfare, support or education of  
22 children, or providing social services to adults or families, including  
23 mental health, drug and alcohol treatment, and domestic violence  
24 programs, whether in an individual capacity, or as an employee or agent  
25 of any public or private organization or institution.

26 (9) "Psychologist" shall mean any person licensed to practice  
27 psychology under chapter 18.83 RCW, whether acting in an individual  
28 capacity or as an employee or agent of any public or private  
29 organization or institution.

30 (10) "Pharmacist" shall mean any registered pharmacist under the  
31 provisions of chapter 18.64 RCW, whether acting in an individual  
32 capacity or as an employee or agent of any public or private  
33 organization or institution.

34 (11) "Clergy" shall mean any regularly licensed or ordained  
35 minister, priest or rabbi of any church or religious denomination,  
36 whether acting in an individual capacity or as an employee or agent of  
37 any public or private organization or institution.

38 (12) "Abuse or neglect" shall mean the injury, sexual abuse, sexual  
39 exploitation, negligent treatment, or maltreatment of a child, adult

1 dependent, or developmentally disabled person by any person under  
2 circumstances which indicate that the child's or adult's health,  
3 welfare, and safety is harmed. An abused child is a child who has been  
4 subjected to child abuse or neglect as defined herein.

5 (13) "Child protective services section" shall mean the child  
6 protective services section of the department.

7 (14) "Adult dependent persons" shall be defined as those persons  
8 over the age of eighteen years who have been found to be legally  
9 incompetent or disabled pursuant to chapter 11.88 RCW.

10 (15) "Sexual exploitation" includes: (a) Allowing, permitting, or  
11 encouraging a child to engage in prostitution by any person; or (b)  
12 allowing, permitting, encouraging, or engaging in the obscene or  
13 pornographic photographing, filming, or depicting of a child by any  
14 person.

15 (16) "Negligent treatment or maltreatment" means an act or omission  
16 which evidences a serious disregard of consequences of such magnitude  
17 as to constitute a clear and present danger to the child's health,  
18 welfare, and safety.

19 (17) "Developmentally disabled person" means a person who has a  
20 disability defined in RCW 71A.10.020.

21 (18) "Child protective services" means those services provided by  
22 the department designed to protect children from child abuse and  
23 neglect and safeguard the general welfare of such children and shall  
24 include investigations of child abuse and neglect reports, including  
25 reports regarding child care centers and family child care homes, and  
26 the development, management, and provision of or referral to services  
27 to ameliorate conditions which endanger the welfare of children, the  
28 coordination of necessary programs and services relevant to the  
29 prevention, intervention, and treatment of child abuse and neglect, and  
30 services to children to ensure that each child has a permanent home.  
31 In determining whether protective services should be provided, the  
32 department shall not decline to provide such services solely because of  
33 the child's unwillingness or developmental inability to describe the  
34 nature and severity of the abuse or neglect.

35 (19) "Malice" or "maliciously" means an evil intent, wish, or  
36 design to vex, annoy, or injure another person. Such malice may be  
37 inferred from an act done in wilful disregard of the rights of another,  
38 or an act wrongfully done without just cause or excuse, or an act or  
39 omission of duty betraying a wilful disregard of social duty.

1 (20) "Sexually aggressive youth" means a child who is defined in  
2 RCW 74.13.075(1)(b) as being a "sexually aggressive youth."

3 (21) "Reasonable parental discipline" includes spanking in the  
4 region of the buttocks which does not cause greater than transient  
5 pain, minor temporary marks, or superficial bruising. Any question as  
6 to whether the bodily harm is greater than transient pain, minor  
7 temporary marks, or superficial bruising shall be resolved by a  
8 physician.

9 **Sec. 3.** RCW 9A.16.100 and 1986 c 149 s 1 are each amended to read  
10 as follows:

11 It is the policy of this state to protect children from assault and  
12 abuse and to encourage parents, teachers, and their authorized agents  
13 to use methods of correction and restraint of children that are not  
14 dangerous to the children. However, the physical discipline of a child  
15 is not unlawful when it is reasonable and moderate and is inflicted by  
16 a parent, teacher, or guardian for purposes of restraining or  
17 correcting the child. Any use of force on a child by any other person  
18 is unlawful unless it is reasonable and moderate and is authorized in  
19 advance by the child's parent or guardian for purposes of restraining  
20 or correcting the child.

21 The following actions are presumed unreasonable when used to  
22 correct or restrain a child: (1) Throwing, kicking, burning, or  
23 cutting a child; (2) striking a child with a closed fist; (3) shaking  
24 a child under age three; (4) interfering with a child's breathing; (5)  
25 threatening a child with a deadly weapon; or (6) doing any other act  
26 that is likely to cause and which does cause bodily harm greater than  
27 transient pain or minor temporary marks. The age, size, and condition  
28 of the child and the location of the injury shall be considered when  
29 determining whether the bodily harm is reasonable or moderate. This  
30 list is illustrative of unreasonable actions and is not intended to be  
31 exclusive.

32 "Reasonable and moderate" physical discipline by a parent includes  
33 spanking in the region of the buttocks which does not cause bodily harm  
34 greater than transient pain, minor temporary marks, or superficial  
35 bruising.

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