

5610

Sponsor(s): Senators Smith, Deccio, Oke, Winsley, Roach and Schow

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

SB 5610.E - DIGEST

(DIGEST AS PASSED LEGISLATURE)

Provides for a monetary penalty, not to exceed one thousand dollars, and a restriction on residential time.

Provides a class C felony offense for intentionally making false accusations of child abuse.

VETO MESSAGE ON SB 5610

May 16, 1995

To the Honorable President and Members,
The Senate of the State of Washington
Ladies and Gentlemen:

I am returning herewith, without my approval, Engrossed Senate Bill No. 5610 entitled:

"AN ACT Relating to false allegations of child abuse or neglect;"

Engrossed Senate Bill No. 5610 creates civil and criminal penalties for persons making, or inducing others to make, false allegations of child abuse or neglect during the course of a proceeding relating to a parenting plan or child custody. Such false allegations are a serious matter and an issue worthy of legislative attention. However, this bill broadly duplicates and expands current law, imposing penalties which are out of proportion to the problem.

The civil fines and penalties provided in section 1 of this legislation may be applied to witnesses as well as parties and attorneys. Because the court has no jurisdiction over witnesses, such an imposition will result in additional proceedings in an already overcrowded court system. Regrettably, this penalty could be used by unscrupulous litigants as a tool to intimidate or harass mental health counselors, guardians ad litem, and other witnesses. We must not allow such actions to increase the risk of harm to our state's children or to increase the potential of individuals remaining silent out of fear.

Section 2 of Engrossed Senate Bill No. 5610 establishes a presumption that a parent's residential time with a child should be limited if it is found the parent has made false allegations of abuse or neglect. This is duplicative of the limiting provisions relating to the abusive use of conflict in RCW 26.09.191. A pattern of abusive use of conflict may, in the court's judgment, be an appropriate reason to limit the time a parent may spend with a child. A single false allegation, however, does not rise to the same level of magnitude and is not fairly a reliable indicator of a person's parenting ability.

Section 3 of the bill provides that an individual who

knowingly makes, or causes another to make, a false allegation of abuse or neglect is guilty of a Class C felony. Such a penalty is an unduly severe remedy for a situation adequately addressed under current law. The change from the current punishment of up to 90 days in jail and a \$1000 fine to confinement for up to 5 years and a \$5000 fine is unwarranted and repressive.

We should respect the discretion and ability of our family court judges to use the tools already at their disposal rather than risk the intimidation of those who would otherwise bring concerns or allegations to the attention of the court.

For these reasons, I have vetoed Engrossed Senate Bill No. 5610 in its entirety.

Respectfully submitted,
Mike Lowry
Governor