

HOUSE BILL REPORT

HB 1859

As Reported By House Committee On:
Children & Family Services

Title: An act relating to abuse of children and adult dependent and developmentally disabled persons.

Brief Description: Revising provisions on abuse of children and adult dependent and developmentally disabled persons.

Sponsors: Representatives Cooke, Dickerson, Boldt and McDonald.

Brief History:

Committee Activity:

Children & Family Services: 2/21/97, 3/4/97 [DPS].

HOUSE COMMITTEE ON CHILDREN & FAMILY SERVICES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Cooke, Chairman; Boldt, Vice Chairman; Bush, Vice Chairman; Tokuda, Ranking Minority Member; Kastama, Assistant Ranking Minority Member; Ballasiotes; Carrell; Dickerson; Gombosky; McDonald and Wolfe.

Staff: Douglas Ruth (786-7134).

Background: The statutory definition of abuse or neglect is the injury, sexual abuse, sexual exploitation, negligent treatment, or maltreatment of a child, adult dependent, or developmentally disabled person by any person under circumstances which indicate that the child's or adult's health welfare, and safety is harmed.—

As applied to parents, the definition does not include reasonable parental discipline that does not injure a child's health, welfare and safety.

The department and law enforcement agencies investigate reports of abuse and neglect that fit this definition. Both the department and law enforcement agencies must notify the other of a report involving a person who has died or suffered physical injury due to abuse or neglect, or who has been the victim of sexual abuse. Unless both entities respond to the same report, the department and law enforcement agencies are not required to jointly investigate a report.

Reports made to the department are assigned to caseworkers who investigate and conduct risk assessments of reports. Based on an assessment, a caseworker assigns a risk level to each case. The risk assessment is updated as the caseworker finds new information. Once the caseworker completes the investigation, a summary assessment is prepared and a final risk level is assigned to the case.

At any time during the investigation of a case, a law enforcement officer may remove a child from the child's parents. To remove a child, the officer must have probable cause to believe that the child is abused or neglected, and that the child would be injured or could not be taken into custody if the officer waited to obtain a court order. Similarly, a hospital administrator may detain a child if the administrator has reasonable cause to believe that allowing the child to return home would present an imminent danger to the child's safety. The department may take custody of a child only if it obtains a court order.

Summary of Substitute Bill: Lawful physical discipline, as defined in RCW 9A.16.100, is excluded from the definition of child abuse.— Lawful physical discipline is reasonable and moderate force used for the purposes of restraining or correcting a child. Only a parent, teacher, guardian, or a person who has authorization from the child's parent or guardian may inflict lawful physical discipline. The following actions are not considered lawful discipline:

- (1) throwing, kicking, burning, or cutting a child;
- (2) striking a child with a closed fist;
- (3) shaking a child under age three;
- (4) interfering with a child's breathing;
- (5) threatening a child with a deadly weapon; or
- (6) doing any other act that is likely to cause and which does cause bodily harm greater than transient pain or minor temporary marks.

When either the department or a law enforcement agency receives a report of abuse or neglect involving death, physical injury, or sexual abuse, the department and the agency will jointly handle the investigation. Law enforcement will only remove a child from the parent's custody if there is probable cause to believe that the delay of obtaining a court order would endanger the child. Hospital administrators may detain children who they have reasonable cause to believe will be in imminent danger of harm to their life, health, or safety if allowed to return home.

In conducting investigations, the department will, if feasible, separate the tasks of risk assessments and investigation.

References in the chapter to reports of child abuse and neglect are changed to reports of alleged child abuse and neglect.

Substitute Bill Compared to Original Bill: The substitute retains the present standard for when law enforcement agencies must notify the department of a child abuse report within 24 hours. Instead of substituting health and life– for safety– in the standard for when a hospital administrator may detain a child, the substitute bill added health and life– to safety– as factors in the standard. Similarly, instead of defining reasonable parental discipline– as actions not unlawful under RCW 9A.16.100, the substitute excludes these actions from the definition of child abuse.–

The substitute bill also limits the separation of assessment and investigation tasks in child abuse cases to those instances where such a separation is feasible.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: Joint investigations can be effective in the higher risk cases. Since higher- risk cases may involve criminal action, many higher risk investigations by the department also involve law enforcement.

Testimony Against: In some instances, law enforcement agencies will not have the manpower to perform joint investigations. Similarly, some regional department offices do not have the manpower to split the assessment and investigations tasks.

Testified: Lori Delaney, Washington Coalition of Sexual Assault Programs (concerns); and Rosie Oreskovich, Department of Social and Health Services (con).