
HOUSE BILL 2962

State of Washington

55th Legislature

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By Representatives Robertson, Kessler, Lisk, Costa, Sheahan, McDonald,
L. Thomas and Anderson

Read first time 01/26/98. Referred to Committee on Law & Justice.

1 AN ACT Relating to criminal mistreatment; amending RCW 43.43.830;
2 adding a new section to chapter 9A.42 RCW; and prescribing penalties.

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 9A.42 RCW
5 to read as follows:

6 (1) Any person who commits domestic violence, as defined in RCW
7 10.99.020, within sight or sound of the victim's or offender's minor
8 children under the age of eighteen years is guilty of criminal
9 mistreatment in the third degree.

10 (2) Criminal mistreatment in the third degree is a misdemeanor.

11 (3) As part of any sentence for criminal mistreatment in the third
12 degree, the court shall impose and enforce an order with the following
13 conditions:

14 (a) Restricted or no contact with the victim, as defined in RCW
15 10.99.020, for a period not to exceed the maximum sentence for the
16 crime, regardless of the expiration of the offender's term of community
17 supervision;

18 (b) No further acts of violence or threats against the victim, as
19 defined in RCW 10.99.020;

1 (c) If the offense was committed while the defendant was under the
2 influence of drugs or alcohol, comprehensive substance abuse assessment
3 and treatment services appropriate for the offender and submission to
4 urinalysis or other testing to monitor drug and alcohol use during any
5 periods of community supervision;

6 (d) Completion of a domestic violence perpetrator program approved
7 under chapter 26.50 RCW; and

8 (e) The defendant shall pay the cost of evaluation, treatment, and
9 monitoring.

10 (4) The court may waive any of the minimum sentencing conditions in
11 subsection (3) of this section upon finding that the conditions would
12 not be in the best interests of justice. The court shall state on the
13 record its reasons for any waiver.

14 **Sec. 2.** RCW 43.43.830 and 1996 c 178 s 12 are each amended to read
15 as follows:

16 Unless the context clearly requires otherwise, the definitions in
17 this section apply throughout RCW 43.43.830 through 43.43.840.

18 (1) "Applicant" means:

19 (a) Any prospective employee who will or may have unsupervised
20 access to children under sixteen years of age or developmentally
21 disabled persons or vulnerable adults during the course of his or her
22 employment or involvement with the business or organization;

23 (b) Any prospective volunteer who will have regularly scheduled
24 unsupervised access to children under sixteen years of age,
25 developmentally disabled persons, or vulnerable adults during the
26 course of his or her employment or involvement with the business or
27 organization under circumstances where such access will or may involve
28 groups of (i) five or fewer children under twelve years of age, (ii)
29 three or fewer children between twelve and sixteen years of age, (iii)
30 developmentally disabled persons, or (iv) vulnerable adults; or

31 (c) Any prospective adoptive parent, as defined in RCW 26.33.020.

32 (2) "Business or organization" means a business or organization
33 licensed in this state, any agency of the state, or other governmental
34 entity, that educates, trains, treats, supervises, houses, or provides
35 recreation to developmentally disabled persons, vulnerable adults, or
36 children under sixteen years of age, including but not limited to
37 public housing authorities, school districts, and educational service
38 districts.

1 (3) "Civil adjudication" means a specific court finding of sexual
2 abuse or exploitation or physical abuse in a dependency action under
3 RCW 13.34.040 or in a domestic relations action under Title 26 RCW. In
4 the case of vulnerable adults, civil adjudication means a specific
5 court finding of abuse or financial exploitation in a protection
6 proceeding under chapter 74.34 RCW. It does not include administrative
7 proceedings. The term "civil adjudication" is further limited to court
8 findings that identify as the perpetrator of the abuse a named
9 individual, over the age of eighteen years, who was a party to the
10 dependency or dissolution proceeding or was a respondent in a
11 protection proceeding in which the finding was made and who contested
12 the allegation of abuse or exploitation.

13 (4) "Conviction record" means "conviction record" information as
14 defined in RCW 10.97.030(3) relating to a crime against children or
15 other persons committed by either an adult or a juvenile. It does not
16 include a conviction for an offense that has been the subject of an
17 expungement, pardon, annulment, certificate of rehabilitation, or other
18 equivalent procedure based on a finding of the rehabilitation of the
19 person convicted, or a conviction that has been the subject of a
20 pardon, annulment, or other equivalent procedure based on a finding of
21 innocence. It does include convictions for offenses for which the
22 defendant received a deferred or suspended sentence, unless the record
23 has been expunged according to law.

24 (5) "Crime against children or other persons" means a conviction of
25 any of the following offenses: Aggravated murder; first or second
26 degree murder; first or second degree kidnapping; first, second, or
27 third degree assault; first, second, or third degree assault of a
28 child; first, second, or third degree rape; first, second, or third
29 degree rape of a child; first or second degree robbery; first degree
30 arson; first degree burglary; first or second degree manslaughter;
31 first or second degree extortion; indecent liberties; incest; vehicular
32 homicide; first degree promoting prostitution; communication with a
33 minor; unlawful imprisonment; simple assault; sexual exploitation of
34 minors; first ~~((or))~~, second, or third degree criminal mistreatment;
35 child abuse or neglect as defined in RCW 26.44.020; first or second
36 degree custodial interference; malicious harassment; first, second, or
37 third degree child molestation; first or second degree sexual
38 misconduct with a minor; first or second degree rape of a child;
39 patronizing a juvenile prostitute; child abandonment; promoting

1 pornography; selling or distributing erotic material to a minor;
2 custodial assault; violation of child abuse restraining order; child
3 buying or selling; prostitution; felony indecent exposure; criminal
4 abandonment; or any of these crimes as they may be renamed in the
5 future.

6 (6) "Crimes relating to financial exploitation" means a conviction
7 for first, second, or third degree extortion; first, second, or third
8 degree theft; first or second degree robbery; forgery; or any of these
9 crimes as they may be renamed in the future.

10 (7) "Disciplinary board final decision" means any final decision
11 issued by a disciplining authority under chapter 18.130 RCW or the
12 secretary of the department of health for the following businesses or
13 professions:

- 14 (a) Chiropractic;
- 15 (b) Dentistry;
- 16 (c) Dental hygiene;
- 17 (d) Massage;
- 18 (e) Midwifery;
- 19 (f) Naturopathy;
- 20 (g) Osteopathic medicine and surgery;
- 21 (h) Physical therapy;
- 22 (i) Physicians;
- 23 (j) Practical nursing;
- 24 (k) Registered nursing; and
- 25 (l) Psychology.

26 "Disciplinary board final decision," for real estate brokers and
27 salespersons, means any final decision issued by the director of the
28 department of licensing for real estate brokers and salespersons.

29 (8) "Unsupervised" means not in the presence of:

- 30 (a) Another employee or volunteer from the same business or
31 organization as the applicant; or
- 32 (b) Any relative or guardian of any of the children or
33 developmentally disabled persons or vulnerable adults to which the
34 applicant has access during the course of his or her employment or
35 involvement with the business or organization.

36 (9) "Vulnerable adult" means "vulnerable adult" as defined in
37 chapter 74.34 RCW, except that for the purposes of requesting and
38 receiving background checks pursuant to RCW 43.43.832, it shall also

1 include adults of any age who lack the functional, mental, or physical
2 ability to care for themselves.

3 (10) "Financial exploitation" means the illegal or improper use of
4 a vulnerable adult or that adult's resources for another person's
5 profit or advantage.

6 (11) "Agency" means any person, firm, partnership, association,
7 corporation, or facility which receives, provides services to, houses
8 or otherwise cares for vulnerable adults.

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