

CERTIFICATION OF ENROLLMENT
SUBSTITUTE SENATE BILL 5511

Chapter 282, Laws of 1997
(partial veto)

55th Legislature
1997 Regular Session

CHILD ABUSE AND NEGLECT--RETENTION OF INFORMATION--NOTICE TO
ALLEGED PERPETRATORS

EFFECTIVE DATE: 7/27/97

Passed by the Senate April 24, 1997
YEAS 38 NAYS 0

IRV NEWHOUSE
President of the Senate

Passed by the House April 22, 1997
YEAS 98 NAYS 0

CLYDE BALLARD
**Speaker of the
House of Representatives**

Approved May 7, 1997, with the
exception of section 3, which is
vetoed.

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

I, Mike O Connell, Secretary of the
Senate of the State of Washington, do
hereby certify that the attached is
SUBSTITUTE SENATE BILL 5511 as passed
by the Senate and the House of
Representatives on the dates hereon
set forth.

MIKE O'CONNELL
Secretary

FILED

May 7, 1997 - 1:56 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5511

AS AMENDED BY THE HOUSE

Passed Legislature - 1997 Regular Session

State of Washington 55th Legislature 1997 Regular Session

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Stevens, Hargrove, Zarelli, Haugen, Benton, Strannigan, Rasmussen, Hochstatter, Schow and Goings)

Read first time 02/28/97.

1 AN ACT Relating to child abuse and neglect information; amending
2 RCW 26.44.100 and 26.44.020; and adding new sections to chapter 26.44
3 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 26.44 RCW
6 to read as follows:

7 To protect the privacy in reporting and the maintenance of reports
8 of nonaccidental injury, neglect, death, sexual abuse, and cruelty to
9 children by their parents, and to safeguard against arbitrary,
10 malicious, or erroneous information or actions, the department shall
11 not maintain information related to unfounded referrals in files or
12 reports of child abuse or neglect for longer than six years except as
13 provided in this section.

14 At the end of six years from receipt of the unfounded report, the
15 information shall be purged unless an additional report has been
16 received in the intervening period.

17 **Sec. 2.** RCW 26.44.100 and 1993 c 412 s 17 are each amended to read
18 as follows:

1 (1) The legislature finds parents and children often are not aware
2 of their due process rights when agencies are investigating allegations
3 of child abuse and neglect. The legislature reaffirms that all
4 citizens, including parents, shall be afforded due process, that
5 protection of children remains the priority of the legislature, and
6 that this protection includes protecting the family unit from
7 unnecessary disruption. To facilitate this goal, the legislature
8 wishes to ensure that parents and children be advised in writing and
9 orally, if feasible, of their basic rights and other specific
10 information as set forth in this chapter, provided that nothing
11 contained in this chapter shall cause any delay in protective custody
12 action.

13 (2) The department shall notify the alleged perpetrator of the
14 allegations of child abuse and neglect at the earliest possible point
15 in the investigation that will not jeopardize the safety and protection
16 of the child or the investigation process.

17 Whenever the department completes an investigation of a child abuse
18 or neglect report under chapter 26.44 RCW, the department shall notify
19 the alleged perpetrator of the report and the department's
20 investigative findings. The notice shall also advise the alleged
21 perpetrator that:

22 (a) A written response to the report may be provided to the
23 department and that such response will be filed in the record following
24 receipt by the department;

25 (b) Information in the department's record may be considered in
26 subsequent investigations or proceedings related to child protection or
27 child custody;

28 (c) There is currently information in the department's record that
29 may be considered in determining that the person is disqualified from
30 being licensed to provide child care, employed by a licensed child care
31 agency, or authorized by the department to care for children; and

32 (d) A person who has demonstrated a good-faith desire to work in a
33 licensed agency may request an informal meeting with the department to
34 have an opportunity to discuss and contest the information currently in
35 the record.

36 (3) The notification required by this section shall be made by
37 regular mail to the person's last known address.

38 (4) The duty of notification created by this section is subject to
39 the ability of the department to ascertain the location of the person

1 to be notified. The department shall exercise reasonable, good-faith
2 efforts to ascertain the location of persons entitled to notification
3 under this section.

4 ****NEW SECTION. Sec. 3. A new section is added to chapter 26.44 RCW***
5 ***to read as follows:***

6 *The department shall report annually to the legislature on the*
7 *number of reports determined to be unfounded and the percentage of*
8 *unfounded reports compared to the total number of reports received by*
9 *the department. The department shall also report annually on the*
10 *number of files or reports from which unfounded information was purged.*

11 **Sec. 3 was vetoed. See message at end of chapter.*

12 Sec. 4. RCW 26.44.020 and 1996 c 178 s 10 are each amended to read
13 as follows:

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

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

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

20 (3) "Practitioner of the healing arts" or "practitioner" means a
21 person licensed by this state to practice podiatric medicine and
22 surgery, optometry, chiropractic, nursing, dentistry, osteopathic
23 medicine and surgery, or medicine and surgery or to provide other
24 health services. The term "practitioner" shall include a duly
25 accredited Christian Science practitioner: PROVIDED, HOWEVER, That a
26 person who is being furnished Christian Science treatment by a duly
27 accredited Christian Science practitioner shall not be considered, for
28 that reason alone, a neglected person for the purposes of this chapter.

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

31 (5) "Department" means the state department of social and health
32 services.

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

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

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

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

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

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

20 (12) "Abuse or neglect" shall mean the injury, sexual abuse, sexual
21 exploitation, negligent treatment, or maltreatment of a child, adult
22 dependent, or developmentally disabled person by any person under
23 circumstances which indicate that the child's or adult's health,
24 welfare, and safety is harmed. An abused child is a child who has been
25 subjected to child abuse or neglect as defined herein.

26 (13) "Child protective services section" shall mean the child
27 protective services section of the department.

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

31 (15) "Sexual exploitation" includes: (a) Allowing, permitting, or
32 encouraging a child to engage in prostitution by any person; or (b)
33 allowing, permitting, encouraging, or engaging in the obscene or
34 pornographic photographing, filming, or depicting of a child by any
35 person.

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

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

3 (18) "Child protective services" means those services provided by
4 the department designed to protect children from child abuse and
5 neglect and safeguard the general welfare of such children and shall
6 include investigations of child abuse and neglect reports, including
7 reports regarding child care centers and family child care homes, and
8 the development, management, and provision of or referral to services
9 to ameliorate conditions which endanger the welfare of children, the
10 coordination of necessary programs and services relevant to the
11 prevention, intervention, and treatment of child abuse and neglect, and
12 services to children to ensure that each child has a permanent home.
13 In determining whether protective services should be provided, the
14 department shall not decline to provide such services solely because of
15 the child's unwillingness or developmental inability to describe the
16 nature and severity of the abuse or neglect.

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

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

24 (21) Unfounded- means available evidence indicates that, more
25 likely than not, child abuse or neglect did not occur.

Passed the Senate April 24, 1997.

Passed the House April 22, 1997.

Approved by the Governor May 7, 1997, with the exception of certain
items that were vetoed.

Filed in Office of Secretary of State May 7, 1997.

1 Note: Governor's explanation of partial veto is as follows:

2 "I am returning herewith, without my approval as to section 3,
3 Substitute Senate Bill No. 5511 entitled:

4 "AN ACT Relating to child abuse and neglect information;"

5 Section 3 of SSB 5511 would have required the Department of Social
6 and Health Services to report annually to the legislature on the number
7 of reports of child abuse or neglect determined to be unfounded, and
8 the percentage of unfounded reports compared to the total number of
9 reports received by the Department, and the number of files or reports
10 from which unfounded information was purged.

1 As part of my quality improvement efforts, I have undertaken to
2 review our statutes for all reporting requirements and to rid state
3 government of unnecessary reports and paperwork. It would be contrary
4 to that effort to pass into law yet another unnecessary report.

5 For this reason, I have vetoed section 3 of Substitute Senate Bill
6 No. 5511.

7 With the exception of section 3, I am approving Substitute Senate
8 Bill No. 5511."