

# SENATE BILL REPORT

## EHB 2509

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As of February 22, 2018

**Title:** An act relating to mandatory reporting of child abuse and neglect.

**Brief Description:** Concerning mandatory reporting of child abuse and neglect.

**Sponsors:** Representatives Hayes, Smith and Johnson.

**Brief History:** Passed House: 2/13/18, 98-0.

**Committee Activity:** Human Services & Corrections: 2/22/18.

### Brief Summary of Bill

- Creates the gross misdemeanor crime of obstructing the duty of a mandatory reporter to make a report.
- Establishes a civil infraction for failing to make a mandatory report due to negligence.
- Reduces the penalty for knowingly failing to make a mandatory report to a misdemeanor.
- Requires a youth-serving organization to provide a written acknowledgment that it has posted a notice with respect to mandatory reporting laws.

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### SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

**Staff:** Kevin Black (786-7747)

**Background:** Mandatory Reporting Laws and Offenses. Mandatory reporting laws require certain people to report suspected child abuse or neglect to the Department of Social and Health Services (DSHS) or law enforcement, when a reporter has reasonable cause to believe that a child has suffered abuse or neglect.

People designated as mandatory reporters are:

- any practitioner;
- county coroner;
- medical examiner;

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- law enforcement officer;
- professional school personnel;
- registered or licensed nurse;
- social service counselor;
- psychologist;
- pharmacist;
- employee of the Department of Early Learning;
- licensed or certified child care providers or their employees;
- employee of the DSHS;
- juvenile probation officer;
- placement and liaison specialist;
- responsible living skills program staff;
- HOPE Center staff;
- state family and children's ombuds or any volunteer in the Office of the Family & Children's Ombuds;
- Department of Corrections personnel;
- guardian ad litem;
- court appointed special advocates;
- any person in an official supervisory capacity with a profit or nonprofit organization;
- administrative, academic, or athletic department employees of institutions of higher learning; and
- any adult who has reasonable cause to believe that a child who resides with the adult is a victim of abuse or neglect.

Additionally, any person who has reason to believe that child abuse or neglect has occurred may report that information.

Upon having reasonable cause to believe a child has suffered abuse or neglect, a mandated reporter must make a report within 48 hours. When any person is required to make a report or cause a report to be made and knowingly fails to make or cause such a report to be made that person is guilty of a gross misdemeanor. A gross misdemeanor must be proven beyond a reasonable doubt and is punishable by a fine of up to \$5,000 and/or imprisonment in a county jail for up to 364 days.

Mandatory Reporter Posting Law. Any organization that includes employees or volunteers subject to mandatory reporting requirements must clearly display in a common area a poster that includes:

- who is required to report child abuse and neglect;
- the standard of knowledge to justify a report;
- the definition of reportable crimes;
- where to report suspected child abuse and neglect; and
- what should be included in a report and the appropriate timing.

Class 1 Civil Infractions. The maximum penalty for a class 1 civil infraction is \$250, unless expressly provided otherwise. The burden of proof is upon the state by a preponderance of the evidence.

**Summary of Bill:** Penalties relating to mandatory reporting are modified as follows:

- the penalty for knowingly failing to make a mandatory report is changed from a gross misdemeanor to a misdemeanor;
- the crime of obstructing the duty of a mandatory reporter to make a report is created and established as a gross misdemeanor; and
- a class 1 civil infraction is established for any person who is required to make a mandatory report and fails to make the report due to negligence.

State contracts with youth-serving organizations must require such organizations to provide a signed acknowledgement that the organization has displayed a poster in a common area informing its employees of mandatory reporting laws.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** The bill takes effect on July 1, 2018.

**Staff Summary of Public Testimony:** PRO: Cases keep slipping through the cracks from mandatory reporters who know their duty but fail to make a report through negligence or for some other reason. We need more visibility and accountability for these people who are supposed to protect our community. There was good stakeholder work on this bill done in the House. Medical reporters who fail to report contribute to the death of children reflected in child fatality reports. Doctors fail to report 25 percent of the time when they see child abuse. Children are more likely to be re-abused if mandatory reports do not occur. Only eight cases of this crime have been charged in the last decade. The changes in this bill will raise awareness. The negligence standard will make the offense easier to prove. Our children are our future. It is impossible to know what people know, which makes it so difficult to charge this crime. Report, and let law enforcement make the determination. A lot of education about mandatory reporting already happens now; we also need to add teeth to the enforcement process.

**Persons Testifying:** PRO: Representative Dave Hayes, Prime Sponsor; Byron Manering, Brigid Collins/Children's Advocacy Centers of Washington; Rosemary Kaholokula, Skagit County Prosecutor's Office; John Snaza, Thurston County Sheriff.

**Persons Signed In To Testify But Not Testifying:** No one.