
SENATE BILL 5749

State of Washington

66th Legislature

2019 Regular Session

By Senators Mullet, Van De Wege, and Kuderer

Read first time 01/30/19. Referred to Committee on Human Services,
Reentry & Rehabilitation.

1 AN ACT Relating to faith-based exemptions regarding criminal
2 mistreatment of children and vulnerable adults; amending RCW
3 9A.42.005; and reenacting and amending RCW 26.44.020.

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

5 **Sec. 1.** RCW 9A.42.005 and 1997 c 392 s 507 are each amended to
6 read as follows:

7 The legislature finds that there is a significant need to protect
8 children and dependent persons, including frail elder and vulnerable
9 adults, from abuse and neglect by their parents, by persons entrusted
10 with their physical custody, or by persons employed to provide them
11 with the basic necessities of life. The legislature further finds
12 that such abuse and neglect often takes the forms of either
13 withholding from them the basic necessities of life, including food,
14 water, shelter, clothing, and health care, or abandoning them, or
15 both. Therefore, it is the intent of the legislature that criminal
16 penalties be imposed on those guilty of such abuse or neglect. ((It
17 is the intent of the legislature that a person who, in good faith, is
18 furnished Christian Science treatment by a duly accredited Christian
19 Science practitioner in lieu of medical care is not considered
20 deprived of medically necessary health care or abandoned.))

1 Prosecutions under this chapter shall be consistent with the rules of
2 evidence, including hearsay, under law.

3 **Sec. 2.** RCW 26.44.020 and 2018 c 284 s 33 and 2018 c 171 s 3 are
4 each reenacted and amended to read as follows:

5 The definitions in this section apply throughout this chapter
6 unless the context clearly requires otherwise.

7 (1) "Abuse or neglect" means sexual abuse, sexual exploitation,
8 or injury of a child by any person under circumstances which cause
9 harm to the child's health, welfare, or safety, excluding conduct
10 permitted under RCW 9A.16.100; or the negligent treatment or
11 maltreatment of a child by a person responsible for or providing care
12 to the child. An abused child is a child who has been subjected to
13 child abuse or neglect as defined in this section.

14 (2) "Child" or "children" means any person under the age of
15 eighteen years of age.

16 (3) "Child forensic interview" means a developmentally sensitive
17 and legally sound method of gathering factual information regarding
18 allegations of child abuse, child neglect, or exposure to violence.
19 This interview is conducted by a competently trained, neutral
20 professional utilizing techniques informed by research and best
21 practice as part of a larger investigative process.

22 (4) "Child protective services" means those services provided by
23 the department designed to protect children from child abuse and
24 neglect and safeguard such children from future abuse and neglect,
25 and conduct investigations of child abuse and neglect reports.
26 Investigations may be conducted regardless of the location of the
27 alleged abuse or neglect. Child protective services includes referral
28 to services to ameliorate conditions that endanger the welfare of
29 children, the coordination of necessary programs and services
30 relevant to the prevention, intervention, and treatment of child
31 abuse and neglect, and services to children to ensure that each child
32 has a permanent home. In determining whether protective services
33 should be provided, the department shall not decline to provide such
34 services solely because of the child's unwillingness or developmental
35 inability to describe the nature and severity of the abuse or
36 neglect.

37 (5) "Child protective services section" means the child
38 protective services section of the department.

1 (6) "Children's advocacy center" means a child-focused facility
2 in good standing with the state chapter for children's advocacy
3 centers and that coordinates a multidisciplinary process for the
4 investigation, prosecution, and treatment of sexual and other types
5 of child abuse. Children's advocacy centers provide a location for
6 forensic interviews and coordinate access to services such as, but
7 not limited to, medical evaluations, advocacy, therapy, and case
8 review by multidisciplinary teams within the context of county
9 protocols as defined in RCW 26.44.180 and 26.44.185.

10 (7) "Clergy" means any regularly licensed or ordained minister,
11 priest, or rabbi of any church or religious denomination, whether
12 acting in an individual capacity or as an employee or agent of any
13 public or private organization or institution.

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

16 (9) "Department" means the department of children, youth, and
17 families.

18 (10) "Family assessment" means a comprehensive assessment of
19 child safety, risk of subsequent child abuse or neglect, and family
20 strengths and needs that is applied to a child abuse or neglect
21 report. Family assessment does not include a determination as to
22 whether child abuse or neglect occurred, but does determine the need
23 for services to address the safety of the child and the risk of
24 subsequent maltreatment.

25 (11) "Family assessment response" means a way of responding to
26 certain reports of child abuse or neglect made under this chapter
27 using a differential response approach to child protective services.
28 The family assessment response shall focus on the safety of the
29 child, the integrity and preservation of the family, and shall assess
30 the status of the child and the family in terms of risk of abuse and
31 neglect including the parent's or guardian's or other caretaker's
32 capacity and willingness to protect the child and, if necessary, plan
33 and arrange the provision of services to reduce the risk and
34 otherwise support the family. No one is named as a perpetrator, and
35 no investigative finding is entered in the record as a result of a
36 family assessment.

37 (12) "Founded" means the determination following an investigation
38 by the department that, based on available information, it is more
39 likely than not that child abuse or neglect did occur.

1 (13) "Inconclusive" means the determination following an
2 investigation by the department of social and health services, prior
3 to October 1, 2008, that based on available information a decision
4 cannot be made that more likely than not, child abuse or neglect did
5 or did not occur.

6 (14) "Institution" means a private or public hospital or any
7 other facility providing medical diagnosis, treatment, or care.

8 (15) "Law enforcement agency" means the police department, the
9 prosecuting attorney, the state patrol, the director of public
10 safety, or the office of the sheriff.

11 (16) "Malice" or "maliciously" means an intent, wish, or design
12 to intimidate, annoy, or injure another person. Such malice may be
13 inferred from an act done in willful disregard of the rights of
14 another, or an act wrongfully done without just cause or excuse, or
15 an act or omission of duty betraying a willful disregard of social
16 duty.

17 (17) "Negligent treatment or maltreatment" means an act or a
18 failure to act, or the cumulative effects of a pattern of conduct,
19 behavior, or inaction, that evidences a serious disregard of
20 consequences of such magnitude as to constitute a clear and present
21 danger to a child's health, welfare, or safety, including but not
22 limited to conduct prohibited under RCW 9A.42.100. When considering
23 whether a clear and present danger exists, evidence of a parent's
24 substance abuse as a contributing factor to negligent treatment or
25 maltreatment shall be given great weight. The fact that siblings
26 share a bedroom is not, in and of itself, negligent treatment or
27 maltreatment. Poverty, homelessness, or exposure to domestic violence
28 as defined in RCW 26.50.010 that is perpetrated against someone other
29 than the child does not constitute negligent treatment or
30 maltreatment in and of itself. Under this chapter, health care
31 decisions made in reliance on faith-based practices do not in and of
32 themselves constitute negligent treatment or maltreatment unless any
33 such decision poses a clear and present danger to the health,
34 welfare, or safety of the child.

35 (18) "Pharmacist" means any registered pharmacist under chapter
36 18.64 RCW, whether acting in an individual capacity or as an employee
37 or agent of any public or private organization or institution.

38 (19) "Practitioner of the healing arts" or "practitioner" means a
39 person licensed by this state to practice podiatric medicine and
40 surgery, optometry, chiropractic, nursing, dentistry, osteopathic

1 medicine and surgery, or medicine and surgery or to provide other
2 health services. The term "practitioner" includes a duly accredited
3 Christian Science practitioner. (~~(A person who is being furnished
4 Christian Science treatment by a duly accredited Christian Science
5 practitioner will not be considered, for that reason alone, a
6 neglected person for the purposes of this chapter.)~~)

7 (20) "Professional school personnel" include, but are not limited
8 to, teachers, counselors, administrators, child care facility
9 personnel, and school nurses.

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

14 (22) "Screened-out report" means a report of alleged child abuse
15 or neglect that the department has determined does not rise to the
16 level of a credible report of abuse or neglect and is not referred
17 for investigation.

18 (23) "Sexual exploitation" includes: (a) Allowing, permitting, or
19 encouraging a child to engage in prostitution by any person; or (b)
20 allowing, permitting, encouraging, or engaging in the obscene or
21 pornographic photographing, filming, or depicting of a child by any
22 person.

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

25 (25) "Social service counselor" means anyone engaged in a
26 professional capacity during the regular course of employment in
27 encouraging or promoting the health, welfare, support, or education
28 of children, or providing social services to adults or families,
29 including mental health, drug and alcohol treatment, and domestic
30 violence programs, whether in an individual capacity, or as an
31 employee or agent of any public or private organization or
32 institution.

33 (26) "Unfounded" means the determination following an
34 investigation by the department that available information indicates
35 that, more likely than not, child abuse or neglect did not occur, or
36 that there is insufficient evidence for the department to determine
37 whether the alleged child abuse did or did not occur.

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