

SENATE BILL REPORT

SHB 2684

As Reported By Senate Committee On:
Law & Justice, February 22, 1996

Title: An act relating to domestic relations.

Brief Description: Prescribing sanctions for false allegations of abuse in custody, visitation, or residential schedule disputes.

Sponsors: House Committee on Law & Justice (originally sponsored by Representatives Wolfe, Lambert, Carrell, Mitchell, Sheahan, Patterson, Morris, Cooke, Scott, Dickerson, Backlund and Thompson).

Brief History:

Committee Activity: Law & Justice: 2/21/96 [DPA].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass as amended.

Signed by Senators Smith, Chair; Fairley, Vice Chair; Goings, Hargrove, Haugen, Johnson, Long, McCaslin, Quigley, Roach and Schow.

Staff: Susan Carlson (786-7418)

Background: When a court enters a decree for the dissolution of marriage or legal separation, the court must enter a parenting plan arrangement to provide for the physical care of any minor child and set forth the authority and responsibilities of each parent. The parenting plan must specify a dispute resolution process, the allocation of decision-making authority between the parents, and a residential schedule specifying the primary residential parent and the time the child spends with each parent.

In adopting a permanent parenting plan, the court must limit the residential time a parent may have with a child if the court finds that the parent has abandoned the child, has engaged in a pattern of physical, sexual, or emotional abuse of a child, or has engaged in acts of domestic violence. In addition, the court may limit a parent's residential time with the child if the court finds that the parent engaged in abusive use of conflict which creates the danger of serious damage to the child's psychological development.

A person may be guilty of perjury or false swearing if the person makes, under oath, a materially false statement that the person knows is false. Prosecutions for perjury or false swearing are rare.

Summary of Amended Bill: A court must sanction a parent involved in a custody or residential schedule dispute who intentionally and falsely accuses the other parent of physical or sexual abuse of the child or a child's sibling if the court finds by clear, cogent and convincing evidence that (1) the allegation was false; (2) the parent making the allegation

knew that it was false; and (3) the parent made the allegation to influence the court's decision regarding custody or the residential or visitation schedule with the child. If the court finds that the parent made a false allegation of abuse, the court must order the parent to pay the accused parent all court costs and reasonable attorneys' fees incurred to defend against the false allegation and a civil penalty of not less than \$500.

The court must also impose these sanctions against a parent if the court finds by clear, cogent and convincing evidence that the parent induced a relative or friend testifying on behalf of the parent to make a false allegation of physical or sexual abuse against the other parent to influence the court regarding custody or the residential schedule of the child. This does not apply to officials who investigated the case, such as guardians ad litem or medical or law enforcement professionals.

The court may find that making a false allegation of abuse constitutes an abusive use of conflict by the parent making the allegation, which may warrant the limitation of the parent's residential time with the child.

Sanctions for making a false allegation may be imposed in any proceeding involving the dissolution of marriage, nonparental actions for child custody, and paternity actions. The imposition of a penalty for making a false allegation of abuse does not preclude the prosecution of the person for making a false report of abuse under RCW 26.44.060.

Amended Bill Compared to Substitute Bill: The substitute bill required the court to find the parent knew the allegation was false and that it was made in bad faith. The amendment removes the requirement to show bad faith.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: False allegations are costly to defend. This bill will discourage parents from making false allegations and provide clear sanctions when the court finds a false allegation has been made.

Testimony Against: The bill would cause little or no reduction in false allegations and could have a chilling effect on reports of abuse.

Testified: Representative Wolfe, original prime sponsor (pro); Representative Lambert, sponsor (pro); Representative Patterson, sponsor (pro); Representative Morris, sponsor (pro); Representative Carrell, sponsor (pro); Michelle Delo, WA Families for Noncustodial Rights (pro); Don Webb (pro); David Law, King County Bar Assn. (con); Seth Dawson, Common Ground for Children/Children's Alliance (con).