

HOUSE BILL REPORT

ESSB 5922

As Reported by House Committee On:
Children & Family Services

Title: An act relating to investigations of child abuse or neglect.

Brief Description: Changing procedures for investigations of child abuse or neglect.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Stevens, Hargrove, Roach, Schmidt, Zarelli, Carrell and Finkbeiner).

Brief History:

Committee Activity:

Children & Family Services: 3/28/05, 3/31/05 [DPA].

Brief Summary of Engrossed Substitute Bill
(As Amended by House Committee)

- Requires the Department of Social and Health Services (DSHS) or law enforcement to notify an individual of the complaints and allegations against him or her at the initial point of contact, unless the notification will jeopardize the safety or protection of the child or the course of the investigation.
- Requires the DSHS to train caseworkers regarding the legal duties of the Department.
- Changes the definitions of "abuse or neglect" and "negligent treatment or maltreatment" of a child to include language pertaining to chronic neglect for the purposes of an investigation of child abuse or neglect.
- Permits the DSHS to offer voluntary services to a parent to correct the deficiencies that placed the child at risk for child abuse or neglect and permits the DSHS to file a dependency petition if a parent fails to comply with treatment.
- Requires that in-home placement of a dependent child be contingent on the parent's compliance with the case plan and court order.

HOUSE COMMITTEE ON CHILDREN & FAMILY SERVICES

Majority Report: Do pass as amended. Signed by 5 members: Representatives Kagi, Chair; Roberts, Vice Chair; Darneille, Dickerson and Pettigrew.

Minority Report: Do not pass. Signed by 4 members: Representatives Hinkle, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Dunn and Haler.

Staff: Sonja Hallum (786-7092).

Background:

The Department of Social and Health Services (DSHS) has the responsibility to investigate allegations of child abuse or neglect. The DSHS must investigate complaints of any recent act, or failure to act, on the part of a parent or caretaker that results in death, serious physical or emotional harm, sexual abuse or exploitation, or that presents an imminent risk of serious harm to a child.

A person who is the subject of the investigation by the DSHS is entitled to constitutional protections, as well as state and federal statutory protections. In the 2003 amendments to the Child Abuse Prevention and Treatment Act (CAPTA) the federal statutes require states to enact state laws that include the following:

- (1) provisions and procedures to require that a representative of the child protective services agency shall, at the initial time of contact with the individual subject to a child abuse and neglect investigation, advise the individual of the complaints or allegations made against the individual, in a manner that is consistent with laws protecting the rights of the informant; and
- (2) provisions addressing the training of representatives of the child protective services system regarding the legal duties of the representatives.

In Washington, when the DSHS investigates reports of child abuse or neglect, the DSHS is required by statute to notify the alleged perpetrator of the allegations at the earliest possible point in the investigation that will not jeopardize the safety and protection of the child or the investigation process. Additionally, the parents are entitled to written notice of the allegations made against them and their rights.

The DSHS is also required to maintain appropriate confidentiality of persons making the report of child abuse or neglect.

Based on findings of the investigation, the DSHS is required to offer services to a family and to bring the situation to the attention of the appropriate court or community agency, including law enforcement if a crime may have been committed against a child.

If the investigation results in allegations of abandonment, abuse or neglect, or no parent who is capable of caring for a child, the DSHS may file a dependency petition with the court. If the court finds the statutory requirements for a dependency have been met, the court will find the child to be a dependent of the state.

Summary of Amended Bill:

The DSHS must notify an individual who is the subject of an abuse or neglect investigation of complaints and allegations against the individual at the initial point of contact, unless such notice will jeopardize the safety or protection of the child or the course of the investigation. The notice given to the individual must be consistent with the laws protecting the rights of persons making the complaints or allegations.

The DSHS is required to train caseworkers in the legal duties of the agency.

The duty of the DSHS to investigate reports of child abuse or neglect is clarified to require that the DSHS conduct an investigation when the alleged perpetrator is the guardian or legal custodian of the child, a member of the household, or other caretaker of the child.

The definition of "abuse or neglect" is changed to include the negligent treatment or maltreatment of a child by the person responsible for caring for the child under circumstances which cause harm, or present a substantial threat of harm, to the child's health, safety, or welfare.

The definition of "negligent treatment or maltreatment" is changed to include the failure to act, or the cumulative effects of a pattern of conduct, behavior, or inaction that clearly demonstrates a serious disregard of consequences of such magnitude as to cause harm to or present a substantial threat of harm to the child's physical, mental or cognitive development.

When an investigation by the DSHS results in a determination that action must be taken to protect a child from negligent treatment or maltreatment, the DSHS may enter into a voluntary agreement with the parents to correct the deficiencies that are placing the child at risk. If the DSHS finds that the parents are available and willing to participate on a voluntary basis with treatment, the DSHS may agree that the child remain in the home pending the completion of such services and treatment. If the parents refuse to accept, or fail to obtain, appropriate treatment or services, the DSHS may file a dependency petition.

If a dependent child is ordered to be returned home, the in-home placement is contingent on the cooperation and compliance of the parent in services, the case plan, and court order. The failure of the parent to comply with the services, case plan, or court order may be grounds for removal of the child from the parent's home.

The DSHS is required to report to the Legislature on the implementation of the act by December 1, 2006.

The short title of the bill is the "Justice and Raiden Act".

Amended Bill Compared to Engrossed Substitute Bill:

The amended bill changes the definitions of "child abuse or neglect" and "negligent treatment or maltreatment" to include chronic neglect situations.

The duty of the DSHS is clarified to permit the DSHS to offer voluntary services to parents when the DSHS investigation results in a determination that the child is at risk of "negligent

treatment or maltreatment" rather than when the child is at risk of the broader term of "abuse and neglect."

The requirement is added that when the court orders a dependent child be returned to, or remain in, the child's home the in-home placement is contingent upon the parent's compliance with the services, case plan and court order. The parent's noncompliance with the services, case plan, or court order may be grounds for removal of the child from the home, subject to review by the court.

The amended bill adds the reporting requirement, effective date, and short title.

Appropriation: None.

Fiscal Note: Requested on March 31, 2005.

Effective Date of Amended Bill: The bill contains an emergency clause and takes effect on January 1, 2006.

Testimony For: (Engrossed substitute bill) This was brought to my attention by a constituent who is concerned about what is happening at the federal level. There was an amendment added in committee that should be changed to bring the language back to the original bill. The piece that requires training of caseworkers was left out of the Senate bill. This bill would help get cases moved along more quickly to get to the cases that need to be addressed. We are concerned about the language "unless it jeopardized the investigation" becoming a loophole. This bill adds strength to the due process that is already provided.

Testimony Against: None.

Persons Testifying: Senator Stevens, prime sponsor; and DiAnna Brannan, Christian Home School Network.

Persons Signed In To Testify But Not Testifying: None.