

SENATE BILL REPORT

ESSB 5922

As Passed Senate, March 14, 2005

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: Human Services & Corrections: 2/21/05, 2/24/05 [DPS].

Passed Senate: 3/14/05, 42-6.

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 5922 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Brandland, Carrell and McAuliffe.

Staff: Kiki Keizer (786-7430)

Background: Current law requires certain persons to report suspected child abuse and neglect to law enforcement officials or to the Department of Social and Health Services (DSHS).

The law also provides that all citizens, including parents, must be afforded due process when agencies are investigating allegations of child abuse and neglect. The legislature has found that the protection of children remains the priority of the legislature and that this protection includes protecting the family unit from unnecessary disruption. For this reason, at the earliest possible point in the investigation that will not jeopardize the safety and protection of the child or the investigation process, the alleged perpetrator of child abuse and neglect must be notified of the allegations of abuse or neglect against him or her.

Current law allows the DSHS or law enforcement to take a child into custody without a court order, based upon probable cause to believe that the child has been abused or neglected and would either be injured or could not be taken into custody if it was necessary to get a court order.

When the DSHS completes an investigation of a child abuse or neglect report, it must notify the alleged perpetrator of the report and the department's investigative findings. In cases involving founded allegations of child abuse or neglect, the notice must include additional information, such as how to appeal the DSHS's findings.

Summary of Bill: If a parent is the subject of an abuse and neglect investigation, then the personnel of the DSHS or law enforcement must notify him or her, at the initial point of

contact, of complaints and allegations against him or her, unless such notice will jeopardize the safety or protection of the child or the course of the investigation.

The DSHS must train all of its personnel who investigate allegations of abuse and neglect on the legal duties of the DSHS in conducting such investigations.

An intent section is added, stating the legislature's intent that the DSHS and the justice system intervene in cases of chronic neglect, where the well-being of a child is at risk.

"Abuse or neglect" and "negligent treatment or maltreatment" in the context of child abuse and neglect are redefined. The definition of "negligent treatment or maltreatment," in particular, contemplates inclusion of a parent's substance abuse as an important factor in determining whether negligent treatment or maltreatment exists. Poverty, homelessness, or witnessing domestic violence against another person do not constitute negligent treatment, in and of themselves.

If the DSHS has determined that a child has been subject to or is at risk of negligent treatment or maltreatment, then the DSHS may offer services to the parent of that child. In cases in which the DSHS has offered such services, and the parent refuses to accept or fails to obtain or to complete such treatment or services, the DSHS may initiate a dependency proceeding on the basis that the negligent treatment or maltreatment by the parent. Again, evidence of a parent's substance abuse is to be considered in determining whether initiating a dependency proceeding is appropriate. There is no entitlement to services or financial assistance in paying for services or to create judicial authority to order provision of services if the services are unavailable or unsuitable or if the child or family is not eligible for such services.

In dependency cases, a court's order to return a child home or to allow a child to remain at home is made contingent upon the compliance of the parents with court orders related to the care and supervision of the child, including compliance by the parents with the DSHS's case plan and the continued participation of the parents in remedial services, if applicable. Grounds for removal of the child may include a parent's noncompliance with the court order or agency case plan; the parent's inability, unwillingness, or failure to participate in available services or treatment for themselves or the child; or failure to successfully and substantially complete available services or treatment for themselves or the child.

The chapter on child welfare services is amended to contemplate investigations by child welfare workers of reports of child abuse and neglect, as newly defined in the chapter on child abuse.

A provision is added, stating that the legislature recognizes that the fiscal and workload impact of this act may not be fully determined until after it is implemented and that such impact may further be affected by the funding or availability of community-based prevention and remedial services. For that reason, the DSHS must report on the implementation of this act to the appropriate legislative committees and the Governor by January 1, 2007. That report must contain certain components set out in the bill.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Testimony For: The bill is intended to implement provisions of federal law. There have been cases where parents have not been informed of abuse and neglect allegations against them at the initial point of contact. Social service workers should be trained to protect parents' Fourth Amendment rights.

Testimony Against: None.

Who Testified: PRO: DiAnna Brannan, Christian Home School Network.