

HB 3148-S - DIGEST

(DIGEST OF PROPOSED 1ST SUBSTITUTE)

Finds that judicial interpretation of child abuse investigation statutes has imposed potentially irreconcilable duties on the department of social and health services and governmental entities that are obligated to investigate child abuse and neglect referrals. Courts have ruled that investigators of child abuse allegations have the obligation to protect children by removing them from unsafe homes but also have ruled that these same statutes establish an equal duty to protect the family unit, even where the parent is the alleged abuser.

Finds that concerns about tort liability arising from these conflicting duties impair investigators' ability to perform their statutory obligations. While recognizing the rights of parents and the importance of the family unit, the legislature finds that the paramount purpose of chapter 26.44 RCW is to benefit children. When the child's interests of basic nurture, physical and mental health, and safety conflict with the parents' interests, the interests of the child should prevail. In conducting investigations under this chapter, appropriate placement of the child during or immediately after the investigation shall be the department's paramount concern.

Declares that the legislature expressly intends to: (1) Overrule *Tyner v. DSHS* and other cases in which the courts have held that this chapter creates an implied right of action for parents or other caretakers who are alleged abusers;

(2) Codify the portions of the holdings in *M.W. v. DSHS* and *Roberson v. Perez* that tort liability arising out of this chapter is confined to the initial placement decision and not the manner in which the investigation was conducted;

(3) Have the interests of the parents protected through the judicial review and other procedures established pursuant to RCW 26.44.100 through 26.44.125 and chapter 13.34 RCW.

Provides that governmental entities, and their officers, agents, employees, and volunteers, are not liable in tort to alleged perpetrators of abuse or neglect for acts or omissions in investigation of reports of child abuse under chapter 26.44 RCW.

Declares that the duty to conduct a reasonable investigation of child abuse or neglect upon a referral runs only to children who are the subject of a referral under chapter 26.44 RCW and is limited to the duty to act reasonably when making a placement decision during or immediately following the investigation.