

HOUSE BILL REPORT

EHB 2509

As Passed House:
February 13, 2018

Title: An act relating to mandatory reporting of child abuse and neglect.

Brief Description: Concerning mandatory reporting of child abuse and neglect.

Sponsors: Representatives Hayes, Smith and Johnson.

Brief History:

Committee Activity:

Early Learning & Human Services: 1/23/18, 1/26/18 [DP].

Floor Activity:

Passed House: 2/13/18, 98-0.

Brief Summary of Engrossed Bill

- Decreases the criminal penalty for Knowingly Failing to Make, or Knowingly Failing to Cause to be Made, a Mandatory Report of Child Abuse or Neglect from a gross misdemeanor to a misdemeanor.
- Creates a crime of Obstruction for any person who knowingly obstructs a mandatory reporter from making a report, and classifies the crime of obstruction as a gross misdemeanor.
- Creates a civil infraction of \$250 that may be issued to a mandatory reporter of child abuse or neglect who fails to make, or fails to cause to be made, such reports due to negligence.
- Requires a youth-serving organization to include a signed acknowledgement of the organization's compliance with the mandatory reporter posting law in state contracts.

HOUSE COMMITTEE ON EARLY LEARNING & HUMAN SERVICES

Majority Report: Do pass. Signed by 12 members: Representatives Kagi, Chair; Senn, Vice Chair; Dent, Ranking Minority Member; McCaslin, Assistant Ranking Minority Member; Eslick, Frame, Goodman, Griffey, Kilduff, Lovick, Muri and Ortiz-Self.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Minority Report: Do not pass. Signed by 1 member: Representative Klippert.

Staff: Sydney Sullivan (786-7291).

Background:

Mandatory Reporting Laws and Offenses.

Mandatory reporting laws require certain people to report suspected child abuse or neglect to the Department of Social and Health Services (DSHS) or law enforcement, when a reporter has reasonable cause to believe that a child has suffered abuse or neglect.

People designated as mandatory reporters are:

- any practitioner;
- county coroner;
- medical examiner;
- law enforcement officer;
- professional school personnel;
- registered or licensed nurse;
- social service counselor;
- psychologist;
- pharmacist;
- employee of the Department of Early Learning;
- licensed or certified child care providers or their employees;
- employee of the DSHS;
- juvenile probation officer;
- placement and liaison specialist;
- responsible living skills program staff;
- HOPE Center staff;
- state family and children's ombuds or any volunteer in the Office of the Family & Children's Ombud;
- Department of Corrections personnel;
- guardian ad litem;
- court appointed special advocates;
- any person in an official supervisory capacity with a profit or nonprofit organization;
- administrative, academic, or athletic department employees of institutions of higher learning; and
- any adult who has reasonable cause to believe that a child who resides with the adult is a victim of abuse or neglect.

Additionally, any person who has reason to believe that child abuse or neglect has occurred may report that information.

Upon having reasonable cause to believe a child has suffered abuse or neglect, a mandated reporter must make a report within 48 hours. When any person is required to make a report, or cause a report to be made, and knowingly fails to make, or fails to cause such a report to be made, that person is guilty of a gross misdemeanor. A gross misdemeanor must be proved beyond a reasonable doubt and is punishable by a fine of up to \$5,000 and/or imprisonment in a county jail of up to 364 days.

Mandatory Reporter Posting Law.

Any organization that includes employees or volunteers subject to mandatory reporting requirements must clearly display in a common area a poster that includes:

- who is required to report child abuse and neglect;
- the standard of knowledge to justify a report;
- the definition of reportable crimes;
- where to report suspected child abuse and neglect; and
- what should be included in a report and the appropriate timing.

Summary of Engrossed Bill:

Mandatory Reporting Laws and Offenses.

The crime of Knowingly Failing to Make, or Knowingly Failing to Cause to be Made, a Mandatory Report of Child Abuse or Neglect is classified as a misdemeanor. Any person who obstructs the duty of a mandatory reporter to make such reports is guilty of the crime of Obstruction, which is classified as a gross misdemeanor. Any person who is required to make, or cause to be made, a report pursuant to mandatory reporting laws, and fails to make, or cause to be made, such reports due to negligence may be issued a civil infraction of \$250. Civil infractions are noncriminal offenses that must be proved by a preponderance of the evidence.

Mandatory Reporter Posting Law.

Requires a youth-serving organization to include a signed acknowledgement of the organization's compliance with the mandatory reporter posting law in state contracts.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect on July 1, 2018.

Staff Summary of Public Testimony:

(In support) In the past 10 years, there have been eight or 10 cases brought against mandatory reporters for failing to report. A recent report found that 40 percent of professionals who qualify as mandatory reporters did not make a report when they had reasonable cause to believe child abuse or neglect occurred. The main goal of mandatory reporting laws is to end abuse and neglect of children, but ending abuse and neglect cannot happen when mandatory reporters do not report.

Detectives, law enforcement, and prosecutors are tired of not being able to hold mandatory reporters accountable when they do not report because the current penalty of a gross misdemeanor for not reporting has too high a burden of proof. The civil infraction this bill establishes will allow for prosecutors to successfully charge mandatory reporters who do not report when they should because the civil infraction has a lower burden of proof.

(Opposed) None.

Persons Testifying: Byron Manering, Brigid Collins House and Children's Advocacy Centers of Washington; Rich Weyrich, Washington Association of Prosecuting Attorneys and Skagit County Prosecuting Attorney's Office; and John Snaza, Thurston County Sheriff's Office.

Persons Signed In To Testify But Not Testifying: None.