
SUBSTITUTE HOUSE BILL 2791

State of Washington

65th Legislature

2018 Regular Session

By House Judiciary (originally sponsored by Representatives Kilduff, Senn, and Hayes)

READ FIRST TIME 02/02/18.

1 AN ACT Relating to faith-based exemptions regarding criminal
2 mistreatment of children and vulnerable adults; amending RCW
3 9A.42.005, 26.44.020, and 26.44.020; providing an effective date; and
4 providing an expiration date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 9A.42.005 and 1997 c 392 s 507 are each amended to
7 read as follows:

8 The legislature finds that there is a significant need to protect
9 children and dependent persons, including frail elder and vulnerable
10 adults, from abuse and neglect by their parents, by persons entrusted
11 with their physical custody, or by persons employed to provide them
12 with the basic necessities of life. The legislature further finds
13 that such abuse and neglect often takes the forms of either
14 withholding from them the basic necessities of life, including food,
15 water, shelter, clothing, and health care, or abandoning them, or
16 both. Therefore, it is the intent of the legislature that criminal
17 penalties be imposed on those guilty of such abuse or neglect. ((It
18 is the intent of the legislature that a person who, in good faith, is
19 furnished Christian Science treatment by a duly accredited Christian
20 Science practitioner in lieu of medical care is not considered
21 deprived of medically necessary health care or abandoned.))

1 Prosecutions under this chapter shall be consistent with the rules of
2 evidence, including hearsay, under law.

3 **Sec. 2.** RCW 26.44.020 and 2012 c 259 s 1 are each amended to
4 read as follows:

5 The definitions in this section apply throughout this chapter
6 unless the context clearly requires otherwise.

7 (1) "Abuse or neglect" means sexual abuse, sexual exploitation,
8 or injury of a child by any person under circumstances which cause
9 harm to the child's health, welfare, or safety, excluding conduct
10 permitted under RCW 9A.16.100; or the negligent treatment or
11 maltreatment of a child by a person responsible for or providing care
12 to the child. An abused child is a child who has been subjected to
13 child abuse or neglect as defined in this section.

14 (2) "Child" or "children" means any person under the age of
15 eighteen years of age.

16 (3) "Child protective services" means those services provided by
17 the department designed to protect children from child abuse and
18 neglect and safeguard such children from future abuse and neglect,
19 and conduct investigations of child abuse and neglect reports.
20 Investigations may be conducted regardless of the location of the
21 alleged abuse or neglect. Child protective services includes referral
22 to services to ameliorate conditions that endanger the welfare of
23 children, the coordination of necessary programs and services
24 relevant to the prevention, intervention, and treatment of child
25 abuse and neglect, and services to children to ensure that each child
26 has a permanent home. In determining whether protective services
27 should be provided, the department shall not decline to provide such
28 services solely because of the child's unwillingness or developmental
29 inability to describe the nature and severity of the abuse or
30 neglect.

31 (4) "Child protective services section" means the child
32 protective services section of the department.

33 (5) "Children's advocacy center" means a child-focused facility
34 in good standing with the state chapter for children's advocacy
35 centers and that coordinates a multidisciplinary process for the
36 investigation, prosecution, and treatment of sexual and other types
37 of child abuse. Children's advocacy centers provide a location for
38 forensic interviews and coordinate access to services such as, but
39 not limited to, medical evaluations, advocacy, therapy, and case

1 review by multidisciplinary teams within the context of county
2 protocols as defined in RCW 26.44.180 and 26.44.185.

3 (6) "Clergy" means any regularly licensed or ordained minister,
4 priest, or rabbi of any church or religious denomination, whether
5 acting in an individual capacity or as an employee or agent of any
6 public or private organization or institution.

7 (7) "Court" means the superior court of the state of Washington,
8 juvenile department.

9 (8) "Department" means the state department of social and health
10 services.

11 (9) "Family assessment" means a comprehensive assessment of child
12 safety, risk of subsequent child abuse or neglect, and family
13 strengths and needs that is applied to a child abuse or neglect
14 report. Family assessment does not include a determination as to
15 whether child abuse or neglect occurred, but does determine the need
16 for services to address the safety of the child and the risk of
17 subsequent maltreatment.

18 (10) "Family assessment response" means a way of responding to
19 certain reports of child abuse or neglect made under this chapter
20 using a differential response approach to child protective services.
21 The family assessment response shall focus on the safety of the
22 child, the integrity and preservation of the family, and shall assess
23 the status of the child and the family in terms of risk of abuse and
24 neglect including the parent's or guardian's or other caretaker's
25 capacity and willingness to protect the child and, if necessary, plan
26 and arrange the provision of services to reduce the risk and
27 otherwise support the family. No one is named as a perpetrator, and
28 no investigative finding is entered in the record as a result of a
29 family assessment.

30 (11) "Founded" means the determination following an investigation
31 by the department that, based on available information, it is more
32 likely than not that child abuse or neglect did occur.

33 (12) "Inconclusive" means the determination following an
34 investigation by the department, prior to October 1, 2008, that based
35 on available information a decision cannot be made that more likely
36 than not, child abuse or neglect did or did not occur.

37 (13) "Institution" means a private or public hospital or any
38 other facility providing medical diagnosis, treatment, or care.

1 (14) "Law enforcement agency" means the police department, the
2 prosecuting attorney, the state patrol, the director of public
3 safety, or the office of the sheriff.

4 (15) "Malice" or "maliciously" means an intent, wish, or design
5 to intimidate, annoy, or injure another person. Such malice may be
6 inferred from an act done in willful disregard of the rights of
7 another, or an act wrongfully done without just cause or excuse, or
8 an act or omission of duty betraying a willful disregard of social
9 duty.

10 (16) "Negligent treatment or maltreatment" means an act or a
11 failure to act, or the cumulative effects of a pattern of conduct,
12 behavior, or inaction, that evidences a serious disregard of
13 consequences of such magnitude as to constitute a clear and present
14 danger to a child's health, welfare, or safety, including but not
15 limited to conduct prohibited under RCW 9A.42.100. When considering
16 whether a clear and present danger exists, evidence of a parent's
17 substance abuse as a contributing factor to negligent treatment or
18 maltreatment shall be given great weight. The fact that siblings
19 share a bedroom is not, in and of itself, negligent treatment or
20 maltreatment. Poverty, homelessness, or exposure to domestic violence
21 as defined in RCW 26.50.010 that is perpetrated against someone other
22 than the child does not constitute negligent treatment or
23 maltreatment in and of itself. Under this chapter, health care
24 decisions made in reliance on faith-based practices do not in and of
25 themselves constitute negligent treatment or maltreatment unless any
26 such decision poses a clear and present danger to the health,
27 welfare, or safety of the child.

28 (17) "Pharmacist" means any registered pharmacist under chapter
29 18.64 RCW, whether acting in an individual capacity or as an employee
30 or agent of any public or private organization or institution.

31 (18) "Practitioner of the healing arts" or "practitioner" means a
32 person licensed by this state to practice podiatric medicine and
33 surgery, optometry, chiropractic, nursing, dentistry, osteopathic
34 medicine and surgery, or medicine and surgery or to provide other
35 health services. The term "practitioner" includes a duly accredited
36 Christian Science practitioner. ~~((A person who is being furnished
37 Christian Science treatment by a duly accredited Christian Science
38 practitioner will not be considered, for that reason alone, a
39 neglected person for the purposes of this chapter.))~~

1 (19) "Professional school personnel" include, but are not limited
2 to, teachers, counselors, administrators, child care facility
3 personnel, and school nurses.

4 (20) "Psychologist" means any person licensed to practice
5 psychology under chapter 18.83 RCW, whether acting in an individual
6 capacity or as an employee or agent of any public or private
7 organization or institution.

8 (21) "Screened-out report" means a report of alleged child abuse
9 or neglect that the department has determined does not rise to the
10 level of a credible report of abuse or neglect and is not referred
11 for investigation.

12 (22) "Sexual exploitation" includes: (a) Allowing, permitting, or
13 encouraging a child to engage in prostitution by any person; or (b)
14 allowing, permitting, encouraging, or engaging in the obscene or
15 pornographic photographing, filming, or depicting of a child by any
16 person.

17 (23) "Sexually aggressive youth" means a child who is defined in
18 RCW 74.13.075(1)(b) as being a sexually aggressive youth.

19 (24) "Social service counselor" means anyone engaged in a
20 professional capacity during the regular course of employment in
21 encouraging or promoting the health, welfare, support, or education
22 of children, or providing social services to adults or families,
23 including mental health, drug and alcohol treatment, and domestic
24 violence programs, whether in an individual capacity, or as an
25 employee or agent of any public or private organization or
26 institution.

27 (25) "Supervising agency" means an agency licensed by the state
28 under RCW 74.15.090 or an Indian tribe under RCW 74.15.190 that has
29 entered into a performance-based contract with the department to
30 provide child welfare services.

31 (26) "Unfounded" means the determination following an
32 investigation by the department that available information indicates
33 that, more likely than not, child abuse or neglect did not occur, or
34 that there is insufficient evidence for the department to determine
35 whether the alleged child abuse did or did not occur.

36 **Sec. 3.** RCW 26.44.020 and 2017 3rd sp.s. c 6 s 321 are each
37 amended to read as follows:

38 The definitions in this section apply throughout this chapter
39 unless the context clearly requires otherwise.

1 (1) "Abuse or neglect" means sexual abuse, sexual exploitation,
2 or injury of a child by any person under circumstances which cause
3 harm to the child's health, welfare, or safety, excluding conduct
4 permitted under RCW 9A.16.100; or the negligent treatment or
5 maltreatment of a child by a person responsible for or providing care
6 to the child. An abused child is a child who has been subjected to
7 child abuse or neglect as defined in this section.

8 (2) "Child" or "children" means any person under the age of
9 eighteen years of age.

10 (3) "Child protective services" means those services provided by
11 the department designed to protect children from child abuse and
12 neglect and safeguard such children from future abuse and neglect,
13 and conduct investigations of child abuse and neglect reports.
14 Investigations may be conducted regardless of the location of the
15 alleged abuse or neglect. Child protective services includes referral
16 to services to ameliorate conditions that endanger the welfare of
17 children, the coordination of necessary programs and services
18 relevant to the prevention, intervention, and treatment of child
19 abuse and neglect, and services to children to ensure that each child
20 has a permanent home. In determining whether protective services
21 should be provided, the department shall not decline to provide such
22 services solely because of the child's unwillingness or developmental
23 inability to describe the nature and severity of the abuse or
24 neglect.

25 (4) "Child protective services section" means the child
26 protective services section of the department.

27 (5) "Children's advocacy center" means a child-focused facility
28 in good standing with the state chapter for children's advocacy
29 centers and that coordinates a multidisciplinary process for the
30 investigation, prosecution, and treatment of sexual and other types
31 of child abuse. Children's advocacy centers provide a location for
32 forensic interviews and coordinate access to services such as, but
33 not limited to, medical evaluations, advocacy, therapy, and case
34 review by multidisciplinary teams within the context of county
35 protocols as defined in RCW 26.44.180 and 26.44.185.

36 (6) "Clergy" means any regularly licensed or ordained minister,
37 priest, or rabbi of any church or religious denomination, whether
38 acting in an individual capacity or as an employee or agent of any
39 public or private organization or institution.

1 (7) "Court" means the superior court of the state of Washington,
2 juvenile department.

3 (8) "Department" means the department of children, youth, and
4 families.

5 (9) "Family assessment" means a comprehensive assessment of child
6 safety, risk of subsequent child abuse or neglect, and family
7 strengths and needs that is applied to a child abuse or neglect
8 report. Family assessment does not include a determination as to
9 whether child abuse or neglect occurred, but does determine the need
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17 the status of the child and the family in terms of risk of abuse and
18 neglect including the parent's or guardian's or other caretaker's
19 capacity and willingness to protect the child and, if necessary, plan
20 and arrange the provision of services to reduce the risk and
21 otherwise support the family. No one is named as a perpetrator, and
22 no investigative finding is entered in the record as a result of a
23 family assessment.

24 (11) "Founded" means the determination following an investigation
25 by the department that, based on available information, it is more
26 likely than not that child abuse or neglect did occur.

27 (12) "Inconclusive" means the determination following an
28 investigation by the department of social and health services, prior
29 to October 1, 2008, that based on available information a decision
30 cannot be made that more likely than not, child abuse or neglect did
31 or did not occur.

32 (13) "Institution" means a private or public hospital or any
33 other facility providing medical diagnosis, treatment, or care.

34 (14) "Law enforcement agency" means the police department, the
35 prosecuting attorney, the state patrol, the director of public
36 safety, or the office of the sheriff.

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39 inferred from an act done in willful disregard of the rights of
40 another, or an act wrongfully done without just cause or excuse, or

1 an act or omission of duty betraying a willful disregard of social
2 duty.

3 (16) "Negligent treatment or maltreatment" means an act or a
4 failure to act, or the cumulative effects of a pattern of conduct,
5 behavior, or inaction, that evidences a serious disregard of
6 consequences of such magnitude as to constitute a clear and present
7 danger to a child's health, welfare, or safety, including but not
8 limited to conduct prohibited under RCW 9A.42.100. When considering
9 whether a clear and present danger exists, evidence of a parent's
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11 maltreatment shall be given great weight. The fact that siblings
12 share a bedroom is not, in and of itself, negligent treatment or
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19 such decision poses a clear and present danger to the health,
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25 investigation by the department that available information indicates
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27 that there is insufficient evidence for the department to determine
28 whether the alleged child abuse did or did not occur.

29 NEW SECTION. **Sec. 4.** Section 2 of this act expires July 1,
30 2018.

31 NEW SECTION. **Sec. 5.** Section 3 of this act takes effect July 1,
32 2018.

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