

SENATE BILL REPORT

SB 5361

AS REPORTED BY COMMITTEE ON CHILDREN & FAMILY SERVICES,  
FEBRUARY 20, 1991

**Brief Description:** Protecting children.

**SPONSORS:** Senators Talmadge, L. Smith and Stratton.

**SENATE COMMITTEE ON CHILDREN & FAMILY SERVICES**

**Majority Report:** That Substitute Senate Bill No. 5361 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Roach, Chairman; A. Smith, Vice Chairman; Stratton, and Talmadge.

**Staff:** Lidia Mori (786-7755)

**Hearing Dates:** January 31, 1991; February 20, 1991

**BACKGROUND:**

A high degree of training and skill is required to successfully investigate and prosecute sexual assault cases. In some parts of the state, there is a lack of training in this specialty and a shortage of investigators.

When a person is alleged to have sexually or physically abused a child and that person has unsupervised visitation rights with a minor child, there is no mechanism for law enforcement to temporarily curtail the visitation rights during the investigation of the allegation.

The state is not required to take any action to protect a child who is in the care of a person convicted of a crime against children. In addition, when a person has been convicted of a crime involving physical or sexual abuse of a child and emerges from incarceration, there is no existing procedure to monitor the offender's interactions with children.

Businesses and organizations which provide services to children, developmentally disabled persons, and vulnerable adults can request the disclosure of a prospective employee's record for convictions of certain offenses. In order for the state to obtain the Federal Bureau of Investigation criminal history of an applicant, state law must require all applicants for such a job to be fingerprinted. Federal criminal history records cannot be disseminated to private entities.

**SUMMARY:**

The Criminal Justice Training Commission will offer an annual intensive, week-long training session on investigating and prosecuting sexual assault cases for 20 prosecuting attorneys and deputy prosecuting attorneys. The sexual assault prosecution assistance program is created in the Department of Community Development to assist prosecuting attorneys in the investigation and prosecution of sexual assault and child abuse cases. Ten investigators will be employed and each will be assigned to a prosecuting attorney in areas of the state where law enforcement officers who specialize in investigating child sexual assault or abuse are not available. A statewide committee on sexual assault is established. The Department of Social and Health Services will provide up to one legal advocate per sexual assault program that qualifies for funding under the victims of sexual assault fund.

A law enforcement officer conducting an investigation of an allegation of child sexual or physical abuse may request a temporary restraining order from the court to temporarily halt the visitation rights of the alleged abuser.

The Department of Social and Health Services is directed to remove a child from the care of a parent or guardian that has been convicted of a crime against children and institute a dependency proceeding without delay.

All applicants for employment or volunteer positions involving unsupervised access to children, developmentally disabled persons, or vulnerable adults are required to be fingerprinted. The fingerprints will be sent to the Federal Bureau of Investigation identification division when a business or organization requests a federal background check of an applicant. The federal criminal history record will not be provided to private entities. The governmental agency receiving the records will determine the applicant's suitability for employment.

A person who has completed a sentence for conviction of a crime involving child sexual or physical abuse will be monitored by the Department of Social and Health Services for a period of ten years unless a court waives the monitoring requirement. The monitoring will focus on whether and under what conditions the offender shall be allowed in the presence of a child or children.

**EFFECT OF PROPOSED SUBSTITUTE:**

Law enforcement officers are included in the intensive, week-long training session on investigating and prosecuting sexual assault cases that the Criminal Justice Training Commission is directed to offer annually.

The statewide committee on sexual assault will consist of three prosecuting attorneys, a representative of the Washington Association of Sheriffs and Police Chiefs, two representatives of the Washington Coalition of Sexual Assault

Programs, one representative of the Office of the Attorney General, one representative of the Department of Social and Health Services, and one representative of a victims of sexual assault group.

If a child is in the care of a parent or guardian who has been convicted of a gross misdemeanor or greater against a child, the department is required to request a pickup order from the court immediately, place the child in shelter care, and initiate a dependency proceeding without delay.

The definition of dependency is broadened to include a child whose parent, guardian, or custodian by past acts or omissions demonstrated a serious disregard for the health, safety, or welfare of a child.

Sixty days before the release of an offender who has been convicted of a gross misdemeanor or greater against a child, the Department of Corrections shall advise the Department of Social and Health Services of the impending release and the conditions of the release. The Department of Social and Health Services will also have access to the Department of Corrections' records concerning the offender.

**Appropriation:** \$2,360,000

**Revenue:** none

**Fiscal Note:** available

**TESTIMONY FOR:**

There is currently no specialized training for child sexual assault crimes. Child victims and their parent or guardian need a legal advocate during the period of crisis and during trial. Training for law enforcement officers is needed because if mistakes are made at the investigatory stage, those mistakes cannot be remedied.

**TESTIMONY AGAINST:**

There might be a large fiscal impact on DSHS.

**TESTIFIED:** Mike Patrick, Washington State Council of Police Officers (pro); Larry Fehr, Director, Washington Council on Crime and Delinquency (pro); Martha Wescott, Director, Kitsap Sexual Assault Services (pro); Marlene Watkins, Board Member, Washington Coalition of Sexual Assault Programs (WCSAP) (pro); Mo Fain, King County Sexual Assault Resource Center (pro); Jerry Adair, Deputy Prosecutor, Lewis County (pro); Phillip Vandeman, M.D. (pro); Dan Clem, Kitsap County Prosecuting Attorney (pro); Mike Redman, Washington Association of Prosecuting Attorneys (pro); Reverend Mother JaWest, Saints United Missions of God and Christ; Lee Ann Miller, Assistant Attorney General; Mary Ault, DSHS