

CERTIFICATION OF ENROLLMENT

ENGROSSED HOUSE BILL 1110

53rd Legislature
1993 Regular Session

Passed by the House April 19, 1993
Yeas 96 Nays 0

**Speaker of the
House of Representatives**

Passed by the Senate April 9, 1993
Yeas 44 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Alan Thompson, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED HOUSE BILL 1110** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

ENGROSSED HOUSE BILL 1110

AS AMENDED BY THE SENATE

Passed Legislature - 1993 Regular Session

State of Washington 53rd Legislature 1993 Regular Session

By Representatives Vance, Leonard, Cooke, Sheldon, Basich, Foreman,
Brough, Long, Karahalios, Miller, Brumsickle and Kremen

Read first time 01/15/93. Referred to Committee on Human Services.

1 AN ACT Relating to sexually aggressive youth; amending RCW
2 26.44.020 and 74.13.075; adding a new section to chapter 26.44 RCW; and
3 creating a new section.

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

5 **Sec. 1.** RCW 26.44.020 and 1988 c 142 s 1 are each amended to read
6 as follows:

7 For the purpose of and as used in this chapter:

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

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

13 (3) "Practitioner of the healing arts" or "practitioner" means a
14 person licensed by this state to practice (~~podiatry~~) podiatric
15 medicine and surgery, optometry, chiropractic, nursing, dentistry,
16 osteopathy and surgery, or medicine and surgery or to provide other
17 health services. The term "practitioner" shall include a duly
18 accredited Christian Science practitioner: PROVIDED, HOWEVER, That a
19 person who is being furnished Christian Science treatment by a duly

1 accredited Christian Science practitioner shall not be considered, for
2 that reason alone, a neglected person for the purposes of this chapter.

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

5 (5) "Department" means the state department of social and health
6 services.

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

9 (7) "Professional school personnel" shall include, but not be
10 limited to, teachers, counselors, administrators, child care facility
11 personnel, and school nurses.

12 (8) "Social service counselor" shall mean anyone engaged in a
13 professional capacity during the regular course of employment in
14 encouraging or promoting the health, welfare, support or education of
15 children, or providing social services to adults or families, including
16 mental health, drug and alcohol treatment, and domestic violence
17 programs, whether in an individual capacity, or as an employee or agent
18 of any public or private organization or institution.

19 (9) "Psychologist" shall mean any person licensed to practice
20 psychology under chapter 18.83 RCW, whether acting in an individual
21 capacity or as an employee or agent of any public or private
22 organization or institution.

23 (10) "Pharmacist" shall mean any registered pharmacist under the
24 provisions of chapter 18.64 RCW, whether acting in an individual
25 capacity or as an employee or agent of any public or private
26 organization or institution.

27 (11) "Clergy" shall mean any regularly licensed or ordained
28 minister, priest or rabbi of any church or religious denomination,
29 whether acting in an individual capacity or as an employee or agent of
30 any public or private organization or institution.

31 (12) "Child abuse or neglect" shall mean the injury, sexual abuse,
32 sexual exploitation, or negligent treatment or maltreatment of a child
33 by any person under circumstances which indicate that the child's
34 health, welfare, and safety is harmed thereby. An abused child is a
35 child who has been subjected to child abuse or neglect as defined
36 herein: PROVIDED, That this subsection shall not be construed to
37 authorize interference with child-raising practices, including
38 reasonable parental discipline, which are not proved to be injurious to
39 the child's health, welfare, and safety: AND PROVIDED FURTHER, That

1 nothing in this section shall be used to prohibit the reasonable use of
2 corporal punishment as a means of discipline. No parent or guardian
3 shall be deemed abusive or neglectful solely by reason of the parent's
4 or child's blindness, deafness, developmental disability, or other
5 handicap.

6 (13) "Child protective services section" shall mean the child
7 protective services section of the department.

8 (14) "Adult dependent persons not able to provide for their own
9 protection through the criminal justice system" shall be defined as
10 those persons over the age of eighteen years who have been found
11 legally incompetent pursuant to chapter 11.88 RCW or found disabled to
12 such a degree pursuant to said chapter, that such protection is
13 indicated: PROVIDED, That no persons reporting injury, abuse, or
14 neglect to an adult dependent person as defined herein shall suffer
15 negative consequences if such a judicial determination of incompetency
16 or disability has not taken place and the person reporting believes in
17 good faith that the adult dependent person has been found legally
18 incompetent pursuant to chapter 11.88 RCW.

19 (15) "Sexual exploitation" includes: (a) Allowing, permitting, or
20 encouraging a child to engage in prostitution by any person; or (b)
21 allowing, permitting, encouraging, or engaging in the obscene or
22 pornographic photographing, filming, or depicting of a child for
23 commercial purposes as those acts are defined by state law by any
24 person.

25 (16) "Negligent treatment or maltreatment" means an act or omission
26 which evidences a serious disregard of consequences of such magnitude
27 as to constitute a clear and present danger to the child's health,
28 welfare, and safety.

29 (17) "Developmentally disabled person" means a person who has a
30 disability defined in RCW (~~(71.20.016)~~) 71A.10.020.

31 (18) "Child protective services" means those services provided by
32 the department designed to protect children from child abuse and
33 neglect and safeguard the general welfare of such children and shall
34 include investigations of child abuse and neglect reports, including
35 reports regarding child care centers and family child care homes, and
36 the development, management, and provision of or referral to services
37 to ameliorate conditions which endanger the welfare of children, the
38 coordination of necessary programs and services relevant to the
39 prevention, intervention, and treatment of child abuse and neglect, and

1 services to children to ensure that each child has a permanent home.
2 In determining whether protective services should be provided, the
3 department shall not decline to provide such services solely because of
4 the child's unwillingness or developmental inability to describe the
5 nature and severity of the abuse or neglect.

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

11 (20) "Sexually aggressive youth" means a child who is defined in
12 RCW 74.13.075(1)(b) as being a "sexually aggressive youth."

13 NEW SECTION. **Sec. 2.** A new section is added to chapter 26.44 RCW
14 to read as follows:

15 (1) If a law enforcement agency receives a complaint that alleges
16 that a child under age twelve has committed a sex offense as defined in
17 RCW 9.94A.030, the agency shall investigate the complaint. If the
18 investigation reveals that probable cause exists to believe that the
19 youth may have committed a sex offense and the child is at least eight
20 years of age, the agency shall refer the case to the proper county
21 prosecuting attorney for appropriate action to determine whether the
22 child may be prosecuted or is a sexually aggressive youth. If the
23 child is less than eight years old, the law enforcement agency shall
24 refer the case to the department.

25 (2) If the prosecutor or a judge determines the child cannot be
26 prosecuted for the alleged sex offense because the child is incapable
27 of committing a crime as provided in RCW 9A.04.050 and the prosecutor
28 believes that probable cause exists to believe that the child engaged
29 in acts that would constitute a sex offense, the prosecutor shall refer
30 the child as a sexually aggressive youth to the department. The
31 prosecutor shall provide the department with an affidavit stating that
32 the prosecutor has determined that probable cause exists to believe
33 that the juvenile has committed acts that could be prosecuted as a sex
34 offense but the case is not being prosecuted because the juvenile is
35 incapable of committing a crime as provided in RCW 9A.04.050.

36 (3) The department shall investigate any referrals that allege that
37 a child is a sexually aggressive youth. The purpose of the
38 investigation shall be to determine whether the child is abused or

1 neglected, as defined in this chapter, and whether the child or the
2 child's parents are in need of services or treatment. The department
3 may offer appropriate available services and treatment to a sexually
4 aggressive youth and his or her parents or legal guardians as provided
5 in RCW 74.13.075 and may refer the child and his or her parents to
6 appropriate treatment and services available within the community. If
7 the parents refuse to accept or fail to obtain appropriate treatment or
8 services under circumstances that indicate that the refusal or failure
9 is child abuse or neglect, as defined in this chapter, the department
10 may pursue a dependency action as provided in chapter 13.34 RCW.

11 (4) Nothing in this section shall affect the responsibility of a
12 law enforcement agency to report incidents of abuse or neglect as
13 required in RCW 26.44.030(5).

14 **Sec. 3.** RCW 74.13.075 and 1990 c 3 s 305 are each amended to read
15 as follows:

16 (1) For the purposes of funds appropriated for the treatment of
17 (~~at risk juvenile sex offenders, "at risk juvenile sex offenders"~~)
18 sexually aggressive youth, the term "sexually aggressive youth" means
19 those juveniles who:

20 (a) Are in the care and custody of the state (~~who~~) and:

21 (~~(a)~~) (i) Have been abused; and

22 (~~(b)~~) (ii) Have committed a sexually aggressive or other violent
23 act that is sexual in nature; or

24 (~~(c)~~) (b) Cannot be detained under the juvenile justice system
25 due to being under age twelve and incompetent to stand trial for acts
26 that could be prosecuted as sex offenses as defined by RCW 9.94A.030 if
27 the juvenile was over twelve years of age, or competent to stand trial
28 if under twelve years of age.

29 (2) In expending these funds, the department of social and health
30 services shall establish in each region a case review committee to
31 review all cases for which the funds are used. In determining whether
32 to use these funds in a particular case, the committee shall consider:

33 (a) The age of the juvenile;

34 (b) The extent and type of abuse to which the juvenile has been
35 subjected;

36 (c) The juvenile's past conduct;

37 (d) The benefits that can be expected from the treatment; (~~and~~)

38 (e) The cost of the treatment; and

1 (f) The ability of the juvenile's parent or guardian to pay for the
2 treatment.

3 NEW SECTION. **Sec. 4.** The secretary of the department of social
4 and health services is authorized to transfer surplus, unused treatment
5 funds from the civil commitment center operated under chapter 71.09 RCW
6 to the division of children and family services to provide treatment
7 services for sexually aggressive youth.

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