

SENATE BILL REPORT

SB 5839

As Reported By Senate Committee On:
Human Services & Corrections, February 21, 2007

Title: An act relating to nonmandatory reports of child abuse or neglect.

Brief Description: Revising provisions relating to nonmandatory reporting of child abuse or neglect.

Sponsors: Senators Benton, Stevens and Hargrove.

Brief History:

Committee Activity: Human Services & Corrections: 2/13/07, 2/21/07 [DPS].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 5839 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens, Ranking Minority Member; Brandland, Carrell, Marr and McAuliffe.

Staff: Indu Thomas (786-7459)

Background: The Department of Social and Health Services (DSHS) administers Washington's Child Protective Services (CPS). CPS receives referrals from members of the public who suspect that a child is a victim of abuse or neglect. CPS provides services which include 24-hour intake, assessment, emergency intervention, and emergency medical services for accepted referrals.

The concept of mandatory reporting was first enacted in 1971 and required certain persons to report suspected child abuse and neglect. Initially, medical professionals, teachers, social workers, clergy, pharmacists, and DSHS employees were designated as mandatory reporters. Since then, the group of mandatory reporters has been expanded several times. In response to the U.S. Child Abuse Prevention and Treatment Act of 1974, nearly every state established or expanded mandatory reporting. The Washington State Legislature added a category of permissive reporting in the 1975 Legislative Session.

Under current law, mandatory reporters include any practitioner, county coroner, medical examiner, law enforcement officer, professional school personnel, registered or licensed nurse, social service counselor, psychologist, pharmacist, licensed or certified child care provider or their employees, employee of the DSHS, juvenile probation officer, placement and

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liaison specialist, Responsible Living Skills program staff, HOPE center staff, or State Family and Children's Ombudsman or any volunteer in the Ombudsman's office.

Any other person, who has reasonable cause to believe that a child has suffered abuse and neglect, may report the abuse or neglect to CPS or to law enforcement. Reports may be oral or written. Oral reports must be followed up in writing if the investigator requests a written report.

Summary of Bill: Individuals who make a permissive report of child abuse or neglect to CPS are required to submit reports of abuse or neglect in a sworn written statement. If the individual reasonably believes that an emergency exists, the initial report may be oral. Individuals must include the following information in their written report, if it is known:

- 1) the name, address, and age of the child;
- 2) the name and address of the child's parents, stepparents, guardians, or other persons having custody of the child;
- 3) the nature and extent of the alleged injury or injuries;
- 4) the nature and extent of the alleged neglect;
- 5) the nature and extent of the alleged sexual abuse;
- 6) any evidence of previous injuries, including their nature and extent; and
- 7) any other information that may be helpful in establishing the cause of the child's death, injury, or injuries and the identity of the alleged perpetrator or perpetrators.

EFFECT OF CHANGES MADE BY RECOMMENDED SUBSTITUTE AS PASSED COMMITTEE (Human Services & Corrections): The requirement that non-emergent "permissive" reports to CPS be provided as written and sworn statements is eliminated. The term "malicious" is eliminated from the false reporting statute. CPS is required to include a warning statement in any materials relating to the reporting of abuse or neglect. CPS is required to send a certified letter to individuals determined to have made a false report warning that a subsequent false report will be referred to law enforcement for investigation.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: False allegations have a devastating effect on the lives of individuals. As a professional and mandatory reporter a doctor must protect his reputation. A neighbor made a false allegation which resulted in months of process during which they felt like they were guilty until proven innocent. This is not an isolated problem. CPS is used as a pawn by ex-spouses, neighbors and ex-friends. The system must be modified to increase the level of accountability. Written statements can be confirmed and are not just a summary. The burden would be shifted back to the person making the allegation to show that there is a reason to act rather than the other way around.

CON: Malicious reporting is a problem which needs to be addressed. The solution proposed in this bill could result in a chilling effect on referrals and may not address the underlying problem. In Utah the department sends letters out letting individuals who have been found to

have made a false allegation know that they will be referred to law enforcement for criminal investigation and prosecution if it happens again.

Persons Testifying: PRO: Senator Benton, prime sponsor; Judson Threlkeld, citizen.

CON: Cheryl Stephani, Children's Administration.