
ENGROSSED SUBSTITUTE HOUSE BILL 1048

State of Washington

67th Legislature

2022 Regular Session

By House Civil Rights & Judiciary (originally sponsored by Representatives Wicks, Thai, and Gregerson)

READ FIRST TIME 01/24/22.

1 AN ACT Relating to the removal of specific religious references
2 regarding the criminal mistreatment of children and vulnerable adults
3 from a statute; amending RCW 9A.42.005; reenacting and amending RCW
4 26.44.020 and 26.44.020; creating a new section; providing an
5 effective date; and providing an expiration date.

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

7 NEW SECTION. **Sec. 1.** It is the intent of the legislature that
8 the changes proposed in this act neither approve nor disapprove of a
9 particular religious practice, but simply remove a statutory
10 reference that gives rise to constitutional issues by singling out
11 one particular religion. These changes are not intended to express a
12 bias against the practice of religious or spiritual healing, and are
13 intended to clarify that parents and guardians are allowed to rely
14 exclusively on religious healing practices under RCW 26.44.020 unless
15 any such decision poses a clear and present danger to the health,
16 welfare, or safety of the child. Further, the legislature does not
17 intend: (1) To prevent adults, including dependent and vulnerable
18 adults, from making their own voluntary decisions, including
19 decisions to rely on the practice of religious healing in lieu of
20 medical treatment; or (2) to prevent individuals charged with their
21 care from honoring and carrying out their decisions, as recognized in

1 Washington's vulnerable adult abuse law in RCW 74.34.180 and other
2 areas of Washington statutory and case law.

3 **Sec. 2.** RCW 9A.42.005 and 1997 c 392 s 507 are each amended to
4 read as follows:

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

21 **Sec. 3.** RCW 26.44.020 and 2021 c 67 s 3 are each reenacted and
22 amended to read as follows:

23 The definitions in this section apply throughout this chapter
24 unless the context clearly requires otherwise.

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

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

34 (3) "Child forensic interview" means a developmentally sensitive
35 and legally sound method of gathering factual information regarding
36 allegations of child abuse, child neglect, or exposure to violence.
37 This interview is conducted by a competently trained, neutral

1 professional utilizing techniques informed by research and best
2 practice as part of a larger investigative process.

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

18 (5) "Child protective services section" means the child
19 protective services section of the department.

20 (6) "Child who is a candidate for foster care" means a child who
21 the department identifies as being at imminent risk of entering
22 foster care but who can remain safely in the child's home or in a
23 kinship placement as long as services or programs that are necessary
24 to prevent entry of the child into foster care are provided, and
25 includes but is not limited to a child whose adoption or guardianship
26 arrangement is at risk of a disruption or dissolution that would
27 result in a foster care placement. The term includes a child for whom
28 there is reasonable cause to believe that any of the following
29 circumstances exist:

30 (a) The child has been abandoned by the parent as defined in RCW
31 13.34.030 and the child's health, safety, and welfare is seriously
32 endangered as a result;

33 (b) The child has been abused or neglected as defined in this
34 chapter and the child's health, safety, and welfare is seriously
35 endangered as a result;

36 (c) There is no parent capable of meeting the child's needs such
37 that the child is in circumstances that constitute a serious danger
38 to the child's development;

39 (d) The child is otherwise at imminent risk of harm.

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

10 (8) "Clergy" means any regularly licensed or ordained minister,
11 priest, or rabbi of any church or religious denomination, whether
12 acting in an individual capacity or as an employee or agent of any
13 public or private organization or institution.

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

16 (10) "Department" means the department of children, youth, and
17 families.

18 (11) "Experiencing homelessness" means lacking a fixed, regular,
19 and adequate nighttime residence, including circumstances such as
20 sharing the housing of other persons due to loss of housing, economic
21 hardship, fleeing domestic violence, or a similar reason as described
22 in the federal McKinney-Vento homeless assistance act (Title 42
23 U.S.C., chapter 119, subchapter I) as it existed on January 1, 2021.

24 (12) "Family assessment" means a comprehensive assessment of
25 child safety, risk of subsequent child abuse or neglect, and family
26 strengths and needs that is applied to a child abuse or neglect
27 report. Family assessment does not include a determination as to
28 whether child abuse or neglect occurred, but does determine the need
29 for services to address the safety of the child and the risk of
30 subsequent maltreatment.

31 (13) "Family assessment response" means a way of responding to
32 certain reports of child abuse or neglect made under this chapter
33 using a differential response approach to child protective services.
34 The family assessment response shall focus on the safety of the
35 child, the integrity and preservation of the family, and shall assess
36 the status of the child and the family in terms of risk of abuse and
37 neglect including the parent's or guardian's or other caretaker's
38 capacity and willingness to protect the child and, if necessary, plan
39 and arrange the provision of services to reduce the risk and
40 otherwise support the family. No one is named as a perpetrator, and

1 no investigative finding is entered in the record as a result of a
2 family assessment.

3 (14) "Founded" means the determination following an investigation
4 by the department that, based on available information, it is more
5 likely than not that child abuse or neglect did occur.

6 (15) "Inconclusive" means the determination following an
7 investigation by the department of social and health services, prior
8 to October 1, 2008, that based on available information a decision
9 cannot be made that more likely than not, child abuse or neglect did
10 or did not occur.

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

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

16 (18) "Malice" or "maliciously" means an intent, wish, or design
17 to intimidate, annoy, or injure another person. Such malice may be
18 inferred from an act done in willful disregard of the rights of
19 another, or an act wrongfully done without just cause or excuse, or
20 an act or omission of duty betraying a willful disregard of social
21 duty.

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

1 (20) "Pharmacist" means any registered pharmacist under chapter
2 18.64 RCW, whether acting in an individual capacity or as an employee
3 or agent of any public or private organization or institution.

4 (21) "Practitioner of the healing arts" or "practitioner" means a
5 person licensed by this state to practice podiatric medicine and
6 surgery, optometry, chiropractic, nursing, dentistry, osteopathic
7 medicine and surgery, or medicine and surgery or to provide other
8 health services. The term "practitioner" includes a duly accredited
9 Christian Science practitioner. (~~A person who is being furnished
10 Christian Science treatment by a duly accredited Christian Science
11 practitioner will not be considered, for that reason alone, a
12 neglected person for the purposes of this chapter.~~)

13 (22) "Prevention and family services and programs" means specific
14 mental health prevention and treatment services, substance abuse
15 prevention and treatment services, and in-home parent skill-based
16 programs that qualify for federal funding under the federal family
17 first prevention services act, P.L. 115-123. For purposes of this
18 chapter, prevention and family services and programs are not remedial
19 services or family reunification services as described in RCW
20 13.34.025(2).

21 (23) "Professional school personnel" include, but are not limited
22 to, teachers, counselors, administrators, child care facility
23 personnel, and school nurses.

24 (24) "Psychologist" means any person licensed to practice
25 psychology under chapter 18.83 RCW, whether acting in an individual
26 capacity or as an employee or agent of any public or private
27 organization or institution.

28 (25) "Screened-out report" means a report of alleged child abuse
29 or neglect that the department has determined does not rise to the
30 level of a credible report of abuse or neglect and is not referred
31 for investigation.

32 (26) "Sexual exploitation" includes: (a) Allowing, permitting, or
33 encouraging a child to engage in prostitution by any person; or (b)
34 allowing, permitting, encouraging, or engaging in the obscene or
35 pornographic photographing, filming, or depicting of a child by any
36 person.

37 (27) "Sexually aggressive youth" means a child who is defined in
38 RCW 74.13.075(1)(b) as being a sexually aggressive youth.

39 (28) "Social service counselor" means anyone engaged in a
40 professional capacity during the regular course of employment in

1 encouraging or promoting the health, welfare, support, or education
2 of children, or providing social services to adults or families,
3 including mental health, drug and alcohol treatment, and domestic
4 violence programs, whether in an individual capacity, or as an
5 employee or agent of any public or private organization or
6 institution.

7 (29) "Unfounded" means the determination following an
8 investigation by the department that available information indicates
9 that, more likely than not, child abuse or neglect did not occur, or
10 that there is insufficient evidence for the department to determine
11 whether the alleged child abuse did or did not occur.

12 **Sec. 4.** RCW 26.44.020 and 2021 c 215 s 142 and 2021 c 67 s 3 are
13 each reenacted and amended to read as follows:

14 The definitions in this section apply throughout this chapter
15 unless the context clearly requires otherwise.

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

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

25 (3) "Child forensic interview" means a developmentally sensitive
26 and legally sound method of gathering factual information regarding
27 allegations of child abuse, child neglect, or exposure to violence.
28 This interview is conducted by a competently trained, neutral
29 professional utilizing techniques informed by research and best
30 practice as part of a larger investigative process.

31 (4) "Child protective services" means those services provided by
32 the department designed to protect children from child abuse and
33 neglect and safeguard such children from future abuse and neglect,
34 and conduct investigations of child abuse and neglect reports.
35 Investigations may be conducted regardless of the location of the
36 alleged abuse or neglect. Child protective services includes referral
37 to services to ameliorate conditions that endanger the welfare of
38 children, the coordination of necessary programs and services
39 relevant to the prevention, intervention, and treatment of child

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

7 (5) "Child protective services section" means the child
8 protective services section of the department.

9 (6) "Child who is a candidate for foster care" means a child who
10 the department identifies as being at imminent risk of entering
11 foster care but who can remain safely in the child's home or in a
12 kinship placement as long as services or programs that are necessary
13 to prevent entry of the child into foster care are provided, and
14 includes but is not limited to a child whose adoption or guardianship
15 arrangement is at risk of a disruption or dissolution that would
16 result in a foster care placement. The term includes a child for whom
17 there is reasonable cause to believe that any of the following
18 circumstances exist:

19 (a) The child has been abandoned by the parent as defined in RCW
20 13.34.030 and the child's health, safety, and welfare is seriously
21 endangered as a result;

22 (b) The child has been abused or neglected as defined in this
23 chapter and the child's health, safety, and welfare is seriously
24 endangered as a result;

25 (c) There is no parent capable of meeting the child's needs such
26 that the child is in circumstances that constitute a serious danger
27 to the child's development;

28 (d) The child is otherwise at imminent risk of harm.

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

38 (8) "Clergy" means any regularly licensed or ordained minister,
39 priest, or rabbi of any church or religious denomination, whether

1 acting in an individual capacity or as an employee or agent of any
2 public or private organization or institution.

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

5 (10) "Department" means the department of children, youth, and
6 families.

7 (11) "Experiencing homelessness" means lacking a fixed, regular,
8 and adequate nighttime residence, including circumstances such as
9 sharing the housing of other persons due to loss of housing, economic
10 hardship, fleeing domestic violence, or a similar reason as described
11 in the federal McKinney-Vento homeless assistance act (Title 42
12 U.S.C., chapter 119, subchapter I) as it existed on January 1, 2021.

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

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

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

35 (15) "Inconclusive" means the determination following an
36 investigation by the department of social and health services, prior
37 to October 1, 2008, that based on available information a decision
38 cannot be made that more likely than not, child abuse or neglect did
39 or did not occur.

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

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

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

12 (19) "Negligent treatment or maltreatment" means an act or a
13 failure to act, or the cumulative effects of a pattern of conduct,
14 behavior, or inaction, that evidences a serious disregard of
15 consequences of such magnitude as to constitute a clear and present
16 danger to a child's health, welfare, or safety, including but not
17 limited to conduct prohibited under RCW 9A.42.100. When considering
18 whether a clear and present danger exists, evidence of a parent's
19 substance abuse as a contributing factor to negligent treatment or
20 maltreatment shall be given great weight. The fact that siblings
21 share a bedroom is not, in and of itself, negligent treatment or
22 maltreatment. Poverty, experiencing homelessness, or exposure to
23 domestic violence as defined in RCW 7.105.010 that is perpetrated
24 against someone other than the child does not constitute negligent
25 treatment or maltreatment in and of itself. Under this chapter,
26 health care decisions made in reliance on faith-based practices do
27 not constitute negligent treatment or maltreatment unless any such
28 decision poses a clear and present danger to the health, welfare, or
29 safety of the child.

30 (20) "Pharmacist" means any registered pharmacist under chapter
31 18.64 RCW, whether acting in an individual capacity or as an employee
32 or agent of any public or private organization or institution.

33 (21) "Practitioner of the healing arts" or "practitioner" means a
34 person licensed by this state to practice podiatric medicine and
35 surgery, optometry, chiropractic, nursing, dentistry, osteopathic
36 medicine and surgery, or medicine and surgery or to provide other
37 health services. The term "practitioner" includes a duly accredited
38 Christian Science practitioner. (~~A person who is being furnished~~
39 ~~Christian Science treatment by a duly accredited Christian Science~~

1 ~~practitioner will not be considered, for that reason alone, a~~
2 ~~neglected person for the purposes of this chapter.)~~)

3 (22) "Prevention and family services and programs" means specific
4 mental health prevention and treatment services, substance abuse
5 prevention and treatment services, and in-home parent skill-based
6 programs that qualify for federal funding under the federal family
7 first prevention services act, P.L. 115-123. For purposes of this
8 chapter, prevention and family services and programs are not remedial
9 services or family reunification services as described in RCW
10 13.34.025(2).

11 (23) "Professional school personnel" include, but are not limited
12 to, teachers, counselors, administrators, child care facility
13 personnel, and school nurses.

14 (24) "Psychologist" means any person licensed to practice
15 psychology under chapter 18.83 RCW, whether acting in an individual
16 capacity or as an employee or agent of any public or private
17 organization or institution.

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

22 (26) "Sexual exploitation" includes: (a) Allowing, permitting, or
23 encouraging a child to engage in prostitution by any person; or (b)
24 allowing, permitting, encouraging, or engaging in the obscene or
25 pornographic photographing, filming, or depicting of a child by any
26 person.

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

29 (28) "Social service counselor" means anyone engaged in a
30 professional capacity during the regular course of employment in
31 encouraging or promoting the health, welfare, support, or education
32 of children, or providing social services to adults or families,
33 including mental health, drug and alcohol treatment, and domestic
34 violence programs, whether in an individual capacity, or as an
35 employee or agent of any public or private organization or
36 institution.

37 (29) "Unfounded" means the determination following an
38 investigation by the department that available information indicates
39 that, more likely than not, child abuse or neglect did not occur, or

1 that there is insufficient evidence for the department to determine
2 whether the alleged child abuse did or did not occur.

3 NEW SECTION. **Sec. 5.** Section 3 of this act expires July 1,
4 2022.

5 NEW SECTION. **Sec. 6.** Section 4 of this act takes effect July 1,
6 2022.

--- END ---