

SENATE BILL REPORT

SHB 1171

As Reported by Senate Committee On:
Human Services, March 31, 2025

Title: An act relating to exempting attorney higher education employees from mandated reporting of child abuse and neglect as it relates to information gained in the course of providing legal representation to a client.

Brief Description: Exempting attorney higher education employees from certain mandated reporting of child abuse and neglect.

Sponsors: House Committee on Early Learning & Human Services (originally sponsored by Representatives Pollet and Goodman).

Brief History: Passed House: 3/3/25, 95-0.

Committee Activity: Human Services: 3/17/25, 3/31/25 [DPA, w/oRec].

Brief Summary of Amended Bill

- Creates an exception to the mandated reporting requirement regarding suspected child abuse or neglect for an attorney who is employed by a public or private institution of higher education, or an employee working under the direction or supervision of such an attorney, as it relates to the representation of the client.
- States that the Washington Rules of Professional Conduct continue to apply regarding the confidentiality of information including, but not limited to, disclosure to prevent reasonably certain death or substantial bodily harm.

SENATE COMMITTEE ON HUMAN SERVICES

Majority Report: Do pass as amended.

Signed by Senators Wilson, C., Chair; Frame, Vice Chair; Orwall and Warnick.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Minority Report: That it be referred without recommendation.

Signed by Senator Christian, Ranking Member.

Staff: Alison Mendiola (786-7488)

Background: Mandated Reporting. In Washington, mandatory reporting laws require certain people to report child abuse or child neglect, or cause a report to be made to the Department of Children, Youth, and Families (DCYF) or the proper law enforcement agency.

Mandated reporters include:

- county coroners or medical examiners;
- employees of DCYF;
- health practitioners;
- medical examiners;
- registered or licensed nurses;
- law enforcement officers;
- professional school personnel;
- social service counselors;
- psychologists;
- pharmacists;
- licensed or certified child care providers or their employees;
- juvenile probation officers;
- placement and liaison specialists;
- responsible living skills program staff;
- Department of Social and Health Services employees;
- HOPE Center staff;
- the Family and Children's Ombuds (Ombuds), its employees and volunteers;
- host home providers;
- Department of Corrections personnel;
- guardians ad litem;
- court appointed special advocates;
- any person in an official supervisory capacity with a for-profit or nonprofit organization that has reason to believe a person over whom the person exercises supervisory authority has abused or neglected a child;
- administrative, academic, or athletic departmental employees, including student employees, of institutions of higher learning; and
- any adult who has reasonable cause to believe a child who resides with them has suffered severe abuse.

Any other person who has reason to believe child abuse or child neglect has occurred may report this information.

A mandated reporter must report at the first opportunity, but no longer than 48-hours after

there is reasonable cause to believe a child suffered abuse or neglect. The report is to include the identity of the accused, if known. Failing to report suspected child abuse or child neglect within 48-hours is considered a gross misdemeanor.

Attorney-Client Confidentiality. The Rules of Professional Conduct (RPC), adopted by the Washington Supreme Court, establish the ethical obligations for attorneys. A violation of RPC may result in disciplinary action, including suspension and disbarment.

RPC prohibit attorneys from revealing information relating to the representation of a client unless the client gives informed consent or in some other limited circumstances. Some of the other circumstances where an attorney may reveal information relating to the representation of a client include when the lawyer believes it necessary to prevent reasonably certain death or substantial bodily harm, and to prevent the client from committing a crime.

Summary of Amended Bill: As an exception to the mandated reporter requirements of an employee of an institution of higher education, an attorney employed by an institution of higher education, or an employee working under the direction or supervision of such an attorney, is not required to report suspected child abuse or neglect as it relates to the representation of the client.

The Washington RPC continue to apply regarding the confidentiality of information including, but not limited to, disclosure to prevent reasonably certain death or substantial bodily harm.

EFFECT OF HUMAN SERVICES COMMITTEE AMENDMENT(S):

The mandated reporting requirement of employees, including those who are attorneys, at institutions of higher education do not apply to information related to the representation of a client. The Washington Rules of Professional Conduct continue to apply regarding the confidentiality of information including, but not limited to, disclosure to prevent reasonably certain death or substantial bodily harm.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony on Substitute House Bill: *The committee recommended a different version of the bill than what was heard.* PRO: When employees of institutes of higher education became mandated reporters of child abuse and neglect as a

result of the Penn State scandal, it seems to have been an oversight to not exempt attorneys and employees working in law clinics in our state's three law schools as the goal was to protect children who came on to college campuses. The narrow exemption provided in this bill ensures that faculty and students representing clients can maintain full compliance with professional ethical obligations that govern the work of all attorneys licensed in the state. Other states have crafted similarly narrow exceptions.

Legal clinics provide an invaluable experience to law students in that it provides them with real world experience and may even influence their career choice. However, law clinics need to make sure they don't run afoul of the mandated reporter law and may not choose cases that would put attorneys in a position where they would have to violate the attorney-client privilege to report child abuse or neglect. Students miss out as do people who are assisted by the legal clinics, people who would not otherwise be able to afford hiring an attorney.

Third year law students are able to practice law under the supervision of their faculty supervisor in a legal clinic. This means many understaffed prosecutor and public defender offices miss out as well since they can't risk having a law student representing a client. Also, this bill would allow children's attorneys to create a uniquely safe space for young clients to share their complex family situation without the fear of being reported to any authorities or enforcement agencies. The attorney brings agency and power to a child who often feels powerless and unheard. If an attorney or employee is aware of child abuse or neglect outside the representation of a client, they are still mandated reporters.

Persons Testifying: PRO: Representative Gerry Pollet, Prime Sponsor; Paul Holland; Rhea Yo, Legal Counsel for Youth and Children; Aubrey Stahl, Washington Defender Association and Washington Association of Criminal Defense Lawyers.

Persons Signed In To Testify But Not Testifying: No one.