

HOUSE BILL REPORT

HB 2378

As Reported by House Committee On:
Children & Family Services

Title: An act relating to abuse or neglect of children.

Brief Description: Revising the definition of "abuse or neglect."

Sponsors: Representatives Dickerson, Kagi, Tokuda, Chase, Kenney and Schual-Berke.

Brief History:

Committee Activity:

Children & Family Services: 1/31/02, 2/4/02 [DPS].

Brief Summary of Substitute Bill

- Modifies the civil definition of "abuse and neglect" by reducing the number of elements which constitute harm to a child to one, rather than three.
- Modifies the definition for who can be held responsible for harm resulting from negligent treatment or maltreatment from "any person" to "a person legally responsible for or providing care to the child.–"
- Modifies the threshold for intervention in reports of harm to a child resulting from negligent treatment or maltreatment from "is harmed" to "is harmed or is at substantial risk of harm."
- Adds a provision to limitations on the application of abuse and neglect laws stating that the actions of parents or guardians cannot be deemed abusive or neglectful when the alleged abuse or neglect results primarily from the financial inability of the parent or guardian.

HOUSE COMMITTEE ON CHILDREN & FAMILY SERVICES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Tokuda, Chair; Kagi, Vice Chair; Boldt, Ranking Minority Member; Darneille, Dickerson, Miloscia, Morell, Nixon and Orcutt.

Staff: Deborah Frazier (786-7152).

Background:

The Children's Administration of the Department of Social and Health Services (DSHS) states in its draft 2001 annual report that over 77,000 reports of suspected child abuse and neglect were received during the calendar year. This number increased over the previous year's total of 75,000 reports. Of the 77,000 reports in 2001, approximately 42,000 were accepted for investigation.

Reports are categorized by allegation type into neglect, physical abuse, sexual abuse, emotional abuse and other. While the numbers of reports for most of the allegation types have remained relatively stable since 1997, neglect reports have risen.

The Office of the Family and Children's Ombudsman's 2000 and 1999 Annual Reports identified the state's approach to chronic child neglect cases as a major issue of concern. The Ombudsman found that the child protection system is often ineffective in preventing or protecting children from parental neglect that is ongoing and serious.

The Ombudsman noted in both reports that Child Protective Services (CPS) often screens out reports of child neglect without an investigation. The CPS often does not investigate a neglect report despite being aware of a documented pattern of conduct indicating that the child may be at risk. The CPS caseworkers report they feel that they lack a sufficient basis for a legal intervention. The 2000 report states:

"Many caseworkers have told the Ombudsman that they have been advised by their legal counsel (assistant attorneys general or prosecuting attorneys) that clear evidence of a neglectful act resulting in imminent danger is required to justify the filing of a petition in court to compel parental participation in services or remove the child. Consequently, these workers say they feel that until they have such evidence, they have no option but to pursue less aggressive and effective interventions."

Summary of Substitute Bill:

The civil definition of "abuse and neglect" is modified so that the number of elements which constitute harm to a child resulting from injury, sexual abuse or sexual exploitation are reduced to one, rather than three (e.g., "health, welfare **or** safety" vs. "health, welfare **and** safety").

The civil definition of "abuse and neglect" is modified so that the definition for the person who can be held responsible for harm resulting from negligent treatment or maltreatment is narrowed from "any person" to "a person legally responsible for or providing care to the child.— The number of elements which constitute harm to a child resulting from negligent treatment or maltreatment are reduced to one, rather than three. The threshold for intervention in reports of harm to a child resulting from negligent treatment or maltreatment is modified from "is harmed" to "is harmed or is at substantial risk of harm."

The civil definition of "negligent treatment or maltreatment" is modified so that the number of elements which constitute harm to a child resulting from negligent treatment or maltreatment are reduced to one, rather than three.

The limitations on the application of abuse and neglect laws are modified to state that the actions of parents or guardians cannot be deemed abusive or neglectful when the alleged abuse or neglect results primarily from the financial inability of the parent or guardian.

Substitute Bill Compared to Original Bill:

The original bill included a provision that modified the definition of negligent treatment or maltreatment to include a "pattern of behavior.– The substitute restores the current statutory language. The substitute bill also adds a provision to limitations on the application of abuse and neglect laws stating that the actions of parents or guardians cannot be deemed abusive or neglectful when the alleged abuse or neglect results primarily from the financial inability of the parent or guardian.

Appropriation: None.

Fiscal Note: Requested on January 22, 2002.

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

Testimony For: Our frontline social workers and law enforcement officers are working hard and doing their best, but we need to provide them with the legal tools to intervene with these chronically neglecting families. We also need services for these families. We know about the damage this kind of neglect does to children. We can't wait one more year to save children from these desperate situations. We're pretty good at dealing with crimes of commission - if a child has a bruise or welt, the system knows how to respond. We're doing a very poor job with crimes of omission, like neglect. How much longer do these children have to wait? They need our help, and even a month is a long time in the life of a child who is waiting for someone to notice and help.

Testimony Against: None.

(With Concerns) The DSHS supports the concept of this bill, which seeks to address a serious social problem. We have concerns about the cost.

Testified: (In support) Representative Dickerson, prime sponsor; Lois Schipper, Public Health of Seattle-King County; Steve Hassett, Attorney General's Office; Paul Barry, Children's Alliance; Carol Cummings, King County Sheriff's Office; Neil Low, Seattle

Police Department; Lucy Berliner, Harborview Medical Center; Laurie Lippold, Children's Home Society; and Teresa Berg, Pierce County Sheriff's Office.

(Neutral) Mary Meinig, Office of Family and Children Ombudsman.

(With concerns) La Verne Lamoureux and Diana English, Children's Administration, Department of Social and Health Services.