

HOUSE BILL REPORT

HB 1397

As Reported By House Committee On:

Law & Justice

Title: An act relating to false accusations of child abuse or neglect.

Brief Description: Penalizing false accusations of child abuse or neglect.

Sponsors: Representatives Ballasiotes, O'Brien, Delvin, Robertson, McDonald, Sheldon, Hatfield, Zellinsky, Kessler and Sullivan.

Brief History:

Committee Activity:

Law & Justice: 2/25/97, 3/5/97 [DP].

HOUSE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass. Signed by 7 members: Representatives Sheahan, Chairman; McDonald, Vice Chairman; Sterk, Vice Chairman; Carrell; Lambert; Sherstad and Skinner.

Minority Report: Do not pass. Signed by 6 members: Representatives Costa, Ranking Minority Member; Constantine, Assistant Ranking Minority Member; Cody; Kenney; Lantz and Radcliff.

Staff: Edie Adams (786-7180).

Background: The domestic relations title of the Revised Code of Washington (Title 26) governs actions regarding divorce, child support and custody, paternity, child abuse and neglect, domestic violence, and adoption, among others. In many of those actions, the court may establish a parenting plan or enter an order regarding child custody.

In a divorce or legal separation action, the court must limit the residential time a parent may have with a child if the court finds that the parent has abandoned the child, has engaged in a pattern of physical, sexual, or emotional abuse of a child, or has engaged in acts of domestic violence.

A person is guilty of perjury if the person makes a materially false statement that the person knows is false. Perjury is a class B felony if the statement is made under oath during the course of an official proceeding.

Summary of Bill: Three sanctions are established for intentionally making a false allegation of child abuse or neglect during the course of a judicial proceeding conducted under Title 26 of the Revised Code of Washington relating to a parenting plan or child custody.

First, if a court determines that a false allegation was made during a judicial proceeding, the court may impose a monetary penalty against the party who made the false allegation or who induced another person to make the false allegation. The monetary penalty may not exceed \$1,000, and is payable to the person who is falsely accused. In addition, the court may impose reasonable attorneys' fees if the accused incurs attorneys' fees to recover the monetary penalty. A "party" includes a witness, a party, or a party's attorney. The provision does not apply to unemancipated minors.

Second, a person who intentionally makes a false allegation of child abuse or neglect, or induces another person to make a false allegation, during a judicial proceeding under Title 26 relating to a parenting plan or child custody is guilty of a class C felony.

Third, a presumption is created that a parent's residential time with a child should be limited if the court finds that the parent intentionally made false allegations of child abuse or neglect during the proceedings.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: False allegations of child abuse are extremely damaging. Law enforcement officers spend a lot of time and resources on these cases. Even if a person is cleared of the charges, the stigma always remains. Parents can use a false allegation of abuse as a weapon against the accused parent, and this damages the child and wastes valuable resources that could be put towards legitimate abuse cases.

Testimony Against: The bill is not needed. There are currently penalties for persons who make false allegations of child abuse. The bill will have the unintended consequences of increasing litigation, deterring the search for the truth, and further hurting the children. It will inhibit witnesses from raising an abuse issue when they have the best interests of the child in mind and there are legitimate reasons to suspect

abuse. A parent will be reluctant to seek protection for a child because of the threat of criminal prosecution. The sanctions could be used by a parent to threaten another parent in the process.

Testified: Mike Patrick, Washington State Council of Police Officers (pro); Seth Dawson, Common Ground for Children (con); Deborah Ruggles, Washington Coalition of Sexual Assault Programs (con); and Lisa Stone, Northwest Women's Law Center (con).