

SENATE BILL REPORT

SHB 1859

As Reported By Senate Committee On:
Human Services & Corrections, April 1, 1997

Title: An act relating to abuse of children and adult dependent and developmentally disabled persons.

Brief Description: Revising provisions on abuse of children and adult dependent and developmentally disabled persons.

Sponsors: House Committee on Children & Family Services (originally sponsored by Representatives Cooke, Dickerson, Boldt and McDonald).

Brief History:

Committee Activity: Human Services & Corrections: 3/27/97, 4/1/97 [DPA].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: Do pass as amended.

Signed by Senators Long, Chair; Zarelli, Vice Chair; Franklin, Hargrove, Kohl, Schow and Stevens.

Staff: Kyle Thiessen (786-7754)

Background: The Department of Social and Health and Services (DSHS) currently has four classifications of social workers. The lower two classifications are training positions and include very few full-time employees (FTEs). The social worker III position is the classification where the majority of cases are handled. The department has approximately 800 FTEs in this position. Those positions are almost evenly split between Child Protective Services positions and child welfare services positions. The department also has approximately 120 FTEs in the social worker IV position, a supervisory classification. The social workers IV also handle caseloads.

Due to the large number of referrals, the department is presently unable to offer or provide social services to families where there is a low risk of abuse or neglect. Many of these families request services which are reserved for families who present higher risks to their children. It is suggested the department create a statewide "alternative response system" to provide community-based services to low-risk families on a volunteer basis.

In a dependency fact-finding hearing, the court may remove, or continue the present placement of, a child out of the home when it finds there exists a manifest danger that the child will suffer serious abuse or neglect. The legal standard for this determination is by a "preponderance of the evidence." The federal Indian Child Welfare Act requires the court to use the higher legal standard of "by clear and convincing evidence" to justify the removal of a child from his or her home.

A developmentally disabled child may be found to be dependent because the parents are unable to meet the child's special needs. This finding makes the child eligible for certain state and federally funded programs for which the child would not otherwise be eligible. These cases are handled within the Children's Administration. A recent management report on the DSHS suggests the cases could be handled more efficiently within the Division of Developmental Disabilities.

The status as a "juvenile justice or care agency" gives an agency or organization special authority to receive confidential juvenile criminal records and social files. It is suggested that the Legislative Children's Oversight Committee should be classified as a juvenile justice or care agency.

There are currently no restrictions on anonymous reporting of alleged child abuse or neglect.

Currently, many statutes refer to reports of abuse or neglect of children, adult dependent persons and developmentally disabled persons, as if those incidents have been confirmed. It is suggested the statutes should refer to "alleged" reports of abuse or neglect until the reported incidents are confirmed.

Summary of Amended Bill: New Social Worker Classification. There is created in the department the classification of social worker V containing no more than 36 positions. The positions are created to assist in the reduction of the caseloads, to provide training and mentoring for other caseworkers, and to provide hands-on training and assistance in high-risk, complex, or large cases.

The social worker V employees are assigned by the secretary to regions where the average Child Protective Services' caseloads exceed the statewide average. They must carry no more than one-third the average number of cases for social workers in the region to which they are assigned. The social worker V employees are assigned to a region as a task force consisting of at least ten employees. The assignment is time-limited and cannot exceed two years in any one region. Upon completion of the work in the region, the task force members continue to remain in contact with the coworkers from the previous assignment for a period of 12 months in order to perform additional follow-up and mentoring.

The salary and fringe benefits of all social worker V positions are determined by the Washington Personnel Resources Board. Social worker V positions are exempt positions and are not included in the Washington management service.

The secretary must develop a plan for implementation for the social worker V employees. The implementation plan must be submitted to the Governor and the Legislature by September 1, 1997.

The social worker V classification is subject to the conditions and limitations in the budget and may not result in additional personnel being added.

The Washington State Institute for Public Policy conducts or contracts for monitoring and tracking of the provisions relating to the creation of the new social worker classification to determine whether it results in a measurable reduction in caseloads, increased capacities and

efficiencies of caseworkers, and improved resolution of cases. The institute reports its findings to the Governor and Legislature by December 1, 2004. The provisions relating to the social worker V classification expire June 30, 2005.

Alternative Response System. The department provides, by contract, alternative response systems within each region of the state. There must be a minimum of nine sites, including the five existing sites. The services are offered, on a volunteer basis, to families who present a low risk of child abuse or neglect. The court may order participation in an alternative response system program when DSHS agrees to the disposition. The systems are evaluated by the Institute for Public Policy by September 1, 2004 and the authority to operate the systems expires on July 1, 2005.

Legal Standard. The court is required to use the standard of clear and convincing evidence to remove a child from the home on the basis that a manifest danger exists that the child will suffer serious abuse or neglect unless removed.

Developmentally Disabled Children. Once a developmentally disabled child is found to be dependent because his or her parents are unable to meet their special needs, responsibility for the child is transferred to the Division of Developmental Disabilities. Funds and personnel related to this population are transferred.

Juvenile Justice or Care Agency. The Legislative Children's Oversight Committee is classified as a juvenile justice or care agency.

Anonymous Reports of Abuse or Neglect. The department must not investigate cases of anonymous reports of abuse or neglect unless: there is a serious threat of substantial harm to the child; a crime has occurred or is about to occur involving a child as a victim; or the department has substantiated a report of abuse or neglect against a household member within the previous three years.

Abuse and Neglect Definitions. "Alleged" is inserted to modify "abuse or neglect" when those terms are used in reference to reports of, as opposed to findings of, abuse or neglect. Attorney fees and costs are awarded if access to records concerning a child, involved in a dependency or termination proceeding, is wrongfully denied.

Role of Child Protective Services. The role of CPS is narrowed to the investigative functions. Child Welfare Services has the role of providing services for CPS cases. An exception is provided for small offices or offices in remote locations.

Employee Misconduct. The Personnel Appeals Board must expedite employee appeals where the employee is alleged to have committed misconduct that may have place a child at serious risk of harm. The board's decision must be issued within 45 days of the hearing, but may be extended an additional 30 days for exceptional circumstances.

Permanency Planning for Older Children. The Washington Institute for Public Policy (WSIPP) must review the department's programs and policies for the development of permanency plans for older children to determine which programs and policies are the most successful.

Evaluation of Guardianships. The WSIPP must review the criteria and policies of the department relating to establishment of guardianships for children involved with permanency planning. The review must include an examination of whether: (1) there are methods of improving the department's role without impairing the duties of a guardian; (2) criteria for establishing, reviewing and terminating a guardianship accurately reflects the needs of children of all ages; (3) existing statutes and policies facilitate or impair moving children from guardianship to a permanent placement; and (4) existing data collection is accurate and adequate.

Quality Assurance Reports. The department must prepare an annual quality assurance report on performance outcomes, children's length of stay in out-of-home placement, adherence to permanency planning timelines, and the response time on CPS investigations.

Controlled Substance Evaluations. When an in-person contact is made on a CPS investigation with a person who is alleged to have committed the abuse or neglect, there must be a determination of whether it is probable that the use of alcohol or controlled substances is a contributing factor.

The department must provide appropriate chemical dependency training for persons who conduct CPS investigations. If there is probable cause to believe abuse of alcohol or controlled substances has contributed to the child abuse or neglect, the department must conduct a comprehensive chemical dependency evaluation. This activity must be performed subject to available funds. No new personnel is added as a result of this section.

Operating Statement. The department is required to develop an operating statement for the Children's Administration which implements its mission statement. The operating statement includes prioritization of actions, methods of ensuring accountability, clear definitions, and a plan for greater dissemination of the child welfare plan.

Amended Bill Compared to Substitute Bill: A striking amendment was adopted containing the provisions of E2SSB 5710. The following provisions of SHB 1859 were omitted:

- (1) When either DSHS or a law enforcement agency receives a report of abuse or neglect involving death, physical injury, or sexual abuse, the department and the agency must jointly handle the investigation.
- (2) Law enforcement may only remove a child from the parent's custody if there is probable cause to believe that the delay of obtaining a court order would endanger the child's life or health.
- (3) Hospital administrators may detain children who they have reasonable cause to believe are in imminent danger of harm to life, health, or safety if allowed to return home.
- (4) In conducting investigations, DSHS must, if feasible, separate the tasks of risk assessments and investigation.

The following provisions of SHB 1859 were retained in the striking amendment:

- (1) Lawful physical discipline, as defined in RCW 9A.16.100, is excluded from the definition of child abuse.–
- (2) References in the chapter to reports of child abuse and neglect are changed to reports of alleged child abuse and neglect.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: Joint investigations could lessen caseload by assisting the department to stop investigations when law enforcement has determined that no crime has been committed.

Testimony Against: Not all cases require joint investigation. The department often asks for assistance when needed, and does provide information to law enforcement when a crime may have been committed.

Testified: Senator Zarelli (pro); Jennifer Strus, DSHS (concerns).