
HOUSE BILL 1831

State of Washington

55th Legislature

1997 Regular Session

By Representatives Boldt and Mulliken

Read first time 02/11/97. Referred to Committee on Children & Family Services.

1 AN ACT Relating to harassment by state employees; amending RCW
2 26.44.056 and 26.44.060; and adding a new section to chapter 74.04 RCW.

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

4 **Sec. 1.** RCW 26.44.056 and 1983 c 246 s 3 are each amended to read
5 as follows:

6 (1) An administrator of a hospital or similar institution or any
7 physician, licensed pursuant to chapters 18.71 or 18.57 RCW, may detain
8 a child without consent of a person legally responsible for the child
9 whether or not medical treatment is required, if the circumstances or
10 conditions of the child are such that the detaining individual has
11 reasonable cause to believe that permitting the child to continue in
12 his or her place of residence or in the care and custody of the parent,
13 guardian, custodian or other person legally responsible for the child's
14 care would present an imminent danger to that child's safety:
15 PROVIDED, That such administrator or physician shall notify or cause to
16 be notified the appropriate law enforcement agency or child protective
17 services pursuant to RCW 26.44.040. Such notification shall be made as
18 soon as possible and in no case longer than seventy-two hours. Such
19 temporary protective custody by an administrator or doctor shall not be

1 deemed an arrest. Child protective services may detain the child until
2 the court assumes custody, but in no case longer than seventy-two
3 hours, excluding Saturdays, Sundays, and holidays.

4 (2) Whenever an administrator or physician has reasonable cause to
5 believe that a child would be in imminent danger if released to a
6 parent, guardian, custodian, or other person or is in imminent danger
7 if left in the custody of a parent, guardian, custodian, or other
8 person, the administrator or physician may notify a law enforcement
9 agency and the law enforcement agency shall take the child into custody
10 or cause the child to be taken into custody. The law enforcement
11 agency shall release the child to the custody of child protective
12 services. Child protective services shall detain the child until the
13 court assumes custody or upon a documented and substantiated record
14 that in the professional judgment of the child protective services the
15 child's safety will not be endangered if the child is returned. If the
16 child is returned, the department shall establish a six-month plan to
17 monitor and assure the continued safety of the child's life or health.
18 The monitoring period may be extended for good cause.

19 (3) A child protective services employee, an administrator, doctor,
20 or law enforcement officer shall not be held liable in any civil action
21 for the decision for taking the child into custody, if done in good
22 faith under this section.

23 (4) A decision or action is not done in good faith if it meets the
24 definition of unlawful harassment in RCW 10.14.020 regardless of
25 whether it is done pursuant to any statutory authority or according to
26 statutory and regulatory procedures.

27 **Sec. 2.** RCW 26.44.060 and 1988 c 142 s 3 are each amended to read
28 as follows:

29 (1)(a) Except as provided in (b) of this subsection, any person
30 participating in good faith in the making of a report pursuant to this
31 chapter or testifying as to alleged child abuse or neglect in a
32 judicial proceeding shall in so doing be immune from any liability
33 arising out of such reporting or testifying under any law of this state
34 or its political subdivisions.

35 (b) A person convicted of a violation of subsection (4) of this
36 section (~~shall~~) or a person who commits unlawful harassment as
37 defined in RCW 10.14.020, regardless of whether it is done pursuant to
38 any statutory authority or according to statutory and regulatory

1 procedures, is not ((be)) immune from liability under (a) of this
2 subsection.

3 (2) An administrator of a hospital or similar institution or any
4 physician licensed pursuant to chapters 18.71 or 18.57 RCW taking a
5 child into custody pursuant to RCW 26.44.056 shall not be subject to
6 criminal or civil liability for such taking into custody.

7 (3) Conduct conforming with the reporting requirements of this
8 chapter shall not be deemed a violation of the confidential
9 communication privilege of RCW 5.60.060 (3) and (4), 18.53.200 and
10 18.83.110. Nothing in this chapter shall be construed as to supersede
11 or abridge remedies provided in chapter 4.92 RCW.

12 (4) A person who, intentionally and in bad faith or maliciously,
13 knowingly makes a false report of abuse or neglect shall be guilty of
14 a misdemeanor punishable in accordance with RCW 9A.20.021.

15 NEW SECTION. **Sec. 3.** A new section is added to chapter 74.04 RCW
16 to read as follows:

17 Department employees are not immune from liability arising from an
18 investigation under this title if they commit unlawful harassment as
19 defined in RCW 10.14.020, regardless of whether it is done pursuant to
20 any statutory authority or according to statutory and regulatory
21 procedures.

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