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HOUSE BILL 2588

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State of Washington

55th Legislature

1998 Regular Session

By Representatives Boldt, Mielke, Mulliken, Carrell, Lambert and Clements

Read first time 01/15/98. Referred to Committee on Children & Family Services.

1 AN ACT Relating to controlled substances as a risk factor in  
2 determining negligent treatment or maltreatment of a child; and  
3 reenacting and amending RCW 26.44.020.

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

5 **Sec. 1.** RCW 26.44.020 and 1997 c 386 s 45, 1997 c 386 s 24, 1997  
6 c 282 s 4, and 1997 c 132 s 2 are each reenacted and amended to read as  
7 follows:

8 For the purpose of and as used in this chapter:

9 (1) "Court" means the superior court of the state of Washington,  
10 juvenile department.

11 (2) "Law enforcement agency" means the police department, the  
12 prosecuting attorney, the state patrol, the director of public safety,  
13 or the office of the sheriff.

14 (3) "Practitioner of the healing arts" or "practitioner" means a  
15 person licensed by this state to practice podiatric medicine and  
16 surgery, optometry, chiropractic, nursing, dentistry, osteopathic  
17 medicine and surgery, or medicine and surgery or to provide other  
18 health services. The term "practitioner" shall include a duly  
19 accredited Christian Science practitioner: PROVIDED, HOWEVER, That a

1 person who is being furnished Christian Science treatment by a duly  
2 accredited Christian Science practitioner shall not be considered, for  
3 that reason alone, a neglected person for the purposes of this chapter.

4 (4) "Institution" means a private or public hospital or any other  
5 facility providing medical diagnosis, treatment or care.

6 (5) "Department" means the state department of social and health  
7 services.

8 (6) "Child" or "children" means any person under the age of  
9 eighteen years of age.

10 (7) "Professional school personnel" shall include, but not be  
11 limited to, teachers, counselors, administrators, child care facility  
12 personnel, and school nurses.

13 (8) "Social service counselor" shall mean anyone engaged in a  
14 professional capacity during the regular course of employment in  
15 encouraging or promoting the health, welfare, support or education of  
16 children, or providing social services to adults or families, including  
17 mental health, drug and alcohol treatment, and domestic violence  
18 programs, whether in an individual capacity, or as an employee or agent  
19 of any public or private organization or institution.

20 (9) "Psychologist" shall mean any person licensed to practice  
21 psychology under chapter 18.83 RCW, whether acting in an individual  
22 capacity or as an employee or agent of any public or private  
23 organization or institution.

24 (10) "Pharmacist" shall mean any registered pharmacist under the  
25 provisions of chapter 18.64 RCW, whether acting in an individual  
26 capacity or as an employee or agent of any public or private  
27 organization or institution.

28 (11) "Clergy" shall mean any regularly licensed or ordained  
29 minister, priest or rabbi of any church or religious denomination,  
30 whether acting in an individual capacity or as an employee or agent of  
31 any public or private organization or institution.

32 (12) "Abuse or neglect" shall mean the injury, sexual abuse, sexual  
33 exploitation, negligent treatment, or maltreatment of a child, adult  
34 dependent, or developmentally disabled person by any person under  
35 circumstances which indicate that the child's or adult's health,  
36 welfare, and safety is harmed, excluding conduct permitted under RCW  
37 9A.16.100. An abused child is a child who has been subjected to child  
38 abuse or neglect as defined herein.

1 (13) "Child protective services section" shall mean the child  
2 protective services section of the department.

3 (14) "Adult dependent persons" shall be defined as those persons  
4 over the age of eighteen years who have been found to be legally  
5 incompetent or disabled pursuant to chapter 11.88 RCW.

6 (15) "Sexual exploitation" includes: (a) Allowing, permitting, or  
7 encouraging a child to engage in prostitution by any person; or (b)  
8 allowing, permitting, encouraging, or engaging in the obscene or  
9 pornographic photographing, filming, or depicting of a child by any  
10 person.

11 (16) "Negligent treatment or maltreatment" means an act or omission  
12 which evidences a serious disregard of consequences of such magnitude  
13 as to constitute a clear and present danger to the child's health,  
14 welfare, and safety. The illegal use or possession of a controlled  
15 substance as defined in chapter 69.50 RCW is a risk factor in  
16 determining negligent treatment or maltreatment. The fact that  
17 siblings share a bedroom is not, in and of itself, "negligent treatment  
18 or maltreatment."

19 (17) "Developmentally disabled person" means a person who has a  
20 disability defined in RCW 71A.10.020.

21 (18) "Child protective services" means those services provided by  
22 the department designed to protect children from child abuse and  
23 neglect and safeguard such children from future abuse and neglect, and  
24 conduct investigations of child abuse and neglect reports.  
25 Investigations may be conducted regardless of the location of the  
26 alleged abuse or neglect. Child protective services includes referral  
27 to services to ameliorate conditions which endanger the welfare of  
28 children, the coordination of necessary programs and services relevant  
29 to the prevention, intervention, and treatment of child abuse and  
30 neglect, and services to children to ensure that each child has a  
31 permanent home. In determining whether protective services should be  
32 provided, the department shall not decline to provide such services  
33 solely because of the child's unwillingness or developmental inability  
34 to describe the nature and severity of the abuse or neglect.

35 (19) "Malice" or "maliciously" means an evil intent, wish, or  
36 design to vex, annoy, or injure another person. Such malice may be  
37 inferred from an act done in wilful disregard of the rights of another,  
38 or an act wrongfully done without just cause or excuse, or an act or  
39 omission of duty betraying a wilful disregard of social duty.

1           (20) "Sexually aggressive youth" means a child who is defined in  
2 RCW 74.13.075(1)(b) as being a "sexually aggressive youth."  
3           (21) "Unfounded" means available evidence indicates that, more  
4 likely than not, child abuse or neglect did not occur.

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