

SENATE BILL REPORT

SSB 6648

As Passed Senate, February 18, 2002

Title: An act relating to the improved early coordination of services between the department of social and health services and public safety agencies when allegations of criminal mistreatment are made.

Brief Description: Improving coordination of services when criminal mistreatment occurs.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senator Hargrove).

Brief History:

Committee Activity: Human Services & Corrections: 1/31/02, 2/7/02 [DPS].

Passed Senate: 2/18/02, 47-0.

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 6648 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hargrove, Chair; Costa, Vice Chair; Carlson, Franklin, Hewitt, Kastama, Kohl-Welles, Long and Stevens.

Staff: Fara Daun (786-7459)

Background: Concerns have been expressed that responses by public safety agencies and the Department of Social and Health Services (DSHS) to allegations of withholding the basic necessities of life have varied between jurisdictions. It is believed that earlier and improved coordination between DSHS and public safety agencies and earlier intervention in cases alleging withholding the basic necessities of life will lead to better treatment of children and families and will reduce the likelihood of serious harm.

Summary of Bill: DSHS, in consultation with the Attorney General and representative of law enforcement agencies, must prepare a plan for improved coordination of services to families when a family member is charged with criminal mistreatment. DSHS must regularly consult with the Legislature in preparation of the plan, which must be submitted to the Governor and the Legislature by December 1, 2002.

Criminal mistreatment in the fourth degree is a new misdemeanor. A person commits criminal mistreatment in the fourth degree if, with criminal negligence, the person creates an imminent and substantial risk of bodily injury to a child or dependent person by withholding the basic necessities of life. A person also commits criminal mistreatment in the fourth degree if, with criminal negligence, the person causes bodily harm or causes extreme emotional distress manifested by more than transient physical symptoms to a child or dependent person by withholding the basic necessities of life.

A law enforcement officer who arrests a person for criminal mistreatment must notify Child Protective Services or adult protective services, as appropriate.

A parent charged with criminal mistreatment in the third or fourth degree where the victim is the parent's natural or adoptive child, may be eligible for deferred prosecution one time. In order to be eligible, the person must petition the court and allege that:

- the wrongful conduct charged is the result of parenting problems for which the person is in need of services;
- that the petitioner is in need of child welfare services to improve his or her parenting skills in order to better provide the child with the basic necessities of life;
- that the petitioner wants to correct his or her conduct to reduce the likelihood of harm to his or her children;
- that in the absence of child welfare services the petitioner may be unable to reduce the likelihood of harm to his or her minor children;
- that the petitioner has cooperated with the department in developing a plan to receive child welfare services; and
- that the person agrees to pay for the cost of services if he or she is financially able to do so.

The petition must also contain a case history and a written service plan as well as a written waiver of trial rights and a stipulation to the admissibility and sufficiency of the facts contained in it and a copy of the plan. DSHS must investigate and determine whether the person is amenable to services, whether the needed services are available, whether the person suffers from the problem described, and if no child welfare services were provided, that there is a likelihood that similar wrongful conduct will occur in the future.

If DSHS recommends a child welfare services plan, the plan must include the type, nature and length of services, and the approximate cost of the services. The services must be designed in a manner so that a parent who successfully completes the services will not be likely to withhold the basic necessities of life from his or her children.

Child welfare services provided pursuant to a deferred prosecution may not be construed to prohibit DSHS from providing services or undertaking proceedings under the child dependency law.

When the court orders a deferred prosecution for criminal mistreatment and has received proof that the petitioner has successfully completed the child welfare service plan, or the plan has been terminated because the alleged victim has reached his or her majority and there are no other minor children in the home, the court shall dismiss the charges.

In any case where the petitioner's parental rights have been terminated with regard to the alleged victim due to abuse or neglect that occurred during the deferred prosecution, the termination is per se evidence that the petitioner did not successfully complete the child welfare service plan.

Appropriation: None.

Fiscal Note: Requested on January 30, 2002.

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

Testimony For: Child neglect is a very serious problem and more than half of the victims are under seven years old. A number of case histories with graphic circumstances were presented. At present the police cannot effectively protect the children because when they remove a child from the home, they often discover that child has been returned within a few days. This legislation would give both the police and Child Protective Services tools to allow earlier intervention and provide better outcomes for children and families. It uses the existing deferred prosecution process to provide services to the parents and family with the enforcement power of the court to encourage the parent's continued engagement. The police are trained to investigate and their investigation could be used by Child Protective Services in their response to the family situation. The court and the limits set by the elements of the crime provide protection for the parents against an overbroad application of the statute. DSHS is pleased to testify on the legislation and believes that there should be minimal impact on Child Protective Services as these are likely to be families in which there have been ongoing investigations. DSHS has concerns about the use of the term mental disorder.

Testimony Against: None.

Testified: Senator Jim Hargrove (sponsor); Captain Carol Cummings, King County Sheriff (pro); LaVerne Lamoureux, Children's Administration, DSHS (concerns).