

# HOUSE BILL REPORT

## SHB 3083

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### As Amended by the Senate

**Title:** An act relating to immunity for any person who cooperates with an investigation of child abuse or neglect.

**Brief Description:** Providing immunity for any person who cooperates with an investigation of child abuse or neglect.

**Sponsors:** By House Committee on Judiciary (originally sponsored by Representatives Kagi, Boldt, Dickerson, Orcutt, Pettigrew and Darneille).

#### **Brief History:**

##### **Committee Activity:**

Judiciary: 2/3/04, 2/5/04 [DPS].

##### **Floor Activity:**

Passed House: 2/14/04, 95-0.

Senate Amended.

Passed Senate: 3/5/04, 49-0.

#### **Brief Summary of Substitute Bill**

- Provides immunity for persons who cooperate in child abuse investigations;
- Specifies that the immunity does not apply to a person reporting, cooperating, or testifying in a child abuse investigation if the person caused or allowed the child abuse or neglect.

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### HOUSE COMMITTEE ON JUDICIARY

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Lantz, Chair; Moeller, Vice Chair; Carrell, Ranking Minority Member; McMahan, Assistant Ranking Minority Member; Campbell, Flannigan, Kirby, Lovick and Newhouse.

**Staff:** Sarah Shirey (786-5793); Trudes Hutcheson (786-7384).

#### **Background:**

Current law provides immunity for persons who in good faith report suspected child abuse or neglect, or testify in a judicial proceeding as to alleged child abuse or neglect. Two Washington appellate court decisions provided fairly broad interpretations of the immunity for mandated reporters. These decisions included doctors who did not report the abuse, but participated in child abuse investigations under the reporter immunity clause.

There is no provision in statute, however, that specifically provides immunity to persons who assist in child abuse investigations. Therefore, members of a multi-disciplinary investigation team may still be liable. In addition, neighbors, relatives or others who provide information to investigators may also be held liable.

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**Summary of Substitute Bill:**

The immunity provision is expanded to include persons cooperating in a child abuse investigation arising out of a child abuse report. The immunity does not apply to a person reporting, cooperating, or testifying in a child abuse investigation if the person caused or allowed the child abuse or neglect to occur.

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**EFFECT OF SENATE AMENDMENT(S):**

A person is immune from civil liability for cooperating in an investigation of child abuse or neglect if the person acted in good faith and without gross negligence. The immunity does not apply to a person cooperating in an investigation if the person caused or allowed the child abuse or neglect to occur.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Testimony For:** There are many doctors in the state who evaluate child abuse cases under investigation. The purpose of the evaluations is to narrow the uncertainty in potential abuse cases by providing investigators with medical expert opinions as to whether or not injuries resulted from abuse. Most of the doctors who perform this service do so for free or for a nominal fee. Under current law, however, these doctors may be held civilly liable for the evaluations they provide to investigators. As a result, the state may lose this expertise. This bill would redress potential loss by providing these medical experts and others who assist in child abuse investigations with immunity from civil liability. The bill should be amended to ensure that persons who cause or allow

child abuse or neglect to occur are not immune from civil liability by cooperating with the investigation.

**Testimony Against:** The original bill language is so broad that it can provide immunity to a person who caused or covered up the child abuse as long as the person cooperates with the investigation. Using the term "cooperating" is expansive. The bill should be narrowed to avoid unintended consequences.

**Persons Testifying:** (In support) Representative Kagi, prime sponsor; Dr. Kenneth Feldman, American Academy of Pediatrics and Children's Hospital; and Deborah Hall, Providence and St. Peter's Hospital.

(Opposed) Timothy Kosnoff, Attorney.

**Persons Signed In To Testify But Not Testifying:** None.