

SENATE BILL REPORT

HB 3122

As Reported By Senate Committee On:
Human Services & Corrections, February 23, 2006

Title: An act relating to the safety of child protective, child welfare, and adult protective services workers.

Brief Description: Recognizing the safety of child protective, child welfare, and adult protective services workers.

Sponsors: Representatives Kagi, Walsh, Dickerson, Darneille, Ericks, Ormsby and Roberts.

Brief History: Passed House: 2/14/06, 98-0.

Committee Activity: Human Services & Corrections: 2/23/06 [DPA].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: Do pass as amended.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens, Ranking Minority Member; Brandland, Carrell, McAuliffe and Thibaudeau.

Staff: Shani Bauer (786-7468)

Background: On February 16, 2005, a social worker with the Children's Administration was physically assaulted while investigating a report of child neglect in a remote area of Ferry County. The children's father was shot and killed by law enforcement as he attacked the worker. The worker sustained several injuries as a result of the attack and was hospitalized.

In response to the attack on the social worker, the Legislature created a work group to develop policies and protocols to address worker safety and make recommendations. The work group provided its report to the Legislature in December 2005 and recommended two legislative changes.

- 1) *Add child protective, child welfare, and adult protective service workers to the list of persons for whom stalking constitutes a class C felony.*

Stalking is the intentional harassment or following of another person which creates the fear of injury to person or property when the stalker intends to frighten, intimidate, or harass, or when the stalker knows or reasonably should know the other person is afraid, intimidated, or harassed. Stalking is a misdemeanor unless certain conditions exist that elevate the offense to a class C felony.

Those conditions include when the person is one of the following, and who is being stalked in retaliation for some act performed in the course of the person's official duties or to influence the person's performance of their official duties:

- law enforcement officer;
- judge;

- juror;
- attorney;
- victim advocate;
- legislator; or
- community corrections officer.

2) *Reimburse child protective, child welfare, and adult protective service workers, who are injured on the job, for uncovered sick leave.*

Workers' compensation payments are provided to employees who are injured on the job. Payments do not equal an employee's full salary, but are typically between 60 to 75 percent of the employee's salary depending on the number of dependents the employee has.

The Legislature has recognized the hazardous nature of certain state occupations. A state employee who is injured in the course of these job duties and misses work because of the injury is entitled to reimbursement in the amount of the difference between his or her regular pay and the amount paid by Workers' Compensation. Current law recognizes the following classes of employees:

- An employee who is assaulted by a confined individual (offender, juvenile offender, patient) and who works for one of the following agencies:
 - Department of Veterans' Affairs;
 - Departments of Natural Resources;
 - Department of Corrections;
 - Department of Social and Health Services; or
 - The State Library; or
- An employee of the Department of Transportation who is assaulted by a motorist.

Summary of Amended Bill: The legislative changes recommended by the work group created by HB 2189, chapter 389, Laws of 2005 are implemented.

Felony Stalking. Child protective, child welfare, and adult protective service workers are added to the list of persons for whom stalking constitutes a class C felony when done in retaliation for the employee's conduct of official duties or when done to influence the employee's performance of official duties.

Reimbursement Program. Employees of the Department of Social and Health Services (DSHS) who provide child protective services and who are assaulted and injured on the job are entitled to receive reimbursement under the following conditions:

- The employee was assaulted during the course of performing official duties and has sustained injury causing the employee to miss days of work;
- The assault is not attributable to the employee's negligence, misconduct, or failure to comply with rules; and
- The Department of Labor and Industries has approved a Workers' Compensation application for the injured employee.

The amount of reimbursement is limited to the difference in the Workers' Compensation payment and the amount of the employee's salary and may only be received for up to 365 days. Reimbursement payments must be made by DSHS from the same appropriation and in the same manner as other salary and wage expenses.

If the Legislature revokes the reimbursement in the future, no entitlement or contractual right to the reimbursement exists.

DSHS is required to report to the Legislature by December 1, 2006, on the implementation of the recommendations contained in its report to the Legislature entitled Child Protective Services - Staff Safety.

Amended Bill Compared to Original Bill: The requirement for DSHS to report to the Legislature on the remaining recommendations in its report is added.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Testimony For: A social worker does not deserve to be attacked with a machete. The Legislature passed reimbursement provisions for DOT workers a few years ago. Reimbursement for CPS workers is appropriate as well. DSHS should also complete the other administrative tasks recommended by the workgroup.

Testimony Against: This is a one-sided bill resulting from limited research. More important than what happened to the worker in the incident from which this bill arose is what happened to the family. The approach needs to be far more balanced and there needs to be more protections for families from harassment by the state. This bill sends the wrong message.

Who Testified: PRO: Representative Kagi, prime sponsor; Bev Hermanson, WFSE; Ross Dawson, DSHS, Children's Administration.

CON: Dave Wood and Becky Vaughn, Families United.