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**SUBSTITUTE HOUSE BILL 2395**

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**State of Washington**

**59th Legislature**

**2006 Regular Session**

**By** House Committee on Juvenile Justice & Family Law (originally sponsored by Representatives Dickerson, Williams, Hasegawa, Darneille, Morrell, Roberts, Kagi, Flannigan, B. Sullivan and Miloscia)

READ FIRST TIME 02/02/06.

1 AN ACT Relating to protocols for addressing the impact of domestic  
2 violence on children; amending RCW 26.44.020; adding new sections to  
3 chapter 26.44 RCW; creating a new section; and providing an effective  
4 date.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that there is a lack  
7 of common understanding among victim advocates, child welfare  
8 authorities, law enforcement, and the courts in dealing with the  
9 effects of domestic violence on families. Problems raised by domestic  
10 violence are compounded by differing perspectives about how to address  
11 its impact on families. The legislature also finds that discussion and  
12 resolution of these perspectives is essential to the common goal of  
13 protecting children. Efforts to enhance the safety and support of  
14 nonoffending parents lead to increased safety and well-being for  
15 children. The legislature further finds that in cases of child abuse  
16 or neglect, reasonable intervention should include appropriate training  
17 for individuals in agencies involved with domestic violence, routine  
18 screening for domestic violence, and referrals to appropriate services  
19 and relevant intervention for every family member. The legislature

1 acknowledges the efforts of the Washington state gender and justice  
2 commission in its work on the Washington state coordinated response  
3 protocol project and developing a template for regional and local  
4 protocols for coordinated response to child maltreatment and domestic  
5 violence.

6 NEW SECTION. **Sec. 2.** A new section is added to chapter 26.44 RCW  
7 to read as follows:

8 (1) The department, upon investigation of a report that a child has  
9 been abused or neglected as defined in this chapter, shall make  
10 reasonable efforts to determine whether domestic violence as defined in  
11 RCW 26.50.010 was a contributing factor to the alleged abuse or  
12 neglect.

13 (2) The department shall, in collaboration with experts in the  
14 field of domestic violence and advocates for victims of domestic  
15 violence, review its current policies and procedures for intake, risk  
16 assessment, referrals, and investigation to determine whether they  
17 provide an adequate and appropriate means of screening cases to  
18 determine the presence, extent, and impact of domestic violence on the  
19 health, safety, and welfare of the children who are the subjects of the  
20 reports of alleged abuse and neglect. The review shall include, but is  
21 not limited to, methods and tools for:

22 (a) Identifying indicators of domestic violence;

23 (b) Interviewing techniques that do not increase the risk of danger  
24 to the adult victim of domestic violence or child;

25 (c) Identifying protective factors and behaviors that may reduce  
26 the risk of harm to the child;

27 (d) Appropriate interventions and referrals for members of the  
28 family.

29 (3) The department shall report to the Washington state coordinated  
30 response protocol project by June 1, 2007, regarding the results of its  
31 review and what changes the department made or will be making to  
32 improve its screening and investigation of cases, to determine if  
33 domestic violence is a contributing factor to child abuse or neglect  
34 and any training needed to implement the changes. The Washington state  
35 coordinated response protocol project shall report the information  
36 received from the department to the legislature by July 1, 2007.

1        NEW SECTION.    **Sec. 3.**    A new section is added to chapter 26.44 RCW  
2 to read as follows:

3        (1) The department is encouraged to coordinate with the courts,  
4 local law enforcement agencies, and other agencies and systems that are  
5 involved with domestic violence victims to develop written protocols  
6 for intervening in cases where allegations of child abuse or neglect  
7 and domestic violence co-occur. The protocols shall be consistent with  
8 the template for coordinated response to child maltreatment and  
9 domestic violence developed by the Washington state coordinated  
10 response protocol project. The protocols shall address the  
11 coordination of interventions between the department, local domestic  
12 violence advocacy groups and shelters, courts, local law enforcement  
13 agencies, and any other local agency involved in responding to domestic  
14 violence. Protocols shall be developed and implemented in each region  
15 of the department and may be developed on a county or local basis as  
16 the protocol participants deem necessary.

17        (2)(a) The Washington state coordinated response protocol project  
18 shall review methods to have comprehensive assessments done of alleged  
19 domestic violence perpetrators in cases with co-occurring allegations  
20 of child abuse or neglect and domestic violence. The review shall  
21 include, but is not limited to:

22        (i) The methodology, purpose, and effectiveness of such  
23 comprehensive assessments;

24        (ii) The cost of conducting comprehensive assessments;

25        (iii) Who shall conduct comprehensive assessments and what training  
26 or professional qualifications shall be required; and

27        (iv) Potential legal barriers to obtaining comprehensive  
28 assessments on a timely basis.

29        (b) A primary purpose of comprehensive assessments shall be to hold  
30 the perpetrator of domestic violence accountable for the domestic  
31 violence and any subsequent risk posed by his or her behavior. The  
32 perpetrator of domestic violence shall pay for the comprehensive  
33 assessment, unless the person is otherwise eligible to receive  
34 financial assistance in paying for such services. Nothing in this  
35 section shall be construed to create in any person an entitlement to  
36 services or financial assistance in paying for services.

37        (3) The protocols required under this section shall be adopted by  
38 July 1, 2007, and submitted to the Washington state coordinated

1 response protocol project. The project shall regularly report to the  
2 legislature upon the status of adoption of regional or local protocols.  
3 The project shall report to the legislature by July 1, 2007, regarding  
4 the results of the reviews required under subsection (2) of this  
5 section.

6 **Sec. 4.** RCW 26.44.020 and 2005 c 512 s 5 are each amended to read  
7 as follows:

8 The definitions in this section apply throughout this chapter  
9 unless the context clearly requires otherwise.

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

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

15 (3) "Practitioner of the healing arts" or "practitioner" means a  
16 person licensed by this state to practice podiatric medicine and  
17 surgery, optometry, chiropractic, nursing, dentistry, osteopathic  
18 medicine and surgery, or medicine and surgery or to provide other  
19 health services. The term "practitioner" includes a duly accredited  
20 Christian Science practitioner: PROVIDED, HOWEVER, That a person who  
21 is being furnished Christian Science treatment by a duly accredited  
22 Christian Science practitioner will not be considered, for that reason  
23 alone, a neglected person for the purposes of this chapter.

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

26 (5) "Department" means the state department of social and health  
27 services.

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

30 (7) "Professional school personnel" include, but are not limited  
31 to, teachers, counselors, administrators, child care facility  
32 personnel, and school nurses.

33 (8) "Social service counselor" means anyone engaged in a  
34 professional capacity during the regular course of employment in  
35 encouraging or promoting the health, welfare, support or education of  
36 children, or providing social services to adults or families, including

1 mental health, drug and alcohol treatment, and domestic violence  
2 programs, whether in an individual capacity, or as an employee or agent  
3 of any public or private organization or institution.

4 (9) "Psychologist" means any person licensed to practice psychology  
5 under chapter 18.83 RCW, whether acting in an individual capacity or as  
6 an employee or agent of any public or private organization or  
7 institution.

8 (10) "Pharmacist" means any registered pharmacist under chapter  
9 18.64 RCW, whether acting in an individual capacity or as an employee  
10 or agent of any public or private organization or institution.

11 (11) "Clergy" means any regularly licensed or ordained minister,  
12 priest, or rabbi of any church or religious denomination, whether  
13 acting in an individual capacity or as an employee or agent of any  
14 public or private organization or institution.

15 (12) "Abuse or neglect" means sexual abuse, sexual exploitation, or  
16 injury of a child by any person under circumstances which cause harm to  
17 the child's health, welfare, or safety, excluding conduct permitted  
18 under RCW 9A.16.100; or the negligent treatment or maltreatment of a  
19 child by a person responsible for or providing care to the child. An  
20 abused child is a child who has been subjected to child abuse or  
21 neglect as defined in this section.

22 (13) "Child protective services section" means the child protective  
23 services section of the department.

24 (14) "Sexual exploitation" includes: (a) Allowing, permitting, or  
25 encouraging a child to engage in prostitution by any person; or (b)  
26 allowing, permitting, encouraging, or engaging in the obscene or  
27 pornographic photographing, filming, or depicting of a child by any  
28 person.

29 (15) "Negligent treatment or maltreatment" means an act or a  
30 failure to act, or the cumulative effects of a pattern of conduct,  
31 behavior, or inaction, that evidences a serious disregard of  
32 consequences of such magnitude as to constitute a clear and present  
33 danger to a child's health, welfare, or safety. When considering  
34 whether a clear and present danger exists, evidence of a parent's  
35 substance abuse as a contributing factor to negligent treatment or  
36 maltreatment shall be given great weight. The fact that siblings share  
37 a bedroom is not, in and of itself, negligent treatment or  
38 maltreatment. Poverty((  )) or homelessness((   ~~or exposure to domestic~~

1 ~~violence as defined in RCW 26.50.010 that is perpetrated against~~  
2 ~~someone other than the child do {does})~~ does not constitute negligent  
3 treatment or maltreatment in and of themselves (~~{itself}~~). Exposure  
4 to domestic violence as defined in RCW 26.50.010 that is perpetrated  
5 against someone other than a child does not constitute negligent  
6 treatment or maltreatment absent a showing that the exposure is so  
7 severe or ongoing as to cause harm to or create a clear and present  
8 danger of harm to the child's health, welfare, or safety.

9 (16) "Child protective services" means those services provided by  
10 the department designed to protect children from child abuse and  
11 neglect and safeguard such children from future abuse and neglect, and  
12 conduct investigations of child abuse and neglect reports.  
13 Investigations may be conducted regardless of the location of the  
14 alleged abuse or neglect. Child protective services includes referral  
15 to services to ameliorate conditions that endanger the welfare of  
16 children, the coordination of necessary programs and services relevant  
17 to the prevention, intervention, and treatment of child abuse and  
18 neglect, and services to children to ensure that each child has a  
19 permanent home. In determining whether protective services should be  
20 provided, the department shall not decline to provide such services  
21 solely because of the child's unwillingness or developmental inability  
22 to describe the nature and severity of the abuse or neglect.

23 (17) "Malice" or "maliciously" means an evil intent, wish, or  
24 design to vex, annoy, or injure another person. Such malice may be  
25 inferred from an act done in willful disregard of the rights of  
26 another, or an act wrongfully done without just cause or excuse, or an  
27 act or omission of duty betraying a willful disregard of social duty.

28 (18) "Sexually aggressive youth" means a child who is defined in  
29 RCW 74.13.075(1)(b) as being a sexually aggressive youth.

30 (19) "Unfounded" means available information indicates that, more  
31 likely than not, child abuse or neglect did not occur. No unfounded  
32 allegation of child abuse or neglect may be disclosed to a child-  
33 placing agency, private adoption agency, or any other provider licensed  
34 under chapter 74.15 RCW.

35 NEW SECTION. **Sec. 5.** Section 4 of this act takes effect January

1 1, 2007.

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