

HOUSE BILL REPORT

SSB 5839

As Passed House:

April 4, 2007

Title: An act relating to nonmandatory reports of child abuse or neglect.

Brief Description: Revising provisions relating to false reporting of child abuse or neglect.

Sponsors: By Senate Committee on Human Services & Corrections (originally sponsored by Senators Benton, Stevens and Hargrove).

Brief History:

Committee Activity:

Early Learning & Children's Services: 3/23/07, 3/27/07 [DP].

Floor Activity:

Passed House: 4/4/07, 96-0.

Brief Summary of Substitute Bill

- Removes malice as an element of the gross misdemeanor crime of false reporting of alleged child abuse or neglect.
- Requires the Department of Social and Health Services (DSHS) to prepare a statement for inclusion in materials relating to reporting of child abuse and neglect warning against false reporting of alleged child abuse or neglect.
- Directs the DSHS to send a certified letter to any person determined by Child Protective Services to have made a false report of alleged child abuse or neglect warning that a second false report will be referred to law enforcement.

HOUSE COMMITTEE ON EARLY LEARNING & CHILDREN'S SERVICES

Majority Report: Do pass. Signed by 7 members: Representatives Kagi, Chair; Haler, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Appleton, Hinkle, Pettigrew and Roberts.

Staff: Sydney Forrester (786-7120).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Background:

The Department of Social and Health Services (DSHS) Child Protective Services (CPS) receives referrals from members of the public who suspect that a child is a victim of abuse or neglect. The CPS provides services which include 24-hour intake, assessment, emergency intervention, and emergency medical services for accepted referrals.

The concept of mandatory reporting was first enacted in 1971 and required certain persons to report suspected child abuse and neglect. Initially, medical professionals, teachers, social workers, clergy, pharmacists, and DSHS employees were designated as mandatory reporters. Since then, the group of mandatory reporters has been expanded. In response to the U.S. Child Abuse Prevention and Treatment Act of 1974, nearly every state established or expanded mandatory reporting. The Washington State Legislature added a category of permissive reporting in 1975.

Mandatory reporters include any practitioner, county coroner, medical examiner, law enforcement officer, professional school personnel, registered or licensed nurse, social service counselor, psychologist, pharmacist, licensed or certified child care provider or their employees, employee of the DSHS, juvenile probation officer, placement and liaison specialist, Responsible Living Skills program staff, HOPE center staff, or State Family and Children's Ombudsman or any volunteer in the Ombudsman's office.

Any other person, who has reasonable cause to believe that a child has suffered abuse and neglect, may report the alleged abuse or neglect to CPS or to law enforcement. Reports may be oral or written. Oral reports must be followed up in writing if the investigator requests a written report.

Persons who in good faith report alleged child abuse or neglect or who testify in judicial proceedings regarding alleged abuse or neglect are immune from liability arising from the report or testimony. Persons who intentionally and in bad faith or maliciously make a false report of alleged abuse or neglect are guilty of a gross misdemeanor, punishable by a fine of up to \$5,000, or a jail sentence of up to one year, or both.

Summary of Bill:

The element of malice is eliminated from the gross misdemeanor crime of false reporting of alleged child abuse or neglect. The CPS is required to develop a statement warning against false reporting for inclusion in any materials developed or prepared by the DSHS relating to the reporting of abuse or neglect. The CPS also is required to send a certified letter to individuals determined by CPS to have made a false report warning that a subsequent false report will be referred to law enforcement for investigation.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) The intent of this bill is to discourage false reports of alleged child abuse and neglect in order to not waste the time of Child Protective Services (CPS) in investigating serious reports. Currently there is no way to discourage false reporting. The element of malice is part of the crime of false reporting, and it is difficult to prove malice.

This bill would require CPS to send a letter to persons who have made a false report warning them of further false reporting. It would prevent people from using CPS to fight their battles for them. This process is similar to the approach used in Utah. The intent is not to discourage valid reporting of alleged abuse or neglect. We have worked with the DSHS on the language in this bill.

We need to protect citizens from fraudulent claims of alleged abuse or neglect and we need to protect families from the stress created by an investigation. We need to make nonmandatory reporters of alleged abuse and neglect aware that it is a crime to falsely report alleged abuse or neglect.

(Opposed) None.

Persons Testifying: Senator Benton, prime sponsor; and Rachel Threlkeld.

Persons Signed In To Testify But Not Testifying: None.