

HOUSE BILL REPORT

2SSB 6206

As Passed House - Amended:

March 5, 2008

Title: An act relating to agency reviews and reports regarding child abuse, neglect, and near fatalities.

Brief Description: Concerning agency reviews and reports regarding child abuse, neglect, and near fatalities.

Sponsors: By Senate Committee on Ways & Means (originally sponsored by Senators Zarelli, Pflug, Hargrove and Stevens).

Brief History:

Committee Activity:

Early Learning & Children's Services: 2/26/08, 2/28/08 [DPA];

Appropriations: 3/1/08 [DPA(APP w/o ELCS)].

Floor Activity:

Passed House - Amended: 3/5/08, 96-0.

Brief Summary of Second Substitute Bill (As Amended by House)

- Requires notification to a child's guardian ad litem and to the Office of the Family and Children's Ombudsman (OFCO) regarding child abuse and neglect referrals under certain circumstances.
- Requires the Department of Social and Health Services to notify the OFCO when a near fatality occurs regarding a child who is receiving, or who in the past year has received, child welfare services.
- Establishes requirements for child fatality review teams.
- Requires the posting of child fatality review reports to a public website.
- Directs the OFCO to report annually on implementation of the recommendations from fatality review reports.

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.

- Requires a one-time report analyzing reports of child abuse and neglect made by mandatory reporters.

HOUSE COMMITTEE ON EARLY LEARNING & CHILDREN'S SERVICES

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

Staff: Sydney Forrester (786-7120).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended by Committee on Appropriations and without amendment by Committee on Early Learning & Children's Services. Signed by 34 members: Representatives Sommers, Chair; Dunshee, Vice Chair; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Haler, Assistant Ranking Minority Member; Anderson, Chandler, Cody, Conway, Darneille, Ericks, Fromhold, Grant, Green, Haigh, Hinkle, Hunt, Hunter, Kagi, Kenney, Kessler, Kretz, Linville, McDonald, McIntire, Morrell, Pettigrew, Priest, Ross, Schmick, Schual-Berke, Seaquist, Sullivan and Walsh.

Staff: Kelci Karl-Robinson (786-7109).

Background:

Child Fatality Reviews

State law requires the Department of Social and Health Services (DSHS) to conduct a child fatality review (CFR) of an unexpected death of a child who, within the last 12 months, had been in the custody of or receiving services from the DSHS. Under the Children's Administration Operations Manual (Manual), a child fatality review team may include team members who are familiar with or have been involved in the deceased child's case. The Manual also permits the Assistant Secretary of the Children's Administration to convene an Executive Child Fatality Review (ECFR). The ECFR team includes professionals who represent the culture of the community where the fatality occurred and who have not been involved previously in the deceased child's case. The convening of an ECFR satisfies the requirement for a CFR.

Regardless of the type of fatality review conducted, the review must be concluded within 180 days of the date the DSHS receives the fatality report. The DSHS must issue a report on the results of the review to the appropriate committees of the Legislature and must make copies available to the public. The DSHS currently issues reports of child fatality reviews quarterly, and in some cases may issue a report of a single review immediately after completion.

Mandatory Reporters

Certain persons are required by law to report to the DSHS a referral of child abuse or neglect whenever the person has reasonable cause to believe that a child has suffered the abuse or neglect. These persons are known as mandatory reporters and are defined in statute as: any practitioner; county coroner or medical examiner; law enforcement officer; professional school personnel; registered or licensed nurse; social service counselor; psychologist; pharmacist; employee of the Department of Early Learning; licensed or certified child care providers or their employees; employee of the Department of Social and Health Services; 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.

In addition, any person in his or her official supervisory capacity with a nonprofit or for-profit organization must report to the DSHS if the person alleged to have caused the abuse or neglect is employed by, contracted by, or volunteers with the organization and coaches, trains, educates, or counsels a child or children or regularly has unsupervised access to a child or children as part of the employment, contract, or voluntary service.

Guardians Ad Litem

For children who are subjects of dependency proceedings, the court must appoint a guardian ad litem (GAL) unless the court finds good cause not to do so. This requirement is satisfied if the child is represented by independent counsel. The appointment of a GAL remains in effect until the court discharges the GAL or until the court no longer has jurisdiction over the child's case. The GALs through counsel, or as otherwise authorized by the court, have the right to present evidence, examine and cross-examine witnesses, and be present at all hearings. The GAL also receives notice of all hearings in the case and copies of all pleadings and other documents filed or submitted to the court.

The Office of the Family and Children's Ombudsman

The Office of the Family and Children's Ombudsman (OFCO) was created in 1996 to protect children and parents from harmful agency action or inaction, and to make agency officials and state policy makers aware of system-wide issues in the child protection and child welfare system. The OFCO is part of the Governor's Office and operates independently from the DSHS and other state agencies, acting as a neutral fact-finder, not as an advocate.

The OFCO's responsibilities include investigating complaints related to child protective services or child welfare services, monitoring the procedures used by the DSHS in delivering family and children's services, and providing information about the rights and responsibilities of individuals receiving family and children's services and the procedures for providing those services. To perform these duties the OFCO has authority:

- (1) to interview children in state care;
- (2) to access, inspect, and copy all records, information or documents in the DSHS's possession that the OFCO considers necessary to conduct an investigation; and
- (3) to have unrestricted on-line access to the case and management information system (CAMIS) operated by the DSHS.

Summary of Amended Bill:

Child Fatality Reviews

If a child fatality occurs as the result of apparent abuse by a parent or caretaker, the CFR team must be comprised of individuals who have had no previous involvement in the child's case and who have professional expertise pertinent to the dynamics of the case. The DSHS must issue a report to the appropriate committees of the Legislature and make it available to the public within 180 days of the death, unless the Governor extends the due date. The DSHS also must establish a public website where child fatality review reports will be posted and maintained.

In the event of a near fatality caused by the apparent abuse or neglect of a child, the DSHS must notify the OFCO.

Guardians Ad Litem

Whenever a report of child abuse or neglect is received about a child for whom a GAL has been appointed, the DSHS must notify the GAL of the report and the final disposition of the referral.

The Office of the Family and Children's Ombudsman

Whenever a referral of child abuse or neglect constitutes the third founded referral on the same child or family within a 12-month period, the DSHS must notify the OFCO.

The OFCO is required to issue an annual report to the Legislature on the implementation of the recommendations from reviews of child fatalities.

The OFCO also must analyze a reliable random sampling of referrals received from mandated reporters regarding child abuse and neglect during 2006 and 2007, and report to the Legislature by June 30, 2009, regarding:

- (1) the number and type of referrals;
- (2) the disposition of the referrals by category of mandated reporter;
- (3) any patterns established by the DSHS in how it handled the referrals;
- (4) whether the history of fatalities in 2006 and 2007 showed referrals by mandated reporters; and
- (5) any other information the OFCO deems relevant.

The OFCO may contract for all or some of the tasks necessary to complete the analysis and report required.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of session in which bill is passed, except for section 5 which reinstates prior law related to making changes to findings and records regarding child abuse and neglect referrals and takes effect October 1, 2008. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony: (Early Learning & Children's Services)

(In support) The goal of this legislation is to eliminate some of the blind spots in the child welfare system, and not to change the entire reporting structure. It makes sense that a child's appointed GAL would be notified whenever a referral of abuse or neglect is received about a child in foster care. It also makes sense that we would notify the OFCO upon a third founded referral regarding a child or a family in a 12-month period. By bringing closer scrutiny to the system from other professionals, we are better able to make improvements in the system.

(With concerns) Not having flexibility when drawing together review teams may be a problem if we are unable to find people without a connection to the case. Transmitting the information to the OFCO will be time-consuming and the DSHS would like to delay this until implementation of the new automated information system. The DSHS also would prefer the authority for granting an extension of the 180-day rule for publication of fatality reviews be shifted from the Governor to the Assistant Secretary.

The newspaper publishers have concerns regarding the potential for an overly broad interpretation or application of language in section 2 subsection 4 that could be used to withhold information from the public regarding near fatalities. While the child's name should not be disclosed in such a report, there is concern the language could be used to determine the entire report is exempt from disclosure. Current public disclosure laws provide sufficient guidance and protections regarding disclosure and exemptions. Better language for section 2 would simply be to clarify that the name of the child in a near fatality report cannot be disclosed.

(Neutral) The OFCO strongly supports a review of near fatalities as those reviews can provide important clues to risk factors compromising child safety and the additional system safeguards needed to protect children. The OFCO also supports the requirement for review teams to consist of professionals with no direct involvement in the case in those instances where the death or injury resulted from a parent's or caregiver's abuse or neglect. The impartiality and professional expertise is essential to a thorough and objective review.

The OFCO has been very vocal in its prior testimony to the Legislature regarding the need to address shortcomings in the child welfare system. We support the requirement for an annual report on the status of the DSHS's implementation of recommendations from fatality reviews. If these recommendations are not implemented, they are meaningless. An annual report on the status of implementing fatality review recommendations will increase transparency and accountability in the system and is consistent with the mission of the OFCO to monitor the child welfare system and bring about needed reform. The OFCO will need additional resources to accomplish this as it will require tracking and reporting on numerous recommendations.

The bill does not address an ongoing concern regarding the need for an accounting of cases where Child Protective Services has repeatedly screened out referrals concerning the same family or child. The concern is that children are being put at risk of harm in families that are entirely overlooked by the system because referrals are being screened out and are not investigated. The OFCO would propose including in the bill some requirement for

investigation or notification once a certain number of referrals has been received about a child or family.

The OFCO would like to see the requirement for notification of a child's GAL or Court Appointed Special Advocate (CASA) when a referral is received on a child in foster care be expanded to include notification whenever a referral of abuse or neglect is received on a home in which a foster child is placed.

The OFCO supports the one-time review and analysis of referrals from mandated reporters. Some of the child fatality reports highlight a rather long history of referrals from mandated reporters that were screened out and never investigated. The OFCO will need resources to accomplish this and would request some discretion in managing the task of reviewing the over 100,000 referrals from mandated reporters.

(Opposed) None.

Staff Summary of Public Testimony: (Appropriations)

(In support) This bill focuses on the safety of children involved with Child Protective Services and Child Welfare Services. We need to learn from referrals of mandatory reporters as well as from multiple referrals coming in for one child. We need to learn if child fatality review recommendations are implemented. This bill will continue the work of protecting children.

(Opposed) None.

Persons Testifying: (Early Learning & Children's Services) (In support) Senator Zarelli, prime sponsor.

(With concerns) Cheryl Stephani, Children's Administration, Department of Social and Health Services; and Rowland Thompson, Allied Daily Newspapers.

(Neutral) Mary Meinig, Office of the Family and Children's Ombudsman.

Persons Testifying: (Appropriations) Laurie Lippold, Children's Home Society.

Persons Signed In To Testify But Not Testifying: (Early Learning & Children's Services) None.

Persons Signed In To Testify But Not Testifying: (Appropriations) None.