

SENATE BILL REPORT

SB 5321

As Reported By Senate Committee On:
Human Services & Corrections, February 21, 2007
Ways & Means, March 5, 2007

Title: An act relating to the sharing of child welfare information.

Brief Description: Addressing child welfare.

Sponsors: Senators Carrell, Regala, Stevens, Schoesler, Clements and Rasmussen.

Brief History:

Committee Activity: Human Services & Corrections: 1/25/07, 2/21/07 [DPS].
Ways & Means: 3/05/07 [w/oRec].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 5321 be substituted therefor, and the substitute bill do pass.

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

Staff: Shani Bauer (786-7468)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That it be referred without recommendation.

Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Pridemore, Vice Chair, Operating Budget; Zarelli, Ranking Minority Member; Brandland, Carrell, Fairley, Hatfield, Hewitt, Hobbs, Honeyford, Keiser, Kohl-Welles, Oemig, Parlette, Rasmussen, Regala, Roach, Rockefeller, Schoesler and Tom.

Staff: Paula Moore (786-7449)

Background: The Department of Social & Health Services (DSHS) is required to investigate allegations of child abuse or neglect. Upon receipt of a report of child abuse or neglect, DSHS determines whether the report is credible. If the report is not credible, the report is "screened-out" and is not investigated.

If the report is credible, DSHS will conduct an investigation and make a determination as to whether the report is founded, unfounded, or inconclusive. A "founded" report of child abuse or neglect means that, based upon available information, it is more likely than not that child

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abuse or neglect did occur. Conversely, an "unfounded" report of child abuse or neglect means that, based on available information, it is more likely than not that child abuse or neglect did not occur. A report is determined to be "inconclusive" when DSHS has insufficient evidence to conclude that child abuse or neglect occurred.

Founded and inconclusive reports of child abuse and neglect may be considered by DSHS in licensing child care providers, considering employees by a licensed child care agency, or otherwise authorized by DSHS to care for children.

Current law requires DSHS to purge information related to unfounded referrals in files or reports of child abuse or neglect, over six years old, unless an additional report has been received in the intervening period. Unfounded reports may not be used in licensing and adoption decisions.

In 2006, the Legislature passed 2SHB 3115, which required DSHS to review its policies and make recommendations for improvements to its current practices including the terminology related to referrals and investigative findings, timelines for investigation of referrals and destruction of records related to those investigations, and the disclosure to foster parents of known behavioral issues of children placed in their care.

In response to this charge, DSHS has recommended definitions related to referrals and investigative findings, proposed changes to their practice to ensure information about a child's history is provided to a foster parent, and implementation of a discretionary review process for inconclusive findings of child abuse or neglect.

Summary of Bill: Screened-out, inconclusive, and founded reports of child abuse and neglect are defined, and the definition of an unfounded report is amended. A report of child abuse or neglect may no longer be designated as inconclusive. If there is insufficient evidence to determine that child abuse or neglect occurred, the report is unfounded. The definitions section is reorganized in alphabetical order.

DSHS must conduct an investigation of an alleged report of child abuse or neglect within 90 days. At the completion of an investigation, DSHS must make a finding that the report was founded or unfounded.

Time frames are established for the expungement of records, depending on the classification of the report. Records pertaining to an unfounded report of child abuse or neglect or a report designated as inconclusive prior to the effective date of this act must be destroyed within six years of completion of the investigation unless a prior or subsequent founded report has been received. An unfounded, screened-out, or inconclusive report of child abuse or neglect may not be disclosed to a child-placing agency, private adoption agency, or any other provider licensed by DSHS and may not be used to deny employment or a license to a foster parent.

A person who is the subject of a report of child abuse or neglect may seek relief from the court if the information is not expunged as required by law. If information is improperly disclosed, the court may award a penalty up to \$1,000.

DSHS must disclose to a foster parent information as to whether the child is a sexually reactive child, has high-risk behaviors, or is physically assaultive or physically aggressive.

The terms sexually reactive child, high-risk behavior, and physically assaultive or aggressive are defined.

A foster parent may not be found to have abused or neglected a child or be denied a foster care license if the child was not within the reasonable control of the foster parent at the time of the incident or if prior known conduct of the child was not disclosed to the foster parent and the allegations arise from the child's conduct that is substantially similar to prior conduct of the child.

EFFECT OF CHANGES MADE BY RECOMMENDED SUBSTITUTE AS PASSED COMMITTEE (Human Services & Corrections): The title is amended from relating to child welfare to relating to the sharing of child welfare information. Consistency changes are made to the definitions of unfounded, founded, inconclusive and screened-out reports of child abuse or neglect.

The department is only required to make a finding of founded or unfounded within timeframes when the report of child abuse or neglect has been referred for investigation and the department is required to adopt a finding regarding an allegation of child abuse or neglect made by a court in a civil or criminal proceeding.

The amount of time the department may keep a screened-out referral is increased from 30 days to 3 years.

In requiring the department to give information about a child to the foster parent, the department is only required to give information to a foster parent that is known to the department. The department is additionally required to disclose if the child has a diagnosis of fetal alcohol syndrome or a mental health disorder, has witnessed a death or serious physical violence, or was a victim of sexual or physical abuse.

Under the original bill, a foster parent cannot be held responsible for a failure to supervise if the foster parent did not know special behavioral requirements of the child. Amended language clarifies that if a foster parent has independent reason to know of the child's behavior and need for supervision, the foster parent can be held responsible for a failure to supervise that behavior.

Sections 1 through 3 of the bill take effect on October 1, 2008.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony (Human Services & Corrections) : PRO: Keeping information regarding inconclusive reports of child abuse or neglect is extremely concerning to foster parents. These parents deal with children who are high risk. When an unfortunate event occurs and is placed on a foster parent's record as inconclusive, the person is black-balled from being a foster parent when he or she have not had a chance to defend themselves. This bill is important for the protection of foster parents. Information regarding

unfounded and inconclusive reports of child abuse or neglect should be purged sooner than six years.

CON: DSHS has technical concerns with the language of the bill that is needed to limit the liability of the department. Of bigger concern is the 30 day retention time-frame for screened-out reports of child abuse or neglect. This information is currently used to offer voluntary services to families and fails to protect mandated reporters to show that he or she made a report even when the report may have been screened out. Some of these things could be limited to the licensing context rather than applied broadly to the entire system. DSHS is not adverse to a two-tier determination system, but this needs to be tied to implementation of Statewide Automated Child Welfare Information System in Summer/Fall of 2008.

OTHER: Social service workers with the Children's Administration are overburdened and have too much paperwork. The Legislature should consider more financial resources for DSHS.

Persons Testifying (Human Services & Corrections): PRO: Tirzah Idahosa, Minnie Vansapp, Marcella Vasquez, citizens.

CON: Cheryl Stephani, DSHS-Children's Administration.

OTHER: Kurtis Chaffin, citizen.

Staff Summary of Public Testimony (Ways & Means): None.

Persons Testifying (Ways & Means): No one.