

**SSB 5605 - S AMD 182**

By Senators Hargrove, Stevens

ADOPTED 03/07/2011

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 26.44.010 and 1999 c 176 s 27 are each amended to  
4 read as follows:

5 The Washington state legislature finds and declares: The bond  
6 between a child and his or her parent, custodian, or guardian is of  
7 paramount importance, and any intervention into the life of a child is  
8 also an intervention into the life of the parent, custodian, or  
9 guardian; however, instances of nonaccidental injury, neglect, death,  
10 sexual abuse and cruelty to children by their parents, custodians or  
11 guardians have occurred, and in the instance where a child is deprived  
12 of his or her right to conditions of minimal nurture, health, and  
13 safety, the state is justified in emergency intervention based upon  
14 verified information; and therefore the Washington state legislature  
15 hereby provides for the reporting of such cases to the appropriate  
16 public authorities. It is the intent of the legislature that, as a  
17 result of such reports, protective services shall be made available in  
18 an effort to prevent further abuses, and to safeguard the general  
19 welfare of such children(~~(+ PROVIDED, That such)~~). When the child's  
20 interests of basic nurture, physical and mental health, and safety  
21 conflict with the parents' interests, the interests of the child should  
22 prevail. When determining whether a parent and child should be  
23 separated during or immediately following an investigation of alleged  
24 child abuse or neglect, the safety of the child shall be the  
25 department's paramount concern. Reports of child abuse and neglect  
26 shall be maintained and disseminated with strictest regard for the  
27 privacy of the subjects of such reports and so as to safeguard against  
28 arbitrary, malicious or erroneous information or actions(~~(+ PROVIDED~~  
29 ~~FURTHER, That)~~). This chapter shall not be construed to authorize

1 interference with child-raising practices, including reasonable  
2 parental discipline, which are not proved to be injurious to the  
3 child's health, welfare and safety.

4 NEW SECTION. **Sec. 2.** A new section is added to chapter 4.24 RCW  
5 to read as follows:

6 (1) No governmental entity or its officers, agents, employees, and  
7 volunteers, shall be criminally or civilly liable for performing duties  
8 pursuant to chapter 26.44 RCW with regard to investigating allegations  
9 of child abuse or neglect if such duties were performed without gross  
10 negligence.

11 (2) The duty to conduct a reasonable investigation of child abuse  
12 or neglect upon a referral runs only to children who are the subject of  
13 a referral under chapter 26.44 RCW.

14 (3) The department and its employees shall comply with the orders  
15 of the court, including shelter care and other dependency orders, and  
16 are not liable for acts performed to comply with such court orders. In  
17 providing reports and recommendations to the court, caseworkers are  
18 entitled to the same witness immunity as would be provided to any other  
19 witness.

20 (4) Nothing in this section diminishes any immunity or defense that  
21 may otherwise be applicable to the governmental entity or its past or  
22 present employees.

23 NEW SECTION. **Sec. 3.** A new section is added to chapter 4.24 RCW  
24 to read as follows:

25 (1) No governmental entity or its officers, agents, employees, and  
26 volunteers, shall be criminally or civilly liable for performing duties  
27 with regard to the supervision of offenders so long as the duties were  
28 performed without gross negligence.

29 (2) For the purposes of this section, supervision includes any type  
30 of community-based supervision including, but not limited to,  
31 probation, parole, community custody, community placement, community  
32 supervision, and postrelease supervision.

33 (3) Nothing in this section diminishes any immunity or defense that  
34 may otherwise be applicable to the governmental entity or its past or  
35 present employees."

**ADOPTED 03/07/2011**

1        On page 1, line 1 of the title, after "liability;" strike the  
2 remainder of the title and insert "amending RCW 26.44.010; and adding  
3 new sections to chapter 4.24 RCW."

EFFECT:    In determining whether to place a child in foster care after a child abuse or neglect investigation, the safety of the child prevails. The department of social and health services is not liable in performing a child abuse or neglect investigation unless the department is grossly negligent. The department is not liable for complying with court orders entered in dependency cases.

The department of corrections is not liable for supervising an offender unless the supervision was conducted with gross negligence.

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