

HOUSE BILL REPORT

ESHB 2331

As Passed House:
February 9, 2012

Title: An act relating to mandatory reporting regarding abuse or neglect.

Brief Description: Concerning mandatory reporting of child abuse or neglect.

Sponsors: House Committee on Early Learning & Human Services (originally sponsored by Representatives Dickerson, Darneille, Takko, Roberts, Pettigrew, Goodman, Jinkins, Miloscia, Ryu, Hurst and Santos).

Brief History:

Committee Activity:

Early Learning & Human Services: 1/20/12, 1/23/12, 1/26/12 [DPS].

Floor Activity:

Passed House: 2/9/12, 59-38.

Brief Summary of Engrossed Substitute Bill

- Requires that any adult who has reasonable cause to believe that a child has suffered severe abuse or neglect must report such abuse or neglect to law enforcement or the Department of Social and Health Services.
- Provides that the penalty for a mandatory reporter who knowingly fails to report is a misdemeanor.

HOUSE COMMITTEE ON EARLY LEARNING & HUMAN SERVICES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives Kagi, Chair; Roberts, Vice Chair; Dickerson, Goodman and Orwall.

Minority Report: Do not pass. Signed by 4 members: Representatives Walsh, Ranking Minority Member; Hope, Assistant Ranking Minority Member; Johnson and Overstreet.

Staff: Linda Merelle (786-7092).

Background:

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.

The earliest version of the mandatory reporting statute regarding children was enacted in 1965. At that time, any practitioner who had cause to believe that a child found to be suffering from physical neglect or sexual abuse was required to report those findings to law enforcement.

By 1991 the list of mandatory reporters had grown significantly to include professional school personnel, registered or licensed nurses, social service counselors, psychologists, pharmacists, licensed or certified child care providers and their employees, employees of the Department of Social and Health Services, and juvenile probation officers. In earlier versions of the statute, dependent adults and or persons with a developmental disability were also the subject of the mandatory reporting. However, requirements regarding these persons were re-codified into other statutes. The mandatory reporting requirement was triggered if the reporter had reasonable cause to believe that a child had suffered abuse or neglect.

"Abuse or neglect" is defined as: sexual abuse, sexual exploitation, injury to a child by a person under circumstances that cause harm to the child's health, welfare, or safety, or negligent treatment or maltreatment of a child by a person responsible for providing care to the child.

Over the past 20 years, the list of mandatory reporters has increased:

<i>Year</i>	<i>Mandatory Reporter Added</i>
1993	Adults who have reason to believe that a child who resides with them has suffered severe abuse; "severe abuse" is defined as "any single act of abuse that causes physical trauma of sufficient severity that, if left untreated, could cause death; any single act of sexual abuse that causes significant bleeding, deep bruising, or significant external or internal swelling; or more than one act of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness."
1995	County coroners, medical examiners, and law enforcement officers.
1996	Department of Corrections personnel who observe offenders or the children with whom offenders interact.
1997	State Family and Children's Ombudsman or any volunteer in the Ombudsman's Office.
1999	Placement and liaison specialists, responsible living skills program staff, and HOPE center staff.
2005	Official in a supervisory capacity for a nonprofit or for-profit organization where he or she reasonably has reason to believe that a child has suffered abuse or neglect caused by a person over whom he or she exercises supervisor authority and the person is employed by, contracted by, or volunteers with the organization and the person coaches, trains, educates, or counsels children or regularly has unsupervised access to children as part of employment, contract or volunteer work;

	there is no reporting requirement if the official obtains information solely from a privileged communication.
2007	Employees of the Department of Early Learning.
2009	Guardians ad litem, including court-appointed special advocates.

In a 2009 study completed by the Washington State Institute for Public Policy (Institute), the Institute examined the number of reports pursuant to RCW 26.44.030. In a time period of just over two years, there were 96,656 reports to Child Protective Services for abuse or neglect. Of those reports, approximately 32,000 were made by non-mandatory reporters. The non-mandatory reporters were the single largest group of reporters. The next largest group was educators, with approximately 17,000 reports, followed by social service professionals with just under 15,000 reports. Law enforcement had approximately 10,000 reports.

An adult who is not a professional expressly identified as a mandatory reporter is required to report when he or she has reasonable cause to believe that a child who resides with him or her has suffered "severe abuse." For purposes of this reporting requirement, "severe abuse" means:

- any single act of abuse that causes physical trauma of sufficient severity that, if left untreated, could cause death;
- any single act of sexual abuse that causes significant bleeding, deep bruising, or significant external or internal swelling; or
- more than one act of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness.

Any mandatory reporter who knowingly fails to make a report may be found guilty of a gross misdemeanor, which carries a maximum sentence of 364 days in jail and a \$5,000 fine.

Summary of Engrossed Substitute Bill:

The mandatory reporting requirement is expanded to apply to any adult not already expressly identified in statute who has reasonable cause to believe that a child has suffered "severe abuse or neglect," which is defined as:

- any act of abuse of sufficient severity that causes significant bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness;
- any act or acts of withholding basic necessities of life that create or cause imminent risk of substantial bodily harm;
- any act of intentionally touching the sexual or other intimate parts of a child for the purpose of gratifying sexual desire; or
- any mandatory reporter who knowingly fails to make a report may be found guilty of a misdemeanor, which carries a maximum sentence of 90 days in jail and a \$1,000 fine.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) Instead of focusing on narrow definitions of professions, the focus needs to be more general and there needs to be clarity in the law. It is human nature to feel restrained and unsure whether to report. This bill talks about severe abuse, not just any abuse. This bill is meant more to be a statement to the public to say, when in doubt please err on the side of protecting a child from severe abuse. The scope of this bill would only touch on a handful of cases. Although it expands the average adult reporting requirement, it narrows the circumstances under which they must report. Law enforcement and Child Protective Services should not be overburdened.

(In support with concerns) This is important to do as a state, but needs to be done well. There is some confusion around current law regarding reporting, the public needs to be informed about how to utilize the responsibility required under this bill.

(Neutral) The public needs to be aware of the expanded reporting requirements under this bill.

(Other) The bill should indicate that reporting is only required when the bleeding observed is more than minor bleeding.

(Opposed) None.

Persons Testifying: (In support) Representative Dickerson, prime sponsor; and Ian Goodhew, King County Prosecutor's Office.

(In support with concerns) Lonnie Johns Brown, Washington Coalition of Sexual Assault Programs.

(Neutral) Laurie Lippold, Children's Home Society of Washington.

(Other) Tom McBride, Washington Association of Prosecuting Attorneys.

Persons Signed In To Testify But Not Testifying: None.