

SENATE BILL REPORT

2SHB 2289

As Reported by Senate Committee On:
Human Services & Corrections, February 23, 2012

Title: An act relating to establishing a flexible approach to child protective services.

Brief Description: Establishing a flexible approach to child protective services.

Sponsors: House Committee on Ways & Means (originally sponsored by Representatives Kagi, Walsh, Roberts, Carlyle, Jinkins, Ormsby and Dickerson).

Brief History: Passed House: 2/13/12, 98-0.

Committee Activity: Human Services & Corrections: 2/21/12, 2/23/12 [DPA-WM].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.

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

Staff: Jennifer Strus (786-7316)

Background: Recent Child Abuse and Neglect Statistics. Washington's Department of Social and Health Services (DSHS), Children's Administration (CA) estimates that in 2011, its Child Protective Services (CPS) division received 77,139 reports of child maltreatment – most allege neglect, investigated 27,199 of those reports, and determined that 4878 reports contained founded allegations. Approximately 66 percent of founded reports were regarding neglect, 25 percent were regarding physical abuse, and 9 percent were regarding sexual abuse. In 2011 approximately 82 percent of CPS investigations resulted in no finding of child abuse or neglect. In 2010 approximately 70 percent of neglect reports DSHS responded to were regarding families who had previously been reported to DSHS.

Child Abuse Prevention and Treatment Act (CAPTA) Reauthorization Act of 2010. CAPTA is the sole federal child welfare program focusing only on preventing and responding to allegations of child abuse and neglect. CAPTA was reauthorized in 2010 through 2015 and encourages states to review their laws, policies, practices, and procedures regarding neglect to ensure children are protected. It also encourages CPS to utilize differential response which is described as a state or community – determined formal response that assesses the needs of

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the child or family without requiring a determination of risk or occurrence of maltreatment. Such response occurs in addition to the traditional investigatory response.

Child Protective Services in Washington. CPS are services provided by CA and are designed to protect children from child abuse and neglect, safeguard such children from future abuse and neglect, and conduct investigations of child abuse and neglect reports. Investigations may be conducted regardless of the location of the alleged abuse or neglect. CPS includes a referral to services to ameliorate conditions that endanger the welfare of children; the coordination of necessary programs and services relevant to the prevention, intervention, and treatment of child abuse and neglect; and services to children to ensure that each child has a permanent home.

Duty to Investigate. A number of professionals who regularly work with children are mandated reporters in Washington State. If they have reasonable cause to suspect that a child has been abused or neglected they must report that fact to DSHS or law enforcement. DSHS must investigate complaints of any recent act or failure to act on the part of a parent or caretaker that results in death, serious physical or emotional harm, or sexual abuse or exploitation or that present an imminent risk of serious harm. On the basis of the findings of such investigation, DSHS or law enforcement must offer child welfare services in relation to the problem to such parents, legal custodian or persons serving in loco parentis, and/or bring the situation to the attention of an appropriate court, or another community agency. An investigation is not required of non-accidental injuries that are clearly not the result of a lack of care or supervision by the child's parents, legal custodian, or persons serving in loco parentis. If the investigation reveals that a crime against a child may have been committed, DSHS must notify the appropriate law enforcement agency.

Summary of Bill (Recommended Amendments): Family Assessment Response Track (FART). When DSHS receives a report of child abuse or neglect, DSHS must use one of two responses for reports that are screened in and accepted for response: an investigation or a family assessment. In making this response, DSHS must:

1. use a method by which to assign cases to investigation or family assessment that are based on an array of factors that may include the presence of imminent danger, level of risk, number of previous child abuse or neglect reports, or other presenting case characteristics.
2. allow for a change in response assignment based on new information that alters risk or safety level;
3. allow families assigned to FAT to choose to receive an investigation rather than a family assessment;
4. provide a full investigation if a family refuses the initial family assessment;
5. provide voluntary services to families based upon the results of the initial family assessment; and
6. conduct an investigation on response to allegations that:
 - a. pose a risk of imminent harm to the child;
 - b. pose a serious threat of substantial harm to the child;
 - c. constitute conduct that is a criminal offense and the child is the victim; or
 - d. the child is an abandoned or adjudicated dependent child.

DSHS is not liable in using FART to respond to an allegation of child abuse or neglect unless the response choice was made with reckless disregard.

A family assessment is defined as a comprehensive assessment of child safety, risk of subsequent child abuse or neglect, and family strengths and needs that is applied to a child abuse or neglect report. The assessment does not include a determination as to whether child abuse or neglect occurred but does determine the need for services to address the safety of the child and the risk of subsequent maltreatment. FART is defined as a way of responding to certain reports of child abuse or neglect using a differential response approach to child protective services. FART is to focus on safety of the child, the integrity and preservation of the family, and is to assess the status of the child and family in terms of risk of abuse and neglect including a parent's or guardian's capacity and willingness to protect the child. No one is named as a perpetrator and no investigative finding is entered in DSHS's database as a result of the FART.

DSHS must implement FART by December 1, 2013. DSHS must develop an implementation plan in consultation with stakeholders including the tribes. DSHS must submit an implementation plan report to the Legislature by December 31, 2012.

For reports that are placed in the FART, DSHS must:

1. provide the family with a written explanation of the procedure for assessment of the child and family and its purpose;
2. complete the family assessment within 45 days of receiving the report. Upon parental agreement, this time period can be extended to 60 days;
3. offer services to the family in a manner that makes it clear acceptance of the services is voluntary;
4. implement the family assessment track in a non-arbitrary, non-coercive manner; and
5. have the parent or guardian sign an agreement to participate in services form before services are initiated that informs the parents of their rights under the family assessment track, all of their options and the options DSHS has if parents do not sign the form.

Upon completion of the family assessment, if DSHS determines that no services be offered, the case is closed. Within ten days of the conclusion of the family assessment, DSHS must meet with the child's parent or guardian to discuss the recommendations for services to address child safety concerns or significant risk of subsequent child maltreatment. If the parent or guardian disagrees with DSHS's recommendation regarding the provision of services, DSHS must convene a family team decision-making meeting (FTDM) to discuss the recommendations and objections. The caseworker's supervisor and the area administrator must attend the FTDM.

DSHS must develop a family assessment tool which at a minimum must include the following:

1. An interview with the child's parent, guardian, or other adult residing in the child's home who serves in a parental role. The interview is to focus on ensuring the immediate safety of the child and mitigating future risk of harm to the child in the home environment.

2. An interview with other persons suggested by the family or whom DSHS believes has valuable information.
3. An evaluation of the safety of the child and any other children living in the same home. The evaluation may include an interview with or observation of the child.
4. In collaboration with the family, identification of family strengths, resources, and service needs and the development of a plan of services that reduces risk of harm and improves or restores the family well-being.

The Washington State Institute for Public Policy (WSIPP) must conduct an evaluation of the implementation of the FART. WSIPP is to define the data to be gathered and maintained. At a minimum, the evaluation is to address child safety measures, out of home placement rates, re-referral rates and caseload sizes and demographics. WSIPP's first report is due December 1, 2014, and its final report is due December 1, 2016.

DSHS must conduct two client satisfaction surveys of families that have been placed in the FART. The first survey results are to be reported by December 1, 2014, and the second survey results by December 1, 2016.

Appeal of a Finding of Child Abuse or Neglect. A person named as an alleged perpetrator in a founded allegation of child abuse or neglect has the right to seek review and amendment of the finding. Within 30 days of receiving notice from DSHS that the person has been named as a perpetrator in an allegation of abuse or neglect, the person must provide written notice to DSHS that he or she wishes to contest the finding. The written notice provided by DSHS to the perpetrator must contain the following:

1. information about DSHS's investigative finding as it relates to the alleged perpetrator;
2. sufficient factual information to apprise the alleged perpetrator of the date and nature of the founded allegation;
3. the alleged perpetrator has the right to submit a written response regarding the finding which DSHS must file in the records;
4. that information in DSHS's records may be considered in a later investigation or proceeding related to a different allegation of child abuse or neglect;
5. that founded allegations of abuse or neglect may be used in determining;
 - a. whether the person is qualified to be licensed or approved to care for children or vulnerable adults;
 - b. whether the person is qualified to be employed by DSHS in a position having unsupervised access to children or vulnerable adults.
6. that the alleged perpetrator has the right to challenge the founded allegation of abuse or neglect.

If the request is not made within the time period, the person has no right to agency review or further administrative or court review of the finding, unless the person can show that DSHS did not comply with the notice requirements of RCW 26.44.100. After receiving notification of the results of DSHS's review, the person has 30 days within which to ask for an adjudicative hearing with an administrative law judge. If the request is not made within the 30-day period, the person has no right to further review.

EFFECT OF CHANGES MADE BY HUMAN SERVICES & CORRECTIONS COMMITTEE (Recommended Amendments): Replaces the bill with the provisions of

ESSB 6555 as passed the Senate. Changes the name of the differential response program from the Family Assessment Track to the Family Assessment Response Track.

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 as Heard in Committee: PRO: Moving to a differential response system allows the state to engage families early to keep them from falling into homelessness. This bill will allow social workers and parents to foster trusting productive relationships that will bring about positive changes to the parent and child. Often, parents who are the subject of a child abuse or neglect investigation feel like they are a number. For many of these families, an investigation is not the best way to encourage parent engagement and foster change. Asking parents what they need will go a long way to breaking down walls and create more of a partnership between the parent and the social worker. This bill provides an opportunity to partner with parents in their communities. Differential response allows an immediate engagement with families about the safety of the child in the home. Increased engagement with families will reduce the need for court required services and court involvement. Family Assessment Response will change the relationship and dynamic that CPS workers have with parents. See the differential response system as an excellent model with which to work with victims of domestic violence.

Persons Testifying: PRO: Seth Howard, Building Changes; Patricia Ridge, Veteran Parent; Linda Thomas, Catholic Community Services; Laurie Lippold, Children's Home Society; Grace Huang, WA State Coalition Against Domestic Violence.