

SENATE BILL REPORT

SB 5971

As of January 17, 2012

Title: An act relating to mandatory reporting of child abuse or neglect by supervised persons.

Brief Description: Modifying requirements for certain mandatory reporters of child abuse and neglect.

Sponsors: Senators Carrell, Stevens and Swecker.

Brief History:

Committee Activity: Human Services & Corrections: 1/13/12.

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Staff: Jennifer Strus (786-7316)

Background: When the following persons have reasonable cause to believe that a child has suffered abuse or neglect, they must report the incident to either law enforcement or the Department of Social and Health Services (DSHS): physician; county coroner; law enforcement officer; professional school personnel; registered or licensed nurse; social service counselor; psychologist; pharmacist; Department of Early Learning employee; licensed or certified child care provider; juvenile probation officer; placement and liaison specialist; responsible living skills program staff; DSHS employees; HOPE center staff; state family and children's ombudsman employee, or any volunteer in the ombudsman's office.

The reporting requirement also applies to a variety of other persons in specific situations:

- Department of Corrections (DOC). DOC personnel who, as a result of observations made in the course of their employment, have reasonable cause to believe that a child has suffered abuse or neglect must report the incident to law enforcement or DSHS.
- Adults with whom Child Resides. An adult who has reasonable cause to believe that a child who resides with them has suffered severe abuse must report the incident to law enforcement or DSHS. 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 that causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness.

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.

- Guardians ad Litem (GAL). Any GAL or court appointed special advocate appointed in dependency, domestic relations, or guardianship cases who, in the course of their representation of children in these actions, have reasonable cause to believe the child they represent has been abused or neglected must report the incident to law enforcement or DSHS.
- Person in Supervisory Capacity. Any person who, in an official supervisory capacity with a profit or non-profit organization, has reasonable cause to believe that a child has been abused or neglected by a person over whom he or she regularly exercises supervisory authority, must report the incident to the proper law enforcement agency. This requirement applies only when the alleged abuser is employed by, contracted by, or volunteers with the organization and counsels, coaches, trains, or educates a child or children as part of the employment, contract, or voluntary service. Official supervisory capacity means a position, status, or role created, recognized, or designated by any organization or entity whose scope includes overseeing, directing, or managing another person who is employed by, contracted by, or volunteers with the organization or entity.
- Any Other Person. Any person who has reasonable cause to believe that a child has suffered abuse or neglect may, but is not required to, report the incident to law enforcement or DSHS.

Persons mandated to report suspected child abuse or neglect must do so at the first opportunity but in no case longer than 48 hours after there is reasonable cause to believe the child has suffered abuse or neglect.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed Substitute): A person in an official supervisory capacity must report abuse or neglect if there is reasonable cause to believe a child has suffered abuse or neglect. Reasonable cause exists if the person witnesses or receives a written or oral report of sexual misconduct perpetrated by a person over whom the reporter regularly exercises supervisory authority.

For purposes of this mandated reporting situation, organization or entity is defined to include a sole proprietor; partnership; corporation; limited liability company; trust; association; financial institution; governmental entity, other than the federal government, and any other individual or group engaged in a trade, occupation, enterprise, governmental function, or similar activity in this state however organized and whether organized to operate at a profit.

The term sexual misconduct is also defined to mean:

- any sexual advance, whether verbal, written or physical;
- sexual intercourse, as defined in RCW 9A.44.010;
- intentionally touching the sexual or other intimate parts of a child except to the extent necessary and appropriate to attend to the hygienic or health needs of the child;
- activities determined to be grooming behavior for purposes of establishing a sexual relationship;
- indecent exposure, as defined by RCW 9A.88.010; and
- commission of a criminal sex offense pursuant to chapter 9A.44 RCW.

Technical changes are made to separate who must report suspected child abuse or neglect from the actions to be taken by the agencies who receive the reports.

Appropriation: None.

Fiscal Note: Requested on January 12, 2012.

Committee/Commission/Task Force Created: No.

Effective Date: The bill takes effect on October 1, 2012.

Staff Summary of Public Testimony: OTHER: The change requiring the mandated reporters to only report to law enforcement could lead to confusion for mandated reporters about who they report to and could delay involvement of DSHS in cases of abuse or neglect that do not rise to the level of a crime but still implicate child safety. It is not clear whether the definition of organization or entity that is added to the bill was intended to apply to more organizations or whether it was intended to narrow the focus of the state. The definition seems to focus on commercial and governmental entities, and leave out nonprofit groups that may be organized to achieve a charitable or social goal, rather than to engage in a trade or enterprise. The definition of sexual misconduct raises concerns because its terms can be interpreted in more than one way and also because the definitions are inconsistent with other statutory definitions. In particular, the use of the phrase grooming behavior is a broad term that is not defined and as a result could be difficult to prove.

Persons Testifying: OTHER: Sheila Huber, Attorney General's Office; Lonnie Johns-Brown, WA Coalition of Sexual Assault Programs.