

SENATE BILL REPORT

SB 6555

As of January 31, 2012

Title: An act relating to child protective services.

Brief Description: Providing for family assessments in cases involving child abuse or neglect.

Sponsors: Senator Hargrove.

Brief History:

Committee Activity: Human Services & Corrections: 1/31/12.

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Staff: Jennifer Strus (786-7316)

Background: Child Protective Services in Washington. Child protective services are services provided by the Department of Social and Health Services (DSHS) 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. Child protective services 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 be committed, the DSHS must notify the appropriate law enforcement agency.

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.

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 20 days of receiving notice 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. 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. 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

Alternative Response System in Washington.

In 1997 the Legislature authorized an alternative response system (ARS). ARS was voluntary family-centered service provided by a contracted entity with the intention to increase the strength and cohesiveness of families that DSHS has determined to present a low risk of child abuse or neglect. The families that were referred to ARS were families that would not have been screened in for investigation. In 2006 DSHS redesigned ARS program because a study of ARS determined that it was not producing good outcomes. The new program was called Early Family Support Services(EFSS). The stated goals of this program included the implementation of a standardized assessment tool, development of service delivery standards, and integration of promising or evidence-based programs. Again, the families referred to this program were those not likely to be screened in for an investigation.

Consideration of Differential Response in Washington. In 2008 DSHS issued a legislative report regarding its consideration of a differential response system. The report described pros and cons associated with implementing differential response, which are summarized below.

Pros:

1. Social workers could concentrate on family assessment and case planning rather than the outcome of an investigation.
2. Investigative findings may become more consistent, due to a narrower focus.
3. Families that are chronically reported to CPS may receive more therapeutic interventions that are motivational in nature.

Cons:

1. In order for change to succeed the total agenda must be staged and doable, organizational capacity must be addressed given the number of change initiatives underway.
2. Funding, service levels, and ability to meet the basic needs of families would limit the outcomes of a differential response system.
3. The CA would likely not have the ability to respond to families in an assessment track with immediate services to meet their basic living needs and if Washington prioritized services for the most at-risk children, then lower risk families in the assessment track would receive fewer services paid by the DSHS/CA.
4. All social work staff must be trained in engaging families and assessing safety and risk factors.
5. Implementation of non-contracted differential response system would require further specialization of staff and additional categorization of families.

6. Agencies serving vulnerable adults and children would not learn about some potential CPS concerns regarding persons applying to be employed or licensed since CPS investigative findings on some cases involving maltreatment would no longer occur for families diverted to the assessment track.
7. Research did not clearly indicate that referring moderate risk families to differential response will improve outcomes (some states limit an alternate response to low risk cases).

Differential Response In Other States. A number of other states have implemented a differential response system. Minnesota is the state with the longest running differential response system. Approximately 18 other states have similar systems. In the differential response system, cases that would normally be screened in and investigated are placed in the differential response system where the families strengths and weaknesses and child safety are assessed and no investigation is conducted nor are findings of child abuse made. If the family does not wish to participate, unless the case presents no child safety issues, the case is referred for investigation.

Summary of Bill: Family Assessment Track. When DSHS receives a report of abuse or neglect, it must decide within twenty-four hours whether to conduct a family assessment or an investigation as follows:

1. If the report alleges substantial child endangerment, DSHS must conduct an investigation. Substantial child endangerment includes allegations of sexual abuse; neglect that seriously endangers a child's welfare; and serious crimes against a child such as assault, criminal mistreatment, and rape.
2. DSHS may conduct a family assessment on a report of child abuse or neglect that was originally screened in for investigation. In determining that an investigation is not needed, DSHS must document its reasons for terminating the investigation.
3. DSHS must begin an immediate investigation if, at the time it is using the family assessment, it determines there is reason to believe that substantial child endangerment or a serious and immediate threat to the child's safety exists.
4. DSHS may conduct a family assessment on reports that do not allege substantial child endangerment.

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 that does not allege substantial child endangerment. 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.

For reports that are placed in the family assessment track, DSHS must :

1. provide the family with a written and oral 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;

5. use a consent form before services are initiated that inform 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.

A family assessment conducted by DSHS 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 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 but only with the permission of the child's parent, guardian, or custodian.
3. 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.

In the family assessment track, DSHS does not make a finding that child abuse or neglect occurred. No one is to be named perpetrator and no investigative finding is to be entered in DSHS's child abuse and neglect database.

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 notify the child's parent or guardian of the recommendation for continued services to address child safety concerns or significant risk of subsequent child maltreatment. If the parent or guardian disagrees with DSHS's conclusion regarding the provision of services, the parent can seek review of DSHS's recommendation by the Assistant Secretary of the Children's Administration. DSHS is to develop rules to implement this review process.

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 60 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 to care for children or vulnerable adults;
 - b. whether the person is qualified to be employed by a child care agency or facility; or
 - c. whether the person will be authorized or funded to provide care or services 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 exercise reasonable, good faith efforts in providing notice to the alleged perpetrator. After receiving notification of the results of DSHS's review, the person has 60 days within which to ask for an adjudicative hearing with an administrative law judge. If the request is not made within the 60 day period, the person has no right to further review.

Appropriation: None.

Fiscal Note: Requested on January 31, 2012.

Committee/Commission/Task Force Created: No.

Effective Date: The bill takes effect on July 1, 2013.