
ENGROSSED SUBSTITUTE HOUSE BILL 2510

State of Washington

62nd Legislature

2012 Regular Session

By House Judiciary (originally sponsored by Representatives Kagi, Walsh, Pedersen, Orwall, Jinkins, Dickerson, Ryu, Van De Wege, Darneille, and Roberts)

READ FIRST TIME 01/31/12.

1 AN ACT Relating to limiting government liability during preshelter
2 care investigations of child abuse or neglect; amending RCW 26.44.010;
3 adding a new section to chapter 4.24 RCW; and adding a new section to
4 chapter 26.44 RCW.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 26.44.010 and 1999 c 176 s 27 are each amended to read
7 as follows:

8 The Washington state legislature finds and declares: The bond
9 between a child and his or her parent, custodian, or guardian is of
10 paramount importance, and any intervention into the life of a child is
11 also an intervention into the life of the parent, custodian, or
12 guardian; however, instances of nonaccidental injury, neglect, death,
13 sexual abuse and cruelty to children by their parents, custodians or
14 guardians have occurred, and in the instance where a child is deprived
15 of his or her right to conditions of minimal nurture, health, and
16 safety, the state is justified in emergency intervention based upon
17 verified information; and therefore the Washington state legislature
18 hereby provides for the reporting of such cases to the appropriate
19 public authorities. It is the intent of the legislature that, as a

1 result of such reports, protective services shall be made available in
2 an effort to prevent further abuses, and to safeguard the general
3 welfare of such children(~~(: PROVIDED, That such)~~). When the child's
4 physical or mental health is jeopardized, or the safety of the child
5 conflicts with the legal rights of a parent, custodian, or guardian,
6 the health and safety interests of the child should prevail. When
7 determining whether a child and a parent, custodian, or guardian should
8 be separated during or immediately following an investigation of
9 alleged child abuse or neglect, the safety of the child shall be the
10 department's paramount concern. Reports of child abuse and neglect
11 shall be maintained and disseminated with strictest regard for the
12 privacy of the subjects of such reports and so as to safeguard against
13 arbitrary, malicious or erroneous information or actions(~~(: PROVIDED~~
14 ~~FURTHER, That)~~). This chapter shall not be construed to authorize
15 interference with child- raising practices, including reasonable
16 parental discipline, which are not proved to be injurious to the
17 child's health, welfare and safety.

18 NEW SECTION. Sec. 2. A new section is added to chapter 4.24 RCW
19 to read as follows:

20 (1) Governmental entities, and their officers, agents, employees,
21 and volunteers, are not liable in tort for any of their acts or
22 omissions in emergent placement investigations of child abuse or
23 neglect under chapter 26.44 RCW including, but not limited to, any
24 determination to leave a child with a parent, custodian, or guardian,
25 or to return a child to a parent, custodian, or guardian, unless the
26 act or omission constitutes gross negligence. Emergent placement
27 investigations are those conducted prior to a shelter care hearing
28 under RCW 13.34.065.

29 (2) The department of social and health services and its employees
30 shall comply with the orders of the court, including shelter care and
31 other dependency orders, and are not liable for acts performed to
32 comply with such court orders. In providing reports and
33 recommendations to the court, employees of the department of social and
34 health services are entitled to the same witness immunity as would be
35 provided to any other witness.

1 NEW SECTION. **Sec. 3.** A new section is added to chapter 26.44 RCW
2 to read as follows:

3 Consistent with the paramount concern of the department to protect
4 the child's interests of basic nurture, physical and mental health, and
5 safety, and the requirement that the child's health and safety
6 interests prevail over conflicting legal interests of a parent,
7 custodian, or guardian, the liability of governmental entities, and
8 their officers, agents, employees, and volunteers, to parents,
9 custodians, or guardians accused of abuse or neglect is limited as
10 provided in section 2 of this act.

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