
ENGROSSED SUBSTITUTE SENATE BILL 5605

State of Washington

62nd Legislature

2011 Regular Session

By Senate Human Services & Corrections (originally sponsored by Senator Hargrove)

READ FIRST TIME 02/21/11.

1 AN ACT Relating to government liability; amending RCW 26.44.010;
2 and adding new sections to chapter 4.24 RCW.

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

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

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

1 welfare of such children(~~(: PROVIDED, That such)~~). When the child's
2 interests of basic nurture, physical and mental health, and safety
3 conflict with the parents' interests, the interests of the child should
4 prevail. When determining whether a parent and child should be
5 separated during or immediately following an investigation of alleged
6 child abuse or neglect, the safety of the child shall be the
7 department's paramount concern. Reports of child abuse and neglect
8 shall be maintained and disseminated with strictest regard for the
9 privacy of the subjects of such reports and so as to safeguard against
10 arbitrary, malicious or erroneous information or actions(~~(: PROVIDED~~
11 ~~FURTHER, That)~~). This chapter shall not be construed to authorize
12 interference with child-raising practices, including reasonable
13 parental discipline, which are not proved to be injurious to the
14 child's health, welfare and safety.

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

17 (1) No governmental entity or its officers, agents, employees, and
18 volunteers, shall be criminally or civilly liable for performing duties
19 pursuant to chapter 26.44 RCW with regard to investigating allegations
20 of child abuse or neglect if such duties were performed without gross
21 negligence.

22 (2) The duty to conduct a reasonable investigation of child abuse
23 or neglect upon a referral runs only to children who are the subject of
24 a referral under chapter 26.44 RCW.

25 (3) The department and its employees shall comply with the orders
26 of the court, including shelter care and other dependency orders, and
27 are not liable for acts performed to comply with such court orders. In
28 providing reports and recommendations to the court, caseworkers are
29 entitled to the same witness immunity as would be provided to any other
30 witness.

31 (4) Nothing in this section diminishes any immunity or defense that
32 may otherwise be applicable to the governmental entity or its past or
33 present employees.

34 NEW SECTION. Sec. 3. A new section is added to chapter 4.24 RCW
35 to read as follows:

36 (1) No governmental entity or its officers, agents, employees, and

1 volunteers, shall be criminally or civilly liable for performing duties
2 with regard to the supervision of offenders so long as the duties were
3 performed without gross negligence.

4 (2) For the purposes of this section, supervision includes any type
5 of community-based supervision including, but not limited to,
6 probation, parole, community custody, community placement, community
7 supervision, and postrelease supervision.

8 (3) Nothing in this section diminishes any immunity or defense that
9 may otherwise be applicable to the governmental entity or its past or
10 present employees.

--- END ---