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SENATE BILL 5223

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State of Washington

63rd Legislature

2013 Regular Session

By Senators Kohl-Welles, Fraser, Carrell, Darneille, Frockt, Keiser, Chase, Hasegawa, Kline, Shin, Roach, Schlicher, McAuliffe, and Conway

Read first time 01/23/13. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to adding children victims of trafficking to the  
2 definition of abuse and neglect; amending RCW 26.44.020; reenacting and  
3 amending RCW 26.44.020; providing an effective date; and providing an  
4 expiration date.

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

6 **Sec. 1.** RCW 26.44.020 and 2010 c 176 s 1 are each reenacted and  
7 amended to read as follows:

8 The definitions in this section apply throughout this chapter  
9 unless the context clearly requires otherwise.

10 (1) "Abuse or neglect" means sexual abuse, sexual exploitation, or  
11 injury of a child by any person under circumstances which cause harm to  
12 the child's health, welfare, or safety, including victimizing children  
13 by involving them in trafficking as prohibited by RCW 9A.40.100 and  
14 excluding conduct permitted under RCW 9A.16.100; or the negligent  
15 treatment or maltreatment of a child by a person responsible for or  
16 providing care to the child. An abused child is a child who has been  
17 subjected to child abuse or neglect as defined in this section.

18 (2) "Child" or "children" means any person under the age of  
19 eighteen years of age.

1 (3) "Child protective services" means those services provided by  
2 the department designed to protect children from child abuse and  
3 neglect and safeguard such children from future abuse and neglect, and  
4 conduct investigations of child abuse and neglect reports.  
5 Investigations may be conducted regardless of the location of the  
6 alleged abuse or neglect. Child protective services includes referral  
7 to services to ameliorate conditions that endanger the welfare of  
8 children, the coordination of necessary programs and services relevant  
9 to the prevention, intervention, and treatment of child abuse and  
10 neglect, and services to children to ensure that each child has a  
11 permanent home. In determining whether protective services should be  
12 provided, the department shall not decline to provide such services  
13 solely because of the child's unwillingness or developmental inability  
14 to describe the nature and severity of the abuse or neglect.

15 (4) "Child protective services section" means the child protective  
16 services section of the department.

17 (5) "Children's advocacy center" means a child-focused facility in  
18 good standing with the state chapter for children's advocacy centers  
19 and that coordinates a multidisciplinary process for the investigation,  
20 prosecution, and treatment of sexual and other types of child abuse.  
21 Children's advocacy centers provide a location for forensic interviews  
22 and coordinate access to services such as, but not limited to, medical  
23 evaluations, advocacy, therapy, and case review by multidisciplinary  
24 teams within the context of county protocols as defined in RCW  
25 26.44.180 and 26.44.185.

26 (6) "Clergy" means any regularly licensed or ordained minister,  
27 priest, or rabbi of any church or religious denomination, whether  
28 acting in an individual capacity or as an employee or agent of any  
29 public or private organization or institution.

30 (7) "Court" means the superior court of the state of Washington,  
31 juvenile department.

32 (8) "Department" means the state department of social and health  
33 services.

34 (9) "Founded" means the determination following an investigation by  
35 the department that, based on available information, it is more likely  
36 than not that child abuse or neglect did occur.

37 (10) "Inconclusive" means the determination following an

1 investigation by the department, prior to October 1, 2008, that based  
2 on available information a decision cannot be made that more likely  
3 than not, child abuse or neglect did or did not occur.

4 (11) "Institution" means a private or public hospital or any other  
5 facility providing medical diagnosis, treatment, or care.

6 (12) "Law enforcement agency" means the police department, the  
7 prosecuting attorney, the state patrol, the director of public safety,  
8 or the office of the sheriff.

9 (13) "Malice" or "maliciously" means an intent, wish, or design to  
10 intimidate, annoy, or injure another person. Such malice may be  
11 inferred from an act done in willful disregard of the rights of  
12 another, or an act wrongfully done without just cause or excuse, or an  
13 act or omission of duty betraying a willful disregard of social duty.

14 (14) "Negligent treatment or maltreatment" means an act or a  
15 failure to act, or the cumulative effects of a pattern of conduct,  
16 behavior, or inaction, that evidences a serious disregard of  
17 consequences of such magnitude as to constitute a clear and present  
18 danger to a child's health, welfare, or safety, including but not  
19 limited to conduct prohibited under RCW 9A.42.100. When considering  
20 whether a clear and present danger exists, evidence of a parent's  
21 substance abuse as a contributing factor to negligent treatment or  
22 maltreatment shall be given great weight. The fact that siblings share  
23 a bedroom is not, in and of itself, negligent treatment or  
24 maltreatment. Poverty, homelessness, or exposure to domestic violence  
25 as defined in RCW 26.50.010 that is perpetrated against someone other  
26 than the child does not constitute negligent treatment or maltreatment  
27 in and of itself.

28 (15) "Pharmacist" means any registered pharmacist under chapter  
29 18.64 RCW, whether acting in an individual capacity or as an employee  
30 or agent of any public or private organization or institution.

31 (16) "Practitioner of the healing arts" or "practitioner" means a  
32 person licensed by this state to practice podiatric medicine and  
33 surgery, optometry, chiropractic, nursing, dentistry, osteopathic  
34 medicine and surgery, or medicine and surgery or to provide other  
35 health services. The term "practitioner" includes a duly accredited  
36 Christian Science practitioner. A person who is being furnished  
37 Christian Science treatment by a duly accredited Christian Science

1 practitioner will not be considered, for that reason alone, a neglected  
2 person for the purposes of this chapter.

3 (17) "Professional school personnel" include, but are not limited  
4 to, teachers, counselors, administrators, child care facility  
5 personnel, and school nurses.

6 (18) "Psychologist" means any person licensed to practice  
7 psychology under chapter 18.83 RCW, whether acting in an individual  
8 capacity or as an employee or agent of any public or private  
9 organization or institution.

10 (19) "Screened-out report" means a report of alleged child abuse or  
11 neglect that the department has determined does not rise to the level  
12 of a credible report of abuse or neglect and is not referred for  
13 investigation.

14 (20) "Sexual exploitation" includes: (a) Allowing, permitting, or  
15 encouraging a child to engage in prostitution by any person; or (b)  
16 allowing, permitting, encouraging, or engaging in the obscene or  
17 pornographic photographing, filming, or depicting of a child by any  
18 person.

19 (21) "Sexually aggressive youth" means a child who is defined in  
20 RCW 74.13.075(1)(b) as being a sexually aggressive youth.

21 (22) "Social service counselor" means anyone engaged in a  
22 professional capacity during the regular course of employment in  
23 encouraging or promoting the health, welfare, support, or education of  
24 children, or providing social services to adults or families, including  
25 mental health, drug and alcohol treatment, and domestic violence  
26 programs, whether in an individual capacity, or as an employee or agent  
27 of any public or private organization or institution.

28 (23) "Supervising agency" means an agency licensed by the state  
29 under RCW 74.15.090 or an Indian tribe under RCW 74.15.190 that has  
30 entered into a performance-based contract with the department to  
31 provide child welfare services.

32 (24) "Unfounded" means the determination following an investigation  
33 by the department that available information indicates that, more  
34 likely than not, child abuse or neglect did not occur, or that there is  
35 insufficient evidence for the department to determine whether the  
36 alleged child abuse did or did not occur.

1       **Sec. 2.** RCW 26.44.020 and 2012 c 259 s 1 are each amended to read  
2 as follows:

3       The definitions in this section apply throughout this chapter  
4 unless the context clearly requires otherwise.

5       (1) "Abuse or neglect" means sexual abuse, sexual exploitation, or  
6 injury of a child by any person under circumstances which cause harm to  
7 the child's health, welfare, or safety, including victimizing children  
8 by involving them in trafficking as prohibited by RCW 9A.40.100 and  
9 excluding conduct permitted under RCW 9A.16.100; or the negligent  
10 treatment or maltreatment of a child by a person responsible for or  
11 providing care to the child. An abused child is a child who has been  
12 subjected to child abuse or neglect as defined in this section.

13       (2) "Child" or "children" means any person under the age of  
14 eighteen years of age.

15       (3) "Child protective services" means those services provided by  
16 the department designed to protect children from child abuse and  
17 neglect and safeguard such children from future abuse and neglect, and  
18 conduct investigations of child abuse and neglect reports.  
19 Investigations may be conducted regardless of the location of the  
20 alleged abuse or neglect. Child protective services includes referral  
21 to services to ameliorate conditions that endanger the welfare of  
22 children, the coordination of necessary programs and services relevant  
23 to the prevention, intervention, and treatment of child abuse and  
24 neglect, and services to children to ensure that each child has a  
25 permanent home. In determining whether protective services should be  
26 provided, the department shall not decline to provide such services  
27 solely because of the child's unwillingness or developmental inability  
28 to describe the nature and severity of the abuse or neglect.

29       (4) "Child protective services section" means the child protective  
30 services section of the department.

31       (5) "Children's advocacy center" means a child-focused facility in  
32 good standing with the state chapter for children's advocacy centers  
33 and that coordinates a multidisciplinary process for the investigation,  
34 prosecution, and treatment of sexual and other types of child abuse.  
35 Children's advocacy centers provide a location for forensic interviews  
36 and coordinate access to services such as, but not limited to, medical  
37 evaluations, advocacy, therapy, and case review by multidisciplinary

1 teams within the context of county protocols as defined in RCW  
2 26.44.180 and 26.44.185.

3 (6) "Clergy" means any regularly licensed or ordained minister,  
4 priest, or rabbi of any church or religious denomination, whether  
5 acting in an individual capacity or as an employee or agent of any  
6 public or private organization or institution.

7 (7) "Court" means the superior court of the state of Washington,  
8 juvenile department.

9 (8) "Department" means the state department of social and health  
10 services.

11 (9) "Family assessment" means a comprehensive assessment of child  
12 safety, risk of subsequent child abuse or neglect, and family strengths  
13 and needs that is applied to a child abuse or neglect report. Family  
14 assessment does not include a determination as to whether child abuse  
15 or neglect occurred, but does determine the need for services to  
16 address the safety of the child and the risk of subsequent  
17 maltreatment.

18 (10) "Family assessment response" means a way of responding to  
19 certain reports of child abuse or neglect made under this chapter using  
20 a differential response approach to child protective services. The  
21 family assessment response shall focus on the safety of the child, the  
22 integrity and preservation of the family, and shall assess the status  
23 of the child and the family in terms of risk of abuse and neglect  
24 including the parent's or guardian's or other caretaker's capacity and  
25 willingness to protect the child and, if necessary, plan and arrange  
26 the provision of services to reduce the risk and otherwise support the  
27 family. No one is named as a perpetrator, and no investigative finding  
28 is entered in the record as a result of a family assessment.

29 (11) "Founded" means the determination following an investigation  
30 by the department that, based on available information, it is more  
31 likely than not that child abuse or neglect did occur.

32 (12) "Inconclusive" means the determination following an  
33 investigation by the department, prior to October 1, 2008, that based  
34 on available information a decision cannot be made that more likely  
35 than not, child abuse or neglect did or did not occur.

36 (13) "Institution" means a private or public hospital or any other  
37 facility providing medical diagnosis, treatment, or care.

1 (14) "Law enforcement agency" means the police department, the  
2 prosecuting attorney, the state patrol, the director of public safety,  
3 or the office of the sheriff.

4 (15) "Malice" or "maliciously" means an intent, wish, or design to  
5 intimidate, annoy, or injure another person. Such malice may be  
6 inferred from an act done in willful disregard of the rights of  
7 another, or an act wrongfully done without just cause or excuse, or an  
8 act or omission of duty betraying a willful disregard of social duty.

9 (16) "Negligent treatment or maltreatment" means an act or a  
10 failure to act, or the cumulative effects of a pattern of conduct,  
11 behavior, or inaction, that evidences a serious disregard of  
12 consequences of such magnitude as to constitute a clear and present  
13 danger to a child's health, welfare, or safety, including but not  
14 limited to conduct prohibited under RCW 9A.42.100. When considering  
15 whether a clear and present danger exists, evidence of a parent's  
16 substance abuse as a contributing factor to negligent treatment or  
17 maltreatment shall be given great weight. The fact that siblings share  
18 a bedroom is not, in and of itself, negligent treatment or  
19 maltreatment. Poverty, homelessness, or exposure to domestic violence  
20 as defined in RCW 26.50.010 that is perpetrated against someone other  
21 than the child does not constitute negligent treatment or maltreatment  
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25 or agent of any public or private organization or institution.

26 (18) "Practitioner of the healing arts" or "practitioner" means a  
27 person licensed by this state to practice podiatric medicine and  
28 surgery, optometry, chiropractic, nursing, dentistry, osteopathic  
29 medicine and surgery, or medicine and surgery or to provide other  
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31 Christian Science practitioner. A person who is being furnished  
32 Christian Science treatment by a duly accredited Christian Science  
33 practitioner will not be considered, for that reason alone, a neglected  
34 person for the purposes of this chapter.

35 (19) "Professional school personnel" include, but are not limited  
36 to, teachers, counselors, administrators, child care facility  
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2 psychology under chapter 18.83 RCW, whether acting in an individual  
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4 organization or institution.

5 (21) "Screened-out report" means a report of alleged child abuse or  
6 neglect that the department has determined does not rise to the level  
7 of a credible report of abuse or neglect and is not referred for  
8 investigation.

9 (22) "Sexual exploitation" includes: (a) Allowing, permitting, or  
10 encouraging a child to engage in prostitution by any person; or (b)  
11 allowing, permitting, encouraging, or engaging in the obscene or  
12 pornographic photographing, filming, or depicting of a child by any  
13 person.

14 (23) "Sexually aggressive youth" means a child who is defined in  
15 RCW 74.13.075(1)(b) as being a sexually aggressive youth.

16 (24) "Social service counselor" means anyone engaged in a  
17 professional capacity during the regular course of employment in  
18 encouraging or promoting the health, welfare, support, or education of  
19 children, or providing social services to adults or families, including  
20 mental health, drug and alcohol treatment, and domestic violence  
21 programs, whether in an individual capacity, or as an employee or agent  
22 of any public or private organization or institution.

23 (25) "Supervising agency" means an agency licensed by the state  
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27 (26) "Unfounded" means the determination following an investigation  
28 by the department that available information indicates that, more  
29 likely than not, child abuse or neglect did not occur, or that there is  
30 insufficient evidence for the department to determine whether the  
31 alleged child abuse did or did not occur.

32 NEW SECTION. **Sec. 3.** Section 1 of this act expires December 1,  
33 2013.

34 NEW SECTION. **Sec. 4.** Section 2 of this act takes effect December



1 1, 2013.

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