

HOUSE BILL REPORT

SSB 5897

As Reported by House Committee On:
Early Learning & Human Services

Title: An act relating to providing funding for medical evaluations of suspected victims of child abuse.

Brief Description: Concerning funding for medical evaluations of suspected victims of child abuse.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Cleveland, Darneille, McAuliffe, Kohl-Welles and Chase).

Brief History:

Committee Activity:

Early Learning & Human Services: 3/20/15, 3/26/15 [DP].

Brief Summary of Substitute Bill

- The Department of Labor and Industries must pay, secondary to other insurance, all costs incurred by the medical examination of a suspected victim of Assault of a Child when the examination is conducted within 75 days of the filing of a dependency petition if funding is provided.
- The Act expires June 30, 2019.

HOUSE COMMITTEE ON EARLY LEARNING & HUMAN SERVICES

Majority Report: Do pass. Signed by 11 members: Representatives Kagi, Chair; Walkinshaw, Vice Chair; Walsh, Ranking Minority Member; Scott, Assistant Ranking Minority Member; Dent, Hawkins, Kilduff, McCaslin, Ortiz-Self, Sawyer and Senn.

Staff: Luke Wickham (786-7146).

Background:

Crime Victim Compensation Program.

The Department of Labor and Industries (Department) administers the Crime Victim Compensation Program (Program). Individual victims are eligible for this program if they

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sustain a bodily injury or severe emotional stress following a gross misdemeanor or felony crime and meet additional requirements. The crime resulting in injury to a victim must be verified by the Department or be reasonably credible.

For eligible victims, the Program will help cover medical/dental expenses, wage replacement, prescription expenses, mental health treatment, and some death benefits. Benefits under the program are secondary to services available from any other public or private insurance.

When a sexual assault examination is performed for the purpose of gathering evidence for possible prosecution, the costs of the examination must be billed to the Program. The client is not required to file an application with the Department to receive the benefit and may not be billed for those costs. If the examination includes treatment costs or follow-up treatment, an application for benefits must be filed with the Department for those services to be considered for payment.

Dependency Petition.

Any person may file with the clerk of the Superior Court a petition showing that there is a dependent child resident within the county and requesting that the Superior Court take action to deal with that child.

A dependent child for purposes of filing a dependency petition is any individual under the age of 18 who has been: (1) abandoned; (2) abused or neglected by a person legally responsible for the care of the child; or (3) has no parent, guardian, or custodian capable of adequately caring for the child, such that the child is in circumstances which constitute a danger of substantial damage to the child's psychological or physical development.

After the filing of a petition, a summons must be issued to children over 12 years of age, the parents, guardians, or custodians, and any other persons who appear to the court to be proper or necessary parties to the proceedings. The first hearing held after the filing of a petition is a shelter care petition and must be held within 72 hours, excluding weekends and holidays, of the filing of the petition. The primary purpose of a shelter care hearing is to determine whether the child can be immediately and safely returned home while the adjudication of the dependency is pending.

A fact-finding hearing must be held no later than 75 days after the filing of the petition, unless exceptional reasons are found. The rules of evidence apply at the fact-finding and the petitioner bears the burden of establishing by a preponderance of the evidence that the child is dependent.

For issues related to child abuse, "institution" means a private or public hospital or any other facility providing medical diagnosis, treatment or care.

Assault of a Child.

A person 18 years of age or older is guilty of the crime of Assault of a Child in the first degree if the child is under the age of 13 and the person commits the crime of Assault in the first degree against the child or intentionally assaults the child and either: (1) recklessly inflicts great bodily harm; or (2) causes substantial bodily harm, and the person has previously been engaged in a pattern or practice of assaulting the child resulting in greater

than transient pain or minor temporary marks, or causing physical pain or agony that is equivalent to torture. Assault of a child in the first degree is a class A felony.

A person 18 years of age or older is guilty of the crime of Assault of a Child in the second degree if the child is under the age of 13 and the person commits the crime of Assault in the second degree against the child or intentionally assaults the child and causes bodily harm resulting in greater than transient physical pain or minor temporary marks, and the person has previously been engaged in a pattern of assaulting the child resulting in greater than transient pain or minor temporary marks or causing the child physical pain that is equivalent to torture. Assault of a child in the second degree is a class B felony.

A person 18 years of age or older is guilty of the crime of Assault of a Child in the third degree if the child is under the age of 13 and the person commits the crime of Assault in the third degree by causing bodily harm with criminal negligence: (1) by means of a weapon or instrument with criminal negligence; or (2) accompanied by substantial pain that extends for a period sufficient to cause considerable suffering. Assault of a child in the third degree is a class C felony.

Summary of Bill:

The Department must pay, secondary to other insurance benefits, all costs incurred by an institution of the examination of a suspected victim of Assault of a Child when the examination is conducted within 75 days of the filing of a dependency petition if funding is provided.

The act expires June 30, 2019.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Children's Justice Centers are multidisciplinary centers that help prosecute perpetrators of child abuse and provide therapy for the victims. Sexual abuse examinations are currently paid for through the Crime Victim's Compensation Program, while physical abuse examinations are not currently covered. This bill would address that disparity. This bill has been worked on by stakeholders and comes before the committee after a great deal of work.

The Crime Victim's Compensation account focused on female victims of sexual assault. Early intervention and identification is imperative to help protect children. Some communities provide this service without reimbursement. The United States has some of the worst child welfare outcomes of any industrialized country. Some of the children served by medical examinations are toddlers with broken bones without explanation. There are times when a medical examination will reveal additional fractures. These examinations reveal more information that will help identify perpetrators and prevent future victimization. There are children who have been starved, exposed to cigarette burns, and other injuries. Medicaid pays for a 20-minute examination, which is insufficient time to conduct an appropriate forensic examination to prepare a case for prosecution. The centers don't handle spankings, the centers handle serious injuries.

The Children's Advocacy Centers see almost 6,000 children per year, 1,300 of these are just physical abuse cases. Each center must have a medical component where they examine a child. The problem with physical abuse examinations is that there is no reimbursement if there is no private insurance or Medicaid that will cover the examination. In that case, the medical provider must pick up the cost themselves. Many Children's Advocacy Centers will not turn any child away, but will end up covering the cost of an examination if there is no other insurance that will cover it.

(Opposed) None.

Persons Testifying: Senator Cleveland, prime sponsor; Mary Blanchette, Children's Justice Center; Pat Jollota, Justice for Children Clark County; and Randy Ryan, Children's Advocacy Centers of Washington.

Persons Signed In To Testify But Not Testifying: None.