

ESSB 5599 - H AMD TO HSEL COMM AMD (H-1742.1/23) 662  
By Representative Walsh

1 On page 9, after line 32, insert the following:

2 "Sec. 4. RCW 26.44.020 and 2021 c 215 s 142 and 2021 c 67 s 3  
3 are each reenacted and amended to read as follows:

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

6 (1) "Abuse or neglect" means sexual abuse, sexual exploitation,  
7 or injury of a child by any person under circumstances which cause  
8 harm to the child's health, welfare, or safety, excluding conduct  
9 permitted under RCW 9A.16.100; or the negligent treatment or  
10 maltreatment of a child by a person responsible for or providing care  
11 to the child. An abused child is a child who has been subjected to  
12 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 forensic interview" means a developmentally sensitive  
16 and legally sound method of gathering factual information regarding  
17 allegations of child abuse, child neglect, or exposure to violence.  
18 This interview is conducted by a competently trained, neutral  
19 professional utilizing techniques informed by research and best  
20 practice as part of a larger investigative process.

21 (4) "Child protective services" means those services provided by  
22 the department designed to protect children from child abuse and  
23 neglect and safeguard such children from future abuse and neglect,  
24 and conduct investigations of child abuse and neglect reports.  
25 Investigations may be conducted regardless of the location of the  
26 alleged abuse or neglect. Child protective services includes referral  
27 to services to ameliorate conditions that endanger the welfare of  
28 children, the coordination of necessary programs and services  
29 relevant to the prevention, intervention, and treatment of child  
30 abuse and neglect, and services to children to ensure that each child  
31 has a permanent home. In determining whether protective services  
32 should be provided, the department shall not decline to provide such

1 services solely because of the child's unwillingness or developmental  
2 inability to describe the nature and severity of the abuse or  
3 neglect.

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

6 (6) "Child who is a candidate for foster care" means a child who  
7 the department identifies as being at imminent risk of entering  
8 foster care but who can remain safely in the child's home or in a  
9 kinship placement as long as services or programs that are necessary  
10 to prevent entry of the child into foster care are provided, and  
11 includes but is not limited to a child whose adoption or guardianship  
12 arrangement is at risk of a disruption or dissolution that would  
13 result in a foster care placement. The term includes a child for whom  
14 there is reasonable cause to believe that any of the following  
15 circumstances exist:

16 (a) The child has been abandoned by the parent as defined in RCW  
17 13.34.030 and the child's health, safety, and welfare is seriously  
18 endangered as a result;

19 (b) The child has been abused or neglected as defined in this  
20 chapter and the child's health, safety, and welfare is seriously  
21 endangered as a result;

22 (c) There is no parent capable of meeting the child's needs such  
23 that the child is in circumstances that constitute a serious danger  
24 to the child's development;

25 (d) The child is otherwise at imminent risk of harm.

26 (7) "Children's advocacy center" means a child-focused facility  
27 in good standing with the state chapter for children's advocacy  
28 centers and that coordinates a multidisciplinary process for the  
29 investigation, prosecution, and treatment of sexual and other types  
30 of child abuse. Children's advocacy centers provide a location for  
31 forensic interviews and coordinate access to services such as, but  
32 not limited to, medical evaluations, advocacy, therapy, and case  
33 review by multidisciplinary teams within the context of county  
34 protocols as defined in RCW 26.44.180 and 26.44.185.

35 (8) "Clergy" means any regularly licensed or ordained minister,  
36 priest, or rabbi of any church or religious denomination, whether  
37 acting in an individual capacity or as an employee or agent of any  
38 public or private organization or institution.

39 (9) "Court" means the superior court of the state of Washington,  
40 juvenile department.

1 (10) "Department" means the department of children, youth, and  
2 families.

3 (11) "Experiencing homelessness" means lacking a fixed, regular,  
4 and adequate nighttime residence, including circumstances such as  
5 sharing the housing of other persons due to loss of housing, economic  
6 hardship, fleeing domestic violence, or a similar reason as described  
7 in the federal McKinney-Vento homeless assistance act (Title 42  
8 U.S.C., chapter 119, subchapter I) as it existed on January 1, 2021.

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

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

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

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

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

38 (17) "Law enforcement agency" means the police department, the  
39 prosecuting attorney, the state patrol, the director of public  
40 safety, or the office of the sheriff.

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

7 (19) "Negligent treatment or maltreatment" means an act or a  
8 failure to act, or the cumulative effects of a pattern of conduct,  
9 behavior, or inaction, that evidences a serious disregard of  
10 consequences of such magnitude as to constitute a clear and present  
11 danger to a child's health, welfare, or safety, including but not  
12 limited to conduct prohibited under RCW 9A.42.100. When considering  
13 whether a clear and present danger exists, evidence of a parent's  
14 substance abuse as a contributing factor to negligent treatment or  
15 maltreatment shall be given great weight. The fact that siblings  
16 share a bedroom is not, in and of itself, negligent treatment or  
17 maltreatment. Poverty, experiencing homelessness, lack of adequate  
18 affirmation of a child, or exposure to domestic violence as defined  
19 in RCW 7.105.010 that is perpetrated against someone other than the  
20 child does not constitute negligent treatment or maltreatment in and  
21 of itself.

22 (20) "Pharmacist" means any registered pharmacist under chapter  
23 18.64 RCW, whether acting in an individual capacity or as an employee  
24 or agent of any public or private organization or institution.

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

34 (22) "Prevention and family services and programs" means specific  
35 mental health prevention and treatment services, substance abuse  
36 prevention and treatment services, and in-home parent skill-based  
37 programs that qualify for federal funding under the federal family  
38 first prevention services act, P.L. 115-123. For purposes of this  
39 chapter, prevention and family services and programs are not remedial

1 services or family reunification services as described in RCW  
2 13.34.025(2).

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

6 (24) "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 (25) "Screened-out report" means a report of alleged child abuse  
11 or neglect that the department has determined does not rise to the  
12 level of a credible report of abuse or neglect and is not referred  
13 for investigation.

14 (26) "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 (27) "Sexually aggressive youth" means a child who is defined in  
20 RCW 74.13.075(1)(b) as being a sexually aggressive youth.

21 (28) "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  
24 of children, or providing social services to adults or families,  
25 including mental health, drug and alcohol treatment, and domestic  
26 violence programs, whether in an individual capacity, or as an  
27 employee or agent of any public or private organization or  
28 institution.

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

EFFECT: Specifies that lack of adequate affirmation of a child  
does not constitute negligent treatment or maltreatment in and of  
itself.

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