
HOUSE BILL 1048

State of Washington

67th Legislature

2021 Regular Session

By Representatives Wicks and Thai

Prefiled 12/23/20.

1 AN ACT Relating to the removal of specific religious references
2 regarding the criminal mistreatment of children and vulnerable adults
3 from a statute; amending RCW 9A.42.005 and 26.44.020; and creating a
4 new section.

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

6 NEW SECTION. **Sec. 1.** It is the intent of the legislature that
7 the changes proposed in this act neither approve nor disapprove of a
8 particular religious practice, but simply remove a statutory
9 reference that gives rise to constitutional issues by singling out
10 one particular religion. These changes are not intended to express a
11 bias against the practice of religious or spiritual healing, and are
12 intended to clarify that parents and guardians are allowed to rely
13 exclusively on religious healing practices under RCW 26.44.020 unless
14 any such decision poses a clear and present danger to the health,
15 welfare, or safety of the child. Further, the legislature does not
16 intend: (1) To prevent adults, including dependent and vulnerable
17 adults, from making their own voluntary decisions, including
18 decisions to rely on the practice of religious healing in lieu of
19 medical treatment; or (2) to prevent individuals charged with their
20 care from honoring and carrying out their decisions, as recognized in

1 Washington's vulnerable adult abuse law in RCW 74.34.180 and other
2 areas of Washington statutory and case law.

3 **Sec. 2.** RCW 9A.42.005 and 1997 c 392 s 507 are each amended to
4 read as follows:

5 The legislature finds that there is a significant need to protect
6 children and dependent persons, including frail elder and vulnerable
7 adults, from abuse and neglect by their parents, by persons entrusted
8 with their physical custody, or by persons employed to provide them
9 with the basic necessities of life. The legislature further finds
10 that such abuse and neglect often takes the forms of either
11 withholding from them the basic necessities of life, including food,
12 water, shelter, clothing, and health care, or abandoning them, or
13 both. Therefore, it is the intent of the legislature that criminal
14 penalties be imposed on those guilty of such abuse or neglect. (~~It~~
15 ~~is the intent of the legislature that a person who, in good faith, is~~
16 ~~furnished Christian Science treatment by a duly accredited Christian~~
17 ~~Science practitioner in lieu of medical care is not considered~~
18 ~~deprived of medically necessary health care or abandoned.))
19 Prosecutions under this chapter shall be consistent with the rules of
20 evidence, including hearsay, under law.~~

21 **Sec. 3.** RCW 26.44.020 and 2019 c 172 s 5 are each amended to
22 read as follows:

23 The definitions in this section apply throughout this chapter
24 unless the context clearly requires otherwise.

25 (1) "Abuse or neglect" means sexual abuse, sexual exploitation,
26 or injury of a child by any person under circumstances which cause
27 harm to the child's health, welfare, or safety, excluding conduct
28 permitted under RCW 9A.16.100; or the negligent treatment or
29 maltreatment of a child by a person responsible for or providing care
30 to the child. An abused child is a child who has been subjected to
31 child abuse or neglect as defined in this section.

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

34 (3) "Child forensic interview" means a developmentally sensitive
35 and legally sound method of gathering factual information regarding
36 allegations of child abuse, child neglect, or exposure to violence.
37 This interview is conducted by a competently trained, neutral

1 professional utilizing techniques informed by research and best
2 practice as part of a larger investigative process.

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

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

20 (6) "Child who is a candidate for foster care" means a child who
21 the department identifies as being at imminent risk of entering
22 foster care but who can remain safely in the child's home or in a
23 kinship placement as long as services or programs that are necessary
24 to prevent entry of the child into foster care are provided, and
25 includes but is not limited to a child whose adoption or guardianship
26 arrangement is at risk of a disruption or dissolution that would
27 result in a foster care placement. The term includes a child for whom
28 there is reasonable cause to believe that any of the following
29 circumstances exist:

30 (a) The child has been abandoned by the parent as defined in RCW
31 13.34.030 and the child's health, safety, and welfare is seriously
32 endangered as a result;

33 (b) The child has been abused or neglected as defined in this
34 chapter ((~~26.44 RCW~~)) and the child's health, safety, and welfare is
35 seriously endangered as a result;

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

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

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

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

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

16 (10) "Department" means the department of children, youth, and
17 families.

18 (11) "Family assessment" means a comprehensive assessment of
19 child safety, risk of subsequent child abuse or neglect, and family
20 strengths and needs that is applied to a child abuse or neglect
21 report. Family assessment does not include a determination as to
22 whether child abuse or neglect occurred, but does determine the need
23 for services to address the safety of the child and the risk of
24 subsequent maltreatment.

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

37 (13) "Founded" means the determination following an investigation
38 by the department that, based on available information, it is more
39 likely than not that child abuse or neglect did occur.

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

6 (15) "Institution" means a private or public hospital or any
7 other facility providing medical diagnosis, treatment, or care.

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

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

17 (18) "Negligent treatment or maltreatment" means an act or a
18 failure to act, or the cumulative effects of a pattern of conduct,
19 behavior, or inaction, that evidences a serious disregard of
20 consequences of such magnitude as to constitute a clear and present
21 danger to a child's health, welfare, or safety, including but not
22 limited to conduct prohibited under RCW 9A.42.100. When considering
23 whether a clear and present danger exists, evidence of a parent's
24 substance abuse as a contributing factor to negligent treatment or
25 maltreatment shall be given great weight. The fact that siblings
26 share a bedroom is not, in and of itself, negligent treatment or
27 maltreatment. Poverty, homelessness, or exposure to domestic violence
28 as defined in RCW 26.50.010 that is perpetrated against someone other
29 than the child does not constitute negligent treatment or
30 maltreatment in and of itself. Under this chapter, health care
31 decisions made in reliance on faith-based practices do not constitute
32 negligent treatment or maltreatment unless any such decision poses a
33 clear and present danger to the health, welfare, or safety of the
34 child.

35 (19) "Pharmacist" means any registered pharmacist under chapter
36 18.64 RCW, whether acting in an individual capacity or as an employee
37 or agent of any public or private organization or institution.

38 (20) "Practitioner of the healing arts" or "practitioner" means a
39 person licensed by this state to practice podiatric medicine and
40 surgery, optometry, chiropractic, nursing, dentistry, osteopathic

1 medicine and surgery, or medicine and surgery or to provide other
2 health services. The term "practitioner" includes a duly accredited
3 Christian Science practitioner. (~~A person who is being furnished
4 Christian Science treatment by a duly accredited Christian Science
5 practitioner will not be considered, for that reason alone, a
6 neglected person for the purposes of this chapter.~~)

7 (21) "Prevention and family services and programs" means specific
8 mental health prevention and treatment services, substance abuse
9 prevention and treatment services, and in-home parent skill-based
10 programs that qualify for federal funding under the federal family
11 first prevention services act, P.L. 115-123. For purposes of this
12 chapter, prevention and family services and programs are not remedial
13 services or family reunification services as described in RCW
14 13.34.025(2).

15 (22) "Professional school personnel" include, but are not limited
16 to, teachers, counselors, administrators, child care facility
17 personnel, and school nurses.

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

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

26 (25) "Sexual exploitation" includes: (a) Allowing, permitting, or
27 encouraging a child to engage in prostitution by any person; or (b)
28 allowing, permitting, encouraging, or engaging in the obscene or
29 pornographic photographing, filming, or depicting of a child by any
30 person.

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

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

1 (28) "Unfounded" means the determination following an
2 investigation by the department that available information indicates
3 that, more likely than not, child abuse or neglect did not occur, or
4 that there is insufficient evidence for the department to determine
5 whether the alleged child abuse did or did not occur.

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