



Senate Aging & Youth Committee

Senator Bob Mensch

Chairman

Gerri Lynn Sarfert, *Executive Director*

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Analysis Senate Bill 20, P.N. 679

Prime Sponsor: Senator LeAnna Washington

Overview

Amends Title 23 (Domestic Relations) and the definition of child abuse.

Summary

Amends the Child Protective Services Law to define child abuse as:

- Recklessly or intentionally acting against a child causing bodily injury or serious bodily injury to a child.
- Creating a reasonable likelihood of bodily injury or serious bodily injury to a child, including the fabrication, feigning or intentionally exaggerating or inducing a medical symptom or disease which results in a potentially harmful medical evaluation or treatment to the child.
- Recklessly or intentionally engaging in any of the following:
 - Kicking, burning, biting, stabbing, cutting or throwing a child in a manner that may endanger the child.
 - Unreasonably confining or restraining a child, based upon the method, location or the duration of the confinement or restraint.
 - Forcefully shaking a child if the child is under one year of age.
 - Forcefully slapping a child if the child is under one year of age.
 - Interfering with the breathing of a child.
 - Causing the child to be present at a location where any of the following is occurring:
 - Crimes code violation involving the operation of a methamphetamine lab.
 - Felony violation of the Controlled Substance, Drug, Device and Cosmetic Act.
 - Operation a vehicle in which the child is a passenger while a DUI or controlled substance is occurring.
 - Leaving a child alone with an individual who is 14 years of age or older and is subject to sexual offender registration.

- Causing or significantly contributing, by an act or series of acts, to the serious mental injury to a child.
- Recklessly or intentionally acting to cause the sexual abuse or exploitation of a child.
- Causing serious physical neglect of a child.
- Attempting to engage in any of the above conduct.
- Failing to act within 2 years of the date of the report to DPW or the county agency; and does any of the following:
 - Causes bodily injury or creates a reasonable likelihood of bodily injury to a child.
 - Recklessly or intentionally engages in conduct such as the following:
 - Kicking, burning, biting, stabbing, cutting or throwing a child in a manner that may endanger the child.
 - Unreasonably confining or restraining a child, based upon the method, location or the duration of the confinement or restraint.
 - Forcefully shaking a child if the child is under one year of age.
 - Forcefully slapping a child if the child is under one year of age.
 - Interfering with the breathing of a child.
 - Causing the child to be present at a location where any of the following is occurring:
 - Crimes code violation involving the operation of a methamphetamine lab.
 - Felony violation of the Controlled Substance, Drug, Device and Cosmetic Act.
 - Operation a vehicle in which the child is a passenger while a DUI or controlled substance is occurring.
 - Leaving a child alone with an individual who is 14 years of age or older and is subject to sexual offender registration.
- Causing harm or injury by an act or series of acts, to the serious mental injury to a child or causing the sexual abuse or exploitation of a child by failing to act.
- Recklessly or intentionally performing an act which results in the death of a child.

Provides for the following exclusions from child abuse:

- Environmental factors that are beyond the control of the parent or person responsible for the child's welfare, such as inadequate housing, furnishings, income, clothing and medical care.
- Practice of religious beliefs if the county agency determines that a child has not been provided needed medical or surgical care because of seriously held religious beliefs of the child's parents, guardians or person responsible for the child's welfare, which beliefs are consistent with those of a bona fide religion. The county agency must closely monitor the child and must seek

court-ordered medical intervention when the lack of medical or surgical care threatens the child's life or long-term health. "Child abuse" shall not be referenced in any reports or records and should acknowledge the religious basis for the child's condition. The family must be referred for general protective services, if appropriate.

- The use of reasonable force for disciplinary purposes by a person responsible for a child's welfare if any of the following conditions apply:
 - The use of reasonable force constitutes incidental, minor or reasonable physical contact with the child or other actions that are designed to maintain order and control.
 - The use of reasonable force is necessary:
 - To quell a disturbance or remove a child from the scene of a disturbance that threatens physical injury to persons or damage property;
 - To prevent the child from self-inflicted physical harm;
 - For self-defense or the defense of another individual; or
 - To obtain possession of weapons or other dangerous objects or controlled substances or paraphernalia that are on the child and within the control of the child.
- There is no restriction on the general recognized existing rights of parents to use reasonable supervision and control when raising their children, subject to provisions of the Crimes Code relating to the use of force by persons with special responsibility for care, discipline or safety of others.
- Participation in events themselves that involve physical contact with a child such as an interscholastic sport, physical education or an extracurricular activity involving physical contact.
- Peer-on-peer contact that results in injuries solely from a fight or scuffle mutually entered into by mutual consent.

Effective Date

60 days