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SENATE BILL 6258

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State of Washington

62nd Legislature

2012 Regular Session

By Senators Stevens, Carrell, Kohl-Welles, Fraser, Delvin, Regala, and Roach

Read first time 01/16/12. Referred to Committee on Judiciary.

1 AN ACT Relating to unaccompanied persons; amending RCW 9A.40.090;  
2 reenacting and amending RCW 26.44.020; and providing an effective date.

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

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

6 The definitions in this section apply throughout this chapter  
7 unless the context clearly requires otherwise.

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

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

17 (3) "Child protective services" means those services provided by  
18 the department designed to protect children from child abuse and  
19 neglect and safeguard such children from future abuse and neglect, and

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

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

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

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

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

29 (8) "Department" means the state department of social and health  
30 services.

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

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

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

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

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

11 (14) "Negligent treatment or maltreatment" means an act or a  
12 failure to act, or the cumulative effects of a pattern of conduct,  
13 behavior, or inaction, that evidences a serious disregard of  
14 consequences of such magnitude as to constitute a clear and present  
15 danger to a child's health, welfare, or safety, including but not  
16 limited to conduct prohibited under RCW 9A.42.100. When considering  
17 whether a clear and present danger exists, evidence of a parent's  
18 substance abuse as a contributing factor to negligent treatment or  
19 maltreatment shall be given great weight. The fact that siblings share  
20 a bedroom is not, in and of itself, negligent treatment or  
21 maltreatment. Poverty, homelessness, or exposure to domestic violence  
22 as defined in RCW 26.50.010 that is perpetrated against someone other  
23 than the child does not constitute negligent treatment or maltreatment  
24 in and of itself. Negligent treatment or maltreatment may also include  
25 (a) a physical search without probable cause of a child that involves  
26 the act of touching the anus, sexual organ, buttocks, or breast of the  
27 other person, such as touching through clothing, or (b) the act of a  
28 parent in allowing a child under the age of fourteen to be transported  
29 unaccompanied by a parent or adult responsible for the child's care.

30 (15) "Pharmacist" means any registered pharmacist under chapter  
31 18.64 RCW, whether acting in an individual capacity or as an employee  
32 or agent of any public or private organization or institution.

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

1 Christian Science treatment by a duly accredited Christian Science  
2 practitioner will not be considered, for that reason alone, a neglected  
3 person for the purposes of this chapter.

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

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

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

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

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

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

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

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

1       **Sec. 2.** RCW 9A.40.090 and 1995 c 156 s 1 are each amended to read  
2 as follows:

3       A person commits the crime of luring if the person:

4       (1)(a) Orders, lures, or attempts to lure a minor or a person with  
5 a developmental disability into any area or structure that is obscured  
6 from or inaccessible to the public, or away from any area or structure  
7 constituting a bus terminal, airport terminal, or other transportation  
8 terminal, or into a motor vehicle;

9       (b) Does not have the consent of the minor's parent or guardian or  
10 of the guardian of the person with a developmental disability; and

11       (c) Is unknown to the child or developmentally disabled person.

12       (2) It is a defense to luring, which the defendant must prove by a  
13 preponderance of the evidence, that the defendant's actions were  
14 reasonable under the circumstances and the defendant did not have any  
15 intent to harm the health, safety, or welfare of the minor or the  
16 person with the developmental disability.

17       (3) For purposes of this section:

18       (a) "Minor" means a person under the age of sixteen;

19       (b) "Person with a developmental disability" means a person with a  
20 developmental disability as defined in RCW 71A.10.020.

21       (4) Luring is a class C felony.

22       NEW SECTION. **Sec. 3.** This act takes effect January 1, 2013.

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