



STATE OF WASHINGTON
OFFICE OF THE FAMILY AND CHILDREN'S OMBUDSMAN

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TESTIMONY ON HB 3124
HOUSE COMMITTEE ON EARLY LEARNING AND CHILDREN'S SERVICES
Thursday, January 28, 2010
Hearing Room E, John L. O'Brien Building, 8:00 a.m.

Madam Chair and members of the committee, my name is Mary Meinig and I am the Director of the Office of the Family & Children's Ombudsman ("OFCO"). I am here to testify regarding House Bill 3124, which requires law enforcement officers to notify child protective services whenever a child is present in a vehicle being driven by a person being arrested on probable cause for driving under the influence of alcohol or drugs.

OFCO supports the intent of HB 3124, which is to provide a clear guideline to law enforcement officers to make a report to CPS when children are present in DUI arrests. OFCO believes that such reports would provide CPS the opportunity to review each situation to determine whether any child abuse or neglect concerns require further action and/or investigation.

Current law includes law enforcement officers on the list of persons who must make a report either to the department *or* to law enforcement when the person "has reasonable cause to believe that a child has suffered abuse or neglect."¹ Thus, officers in the field making an arrest for driving under the influence when a child is in the car *may* notify the department, but they are not clearly mandated to do so. OFCO has seen cases where officers have not made a report to CPS in this situation. **This bill makes it explicit that probable cause to arrest a person for DUI with a child in the car constitutes reasonable cause to believe that the child has suffered neglect**, and thus, that this should be reported to child protective services.

Through our investigation of complaints from citizens of Washington, and through our review of child fatalities and near-fatalities relating the child protective system, OFCO has gathered anecdotal evidence of inconsistent practice around the State regarding law enforcement reports to CPS as a result of DUI arrests when a child is in the vehicle:

- In one case, a mother was arrested for DUI and reckless endangerment with her 3 year old child in the car. The child was dependent, and had been returned to the care of her parents only 6 months earlier. Law enforcement did not make a report to CPS. CPS

¹ RCW 26.44.030(1)(a).

learned about the arrest more than a week later, and at that time generated an intake that was screened in for investigation. OFCO understands that following this incident, the CA regional administrator spoke with local law enforcement, who reminded officers that even when there is a parent available to pick up a child, when a parent is arrested for reckless endangerment, a report to CPS should be made.

- In another case, a 2 year old child is now paralyzed from an accident caused by her mother's drinking and driving. Two months prior to this accident, the mother had been arrested for DUI and reckless endangerment, with a .217 BAC level. Her two children, a newborn and the 2 year old, were in the car. Law enforcement did not report this to CPS. Agency documentation indicates that the mother had been in court just days prior to the accident which caused the 2 year old child's paralysis for violating court orders not to drink and drive. It is unclear how many times she had been arrested for DUI with a child in the car, but law enforcement never notified CPS of any arrest. The final accident was reported to CPS by a medical professional.

OFCO has raised concerns in these and other cases that when law enforcement has not notified CPS of a DUI arrest when children were present, CPS does not have the opportunity to review the situation to make an appropriate screening decision as to whether or not the incident calls for investigation of child neglect concerns or assessment of child safety. By requiring law enforcement officers to make a report to CPS in these circumstances, this bill would ensure that CPS has the information necessary to fulfill its mission of protecting children.

Thank you to Representatives Roberts and Kagi for their sponsorship of this legislation and for this opportunity to provide you with our thoughts on this proposal.