



STATE OF WASHINGTON
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WRITTEN TESTIMONY ON SHB 3124
Mary Meinig, Director Ombudsman, Office of the Family and Children's Ombudsman

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Thursday, February 18, 2010

Senate Hearing Room 1, J.A. Cherberg Building, 3:30 p.m.

Good afternoon Chairman Hargrove 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 apologize for my absence at today's public hearing. I am unable to be with you, because I am participating in a previously scheduled child fatality review.

Thank you for this opportunity to provide written testimony on Substitute House Bill 3124. While OFCO generally does not support or oppose specific legislation, **the Ombudsman strongly supports the intent of SHB 3124**, which provides a clear guideline to law enforcement officers to make a report to CPS whenever a child is present in a vehicle with a person being arrested for probable cause of a drug or alcohol related driving offense. OFCO believes that such reports will provide CPS with a consistent opportunity to review each situation to determine whether any child abuse or neglect concerns require further action and/or investigation, and could ultimately save children's lives.

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 a drug or alcohol related driving offense, with a child in the car, should be reported to CPS.**

Through our investigation of complaints from citizens of Washington, and through our review of child fatalities and near-fatalities relating to 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:

¹ RCW 26.44.030(1)(a).

- 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 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.

Washington State Patrol's previous testimony in support of this reporting requirement was heartening. In his testimony, Captain Jason Barry confirmed that it is "hit or miss" whether law enforcement reports to CPS when a child has been present during a DUI arrest, that those children are often turned over to other responsible family members or adults, and that although law enforcement errs on the side of caution, CPS is usually called in "egregious" situations. Captain Barry explained that this bill does provide "necessary clarification" to law enforcement officers that whenever a child is present in a vehicle being driven by a person arrested on probable cause for a drug or alcohol-related driving offense, a report must be made to CPS.

Thank you for this opportunity to provide you with our thoughts on this important, and potentially life-saving, legislation.