
SENATE BILL 6367

State of Washington

60th Legislature

2008 Regular Session

By Senators Eide, Stevens, Keiser, Hargrove, Franklin, Carrell, Regala, Shin, Kohl-Welles, and Rasmussen

Read first time 01/16/08. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to child protective services investigations;
2 amending RCW 26.44.030; reenacting and amending RCW 26.44.030;
3 providing an effective date; providing an expiration date; and
4 declaring an emergency.

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

6 **Sec. 1.** RCW 26.44.030 and 2007 c 387 s 3 are each amended to read
7 as follows:

8 (1)(a) When any practitioner, county coroner or medical examiner,
9 law enforcement officer, professional school personnel, registered or
10 licensed nurse, social service counselor, psychologist, pharmacist,
11 employee of the department of early learning, licensed or certified
12 child care providers or their employees, employee of the department,
13 juvenile probation officer, placement and liaison specialist,
14 responsible living skills program staff, HOPE center staff, or state
15 family and children's ombudsman or any volunteer in the ombudsman's
16 office has reasonable cause to believe that a child has suffered abuse
17 or neglect, he or she shall report such incident, or cause a report to
18 be made, to the proper law enforcement agency or to the department as
19 provided in RCW 26.44.040.

1 (b) When any person, in his or her official supervisory capacity
2 with a nonprofit or for-profit organization, has reasonable cause to
3 believe that a child has suffered abuse or neglect caused by a person
4 over whom he or she regularly exercises supervisory authority, he or
5 she shall report such incident, or cause a report to be made, to the
6 proper law enforcement agency, provided that the person alleged to have
7 caused the abuse or neglect is employed by, contracted by, or
8 volunteers with the organization and coaches, trains, educates, or
9 counsels a child or children or regularly has unsupervised access to a
10 child or children as part of the employment, contract, or voluntary
11 service. No one shall be required to report under this section when he
12 or she obtains the information solely as a result of a privileged
13 communication as provided in RCW 5.60.060.

14 Nothing in this subsection (1)(b) shall limit a person's duty to
15 report under (a) of this subsection.

16 For the purposes of this subsection, the following definitions
17 apply:

18 (i) "Official supervisory capacity" means a position, status, or
19 role created, recognized, or designated by any nonprofit or for-profit
20 organization, either for financial gain or without financial gain,
21 whose scope includes, but is not limited to, overseeing, directing, or
22 managing another person who is employed by, contracted by, or
23 volunteers with the nonprofit or for-profit organization.

24 (ii) "Regularly exercises supervisory authority" means to act in
25 his or her official supervisory capacity on an ongoing or continuing
26 basis with regards to a particular person.

27 (c) The reporting requirement also applies to department of
28 corrections personnel who, in the course of their employment, observe
29 offenders or the children with whom the offenders are in contact. If,
30 as a result of observations or information received in the course of
31 his or her employment, any department of corrections personnel has
32 reasonable cause to believe that a child has suffered abuse or neglect,
33 he or she shall report the incident, or cause a report to be made, to
34 the proper law enforcement agency or to the department as provided in
35 RCW 26.44.040.

36 (d) The reporting requirement shall also apply to any adult who has
37 reasonable cause to believe that a child who resides with them, has
38 suffered severe abuse, and is able or capable of making a report. For

1 the purposes of this subsection, "severe abuse" means any of the
2 following: Any single act of abuse that causes physical trauma of
3 sufficient severity that, if left untreated, could cause death; any
4 single act of sexual abuse that causes significant bleeding, deep
5 bruising, or significant external or internal swelling; or more than
6 one act of physical abuse, each of which causes bleeding, deep
7 bruising, significant external or internal swelling, bone fracture, or
8 unconsciousness.

9 (e) The report must be made at the first opportunity, but in no
10 case longer than forty-eight hours after there is reasonable cause to
11 believe that the child has suffered abuse or neglect. The report must
12 include the identity of the accused if known.

13 (2) The reporting requirement of subsection (1) of this section
14 does not apply to the discovery of abuse or neglect that occurred
15 during childhood if it is discovered after the child has become an
16 adult. However, if there is reasonable cause to believe other children
17 are or may be at risk of abuse or neglect by the accused, the reporting
18 requirement of subsection (1) of this section does apply.

19 (3) Any other person who has reasonable cause to believe that a
20 child has suffered abuse or neglect may report such incident to the
21 proper law enforcement agency or to the department of social and health
22 services as provided in RCW 26.44.040.

23 (4) The department, upon receiving a report of an incident of
24 alleged abuse or neglect pursuant to this chapter, involving a child
25 who has died or has had physical injury or injuries inflicted upon him
26 or her other than by accidental means or who has been subjected to
27 alleged sexual abuse, shall report such incident to the proper law
28 enforcement agency. In emergency cases, where the child's welfare is
29 endangered, the department shall notify the proper law enforcement
30 agency within twenty-four hours after a report is received by the
31 department. In all other cases, the department shall notify the law
32 enforcement agency within seventy-two hours after a report is received
33 by the department. If the department makes an oral report, a written
34 report must also be made to the proper law enforcement agency within
35 five days thereafter.

36 (5) Any law enforcement agency receiving a report of an incident of
37 alleged abuse or neglect pursuant to this chapter, involving a child
38 who has died or has had physical injury or injuries inflicted upon him

1 or her other than by accidental means, or who has been subjected to
2 alleged sexual abuse, shall report such incident in writing as provided
3 in RCW 26.44.040 to the proper county prosecutor or city attorney for
4 appropriate action whenever the law enforcement agency's investigation
5 reveals that a crime may have been committed. The law enforcement
6 agency shall also notify the department of all reports received and the
7 law enforcement agency's disposition of them. In emergency cases,
8 where the child's welfare is endangered, the law enforcement agency
9 shall notify the department within twenty-four hours. In all other
10 cases, the law enforcement agency shall notify the department within
11 seventy-two hours after a report is received by the law enforcement
12 agency.

13 (6) Any county prosecutor or city attorney receiving a report under
14 subsection (5) of this section shall notify the victim, any persons the
15 victim requests, and the local office of the department, of the
16 decision to charge or decline to charge a crime, within five days of
17 making the decision.

18 (7) The department may conduct ongoing case planning and
19 consultation with those persons or agencies required to report under
20 this section, with consultants designated by the department, and with
21 designated representatives of Washington Indian tribes if the client
22 information exchanged is pertinent to cases currently receiving child
23 protective services. Upon request, the department shall conduct such
24 planning and consultation with those persons required to report under
25 this section if the department determines it is in the best interests
26 of the child. Information considered privileged by statute and not
27 directly related to reports required by this section must not be
28 divulged without a valid written waiver of the privilege.

29 (8) Any case referred to the department by a physician licensed
30 under chapter 18.57 or 18.71 RCW on the basis of an expert medical
31 opinion that child abuse, neglect, or sexual assault has occurred and
32 that the child's safety will be seriously endangered if returned home,
33 the department shall file a dependency petition unless a second
34 licensed physician of the parents' choice believes that such expert
35 medical opinion is incorrect. If the parents fail to designate a
36 second physician, the department may make the selection. If a
37 physician finds that a child has suffered abuse or neglect but that
38 such abuse or neglect does not constitute imminent danger to the

1 child's health or safety, and the department agrees with the
2 physician's assessment, the child may be left in the parents' home
3 while the department proceeds with reasonable efforts to remedy
4 parenting deficiencies.

5 (9) Persons or agencies exchanging information under subsection (7)
6 of this section shall not further disseminate or release the
7 information except as authorized by state or federal statute.
8 Violation of this subsection is a misdemeanor.

9 (10) Upon receiving reports of alleged abuse or neglect, the
10 department or law enforcement agency may interview children. The
11 interviews may be conducted on school premises, at day-care facilities,
12 at the child's home, or at other suitable locations outside of the
13 presence of parents. Parental notification of the interview must occur
14 at the earliest possible point in the investigation that will not
15 jeopardize the safety or protection of the child or the course of the
16 investigation. Prior to commencing the interview the department or law
17 enforcement agency shall determine whether the child wishes a third
18 party to be present for the interview and, if so, shall make reasonable
19 efforts to accommodate the child's wishes. Unless the child objects,
20 the department or law enforcement agency shall make reasonable efforts
21 to include a third party in any interview so long as the presence of
22 the third party will not jeopardize the course of the investigation.

23 (11) Upon receiving a report of alleged child abuse and neglect,
24 the department or investigating law enforcement agency shall have
25 access to all relevant records of the child in the possession of
26 mandated reporters and their employees.

27 (12)(a) In investigating and responding to allegations of child
28 abuse and neglect, the department may conduct background checks as
29 authorized by state and federal law.

30 (b) In investigating and responding to allegations of sexual abuse
31 involving a child, the department shall search the sex offender
32 registry maintained by the Washington state patrol to determine whether
33 the alleged perpetrator is a registered sex offender.

34 (13) The department shall maintain investigation records and
35 conduct timely and periodic reviews of all cases constituting abuse and
36 neglect. The department shall maintain a log of screened-out
37 nonabusive cases.

1 (14) The department shall use a risk assessment process when
2 investigating alleged child abuse and neglect referrals. The
3 department shall present the risk factors at all hearings in which the
4 placement of a dependent child is an issue. Substance abuse must be a
5 risk factor. The department shall, within funds appropriated for this
6 purpose, offer enhanced community-based services to persons who are
7 determined not to require further state intervention.

8 (15) Upon receipt of a report of alleged abuse or neglect the law
9 enforcement agency may arrange to interview the person making the
10 report and any collateral sources to determine if any malice is
11 involved in the reporting.

12 (16) The department shall make reasonable efforts to learn the
13 name, address, and telephone number of each person making a report of
14 abuse or neglect under this section. The department shall provide
15 assurances of appropriate confidentiality of the identification of
16 persons reporting under this section. If the department is unable to
17 learn the information required under this subsection, the department
18 shall only investigate cases in which: (a) The department believes
19 there is a serious threat of substantial harm to the child; (b) the
20 report indicates conduct involving a criminal offense that has, or is
21 about to occur, in which the child is the victim; or (c) the department
22 has, after investigation, a report of abuse or neglect that has been
23 founded with regard to a member of the household within three years of
24 receipt of the referral.

25 **Sec. 2.** RCW 26.44.030 and 2007 c 387 s 3 and 2007 c 220 s 2 are
26 each reenacted and amended to read as follows:

27 (1)(a) When any practitioner, county coroner or medical examiner,
28 law enforcement officer, professional school personnel, registered or
29 licensed nurse, social service counselor, psychologist, pharmacist,
30 employee of the department of early learning, licensed or certified
31 child care providers or their employees, employee of the department,
32 juvenile probation officer, placement and liaison specialist,
33 responsible living skills program staff, HOPE center staff, or state
34 family and children's ombudsman or any volunteer in the ombudsman's
35 office has reasonable cause to believe that a child has suffered abuse
36 or neglect, he or she shall report such incident, or cause a report to

1 be made, to the proper law enforcement agency or to the department as
2 provided in RCW 26.44.040.

3 (b) When any person, in his or her official supervisory capacity
4 with a nonprofit or for-profit organization, has reasonable cause to
5 believe that a child has suffered abuse or neglect caused by a person
6 over whom he or she regularly exercises supervisory authority, he or
7 she shall report such incident, or cause a report to be made, to the
8 proper law enforcement agency, provided that the person alleged to have
9 caused the abuse or neglect is employed by, contracted by, or
10 volunteers with the organization and coaches, trains, educates, or
11 counsels a child or children or regularly has unsupervised access to a
12 child or children as part of the employment, contract, or voluntary
13 service. No one shall be required to report under this section when he
14 or she obtains the information solely as a result of a privileged
15 communication as provided in RCW 5.60.060.

16 Nothing in this subsection (1)(b) shall limit a person's duty to
17 report under (a) of this subsection.

18 For the purposes of this subsection, the following definitions
19 apply:

20 (i) "Official supervisory capacity" means a position, status, or
21 role created, recognized, or designated by any nonprofit or for-profit
22 organization, either for financial gain or without financial gain,
23 whose scope includes, but is not limited to, overseeing, directing, or
24 managing another person who is employed by, contracted by, or
25 volunteers with the nonprofit or for-profit organization.

26 (ii) "Regularly exercises supervisory authority" means to act in
27 his or her official supervisory capacity on an ongoing or continuing
28 basis with regards to a particular person.

29 (c) The reporting requirement also applies to department of
30 corrections personnel who, in the course of their employment, observe
31 offenders or the children with whom the offenders are in contact. If,
32 as a result of observations or information received in the course of
33 his or her employment, any department of corrections personnel has
34 reasonable cause to believe that a child has suffered abuse or neglect,
35 he or she shall report the incident, or cause a report to be made, to
36 the proper law enforcement agency or to the department as provided in
37 RCW 26.44.040.

1 (d) The reporting requirement shall also apply to any adult who has
2 reasonable cause to believe that a child who resides with them, has
3 suffered severe abuse, and is able or capable of making a report. For
4 the purposes of this subsection, "severe abuse" means any of the
5 following: Any single act of abuse that causes physical trauma of
6 sufficient severity that, if left untreated, could cause death; any
7 single act of sexual abuse that causes significant bleeding, deep
8 bruising, or significant external or internal swelling; or more than
9 one act of physical abuse, each of which causes bleeding, deep
10 bruising, significant external or internal swelling, bone fracture, or
11 unconsciousness.

12 (e) The report must be made at the first opportunity, but in no
13 case longer than forty-eight hours after there is reasonable cause to
14 believe that the child has suffered abuse or neglect. The report must
15 include the identity of the accused if known.

16 (2) The reporting requirement of subsection (1) of this section
17 does not apply to the discovery of abuse or neglect that occurred
18 during childhood if it is discovered after the child has become an
19 adult. However, if there is reasonable cause to believe other children
20 are or may be at risk of abuse or neglect by the accused, the reporting
21 requirement of subsection (1) of this section does apply.

22 (3) Any other person who has reasonable cause to believe that a
23 child has suffered abuse or neglect may report such incident to the
24 proper law enforcement agency or to the department of social and health
25 services as provided in RCW 26.44.040.

26 (4) The department, upon receiving a report of an incident of
27 alleged abuse or neglect pursuant to this chapter, involving a child
28 who has died or has had physical injury or injuries inflicted upon him
29 or her other than by accidental means or who has been subjected to
30 alleged sexual abuse, shall report such incident to the proper law
31 enforcement agency. In emergency cases, where the child's welfare is
32 endangered, the department shall notify the proper law enforcement
33 agency within twenty-four hours after a report is received by the
34 department. In all other cases, the department shall notify the law
35 enforcement agency within seventy-two hours after a report is received
36 by the department. If the department makes an oral report, a written
37 report must also be made to the proper law enforcement agency within
38 five days thereafter.

1 (5) Any law enforcement agency receiving a report of an incident of
2 alleged abuse or neglect pursuant to this chapter, involving a child
3 who has died or has had physical injury or injuries inflicted upon him
4 or her other than by accidental means, or who has been subjected to
5 alleged sexual abuse, shall report such incident in writing as provided
6 in RCW 26.44.040 to the proper county prosecutor or city attorney for
7 appropriate action whenever the law enforcement agency's investigation
8 reveals that a crime may have been committed. The law enforcement
9 agency shall also notify the department of all reports received and the
10 law enforcement agency's disposition of them. In emergency cases,
11 where the child's welfare is endangered, the law enforcement agency
12 shall notify the department within twenty-four hours. In all other
13 cases, the law enforcement agency shall notify the department within
14 seventy-two hours after a report is received by the law enforcement
15 agency.

16 (6) Any county prosecutor or city attorney receiving a report under
17 subsection (5) of this section shall notify the victim, any persons the
18 victim requests, and the local office of the department, of the
19 decision to charge or decline to charge a crime, within five days of
20 making the decision.

21 (7) The department may conduct ongoing case planning and
22 consultation with those persons or agencies required to report under
23 this section, with consultants designated by the department, and with
24 designated representatives of Washington Indian tribes if the client
25 information exchanged is pertinent to cases currently receiving child
26 protective services. Upon request, the department shall conduct such
27 planning and consultation with those persons required to report under
28 this section if the department determines it is in the best interests
29 of the child. Information considered privileged by statute and not
30 directly related to reports required by this section must not be
31 divulged without a valid written waiver of the privilege.

32 (8) Any case referred to the department by a physician licensed
33 under chapter 18.57 or 18.71 RCW on the basis of an expert medical
34 opinion that child abuse, neglect, or sexual assault has occurred and
35 that the child's safety will be seriously endangered if returned home,
36 the department shall file a dependency petition unless a second
37 licensed physician of the parents' choice believes that such expert
38 medical opinion is incorrect. If the parents fail to designate a

1 second physician, the department may make the selection. If a
2 physician finds that a child has suffered abuse or neglect but that
3 such abuse or neglect does not constitute imminent danger to the
4 child's health or safety, and the department agrees with the
5 physician's assessment, the child may be left in the parents' home
6 while the department proceeds with reasonable efforts to remedy
7 parenting deficiencies.

8 (9) Persons or agencies exchanging information under subsection (7)
9 of this section shall not further disseminate or release the
10 information except as authorized by state or federal statute.
11 Violation of this subsection is a misdemeanor.

12 (10) Upon receiving a report of alleged abuse or neglect, the
13 department shall make reasonable efforts to learn the name, address,
14 and telephone number of each person making a report of abuse or neglect
15 under this section. The department shall provide assurances of
16 appropriate confidentiality of the identification of persons reporting
17 under this section. If the department is unable to learn the
18 information required under this subsection, the department shall only
19 investigate cases in which:

20 (a) The department believes there is a serious threat of
21 substantial harm to the child;

22 (b) The report indicates conduct involving a criminal offense that
23 has, or is about to occur, in which the child is the victim; or

24 (c) The department has a prior founded report of abuse or neglect
25 with regard to a member of the household that is within three years of
26 receipt of the referral.

27 (11)(a) For reports of alleged abuse or neglect that are accepted
28 for investigation by the department, the investigation shall be
29 conducted within time frames established by the department in rule. In
30 no case shall the investigation extend longer than ninety days from the
31 date the report is received, unless the investigation is being
32 conducted under a written protocol pursuant to RCW 26.44.180 and a law
33 enforcement agency or prosecuting attorney has determined that a longer
34 investigation period is necessary. At the completion of the
35 investigation, the department shall make a finding that the report of
36 child abuse or neglect is founded or unfounded.

37 (b) If a court in a civil or criminal proceeding, considering the
38 same facts or circumstances as are contained in the report being

1 investigated by the department, makes a judicial finding by a
2 preponderance of the evidence or higher that the subject of the pending
3 investigation has abused or neglected the child, the department shall
4 adopt the finding in its investigation.

5 (12) In conducting an investigation of alleged abuse or neglect,
6 the department or law enforcement agency:

7 (a) May interview children. The interviews may be conducted on
8 school premises, at day-care facilities, at the child's home, or at
9 other suitable locations outside of the presence of parents. Parental
10 notification of the interview must occur at the earliest possible point
11 in the investigation that will not jeopardize the safety or protection
12 of the child or the course of the investigation. Prior to commencing
13 the interview the department or law enforcement agency shall determine
14 whether the child wishes a third party to be present for the interview
15 and, if so, shall make reasonable efforts to accommodate the child's
16 wishes. Unless the child objects, the department or law enforcement
17 agency shall make reasonable efforts to include a third party in any
18 interview so long as the presence of the third party will not
19 jeopardize the course of the investigation; and

20 (b) Shall have access to all relevant records of the child in the
21 possession of mandated reporters and their employees.

22 (13)(a) In investigating and responding to allegations of child
23 abuse and neglect, the department may conduct background checks as
24 authorized by state and federal law.

25 (b) In investigating and responding to allegations of sexual abuse
26 involving a child, the department shall search the statewide registered
27 kidnapping and sex offender web site maintained by the Washington
28 association of sheriffs and police chiefs under RCW 4.24.550 to
29 determine whether the alleged perpetrator is a registered sex offender.

30 (14) The department shall maintain investigation records and
31 conduct timely and periodic reviews of all founded cases of abuse and
32 neglect. The department shall maintain a log of screened-out
33 nonabusive cases.

34 (15) The department shall use a risk assessment process when
35 investigating alleged child abuse and neglect referrals. The
36 department shall present the risk factors at all hearings in which the
37 placement of a dependent child is an issue. Substance abuse must be a

1 risk factor. The department shall, within funds appropriated for this
2 purpose, offer enhanced community-based services to persons who are
3 determined not to require further state intervention.

4 (16) Upon receipt of a report of alleged abuse or neglect the law
5 enforcement agency may arrange to interview the person making the
6 report and any collateral sources to determine if any malice is
7 involved in the reporting.

8 NEW SECTION. **Sec. 3.** (1) Section 2 of this act takes effect
9 October 1, 2008.

10 (2) Section 1 of this act is necessary for the immediate
11 preservation of the public peace, health, or safety, or support of the
12 state government and its existing public institutions, and takes effect
13 immediately.

14 NEW SECTION. **Sec. 4.** Section 1 of this act expires October 1,
15 2008.

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