
SENATE BILL 6850

State of Washington

61st Legislature

2010 Regular Session

By Senators Becker, Pflug, and Roach

Read first time 02/05/10. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to investigations of child abuse or neglect; and
2 amending RCW 26.44.030.

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

4 **Sec. 1.** RCW 26.44.030 and 2009 c 480 s 1 are each amended to read
5 as follows:

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

18 (b) When any person, in his or her official supervisory capacity
19 with a nonprofit or for-profit organization, has reasonable cause to

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

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

14 For the purposes of this subsection, the following definitions
15 apply:

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

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

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

34 (d) The reporting requirement shall also apply to any adult who has
35 reasonable cause to believe that a child who resides with them, has
36 suffered severe abuse, and is able or capable of making a report. For
37 the purposes of this subsection, "severe abuse" means any of the
38 following: Any single act of abuse that causes physical trauma of

1 sufficient severity that, if left untreated, could cause death; any
2 single act of sexual abuse that causes significant bleeding, deep
3 bruising, or significant external or internal swelling; or more than
4 one act of physical abuse, each of which causes bleeding, deep
5 bruising, significant external or internal swelling, bone fracture, or
6 unconsciousness.

7 (e) The reporting requirement also applies to guardians ad litem,
8 including court-appointed special advocates, appointed under Titles 11,
9 13, and 26 RCW, who in the course of their representation of children
10 in these actions have reasonable cause to believe a child has been
11 abused or neglected.

12 (f) 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 who: (i) May be victims of abuse or
8 neglect; (ii) reside with an alleged child victim of abuse or neglect;
9 or (iii) are the sibling of an alleged child victim of abuse or
10 neglect. The interviews may be conducted on school premises, at day-
11 care facilities, at the child's home, or at other suitable locations
12 outside of the presence of parents. Parental notification of the
13 interview must occur at the earliest possible point in the
14 investigation that will not jeopardize the safety or protection of the
15 child or the course of the investigation. If the child is fifteen
16 years of age or older, prior to commencing the interview the department
17 or law enforcement agency shall determine whether the child wishes a
18 third party to be present for the interview and, if so, shall make
19 reasonable efforts to accommodate the child's wishes. Unless the child
20 objects, the department or law enforcement agency shall make reasonable
21 efforts to include a third party in any interview so long as the
22 presence of the third party will not jeopardize the course of the
23 investigation. A child younger than fifteen years of age shall not be
24 interviewed without a third party present; ((and))

25 (b) May interview all other potential child witnesses not covered
26 under (a) of this subsection on school premises, at day-care
27 facilities, at the child's home, or at other suitable locations.
28 Parental notification of the interview must occur in advance of the
29 interview. Prior to commencing the interview, the department or law
30 enforcement agency shall ensure a third party is present for the
31 interview, including a parent or guardian, if available, or another
32 third party the child wishes to be present for the interview if a
33 parent or guardian is unavailable;

34 (c) Shall have access to all relevant records of the child in the
35 possession of mandated reporters and their employees; and

36 (d) Shall record interviews conducted under this subsection, in
37 full, either by audio or by video and audio.

1 (13) If a report of alleged abuse or neglect is founded and
2 constitutes the third founded report received by the department within
3 the last twelve months involving the same child or family, the
4 department shall promptly notify the office of the family and
5 children's ombudsman of the contents of the report. The department
6 shall also notify the ombudsman of the disposition of the report.

7 (14) In investigating and responding to allegations of child abuse
8 and neglect, the department may conduct background checks as authorized
9 by state and federal law.

10 (15) The department shall maintain investigation records and
11 conduct timely and periodic reviews of all founded cases of abuse and
12 neglect. The department shall maintain a log of screened-out
13 nonabusive cases.

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

21 (17) Upon receipt of a report of alleged abuse or neglect the law
22 enforcement agency may arrange to interview the person making the
23 report and any collateral sources to determine if any malice is
24 involved in the reporting.

25 (18) Upon receiving a report of alleged abuse or neglect involving
26 a child under the court's jurisdiction under chapter 13.34 RCW, the
27 department shall promptly notify the child's guardian ad litem of the
28 report's contents. The department shall also notify the guardian ad
29 litem of the disposition of the report. For purposes of this
30 subsection, "guardian ad litem" has the meaning provided in RCW
31 13.34.030.

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