
HOUSE BILL 1930

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By Representatives Roberts, Rolfes, Kagi, Takko, Kirby, Hasegawa, Dunshee, and Kenney

Read first time 02/10/11. Referred to Committee on Early Learning & Human Services.

1 AN ACT Relating to the rights of foster parents; and amending RCW
2 26.44.030, 26.44.031, 26.44.100, 74.13.300, 74.13.310, and 74.13.332.

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((7)): (i) The department must
29 notify the person accused of abuse or neglect within seventy-two hours
30 of receiving the report; and (ii) the investigation shall be conducted
31 within time frames established by the department in rule((-)) but in
32 no case shall the investigation extend longer than ninety days from the
33 date the report is received, unless the investigation is being
34 conducted under a written protocol pursuant to RCW 26.44.180 and a law
35 enforcement agency or prosecuting attorney has determined that a longer
36 investigation period is necessary. At the completion of the
37 investigation, the department shall make a finding that the report of
38 child abuse or neglect is founded or unfounded.

1 (b) If a court in a civil or criminal proceeding, considering the
2 same facts or circumstances as are contained in the report being
3 investigated by the department, makes a judicial finding by a
4 preponderance of the evidence or higher that the subject of the pending
5 investigation has abused or neglected the child, the department shall
6 adopt the finding in its investigation.

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

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

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

24 (13) If a report of alleged abuse or neglect is founded and
25 constitutes the third founded report received by the department within
26 the last twelve months involving the same child or family, the
27 department shall promptly notify the office of the family and
28 children's ombudsman of the contents of the report. The department
29 shall also notify the ombudsman of the disposition of the report.

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

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

37 (16) The department shall use a risk assessment process when
38 investigating alleged child abuse and neglect referrals. The

1 department shall present the risk factors at all hearings in which the
2 placement of a dependent child is an issue. Substance abuse must be a
3 risk factor. One or more prior unfounded allegation or allegations of
4 abuse or neglect may not be used by the department to determine whether
5 abuse or neglect has occurred. The department shall, within funds
6 appropriated for this purpose, offer enhanced community-based services
7 to persons who are determined not to require further state
8 intervention.

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

13 (18) Upon receiving a report of alleged abuse or neglect involving
14 a child under the court's jurisdiction under chapter 13.34 RCW, the
15 department shall promptly notify the child's guardian ad litem of the
16 report's contents. The department shall also notify the guardian ad
17 litem of the disposition of the report. For purposes of this
18 subsection, "guardian ad litem" has the meaning provided in RCW
19 13.34.030.

20 **Sec. 2.** RCW 26.44.031 and 2007 c 220 s 3 are each amended to read
21 as follows:

22 (1) To protect the privacy in reporting and the maintenance of
23 reports of nonaccidental injury, neglect, death, sexual abuse, and
24 cruelty to children by their parents, and to safeguard against
25 arbitrary, malicious, or erroneous information or actions, the
26 department shall not disclose or maintain information related to
27 reports of child abuse or neglect except as provided in this section or
28 as otherwise required by state and federal law.

29 (2) The department shall destroy all of its records concerning:

30 (a) A screened-out report, within three years from the receipt of
31 the report; and

32 (b) An unfounded or inconclusive report, (~~within~~) as soon as
33 practicable, but not to exceed six (~~years of~~) months from completion
34 of the investigation, unless a prior or subsequent founded report has
35 been received regarding the child who is the subject of the report, a
36 sibling or half-sibling of the child, or a parent, guardian, or legal
37 custodian of the child, before the records are destroyed.

1 (3) The department may keep records concerning founded reports of
2 child abuse or neglect as the department determines by rule.

3 (4) An unfounded, screened-out, or inconclusive report may not be
4 disclosed to a child-placing agency, private adoption agency, or any
5 other provider licensed under chapter 74.15 RCW.

6 (5)(a) If the department fails to comply with this section, an
7 individual who is the subject of a report may institute proceedings for
8 injunctive or other appropriate relief for enforcement of the
9 requirement to purge information. These proceedings may be instituted
10 in the superior court for the county in which the person resides or, if
11 the person is not then a resident of this state, in the superior court
12 for Thurston county.

13 (b) If the department fails to comply with subsection (4) of this
14 section and an individual who is the subject of the report is harmed by
15 the disclosure of information, in addition to the relief provided in
16 (a) of this subsection, the court may award a penalty of up to one
17 thousand dollars and reasonable attorneys' fees and court costs to the
18 petitioner.

19 (c) A proceeding under this subsection does not preclude other
20 methods of enforcement provided for by law.

21 (6) Nothing in this section shall prevent the department from
22 retaining general, nonidentifying information which is required for
23 state and federal reporting and management purposes.

24 **Sec. 3.** RCW 26.44.100 and 2005 c 512 s 1 are each amended to read
25 as follows:

26 (1) The legislature finds parents and children often are not aware
27 of their due process rights when agencies are investigating allegations
28 of child abuse and neglect. The legislature reaffirms that all
29 citizens, including parents, foster parents, guardians, and legal
30 custodians, shall be afforded due process, that protection of children
31 remains the priority of the legislature, and that this protection
32 includes protecting the family unit from unnecessary disruption. To
33 facilitate this goal, the legislature wishes to ensure that parents,
34 foster parents, guardians, and legal custodians and children be advised
35 in writing and orally, if feasible, of their basic rights and other
36 specific information as set forth in this chapter, provided that

1 nothing contained in this chapter shall cause any delay in protective
2 custody action.

3 (2)(a) The department shall notify the parent, foster parent,
4 guardian, or legal custodian of a child of any allegations of child
5 abuse or neglect made against such person at the initial point of
6 contact with such person, in a manner consistent with the laws
7 maintaining the confidentiality of the persons making the complaints or
8 allegations. The notification must occur within seventy-two hours of
9 receiving a report of alleged abuse or neglect. Investigations of
10 child abuse and neglect should be conducted in a manner that will not
11 jeopardize the safety or protection of the child or the integrity of
12 the investigation process.

13 (b) Whenever the department completes an investigation of a child
14 abuse or neglect report under chapter 26.44 RCW, the department shall
15 notify the subject of the report of the department's investigative
16 findings. The notice shall also advise the subject of the report that:

17 ((+a)) (i) A written response to the report may be provided to the
18 department and that such response will be filed in the record following
19 receipt by the department;

20 ((+b)) (ii) Information in the department's record may be
21 considered in subsequent investigations or proceedings related to child
22 protection or child custody;

23 ((+c)) (iii) Founded reports of child abuse and neglect may be
24 considered in determining whether the person is disqualified from being
25 licensed to provide child care, employed by a licensed child care
26 agency, or authorized by the department to care for children; and

27 ((+d)) (iv) A subject named in a founded report of child abuse or
28 neglect has the right to seek review of the finding as provided in this
29 chapter.

30 (3) The notification required by this section shall be made by
31 certified mail, return receipt requested, to the person's last known
32 address.

33 (4) The duty of notification created by this section is subject to
34 the ability of the department to ascertain the location of the person
35 to be notified. The department shall exercise reasonable, good-faith
36 efforts to ascertain the location of persons entitled to notification
37 under this section.

1 (5) The department shall provide training to all department
2 personnel who conduct investigations under this section that shall
3 include, but is not limited to, training regarding the legal duties of
4 the department from the initial time of contact during investigation
5 through treatment in order to protect children and families.

6 **Sec. 4.** RCW 74.13.300 and 2009 c 520 s 77 are each amended to read
7 as follows:

8 (1) Whenever a child has been placed in a foster family home by the
9 department or supervising agency and the child has thereafter resided
10 in the home for at least ninety consecutive days, the department or
11 supervising agency shall notify the foster family at least five days
12 prior to moving the child to another placement, unless:

13 (a) A court order has been entered requiring an immediate change in
14 placement;

15 (b) The child is being returned home;

16 (c) The child's safety is in jeopardy; or

17 (d) The child is residing in a receiving home or a group home.

18 (2) If the child has resided in a foster family home for less than
19 ninety days or if, due to one or more of the circumstances in
20 subsection (1) of this section, it is not possible to give five days'
21 notification, the department or supervising agency shall notify the
22 foster family of proposed placement changes as soon as reasonably
23 possible.

24 (3) A child may not be removed from a foster family home unless
25 there is a preponderance of evidence indicating that the safety,
26 health, or welfare of the child is in jeopardy.

27 (4) This section is intended solely to assist in minimizing
28 disruption to the child in changing foster care placements. ((Nothing
29 in this section shall be construed to require that a court hearing be
30 held prior to changing a child's foster care placement nor to create
31 any substantive custody rights in the foster parents.))

32 (5) If a child is removed from a foster family home because of an
33 allegation of abuse or neglect against the foster parent or parents,
34 the foster parent or parents must be given visitation with the child
35 during the investigation, unless the department can provide clear and
36 convincing evidence of the abuse or neglect to a court.

1 **Sec. 5.** RCW 74.13.310 and 2009 c 520 s 78 are each amended to read
2 as follows:

3 Adequate foster parent training has been identified as directly
4 associated with increasing the length of time foster parents are
5 willing to provide foster care and reducing the number of placement
6 disruptions for children. Placement disruptions can be harmful to
7 children by denying them consistent and nurturing support. Foster
8 parents have expressed the desire to receive training in addition to
9 the foster parent training currently offered. Foster parents who care
10 for more demanding children, such as children with severe emotional,
11 mental, or physical handicaps, would especially benefit from additional
12 training. The department and supervising agency shall develop
13 additional training for foster parents that focuses on skills to assist
14 foster parents in caring for emotionally, mentally, or physically
15 handicapped children. The department shall also develop training to be
16 provided to foster parents concerning allegations of child abuse and
17 neglect, including information on allegations against foster parents.

18 **Sec. 6.** RCW 74.13.332 and 2001 c 318 s 1 are each amended to read
19 as follows:

20 (1) Foster parents have the right to be free of coercion,
21 discrimination, and reprisal in serving foster children, including the
22 right to voice grievances about treatment furnished or not furnished to
23 the foster child. Foster parents must be afforded due process to
24 protect the family unit from unnecessary disruption.

25 (2) In order to ensure foster parents are aware of their due
26 process rights when agencies are investigating allegations of child
27 abuse or neglect, the investigating agency must advise foster parents,
28 in writing, of their basic rights and other specific information set
29 forth in this chapter.

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