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SENATE BILL 5991

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State of Washington                      62nd Legislature                      2011 2nd Special Session

By Senators Kohl-Welles, Carrell, Tom, Hill, Hargrove, Conway, Haugen, Fraser, Litzow, Kline, Fain, Roach, and Frockt

Read first time 12/12/11. Referred to Committee on Human Services & Corrections.

1            AN ACT Relating to reporting child abuse or neglect; amending RCW  
2 26.44.030; and adding a new section to chapter 28B.10 RCW.

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 reporting requirement in (a) of this subsection also  
13 applies to administrative and academic or athletic department  
14 employees, including student employees, of institutions of higher  
15 education, as defined in RCW 28B.10.016, and of private institutions of  
16 higher education, who, through observations made or information  
17 received during the course of their employment, have reasonable cause  
18 to believe that a child has suffered abuse or neglect.

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

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

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

33 (4) The department, upon receiving a report of an incident of  
34 alleged abuse or neglect pursuant to this chapter, involving a child  
35 who has died or has had physical injury or injuries inflicted upon him  
36 or her other than by accidental means or who has been subjected to  
37 alleged sexual abuse, shall report such incident to the proper law  
38 enforcement agency. In emergency cases, where the child's welfare is

1 endangered, the department shall notify the proper law enforcement  
2 agency within twenty-four hours after a report is received by the  
3 department. In all other cases, the department shall notify the law  
4 enforcement agency within seventy-two hours after a report is received  
5 by the department. If the department makes an oral report, a written  
6 report must also be made to the proper law enforcement agency within  
7 five days thereafter.

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

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

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

1 (8) Any case referred to the department by a physician licensed  
2 under chapter 18.57 or 18.71 RCW on the basis of an expert medical  
3 opinion that child abuse, neglect, or sexual assault has occurred and  
4 that the child's safety will be seriously endangered if returned home,  
5 the department shall file a dependency petition unless a second  
6 licensed physician of the parents' choice believes that such expert  
7 medical opinion is incorrect. If the parents fail to designate a  
8 second physician, the department may make the selection. If a  
9 physician finds that a child has suffered abuse or neglect but that  
10 such abuse or neglect does not constitute imminent danger to the  
11 child's health or safety, and the department agrees with the  
12 physician's assessment, the child may be left in the parents' home  
13 while the department proceeds with reasonable efforts to remedy  
14 parenting deficiencies.

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

19 (10) Upon receiving a report of alleged abuse or neglect, the  
20 department shall make reasonable efforts to learn the name, address,  
21 and telephone number of each person making a report of abuse or neglect  
22 under this section. The department shall provide assurances of  
23 appropriate confidentiality of the identification of persons reporting  
24 under this section. If the department is unable to learn the  
25 information required under this subsection, the department shall only  
26 investigate cases in which:

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

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

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

34 (11)(a) For reports of alleged abuse or neglect that are accepted  
35 for investigation by the department, the investigation shall be  
36 conducted within time frames established by the department in rule. In  
37 no case shall the investigation extend longer than ninety days from the  
38 date the report is received, unless the investigation is being

1 conducted under a written protocol pursuant to RCW 26.44.180 and a law  
2 enforcement agency or prosecuting attorney has determined that a longer  
3 investigation period is necessary. At the completion of the  
4 investigation, the department shall make a finding that the report of  
5 child abuse or neglect is founded or unfounded.

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

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

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

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

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

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

1 (15) The department shall maintain investigation records and  
2 conduct timely and periodic reviews of all founded cases of abuse and  
3 neglect. The department shall maintain a log of screened-out  
4 nonabusive cases.

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

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

16 (18) Upon receiving a report of alleged abuse or neglect involving  
17 a child under the court's jurisdiction under chapter 13.34 RCW, the  
18 department shall promptly notify the child's guardian ad litem of the  
19 report's contents. The department shall also notify the guardian ad  
20 litem of the disposition of the report. For purposes of this  
21 subsection, "guardian ad litem" has the meaning provided in RCW  
22 13.34.030.

23 NEW SECTION. **Sec. 2.** A new section is added to chapter 28B.10 RCW  
24 to read as follows:

25 (1)(a) All employees of institutions of higher education, not  
26 considered academic or athletic department employees, who, through  
27 observations made or information received during the course of their  
28 employment, have reasonable cause to believe a child has suffered abuse  
29 or neglect, must report such abuse or neglect immediately to the  
30 appropriate administrator or supervisor, as designated by the  
31 institution. The administrator or supervisor to whom the report was  
32 made, if not already a mandatory reporter under RCW 26.44.030, must  
33 report the abuse or neglect within forty-eight hours to a mandatory  
34 reporter designated by the institution for this purpose.

35 (b) For purposes of this section, "child" has the same meaning as  
36 in RCW 26.44.020(2).

1           (c) For purposes of this section, "abuse or neglect" has the same  
2 meaning as in RCW 26.44.020(1).

3           (2) Institutions of higher education must ensure that the employees  
4 covered by the provisions of RCW 26.44.030 and subsection (1)(a) of  
5 this section have knowledge of their reporting responsibilities through  
6 whatever means are most likely to succeed in providing this information  
7 to affected employees.

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