
SENATE BILL 5321

State of Washington 60th Legislature 2007 Regular Session

By Senators Carrell, Regala, Stevens, Schoesler and Clements

Read first time 01/17/2007. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to child welfare; amending RCW 26.44.020,
2 26.44.030, 26.44.031, 74.13.280, and 74.15.130; and adding a new
3 section to chapter 74.13 RCW.

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

5 **Sec. 1.** RCW 26.44.020 and 2006 c 339 s 108 are each amended to
6 read as follows:

7 The definitions in this section apply throughout this chapter
8 unless the context clearly requires otherwise.

9 ~~((1) "Court" means the superior court of the state of Washington,
10 juvenile department.~~

11 ~~(2) "Law enforcement agency" means the police department, the
12 prosecuting attorney, the state patrol, the director of public safety,
13 or the office of the sheriff.~~

14 ~~(3) "Practitioner of the healing arts" or "practitioner" means a
15 person licensed by this state to practice podiatric medicine and
16 surgery, optometry, chiropractic, nursing, dentistry, osteopathic
17 medicine and surgery, or medicine and surgery or to provide other
18 health services. The term "practitioner" includes a duly accredited
19 Christian Science practitioner: PROVIDED, HOWEVER, That a person who~~

1 ~~is being furnished Christian Science treatment by a duly accredited~~
2 ~~Christian Science practitioner will not be considered, for that reason~~
3 ~~alone, a neglected person for the purposes of this chapter.~~

4 ~~(4) "Institution" means a private or public hospital or any other~~
5 ~~facility providing medical diagnosis, treatment or care.~~

6 ~~(5) "Department" means the state department of social and health~~
7 ~~services.~~

8 ~~(6) "Child" or "children" means any person under the age of~~
9 ~~eighteen years of age.~~

10 ~~(7) "Professional school personnel" include, but are not limited~~
11 ~~to, teachers, counselors, administrators, child care facility~~
12 ~~personnel, and school nurses.~~

13 ~~(8) "Social service counselor" means anyone engaged in a~~
14 ~~professional capacity during the regular course of employment in~~
15 ~~encouraging or promoting the health, welfare, support or education of~~
16 ~~children, or providing social services to adults or families, including~~
17 ~~mental health, drug and alcohol treatment, and domestic violence~~
18 ~~programs, whether in an individual capacity, or as an employee or agent~~
19 ~~of any public or private organization or institution.~~

20 ~~(9) "Psychologist" means any person licensed to practice psychology~~
21 ~~under chapter 18.83 RCW, whether acting in an individual capacity or as~~
22 ~~an employee or agent of any public or private organization or~~
23 ~~institution.~~

24 ~~(10) "Pharmacist" means any registered pharmacist under chapter~~
25 ~~18.64 RCW, whether acting in an individual capacity or as an employee~~
26 ~~or agent of any public or private organization or institution.~~

27 ~~(11) "Clergy" means any regularly licensed or ordained minister,~~
28 ~~priest, or rabbi of any church or religious denomination, whether~~
29 ~~acting in an individual capacity or as an employee or agent of any~~
30 ~~public or private organization or institution.~~

31 ~~(12) "Abuse or neglect" means sexual abuse, sexual exploitation, or~~
32 ~~injury of a child by any person under circumstances which cause harm to~~
33 ~~the child's health, welfare, or safety, excluding conduct permitted~~
34 ~~under RCW 9A.16.100; or the negligent treatment or maltreatment of a~~
35 ~~child by a person responsible for or providing care to the child. An~~
36 ~~abused child is a child who has been subjected to child abuse or~~
37 ~~neglect as defined in this section.~~

1 ~~(13) "Child protective services section" means the child protective~~
2 ~~services section of the department.~~

3 ~~(14) "Sexual exploitation" includes: (a) Allowing, permitting, or~~
4 ~~encouraging a child to engage in prostitution by any person; or (b)~~
5 ~~allowing, permitting, encouraging, or engaging in the obscene or~~
6 ~~pornographic photographing, filming, or depicting of a child by any~~
7 ~~person.~~

8 ~~(15) "Negligent treatment or maltreatment" means an act or a~~
9 ~~failure to act, or the cumulative effects of a pattern of conduct,~~
10 ~~behavior, or inaction, that evidences a serious disregard of~~
11 ~~consequences of such magnitude as to constitute a clear and present~~
12 ~~danger to a child's health, welfare, or safety, including but not~~
13 ~~limited to conduct prohibited under RCW 9A.42.100. When considering~~
14 ~~whether a clear and present danger exists, evidence of a parent's~~
15 ~~substance abuse as a contributing factor to negligent treatment or~~
16 ~~maltreatment shall be given great weight. The fact that siblings share~~
17 ~~a bedroom is not, in and of itself, negligent treatment or~~
18 ~~maltreatment. Poverty, homelessness, or exposure to domestic violence~~
19 ~~as defined in RCW 26.50.010 that is perpetrated against someone other~~
20 ~~than the child does not constitute negligent treatment or maltreatment~~
21 ~~in and of itself.~~

22 ~~(16) "Child protective services" means those services provided by~~
23 ~~the department designed to protect children from child abuse and~~
24 ~~neglect and safeguard such children from future abuse and neglect, and~~
25 ~~conduct investigations of child abuse and neglect reports.~~
26 ~~Investigations may be conducted regardless of the location of the~~
27 ~~alleged abuse or neglect. Child protective services includes referral~~
28 ~~to services to ameliorate conditions that endanger the welfare of~~
29 ~~children, the coordination of necessary programs and services relevant~~
30 ~~to the prevention, intervention, and treatment of child abuse and~~
31 ~~neglect, and services to children to ensure that each child has a~~
32 ~~permanent home. In determining whether protective services should be~~
33 ~~provided, the department shall not decline to provide such services~~
34 ~~solely because of the child's unwillingness or developmental inability~~
35 ~~to describe the nature and severity of the abuse or neglect.~~

36 ~~(17) "Malice" or "maliciously" means an evil intent, wish, or~~
37 ~~design to vex, annoy, or injure another person. Such malice may be~~

1 ~~inferred from an act done in willful disregard of the rights of~~
2 ~~another, or an act wrongfully done without just cause or excuse, or an~~
3 ~~act or omission of duty betraying a willful disregard of social duty.~~

4 ~~(18) "Sexually aggressive youth" means a child who is defined in~~
5 ~~RCW 74.13.075(1)(b) as being a sexually aggressive youth.~~

6 ~~(19) "Unfounded" means available information indicates that, more~~
7 ~~likely than not, child abuse or neglect did not occur. No unfounded~~
8 ~~allegation of child abuse or neglect may be disclosed to a child-~~
9 ~~placing agency, private adoption agency, or any other provider licensed~~
10 ~~under chapter 74.15 RCW.)~~

11 (1) "Abuse or neglect" means sexual abuse, sexual exploitation, or
12 injury of a child by any person under circumstances which cause harm to
13 the child's health, welfare, or safety, excluding conduct permitted
14 under RCW 9A.16.100; or the negligent treatment or maltreatment of a
15 child by a person responsible for or providing care to the child. An
16 abused child is a child who has been subjected to child abuse or
17 neglect as defined in this section.

18 (2) "Child" or "children" means any person under the age of
19 eighteen years of age.

20 (3) "Child protective services" means those services provided by
21 the department designed to protect children from child abuse and
22 neglect and safeguard such children from future abuse and neglect, and
23 conduct investigations of child abuse and neglect reports.
24 Investigations may be conducted regardless of the location of the
25 alleged abuse or neglect. Child protective services includes referral
26 to services to ameliorate conditions that endanger the welfare of
27 children, the coordination of necessary programs and services relevant
28 to the prevention, intervention, and treatment of child abuse and
29 neglect, and services to children to ensure that each child has a
30 permanent home. In determining whether protective services should be
31 provided, the department shall not decline to provide such services
32 solely because of the child's unwillingness or developmental inability
33 to describe the nature and severity of the abuse or neglect.

34 (4) "Child protective services section" means the child protective
35 services section of the department.

36 (5) "Clergy" means any regularly licensed or ordained minister,
37 priest, or rabbi of any church or religious denomination, whether

1 acting in an individual capacity or as an employee or agent of any
2 public or private organization or institution.

3 (6) "Court" means the superior court of the state of Washington,
4 juvenile department.

5 (7) "Department" means the state department of social and health
6 services.

7 (8) "Founded" means a finding at the completion of an investigation
8 by the department or a judicial finding that, more likely than not, the
9 alleged child abuse or neglect occurred.

10 (9) "Inconclusive" means a determination by the department prior to
11 the effective date of this act that there was insufficient evidence to
12 conclude that the alleged child abuse or neglect occurred.

13 (10) "Institution" means a private or public hospital or any other
14 facility providing medical diagnosis, treatment, or care.

15 (11) "Law enforcement agency" means the police department, the
16 prosecuting attorney, the state patrol, the director of public safety,
17 or the office of the sheriff.

18 (12) "Malice" or "maliciously" means an evil intent, wish, or
19 design to vex, annoy, or injure another person. Such malice may be
20 inferred from an act done in willful disregard of the rights of
21 another, or an act wrongfully done without just cause or excuse, or an
22 act or omission of duty betraying a willful disregard of social duty.

23 (13) "Negligent treatment or maltreatment" means an act or a
24 failure to act, or the cumulative effects of a pattern of conduct,
25 behavior, or inaction, that evidences a serious disregard of
26 consequences of such magnitude as to constitute a clear and present
27 danger to a child's health, welfare, or safety, including but not
28 limited to conduct prohibited under RCW 9A.42.100. When considering
29 whether a clear and present danger exists, evidence of a parent's
30 substance abuse as a contributing factor to negligent treatment or
31 maltreatment shall be given great weight. The fact that siblings share
32 a bedroom is not, in and of itself, negligent treatment or
33 maltreatment. Poverty, homelessness, or exposure to domestic violence
34 as defined in RCW 26.50.010 that is perpetrated against someone other
35 than the child does not constitute negligent treatment or maltreatment
36 in and of itself.

37 (14) "Pharmacist" means any registered pharmacist under chapter

1 18.64 RCW, whether acting in an individual capacity or as an employee
2 or agent of any public or private organization or institution.

3 (15) "Practitioner of the healing arts" or "practitioner" means a
4 person licensed by this state to practice podiatric medicine and
5 surgery, optometry, chiropractic, nursing, dentistry, osteopathic
6 medicine and surgery, or medicine and surgery or to provide other
7 health services. The term "practitioner" includes a duly accredited
8 Christian Science practitioner: PROVIDED, HOWEVER, That a person who
9 is being furnished Christian Science treatment by a duly accredited
10 Christian Science practitioner will not be considered, for that reason
11 alone, a neglected person for the purposes of this chapter.

12 (16) "Professional school personnel" include, but are not limited
13 to, teachers, counselors, administrators, child care facility
14 personnel, and school nurses.

15 (17) "Psychologist" means any person licensed to practice
16 psychology under chapter 18.83 RCW, whether acting in an individual
17 capacity or as an employee or agent of any public or private
18 organization or institution.

19 (18) "Screened-out report" means a report of alleged child abuse or
20 neglect that the department has determined does not rise to the level
21 of a credible report of abuse or neglect and is not referred for
22 investigation.

23 (19) "Sexual exploitation" includes: (a) Allowing, permitting, or
24 encouraging a child to engage in prostitution by any person; or (b)
25 allowing, permitting, encouraging, or engaging in the obscene or
26 pornographic photographing, filming, or depicting of a child by any
27 person.

28 (20) "Sexually aggressive youth" means a child who is defined in
29 RCW 74.13.075(1)(b) as being a sexually aggressive youth.

30 (21) "Social service counselor" means anyone engaged in a
31 professional capacity during the regular course of employment in
32 encouraging or promoting the health, welfare, support or education of
33 children, or providing social services to adults or families, including
34 mental health, drug and alcohol treatment, and domestic violence
35 programs, whether in an individual capacity, or as an employee or agent
36 of any public or private organization or institution.

37 (22) "Unfounded" means a finding at the completion of an
38 investigation by the department or a judicial finding that there is

1 insufficient evidence to conclude that the alleged child abuse or
2 neglect occurred or it was determined that the alleged child abuse or
3 neglect did not occur.

4 **Sec. 2.** RCW 26.44.030 and 2005 c 417 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 licensed or certified child care providers or their employees, employee
10 of the department, juvenile probation officer, placement and liaison
11 specialist, responsible living skills program staff, HOPE center staff,
12 or state family and children's ombudsman or any volunteer in the
13 ombudsman's office has reasonable cause to believe that a child has
14 suffered abuse or neglect, he or she shall report such incident, or
15 cause a report to be made, to the proper law enforcement agency or to
16 the department as provided in RCW 26.44.040.

17 (b) When any person, in his or her official supervisory capacity
18 with a nonprofit or for-profit organization, has reasonable cause to
19 believe that a child has suffered abuse or neglect caused by a person
20 over whom he or she regularly exercises supervisory authority, he or
21 she shall report such incident, or cause a report to be made, to the
22 proper law enforcement agency, provided that the person alleged to have
23 caused the abuse or neglect is employed by, contracted by, or
24 volunteers with the organization and coaches, trains, educates, or
25 counsels a child or children or regularly has unsupervised access to a
26 child or children as part of the employment, contract, or voluntary
27 service. No one shall be required to report under this section when he
28 or she obtains the information solely as a result of a privileged
29 communication as provided in RCW 5.60.060.

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

32 For the purposes of this subsection, the following definitions
33 apply:

34 (i) "Official supervisory capacity" means a position, status, or
35 role created, recognized, or designated by any nonprofit or for-profit
36 organization, either for financial gain or without financial gain,

1 whose scope includes, but is not limited to, overseeing, directing, or
2 managing another person who is employed by, contracted by, or
3 volunteers with the nonprofit or for-profit organization.

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

7 (c) The reporting requirement also applies to department of
8 corrections personnel who, in the course of their employment, observe
9 offenders or the children with whom the offenders are in contact. If,
10 as a result of observations or information received in the course of
11 his or her employment, any department of corrections personnel has
12 reasonable cause to believe that a child has suffered abuse or neglect,
13 he or she shall report the incident, or cause a report to be made, to
14 the proper law enforcement agency or to the department as provided in
15 RCW 26.44.040.

16 (d) The reporting requirement shall also apply to any adult who has
17 reasonable cause to believe that a child who resides with them, has
18 suffered severe abuse, and is able or capable of making a report. For
19 the purposes of this subsection, "severe abuse" means any of the
20 following: Any single act of abuse that causes physical trauma of
21 sufficient severity that, if left untreated, could cause death; any
22 single act of sexual abuse that causes significant bleeding, deep
23 bruising, or significant external or internal swelling; or more than
24 one act of physical abuse, each of which causes bleeding, deep
25 bruising, significant external or internal swelling, bone fracture, or
26 unconsciousness.

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

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

37 (3) Any other person who has reasonable cause to believe that a

1 child has suffered abuse or neglect may report such incident to the
2 proper law enforcement agency or to the department of social and health
3 services as provided in RCW 26.44.040.

4 (4) The department, upon receiving a report of an incident of
5 alleged abuse or neglect pursuant to this chapter, involving a child
6 who has died or has had physical injury or injuries inflicted upon him
7 or her other than by accidental means or who has been subjected to
8 alleged sexual abuse, shall report such incident to the proper law
9 enforcement agency. In emergency cases, where the child's welfare is
10 endangered, the department shall notify the proper law enforcement
11 agency within twenty-four hours after a report is received by the
12 department. In all other cases, the department shall notify the law
13 enforcement agency within seventy-two hours after a report is received
14 by the department. If the department makes an oral report, a written
15 report must also be made to the proper law enforcement agency within
16 five days thereafter.

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

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

37 (7) The department may conduct ongoing case planning and
38 consultation with those persons or agencies required to report under

1 this section, with consultants designated by the department, and with
2 designated representatives of Washington Indian tribes if the client
3 information exchanged is pertinent to cases currently receiving child
4 protective services. Upon request, the department shall conduct such
5 planning and consultation with those persons required to report under
6 this section if the department determines it is in the best interests
7 of the child. Information considered privileged by statute and not
8 directly related to reports required by this section must not be
9 divulged without a valid written waiver of the privilege.

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

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

28 (10) Upon receiving a report((s)) of alleged abuse or neglect, the
29 department shall:

30 (a) Make reasonable efforts to learn the name, address, and
31 telephone number of each person making a report of abuse or neglect
32 under this section. The department shall provide assurances of
33 appropriate confidentiality of the identification of persons reporting
34 under this section. If the department is unable to learn the
35 information required under this subsection, the department shall only
36 investigate cases in which:

37 (i) The department believes there is a serious threat of
38 substantial harm to the child;

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

3 (iii) The department has a prior founded report of abuse or neglect
4 that is within three years of receipt of the referral;

5 (b) Unless the report is screened-out or being investigated by a
6 law enforcement agency, conduct an investigation within time frames
7 established by the department in rule, but in no case shall the
8 investigation extend longer than ninety days from the date the report
9 is received; and

10 (c) Make a finding that the report of child abuse or neglect is
11 founded or unfounded at the completion of the investigation.

12 (11) 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((-

27 ~~(11) Upon receiving a report of alleged child abuse and neglect,~~
28 ~~the department or investigating law enforcement agency)); and~~

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

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

35 (13) The department shall use a risk assessment process when
36 investigating alleged child abuse and neglect referrals. The
37 department shall present the risk factors at all hearings in which the
38 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 (14) 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 ~~((15) The department shall make reasonable efforts to learn the
9 name, address, and telephone number of each person making a report of
10 abuse or neglect under this section. The department shall provide
11 assurances of appropriate confidentiality of the identification of
12 persons reporting under this section. If the department is unable to
13 learn the information required under this subsection, the department
14 shall only investigate cases in which: (a) The department believes
15 there is a serious threat of substantial harm to the child; (b) the
16 report indicates conduct involving a criminal offense that has, or is
17 about to occur, in which the child is the victim; or (c) the department
18 has, after investigation, a report of abuse or neglect that has been
19 founded with regard to a member of the household within three years of
20 receipt of the referral.))~~

21 **Sec. 3.** RCW 26.44.031 and 1997 c 282 s 1 are each amended to read
22 as follows:

23 (1) To protect the privacy in reporting and the maintenance of
24 reports of nonaccidental injury, neglect, death, sexual abuse, and
25 cruelty to children by their parents, and to safeguard against
26 arbitrary, malicious, or erroneous information or actions, the
27 department shall not disclose or maintain information related to
28 ~~((unfounded referrals in files or))~~ reports of child abuse or neglect
29 ~~((for longer than six years))~~ except as provided in this section.

30 ~~((At the end of six years from receipt of the unfounded report, the
31 information shall be purged unless an additional report has been
32 received in the intervening period.))~~

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

34 (a) A screened-out report, within thirty days from the receipt of
35 the report; and

36 (b) An unfounded or inconclusive report, within six years of

1 completion of the investigation, unless a prior or subsequent founded
2 report has been received before the records are destroyed.

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

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

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

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

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

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

26 **Sec. 4.** RCW 74.13.280 and 2001 c 318 s 3 are each amended to read
27 as follows:

28 (1) Except as provided in RCW 70.24.105, whenever a child is placed
29 in out-of-home care by the department or a child-placing agency, the
30 department or agency shall share information about the child and the
31 child's family with the care provider and shall consult with the care
32 provider regarding the child's case plan. If the child is dependent
33 pursuant to a proceeding under chapter 13.34 RCW, the department or
34 agency shall keep the care provider informed regarding the dates and
35 location of dependency review and permanency planning hearings
36 pertaining to the child.

1 (2) Information about the child and the child's family shall
2 include information, if known, as to whether the child is a sexually
3 reactive child, has high-risk behaviors, or is physically assaultive or
4 physically aggressive.

5 (3) Any person who receives information about a child or a child's
6 family pursuant to this section shall keep the information confidential
7 and shall not further disclose or disseminate the information except as
8 authorized by law.

9 ~~((3))~~ (4) Nothing in this section shall be construed to limit the
10 authority of the department or child-placing agencies to disclose
11 client information or to maintain client confidentiality as provided by
12 law.

13 (5) As used in this section:

14 (a) "Sexually reactive child" means a child who exhibits sexual
15 behavior problems including, but not limited to, sexual behaviors that
16 are developmentally inappropriate for their age, harmful to self or
17 others, and elicit adult concern.

18 (b) "High-risk behavior" means an observed or reported and
19 documented history of one or more of the following:

20 (i) Suicide attempts or suicidal behavior or ideation;

21 (ii) Self-mutilation or similar self-destructive behavior;

22 (iii) Fire-setting or a developmentally inappropriate fascination
23 with fire;

24 (iv) Animal torture;

25 (v) Property destruction;

26 (vi) Substance or alcohol abuse;

27 (vii) A medical diagnosis of fetal alcohol syndrome or fetal
28 alcohol effect;

29 (viii) Diagnosed mental health issues;

30 (ix) Witnessing a death or substantial physical violence in the
31 past or recent past;

32 (x) victim of sexual or severe physical abuse in the recent past;
33 or

34 (xi) At risk of placement in a more restrictive setting.

35 (c) "Physically assaultive or physically aggressive" means
36 exhibiting one or more of the following behaviors that are
37 developmentally inappropriate and harmful to the child or to others:

38 (i) Observed assaultive behavior;

1 (ii) Reported and documented history of the child willfully
2 assaulting or inflicting bodily harm; or
3 (iii) Attempting to assault or inflict bodily harm on other
4 children or adults under circumstances where the child has the apparent
5 ability or capability to carry out the attempted assaults including
6 threats to use a weapon.

7 **NEW SECTION. Sec. 5.** A new section is added to chapter 74.13 RCW
8 to read as follows:

9 (1) A care provider may not be found to have abused or neglected a
10 child under chapter 26.44 RCW or be denied a license pursuant to
11 chapter 74.15 RCW and RCW 74.13.031 for any allegations of failure to
12 supervise wherein:

13 (a)(i) The allegations arise from the child's conduct that is
14 substantially similar to prior behavior of the child; and

15 (ii) The department failed to disclose that the child was a
16 sexually reactive youth, had high-risk behaviors, or was physically
17 assaultive or physically aggressive as required by RCW 74.13.280; or

18 (b) The child was not within the reasonable control of the care
19 provider at the time of the incident that is the subject of the
20 allegation.

21 (2) Allegations of child abuse or neglect that meet the provisions
22 of this section shall be designated as "unfounded" as defined in RCW
23 26.44.020.

24 **Sec. 6.** RCW 74.15.130 and 2006 c 265 s 404 are each amended to
25 read as follows:

26 (1) An agency may be denied a license, or any license issued
27 pursuant to chapter 74.15 RCW and RCW 74.13.031 may be suspended,
28 revoked, modified, or not renewed by the secretary upon proof (a) that
29 the agency has failed or refused to comply with the provisions of
30 chapter 74.15 RCW and RCW 74.13.031 or the requirements promulgated
31 pursuant to the provisions of chapter 74.15 RCW and RCW 74.13.031; or

32 (b) that the conditions required for the issuance of a license under
33 chapter 74.15 RCW and RCW 74.13.031 have ceased to exist with respect
34 to such licenses. RCW 43.20A.205 governs notice of a license denial,
35 revocation, suspension, or modification and provides the right to an
36 adjudicative proceeding.

1 (2) In any adjudicative proceeding regarding the denial,
2 modification, suspension, or revocation of a foster family home
3 license, the department's decision shall be upheld if there is
4 reasonable cause to believe that:

5 (a) The applicant or licensee lacks the character, suitability, or
6 competence to care for children placed in out-of-home care, however, no
7 unfounded, inconclusive, or screened-out report of child abuse or
8 neglect may be used to deny employment or a license;

9 (b) The applicant or licensee has failed or refused to comply with
10 any provision of chapter 74.15 RCW, RCW 74.13.031, or the requirements
11 adopted pursuant to such provisions; or

12 (c) The conditions required for issuance of a license under chapter
13 74.15 RCW and RCW 74.13.031 have ceased to exist with respect to such
14 licenses.

15 (3) In any adjudicative proceeding regarding the denial,
16 modification, suspension, or revocation of any license under this
17 chapter, other than a foster family home license, the department's
18 decision shall be upheld if it is supported by a preponderance of the
19 evidence.

20 (4) The department may assess civil monetary penalties upon proof
21 that an agency has failed or refused to comply with the rules adopted
22 under the provisions of this chapter and RCW 74.13.031 or that an
23 agency subject to licensing under this chapter and RCW 74.13.031 is
24 operating without a license except that civil monetary penalties shall
25 not be levied against a licensed foster home. Monetary penalties
26 levied against unlicensed agencies that submit an application for
27 licensure within thirty days of notification and subsequently become
28 licensed will be forgiven. These penalties may be assessed in addition
29 to or in lieu of other disciplinary actions. Civil monetary penalties,
30 if imposed, may be assessed and collected, with interest, for each day
31 an agency is or was out of compliance. Civil monetary penalties shall
32 not exceed two hundred fifty dollars per violation for group homes and
33 child-placing agencies. Each day upon which the same or substantially
34 similar action occurs is a separate violation subject to the assessment
35 of a separate penalty. The department shall provide a notification
36 period before a monetary penalty is effective and may forgive the
37 penalty levied if the agency comes into compliance during this period.
38 The department may suspend, revoke, or not renew a license for failure

1 to pay a civil monetary penalty it has assessed pursuant to this
2 chapter within ten days after such assessment becomes final. Chapter
3 43.20A RCW governs notice of a civil monetary penalty and provides the
4 right of an adjudicative proceeding. The preponderance of evidence
5 standard shall apply in adjudicative proceedings related to assessment
6 of civil monetary penalties.

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