
SENATE BILL 5839

State of Washington

60th Legislature

2007 Regular Session

By Senators Benton, Stevens and Hargrove

Read first time 02/02/2007. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to nonmandatory reports of child abuse or neglect;
2 and 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 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

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

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

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

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

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

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

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

1 single act of sexual abuse that causes significant bleeding, deep
2 bruising, or significant external or internal swelling; or more than
3 one act of physical abuse, each of which causes bleeding, deep
4 bruising, significant external or internal swelling, bone fracture, or
5 unconsciousness.

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

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

16 (3) Any other person who has reasonable cause to believe that a
17 child has suffered abuse or neglect may report such incident to the
18 proper law enforcement agency or to the department of social and health
19 services (~~as provided~~). The report shall be in writing and signed
20 under penalty of perjury, unless the person reasonably believes that an
21 emergency exists where the child's welfare is in danger, in which case
22 the initial report may be oral and followed by the written report.
23 Such reports must contain the information specified in RCW 26.44.040,
24 if known.

25 (4) The department, upon receiving a report of an incident of
26 alleged abuse or neglect pursuant to this chapter, involving a child
27 who has died or has had physical injury or injuries inflicted upon him
28 or her other than by accidental means or who has been subjected to
29 alleged sexual abuse, shall report such incident to the proper law
30 enforcement agency. In emergency cases, where the child's welfare is
31 endangered, the department shall notify the proper law enforcement
32 agency within twenty-four hours after a report is received by the
33 department. In all other cases, the department shall notify the law
34 enforcement agency within seventy-two hours after a report is received
35 by the department. If the department makes an oral report, a written
36 report must also be made to the proper law enforcement agency within
37 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 reports of alleged abuse or neglect, the
13 department or law enforcement agency may interview children. The
14 interviews may be conducted on school premises, at day-care facilities,
15 at the child's home, or at other suitable locations outside of the
16 presence of parents. Parental notification of the interview must occur
17 at the earliest possible point in the investigation that will not
18 jeopardize the safety or protection of the child or the course of the
19 investigation. Prior to commencing the interview the department or law
20 enforcement agency shall determine whether the child wishes a third
21 party to be present for the interview and, if so, shall make reasonable
22 efforts to accommodate the child's wishes. Unless the child objects,
23 the department or law enforcement agency shall make reasonable efforts
24 to include a third party in any interview so long as the presence of
25 the third party will not jeopardize the course of the investigation.

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

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

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

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

4 (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.

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