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SENATE BILL 6207

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State of Washington

60th Legislature

2008 Regular Session

By Senators Zarelli, Prentice, Hargrove, and Stevens

Read first time 01/14/08. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to requiring guardian ad litem notification of  
2 allegations of child abuse or neglect; amending RCW 26.44.030;  
3 reenacting and amending RCW 26.44.030; creating a new section;  
4 providing an effective date; and providing an expiration date.

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

6 NEW SECTION. **Sec. 1.** The legislature finds the safety and well-  
7 being of children in this state is of paramount importance, and  
8 recognizes the vital role guardian ad litem and court-appointed  
9 special advocates play in the child welfare system. They are  
10 statutorily required to represent and be an advocate for the best  
11 interests of a child under the state's supervision. To this end, the  
12 legislature believes it is necessary for a child's guardian ad litem or  
13 court-appointed special advocate to be informed when a report of  
14 alleged child abuse or neglect involving the child is received by the  
15 department of social and health services. The legislature believes  
16 this requirement will provide important oversight of agency  
17 investigations, further the ability of guardian ad litem and court-  
18 appointed special advocates to represent the best interests of the

1 child, and better ensure the safety and well-being of children under  
2 state supervision.

3 **Sec. 2.** RCW 26.44.030 and 2007 c 387 s 3 are each amended to read  
4 as follows:

5 (1)(a) When any practitioner, county coroner or medical examiner,  
6 law enforcement officer, professional school personnel, registered or  
7 licensed nurse, social service counselor, psychologist, pharmacist,  
8 employee of the department of early learning, licensed or certified  
9 child care providers or their employees, employee of the department,  
10 juvenile probation officer, placement and liaison specialist,  
11 responsible living skills program staff, HOPE center staff, or state  
12 family and children's ombudsman or any volunteer in the ombudsman's  
13 office has reasonable cause to believe that a child has suffered abuse  
14 or neglect, he or she shall report such incident, or cause a report to  
15 be made, to the proper law enforcement agency or to the department as  
16 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 reports of alleged abuse or neglect, the  
29 department or law enforcement agency may interview children. The  
30 interviews may be conducted on school premises, at day-care facilities,  
31 at the child's home, or at other suitable locations outside of the  
32 presence of parents. Parental notification of the interview must occur  
33 at the earliest possible point in the investigation that will not  
34 jeopardize the safety or protection of the child or the course of the  
35 investigation. Prior to commencing the interview the department or law  
36 enforcement agency shall determine whether the child wishes a third  
37 party to be present for the interview and, if so, shall make reasonable  
38 efforts to accommodate the child's wishes. Unless the child objects,

1 the department or law enforcement agency shall make reasonable efforts  
2 to include a third party in any interview so long as the presence of  
3 the third party will not jeopardize the course of the investigation.

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

8 (12) Upon receiving a report of alleged abuse or neglect involving  
9 a child under the court's jurisdiction under chapter 13.34 RCW, the  
10 department shall promptly notify the child's guardian ad litem of the  
11 contents of the report. The department shall also provide additional  
12 notification at the time of disposition of the report. For purposes of  
13 this subsection, "guardian ad litem" has the meaning provided in RCW  
14 13.34.030.

15 (13) In investigating and responding to allegations of child abuse  
16 and neglect, the department may conduct background checks as authorized  
17 by state and federal law.

18 ~~((+13+))~~ (14) The department shall maintain investigation records  
19 and conduct timely and periodic reviews of all cases constituting abuse  
20 and neglect. The department shall maintain a log of screened-out  
21 nonabusive cases.

22 ~~((+14+))~~ (15) The department shall use a risk assessment process  
23 when investigating alleged child abuse and neglect referrals. The  
24 department shall present the risk factors at all hearings in which the  
25 placement of a dependent child is an issue. Substance abuse must be a  
26 risk factor. The department shall, within funds appropriated for this  
27 purpose, offer enhanced community-based services to persons who are  
28 determined not to require further state intervention.

29 ~~((+15+))~~ (16) Upon receipt of a report of alleged abuse or neglect  
30 the law enforcement agency may arrange to interview the person making  
31 the report and any collateral sources to determine if any malice is  
32 involved in the reporting.

33 ~~((+16+))~~ (17) The department shall make reasonable efforts to learn  
34 the name, address, and telephone number of each person making a report  
35 of abuse or neglect under this section. The department shall provide  
36 assurances of appropriate confidentiality of the identification of  
37 persons reporting under this section. If the department is unable to  
38 learn the information required under this subsection, the department

1 shall only investigate cases in which: (a) The department believes  
2 there is a serious threat of substantial harm to the child; (b) the  
3 report indicates conduct involving a criminal offense that has, or is  
4 about to occur, in which the child is the victim; or (c) the department  
5 has, after investigation, a report of abuse or neglect that has been  
6 founded with regard to a member of the household within three years of  
7 receipt of the referral.

8 **Sec. 3.** RCW 26.44.030 and 2007 c 387 s 3 and 2007 c 220 s 2 are  
9 each reenacted and amended to read as follows:

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

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

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

1 For the purposes of this subsection, the following definitions  
2 apply:

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

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

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

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

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

36 (2) The reporting requirement of subsection (1) of this section  
37 does not apply to the discovery of abuse or neglect that occurred  
38 during childhood if it is discovered after the child has become an



1 adult. However, if there is reasonable cause to believe other children  
2 are or may be at risk of abuse or neglect by the accused, the reporting  
3 requirement of subsection (1) of this section does apply.

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

8 (4) The department, upon 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 to the proper law  
13 enforcement agency. In emergency cases, where the child's welfare is  
14 endangered, the department shall notify the proper law enforcement  
15 agency within twenty-four hours after a report is received by the  
16 department. In all other cases, the department shall notify the law  
17 enforcement agency within seventy-two hours after a report is received  
18 by the department. If the department makes an oral report, a written  
19 report must also be made to the proper law enforcement agency within  
20 five days thereafter.

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

36 (6) Any county prosecutor or city attorney receiving a report under  
37 subsection (5) of this section shall notify the victim, any persons the

1 victim requests, and the local office of the department, of the  
2 decision to charge or decline to charge a crime, within five days of  
3 making the decision.

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

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

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

33 (10) Upon receiving a report of alleged abuse or neglect involving  
34 a child under the court's jurisdiction under chapter 13.34 RCW, the  
35 department shall promptly notify the child's guardian ad litem of the  
36 contents of the report. The department shall also provide additional  
37 notification at the time of disposition of the report. For purposes of

1 this subsection, "guardian ad litem" has the meaning provided in RCW  
2 13.34.030.

3 (11) Upon receiving a report of alleged abuse or neglect, the  
4 department shall make reasonable efforts to learn the name, address,  
5 and telephone number of each person making a report of abuse or neglect  
6 under this section. The department shall provide assurances of  
7 appropriate confidentiality of the identification of persons reporting  
8 under this section. If the department is unable to learn the  
9 information required under this subsection, the department shall only  
10 investigate cases in which:

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

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

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

18 ~~((11))~~ (12)(a) For reports of alleged abuse or neglect that are  
19 accepted for investigation by the department, the investigation shall  
20 be conducted within time frames established by the department in rule.  
21 In no case shall the investigation extend longer than ninety days from  
22 the date the report is received, unless the investigation is being  
23 conducted under a written protocol pursuant to RCW 26.44.180 and a law  
24 enforcement agency or prosecuting attorney has determined that a longer  
25 investigation period is necessary. At the completion of the  
26 investigation, the department shall make a finding that the report of  
27 child abuse or neglect is founded or unfounded.

28 (b) If a court in a civil or criminal proceeding, considering the  
29 same facts or circumstances as are contained in the report being  
30 investigated by the department, makes a judicial finding by a  
31 preponderance of the evidence or higher that the subject of the pending  
32 investigation has abused or neglected the child, the department shall  
33 adopt the finding in its investigation.

34 ~~((12))~~ (13) In conducting an investigation of alleged abuse or  
35 neglect, the department or law enforcement agency:

36 (a) May interview children. The interviews may be conducted on  
37 school premises, at day-care facilities, at the child's home, or at  
38 other suitable locations outside of the presence of parents. Parental

1 notification of the interview must occur at the earliest possible point  
2 in the investigation that will not jeopardize the safety or protection  
3 of the child or the course of the investigation. Prior to commencing  
4 the interview the department or law enforcement agency shall determine  
5 whether the child wishes a third party to be present for the interview  
6 and, if so, shall make reasonable efforts to accommodate the child's  
7 wishes. Unless the child objects, the department or law enforcement  
8 agency shall make reasonable efforts to include a third party in any  
9 interview so long as the presence of the third party will not  
10 jeopardize the course of the investigation; and

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

13 ~~((+13+))~~ (14) In investigating and responding to allegations of  
14 child abuse and neglect, the department may conduct background checks  
15 as authorized by state and federal law.

16 ~~((+14+))~~ (15) The department shall maintain investigation records  
17 and conduct timely and periodic reviews of all founded cases of abuse  
18 and neglect. The department shall maintain a log of screened-out  
19 nonabusive cases.

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

27 ~~((+16+))~~ (17) Upon receipt of a report of alleged abuse or neglect  
28 the law enforcement agency may arrange to interview the person making  
29 the report and any collateral sources to determine if any malice is  
30 involved in the reporting.

31 NEW SECTION. **Sec. 4.** Section 2 of this act expires October 1,  
32 2008.

33 NEW SECTION. **Sec. 5.** Section 3 of this act takes effect October  
34 1, 2008.

--- END ---