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SENATE BILL 6208

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State of Washington                      60th Legislature                      2008 Regular Session

By Senators Zarelli, Pflug, and Prentice

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

1            AN ACT Relating to child abuse or neglect reports made by mandatory  
2 reporters; amending RCW 26.44.030; reenacting and amending RCW  
3 26.44.030; providing an effective date; and providing an expiration  
4 date.

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

6            **Sec. 1.** RCW 26.44.030 and 2007 c 387 s 3 are each amended to read  
7 as follows:

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

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

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

16 For the purposes of this subsection, the following definitions  
17 apply:

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

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

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

36 (d) The reporting requirement shall also apply to any adult who has  
37 reasonable cause to believe that a child who resides with them, has  
38 suffered severe abuse, and is able or capable of making a report. For

1 the purposes of this subsection, "severe abuse" means any of the  
2 following: Any single act of abuse that causes physical trauma of  
3 sufficient severity that, if left untreated, could cause death; any  
4 single act of sexual abuse that causes significant bleeding, deep  
5 bruising, or significant external or internal swelling; or more than  
6 one act of physical abuse, each of which causes bleeding, deep  
7 bruising, significant external or internal swelling, bone fracture, or  
8 unconsciousness.

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

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

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

23 (4) The department, upon receiving a report of an incident of  
24 alleged abuse or neglect pursuant to this chapter, involving a child  
25 who has died or has had physical injury or injuries inflicted upon him  
26 or her other than by accidental means or who has been subjected to  
27 alleged sexual abuse, shall report such incident to the proper law  
28 enforcement agency. In emergency cases, where the child's welfare is  
29 endangered, the department shall notify the proper law enforcement  
30 agency within twenty-four hours after a report is received by the  
31 department. In all other cases, the department shall notify the law  
32 enforcement agency within seventy-two hours after a report is received  
33 by the department. If the department makes an oral report, a written  
34 report must also be made to the proper law enforcement agency within  
35 five days thereafter.

36 (5) Any law enforcement agency receiving a report of an incident of  
37 alleged abuse or neglect pursuant to this chapter, involving a child  
38 who has died or has had physical injury or injuries inflicted upon him

1 or her other than by accidental means, or who has been subjected to  
2 alleged sexual abuse, shall report such incident in writing as provided  
3 in RCW 26.44.040 to the proper county prosecutor or city attorney for  
4 appropriate action whenever the law enforcement agency's investigation  
5 reveals that a crime may have been committed. The law enforcement  
6 agency shall also notify the department of all reports received and the  
7 law enforcement agency's disposition of them. In emergency cases,  
8 where the child's welfare is endangered, the law enforcement agency  
9 shall notify the department within twenty-four hours. In all other  
10 cases, the law enforcement agency shall notify the department within  
11 seventy-two hours after a report is received by the law enforcement  
12 agency.

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

18 (7) The department shall conduct an investigation of a child abuse  
19 or neglect report made by persons or agencies required to report under  
20 this section. The department may conduct ongoing case planning and  
21 consultation with those persons or agencies required to report under  
22 this section, with consultants designated by the department, and with  
23 designated representatives of Washington Indian tribes if the client  
24 information exchanged is pertinent to cases currently receiving child  
25 protective services. Upon request, the department shall conduct such  
26 planning and consultation with those persons required to report under  
27 this section if the department determines it is in the best interests  
28 of the child. Information considered privileged by statute and not  
29 directly related to reports required by this section must not be  
30 divulged without a valid written waiver of the privilege.

31 (8) Any case referred to the department by a physician licensed  
32 under chapter 18.57 or 18.71 RCW on the basis of an expert medical  
33 opinion that child abuse, neglect, or sexual assault has occurred and  
34 that the child's safety will be seriously endangered if returned home,  
35 the department shall file a dependency petition unless a second  
36 licensed physician of the parents' choice believes that such expert  
37 medical opinion is incorrect. If the parents fail to designate a  
38 second physician, the department may make the selection. If a

1 physician finds that a child has suffered abuse or neglect but that  
2 such abuse or neglect does not constitute imminent danger to the  
3 child's health or safety, and the department agrees with the  
4 physician's assessment, the child may be left in the parents' home  
5 while the department proceeds with reasonable efforts to remedy  
6 parenting deficiencies.

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

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

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

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

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

36 (14) The department shall use a risk assessment process when  
37 investigating alleged child abuse and neglect referrals. The  
38 department shall present the risk factors at all hearings in which the

1 placement of a dependent child is an issue. Substance abuse must be a  
2 risk factor. The department shall, within funds appropriated for this  
3 purpose, offer enhanced community-based services to persons who are  
4 determined not to require further state intervention.

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

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

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

24 (1)(a) When any practitioner, county coroner or medical examiner,  
25 law enforcement officer, professional school personnel, registered or  
26 licensed nurse, social service counselor, psychologist, pharmacist,  
27 employee of the department of early learning, licensed or certified  
28 child care providers or their employees, employee of the department,  
29 juvenile probation officer, placement and liaison specialist,  
30 responsible living skills program staff, HOPE center staff, or state  
31 family and children's ombudsman or any volunteer in the ombudsman's  
32 office has reasonable cause to believe that a child has suffered abuse  
33 or neglect, he or she shall report such incident, or cause a report to  
34 be made, to the proper law enforcement agency or to the department as  
35 provided in RCW 26.44.040.

36 (b) When any person, in his or her official supervisory capacity  
37 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 report must be made at the first opportunity, but in no  
8 case longer than forty-eight hours after there is reasonable cause to  
9 believe that the child has suffered abuse or neglect. The report must  
10 include the identity of the accused if known.

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

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

21 (4) The department, upon 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 to the proper law  
26 enforcement agency. In emergency cases, where the child's welfare is  
27 endangered, the department shall notify the proper law enforcement  
28 agency within twenty-four hours after a report is received by the  
29 department. In all other cases, the department shall notify the law  
30 enforcement agency within seventy-two hours after a report is received  
31 by the department. If the department makes an oral report, a written  
32 report must also be made to the proper law enforcement agency within  
33 five days thereafter.

34 (5) Any law enforcement agency receiving a report of an incident of  
35 alleged abuse or neglect pursuant to this chapter, involving a child  
36 who has died or has had physical injury or injuries inflicted upon him  
37 or her other than by accidental means, or who has been subjected to  
38 alleged sexual abuse, shall report such incident in writing as provided



1 in RCW 26.44.040 to the proper county prosecutor or city attorney for  
2 appropriate action whenever the law enforcement agency's investigation  
3 reveals that a crime may have been committed. The law enforcement  
4 agency shall also notify the department of all reports received and the  
5 law enforcement agency's disposition of them. In emergency cases,  
6 where the child's welfare is endangered, the law enforcement agency  
7 shall notify the department within twenty-four hours. In all other  
8 cases, the law enforcement agency shall notify the department within  
9 seventy-two hours after a report is received by the law enforcement  
10 agency.

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

16 (7) The department shall conduct an investigation of a child abuse  
17 or neglect report made by persons or agencies required to report under  
18 this section. The department may conduct ongoing case planning and  
19 consultation with those persons or agencies required to report under  
20 this section, with consultants designated by the department, and with  
21 designated representatives of Washington Indian tribes if the client  
22 information exchanged is pertinent to cases currently receiving child  
23 protective services. Upon request, the department shall conduct such  
24 planning and consultation with those persons required to report under  
25 this section if the department determines it is in the best interests  
26 of the child. Information considered privileged by statute and not  
27 directly related to reports required by this section must not be  
28 divulged without a valid written waiver of the privilege.

29 (8) Any case referred to the department by a physician licensed  
30 under chapter 18.57 or 18.71 RCW on the basis of an expert medical  
31 opinion that child abuse, neglect, or sexual assault has occurred and  
32 that the child's safety will be seriously endangered if returned home,  
33 the department shall file a dependency petition unless a second  
34 licensed physician of the parents' choice believes that such expert  
35 medical opinion is incorrect. If the parents fail to designate a  
36 second physician, the department may make the selection. If a  
37 physician finds that a child has suffered abuse or neglect but that  
38 such abuse or neglect does not constitute imminent danger to the

1 child's health or safety, and the department agrees with the  
2 physician's assessment, the child may be left in the parents' home  
3 while the department proceeds with reasonable efforts to remedy  
4 parenting deficiencies.

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

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

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

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

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

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

34 (b) If a court in a civil or criminal proceeding, considering the  
35 same facts or circumstances as are contained in the report being  
36 investigated by the department, makes a judicial finding by a  
37 preponderance of the evidence or higher that the subject of the pending

1 investigation has abused or neglected the child, the department shall  
2 adopt the finding in its investigation.

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

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

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

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

23 (14) The department shall maintain investigation records and  
24 conduct timely and periodic reviews of all founded cases of abuse and  
25 neglect. The department shall maintain a log of screened-out  
26 nonabusive cases.

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

34 (16) Upon receipt of a report of alleged abuse or neglect the law  
35 enforcement agency may arrange to interview the person making the  
36 report and any collateral sources to determine if any malice is  
37 involved in the reporting.

1        NEW SECTION.   **Sec. 3.**   Section 1 of this act expires October 1,  
2   2008.

3        NEW SECTION.   **Sec. 4.**   Section 2 of this act takes effect October  
4   1, 2008.

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