
SENATE BILL 6209

State of Washington 60th Legislature 2008 Regular Session

By Senators Zarelli, Pflug, Prentice, Hargrove, and Stevens

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

1 AN ACT Relating to multiple reports of child abuse or neglect;
2 amending RCW 26.44.030; reenacting and amending RCW 26.44.030; creating
3 a new section; providing an effective date; and providing an expiration
4 date.

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

6 NEW SECTION. **Sec. 1.** The legislature recognizes the paramount
7 importance of ensuring the safety and well-being of children in this
8 state, and that one of the largest warning signs are children who are
9 the subject of multiple abuse and neglect referrals. A recent report
10 found sixty-three percent of unexpected child fatalities of children
11 receiving services from the children's administration division were the
12 subject of three or more prior abuse or neglect referrals. To better
13 protect the children of the state, the legislature hereby intends to
14 require the department of social and health services to notify the
15 office of the family and children's ombudsman when a third or more
16 report of abuse or neglect has been made concerning a child.

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

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

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

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

28 For the purposes of this subsection, the following definitions
29 apply:

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

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

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

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

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

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

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

35 (4) The department, upon receiving a report of an incident of
36 alleged abuse or neglect pursuant to this chapter, involving a child
37 who has died or has had physical injury or injuries inflicted upon him
38 or her other than by accidental means or who has been subjected to

1 alleged sexual abuse, shall report such incident to the proper law
2 enforcement agency. In emergency cases, where the child's welfare is
3 endangered, the department shall notify the proper law enforcement
4 agency within twenty-four hours after a report is received by the
5 department. In all other cases, the department shall notify the law
6 enforcement agency within seventy-two hours after a report is received
7 by the department. If the department makes an oral report, a written
8 report must also be made to the proper law enforcement agency within
9 five days thereafter.

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

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

30 (7) The department may conduct ongoing case planning and
31 consultation with those persons or agencies required to report under
32 this section, with consultants designated by the department, and with
33 designated representatives of Washington Indian tribes if the client
34 information exchanged is pertinent to cases currently receiving child
35 protective services. Upon request, the department shall conduct such
36 planning and consultation with those persons required to report under
37 this section if the department determines it is in the best interests

1 of the child. Information considered privileged by statute and not
2 directly related to reports required by this section must not be
3 divulged without a valid written waiver of the privilege.

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

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

22 (10) Upon receiving reports of alleged abuse or neglect, the
23 department or law enforcement agency may interview children. The
24 interviews may be conducted on school premises, at day-care facilities,
25 at the child's home, or at other suitable locations outside of the
26 presence of parents. Parental notification of the interview must occur
27 at the earliest possible point in the investigation that will not
28 jeopardize the safety or protection of the child or the course of the
29 investigation. Prior to commencing the interview the department or law
30 enforcement agency shall determine whether the child wishes a third
31 party to be present for the interview and, if so, shall make reasonable
32 efforts to accommodate the child's wishes. Unless the child objects,
33 the department or law enforcement agency shall make reasonable efforts
34 to include a third party in any interview so long as the presence of
35 the third party will not jeopardize the course of the investigation.

36 (11) Upon receiving a report of alleged child abuse and neglect,
37 the department or investigating law enforcement agency shall have

1 access to all relevant records of the child in the possession of
2 mandated reporters and their employees.

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

6 (13) If a report of alleged abuse or neglect constitutes the third
7 or more report received by the department involving a child, the
8 department shall promptly notify the office of the family and
9 children's ombudsman of the contents of the report. The department
10 shall also provide additional notification at the time of the
11 disposition of the report.

12 (14) The department shall maintain investigation records and
13 conduct timely and periodic reviews of all cases constituting abuse and
14 neglect. The department shall maintain a log of screened-out
15 nonabusive cases.

16 ((+14)) (15) The department shall use a risk assessment process
17 when investigating alleged child abuse and neglect referrals. The
18 department shall present the risk factors at all hearings in which the
19 placement of a dependent child is an issue. Substance abuse must be a
20 risk factor. The department shall, within funds appropriated for this
21 purpose, offer enhanced community-based services to persons who are
22 determined not to require further state intervention.

23 ((+15)) (16) Upon receipt of a report of alleged abuse or neglect
24 the law enforcement agency may arrange to interview the person making
25 the report and any collateral sources to determine if any malice is
26 involved in the reporting.

27 ((+16)) (17) The department shall make reasonable efforts to learn
28 the name, address, and telephone number of each person making a report
29 of abuse or neglect under this section. The department shall provide
30 assurances of appropriate confidentiality of the identification of
31 persons reporting under this section. If the department is unable to
32 learn the information required under this subsection, the department
33 shall only investigate cases in which: (a) The department believes
34 there is a serious threat of substantial harm to the child; (b) the
35 report indicates conduct involving a criminal offense that has, or is
36 about to occur, in which the child is the victim; or (c) the department
37 has, after investigation, a report of abuse or neglect that has been

1 founded with regard to a member of the household within three years of
2 receipt of the referral.

3 **Sec. 3.** RCW 26.44.030 and 2007 c 387 s 3 and 2007 c 220 s 2 are
4 each reenacted and amended to read 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 a report of alleged abuse or neglect, the
29 department shall make reasonable efforts to learn the name, address,
30 and telephone number of each person making a report of abuse or neglect
31 under this section. The department shall provide assurances of
32 appropriate confidentiality of the identification of persons reporting
33 under this section. If the department is unable to learn the
34 information required under this subsection, the department shall only
35 investigate cases in which:

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

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

6 (11)(a) For reports of alleged abuse or neglect that are accepted
7 for investigation by the department, the investigation shall be
8 conducted within time frames established by the department in rule. In
9 no case shall the investigation extend longer than ninety days from the
10 date the report is received, unless the investigation is being
11 conducted under a written protocol pursuant to RCW 26.44.180 and a law
12 enforcement agency or prosecuting attorney has determined that a longer
13 investigation period is necessary. At the completion of the
14 investigation, the department shall make a finding that the report of
15 child abuse or neglect is founded or unfounded.

16 (b) If a court in a civil or criminal proceeding, considering the
17 same facts or circumstances as are contained in the report being
18 investigated by the department, makes a judicial finding by a
19 preponderance of the evidence or higher that the subject of the pending
20 investigation has abused or neglected the child, the department shall
21 adopt the finding in its investigation.

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

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

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

1 (13) If a report of alleged abuse or neglect constitutes the third
2 or more report received by the department involving a child, the
3 department shall promptly notify the office of the family and
4 children's ombudsman of the contents of the report. The department
5 shall also provide additional notification at the time of the
6 disposition of the report.

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

10 ~~((+14+))~~ (15) The department shall maintain investigation records
11 and conduct timely and periodic reviews of all founded cases of abuse
12 and neglect. The department shall maintain a log of screened-out
13 nonabusive cases.

14 ~~((+15+))~~ (16) The department shall use a risk assessment process
15 when investigating alleged child abuse and neglect referrals. The
16 department shall present the risk factors at all hearings in which the
17 placement of a dependent child is an issue. Substance abuse must be a
18 risk factor. The department shall, within funds appropriated for this
19 purpose, offer enhanced community-based services to persons who are
20 determined not to require further state intervention.

21 ~~((+16+))~~ (17) Upon receipt of a report of alleged abuse or neglect
22 the law enforcement agency may arrange to interview the person making
23 the report and any collateral sources to determine if any malice is
24 involved in the reporting.

25 NEW SECTION. Sec. 4. Section 2 of this act expires October 1,
26 2008.

27 NEW SECTION. Sec. 5. Section 3 of this act takes effect October
28 1, 2008.

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