
HOUSE BILL 2331

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By Representatives Dickerson, Darneille, Takko, Roberts, Pettigrew, Goodman, Jenkins, Miloscia, Ryu, Hurst, and Santos

Read first time 01/11/12. Referred to Committee on Early Learning & Human Services.

1 AN ACT Relating to mandatory reporting regarding 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 2009 c 480 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 employee of the department of early learning, licensed or certified
10 child care providers or their employees, employee of the department,
11 juvenile probation officer, placement and liaison specialist,
12 responsible living skills program staff, HOPE center staff, or state
13 family and children's ombudsman or any volunteer in the ombudsman's
14 office has reasonable cause to believe that a child has suffered abuse
15 or neglect, he or she shall report such incident, or cause a report to
16 be made, to the proper law enforcement agency or to the department as
17 provided in RCW 26.44.040.

18 (b) When any person, in his or her official supervisory capacity
19 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 or neglect, and is able or capable of making a
37 report. For the purposes of this subsection, "severe abuse or neglect"
38 means any of the following: Any (~~single~~) act of abuse (~~that causes~~

1 ~~physical trauma~~) of sufficient severity that(~~(, if left untreated,~~
2 ~~could cause death~~) causes bleeding, deep bruising, significant
3 external or internal swelling, bone fracture, or unconsciousness; any
4 act or acts of withholding basic necessities of life that create or
5 cause an imminent risk of substantial bodily harm; or any ((single))
6 ~~act of ((sexual abuse that causes significant bleeding, deep bruising,~~
7 ~~or significant external or internal swelling; or more than one act of~~
8 ~~physical abuse, each of which causes bleeding, deep bruising,~~
9 ~~significant external or internal swelling, bone fracture, or~~
10 ~~unconsciousness)) intentionally touching the sexual or other intimate~~
11 parts of a child for the purpose of gratifying sexual desire.

12 (e) The reporting requirement also applies to guardians ad litem,
13 including court-appointed special advocates, appointed under Titles 11,
14 13, and 26 RCW, who in the course of their representation of children
15 in these actions have reasonable cause to believe a child has been
16 abused or neglected.

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

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

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

31 (4) The department, upon receiving a report of an incident of
32 alleged abuse or neglect pursuant to this chapter, involving a child
33 who has died or has had physical injury or injuries inflicted upon him
34 or her other than by accidental means or who has been subjected to
35 alleged sexual abuse, shall report such incident to the proper law
36 enforcement agency. In emergency cases, where the child's welfare is
37 endangered, the department shall notify the proper law enforcement
38 agency within twenty-four hours after a report is received by the

1 department. In all other cases, the department shall notify the law
2 enforcement agency within seventy-two hours after a report is received
3 by the department. If the department makes an oral report, a written
4 report must also be made to the proper law enforcement agency within
5 five days thereafter.

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

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

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

37 (8) Any case referred to the department by a physician licensed
38 under chapter 18.57 or 18.71 RCW on the basis of an expert medical

1 opinion that child abuse, neglect, or sexual assault has occurred and
2 that the child's safety will be seriously endangered if returned home,
3 the department shall file a dependency petition unless a second
4 licensed physician of the parents' choice believes that such expert
5 medical opinion is incorrect. If the parents fail to designate a
6 second physician, the department may make the selection. If a
7 physician finds that a child has suffered abuse or neglect but that
8 such abuse or neglect does not constitute imminent danger to the
9 child's health or safety, and the department agrees with the
10 physician's assessment, the child may be left in the parents' home
11 while the department proceeds with reasonable efforts to remedy
12 parenting deficiencies.

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

17 (10) Upon receiving a report of alleged abuse or neglect, the
18 department shall make reasonable efforts to learn the name, address,
19 and telephone number of each person making a report of abuse or neglect
20 under this section. The department shall provide assurances of
21 appropriate confidentiality of the identification of persons reporting
22 under this section. If the department is unable to learn the
23 information required under this subsection, the department shall only
24 investigate cases in which:

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

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

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

32 (11)(a) For reports of alleged abuse or neglect that are accepted
33 for investigation by the department, the investigation shall be
34 conducted within time frames established by the department in rule. In
35 no case shall the investigation extend longer than ninety days from the
36 date the report is received, unless the investigation is being
37 conducted under a written protocol pursuant to RCW 26.44.180 and a law
38 enforcement agency or prosecuting attorney has determined that a longer

1 investigation period is necessary. At the completion of the
2 investigation, the department shall make a finding that the report of
3 child abuse or neglect is founded or unfounded.

4 (b) If a court in a civil or criminal proceeding, considering the
5 same facts or circumstances as are contained in the report being
6 investigated by the department, makes a judicial finding by a
7 preponderance of the evidence or higher that the subject of the pending
8 investigation has abused or neglected the child, the department shall
9 adopt the finding in its investigation.

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

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

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

27 (13) If a report of alleged abuse or neglect is founded and
28 constitutes the third founded report received by the department within
29 the last twelve months involving the same child or family, the
30 department shall promptly notify the office of the family and
31 children's ombudsman of the contents of the report. The department
32 shall also notify the ombudsman of the disposition of the report.

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

36 (15) The department shall maintain investigation records and
37 conduct timely and periodic reviews of all founded cases of abuse and

1 neglect. The department shall maintain a log of screened-out
2 nonabusive cases.

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

10 (17) Upon receipt of a report of alleged abuse or neglect the law
11 enforcement agency may arrange to interview the person making the
12 report and any collateral sources to determine if any malice is
13 involved in the reporting.

14 (18) Upon receiving a report of alleged abuse or neglect involving
15 a child under the court's jurisdiction under chapter 13.34 RCW, the
16 department shall promptly notify the child's guardian ad litem of the
17 report's contents. The department shall also notify the guardian ad
18 litem of the disposition of the report. For purposes of this
19 subsection, "guardian ad litem" has the meaning provided in RCW
20 13.34.030.

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