

2 EHB 1110 - S COMM AMD (S2886.1)
3 By Committee on Law & Justice

4 ADOPTED AS AMENDED by Z0944.1 4/9/93

5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 26.44.020 and 1988 c 142 s 1 are each amended to read
8 as follows:

9 For the purpose of and as used in this chapter:

10 (1) "Court" means the superior court of the state of Washington,
11 juvenile department.

12 (2) "Law enforcement agency" means the police department, the
13 prosecuting attorney, the state patrol, the director of public safety,
14 or the office of the sheriff.

15 (3) "Practitioner of the healing arts" or "practitioner" means a
16 person licensed by this state to practice (~~(podiatry)~~) podiatric
17 medicine and surgery, optometry, chiropractic, nursing, dentistry,
18 osteopathy and surgery, or medicine and surgery or to provide other
19 health services. The term "practitioner" shall include a duly
20 accredited Christian Science practitioner: PROVIDED, HOWEVER, That a
21 person who is being furnished Christian Science treatment by a duly
22 accredited Christian Science practitioner shall not be considered, for
23 that reason alone, a neglected person for the purposes of this chapter.

24 (4) "Institution" means a private or public hospital or any other
25 facility providing medical diagnosis, treatment or care.

26 (5) "Department" means the state department of social and health
27 services.

28 (6) "Child" or "children" means any person under the age of
29 eighteen years of age.

30 (7) "Professional school personnel" shall include, but not be
31 limited to, teachers, counselors, administrators, child care facility
32 personnel, and school nurses.

33 (8) "Social service counselor" shall mean anyone engaged in a
34 professional capacity during the regular course of employment in
35 encouraging or promoting the health, welfare, support or education of
36 children, or providing social services to adults or families, including

1 mental health, drug and alcohol treatment, and domestic violence
2 programs, whether in an individual capacity, or as an employee or agent
3 of any public or private organization or institution.

4 (9) "Psychologist" shall mean any person licensed to practice
5 psychology under chapter 18.83 RCW, whether acting in an individual
6 capacity or as an employee or agent of any public or private
7 organization or institution.

8 (10) "Pharmacist" shall mean any registered pharmacist under the
9 provisions of chapter 18.64 RCW, whether acting in an individual
10 capacity or as an employee or agent of any public or private
11 organization or institution.

12 (11) "Clergy" shall mean any regularly licensed or ordained
13 minister, priest or rabbi of any church or religious denomination,
14 whether acting in an individual capacity or as an employee or agent of
15 any public or private organization or institution.

16 (12) "Child abuse or neglect" shall mean the injury, sexual abuse,
17 sexual exploitation, or negligent treatment or maltreatment of a child
18 by any person under circumstances which indicate that the child's
19 health, welfare, and safety is harmed thereby. An abused child is a
20 child who has been subjected to child abuse or neglect as defined
21 herein: PROVIDED, That this subsection shall not be construed to
22 authorize interference with child-raising practices, including
23 reasonable parental discipline, which are not proved to be injurious to
24 the child's health, welfare, and safety: AND PROVIDED FURTHER, That
25 nothing in this section shall be used to prohibit the reasonable use of
26 corporal punishment as a means of discipline. No parent or guardian
27 shall be deemed abusive or neglectful solely by reason of the parent's
28 or child's blindness, deafness, developmental disability, or other
29 handicap.

30 (13) "Child protective services section" shall mean the child
31 protective services section of the department.

32 (14) "Adult dependent persons not able to provide for their own
33 protection through the criminal justice system" shall be defined as
34 those persons over the age of eighteen years who have been found
35 legally incompetent pursuant to chapter 11.88 RCW or found disabled to
36 such a degree pursuant to said chapter, that such protection is
37 indicated: PROVIDED, That no persons reporting injury, abuse, or
38 neglect to an adult dependent person as defined herein shall suffer
39 negative consequences if such a judicial determination of incompetency

1 or disability has not taken place and the person reporting believes in
2 good faith that the adult dependent person has been found legally
3 incompetent pursuant to chapter 11.88 RCW.

4 (15) "Sexual exploitation" includes: (a) Allowing, permitting, or
5 encouraging a child to engage in prostitution by any person; or (b)
6 allowing, permitting, encouraging, or engaging in the obscene or
7 pornographic photographing, filming, or depicting of a child for
8 commercial purposes as those acts are defined by state law by any
9 person.

10 (16) "Negligent treatment or maltreatment" means an act or omission
11 which evidences a serious disregard of consequences of such magnitude
12 as to constitute a clear and present danger to the child's health,
13 welfare, and safety.

14 (17) "Developmentally disabled person" means a person who has a
15 disability defined in RCW ((71.20.016)) 71A.10.020.

16 (18) "Child protective services" means those services provided by
17 the department designed to protect children from child abuse and
18 neglect and safeguard the general welfare of such children and shall
19 include investigations of child abuse and neglect reports, including
20 reports regarding child care centers and family child care homes, and
21 the development, management, and provision of or referral to services
22 to ameliorate conditions which endanger the welfare of children, the
23 coordination of necessary programs and services relevant to the
24 prevention, intervention, and treatment of child abuse and neglect, and
25 services to children to ensure that each child has a permanent home.
26 In determining whether protective services should be provided, the
27 department shall not decline to provide such services solely because of
28 the child's unwillingness or developmental inability to describe the
29 nature and severity of the abuse or neglect.

30 (19) "Malice" or "maliciously" means an evil intent, wish, or
31 design to vex, annoy, or injure another person. Such malice may be
32 inferred from an act done in wilful disregard of the rights of another,
33 or an act wrongfully done without just cause or excuse, or an act or
34 omission of duty betraying a wilful disregard of social duty.

35 (20) "Sexually aggressive youth" means a child who is defined in
36 RCW 74.13.075(1)(b) as being a "sexually aggressive youth."

37 NEW SECTION. Sec. 2. A new section is added to chapter 26.44 RCW
38 to read as follows:

1 (1) If a law enforcement agency receives a complaint that alleges
2 that a child under age twelve has committed a sex offense as defined in
3 RCW 9.94A.030, the agency shall investigate the complaint. If the
4 investigation reveals that probable cause exists to believe that the
5 youth may have committed a sex offense and the child is at least eight
6 years of age, the agency shall refer the case to the proper county
7 prosecuting attorney for appropriate action to determine whether the
8 child may be prosecuted or is a sexually aggressive youth. If the
9 child is less than eight years old, the law enforcement agency shall
10 refer the case to the department.

11 (2) If the prosecutor or a judge determines the child cannot be
12 prosecuted for the alleged sex offense because the child is incapable
13 of committing a crime as provided in RCW 9A.04.050 and the prosecutor
14 believes that probable cause exists to believe that the child engaged
15 in acts that would constitute a sex offense, the prosecutor shall refer
16 the child as a sexually aggressive youth to the department. The
17 prosecutor shall provide the department with an affidavit stating that
18 the prosecutor has determined that probable cause exists to believe
19 that the juvenile has committed acts that could be prosecuted as a sex
20 offense but the case is not being prosecuted because the juvenile is
21 incapable of committing a crime as provided in RCW 9A.04.050.

22 (3) The department shall investigate any referrals that allege that
23 a child is a sexually aggressive youth. The purpose of the
24 investigation shall be to determine whether the child is abused or
25 neglected, as defined in this chapter, and whether the child or the
26 child's parents are in need of services or treatment. The department
27 may offer appropriate available services and treatment to a sexually
28 aggressive youth and his or her parents or legal guardians as provided
29 in RCW 74.13.075 and may refer the child and his or her parents to
30 appropriate treatment and services available within the community. If
31 the parents refuse to accept or fail to obtain appropriate treatment or
32 services under circumstances that indicate that the refusal or failure
33 is child abuse or neglect, as defined in this chapter, the department
34 may pursue a dependency action as provided in chapter 13.34 RCW.

35 (4) Nothing in this section shall affect the responsibility of a
36 law enforcement agency to report incidents of abuse or neglect as
37 required in RCW 26.44.030(5).

1 **Sec. 3.** RCW 74.13.075 and 1990 c 3 s 305 are each amended to read
2 as follows:

3 (1) For the purposes of funds appropriated for the treatment of
4 (~~at risk juvenile sex offenders, "at risk juvenile sex offenders"~~)
5 sexually aggressive youth, the term "sexually aggressive youth" means
6 those juveniles who:

7 (a) Are in the care and custody of the state ((who)) and:

8 (~~(a)~~) (i) Have been abused; and

9 (~~(b)~~) (ii) Have committed a sexually aggressive or other violent
10 act that is sexual in nature; or

11 (~~(c)~~) (b) Cannot be detained under the juvenile justice system
12 due to being under age twelve and incompetent to stand trial for acts
13 that could be prosecuted as sex offenses as defined by RCW 9.94A.030 if
14 the juvenile was over twelve years of age, or competent to stand trial
15 if under twelve years of age.

16 (2) In expending these funds, the department of social and health
17 services shall establish in each region a case review committee to
18 review all cases for which the funds are used. In determining whether
19 to use these funds in a particular case, the committee shall consider:

20 (a) The age of the juvenile;

21 (b) The extent and type of abuse to which the juvenile has been
22 subjected;

23 (c) The juvenile's past conduct;

24 (d) The benefits that can be expected from the treatment; ~~((and))~~

25 (e) The cost of the treatment; and

26 (f) The ability of the juvenile's parent or guardian to pay for the
27 treatment.

28 NEW SECTION. **Sec. 4.** The secretary of the department of social
29 and health services is authorized to transfer surplus, unused treatment
30 funds from the civil commitment center operated under chapter 71.09 RCW
31 to the division of children and family services to provide treatment
32 services for sexually aggressive youth."

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35 ADOPTED AS AMENDED BY Z0944.1 4/8/93

1 On page 1, line 1 of the title, after "youth;" strike the remainder
2 of the title and insert "amending RCW 26.44.020 and 74.13.075; adding
3 a new section to chapter 26.44 RCW; and creating a new section."

--- **END** ---