
SECOND SUBSTITUTE HOUSE BILL 2289

State of Washington

62nd Legislature

2012 Regular Session

By House Ways & Means (originally sponsored by Representatives Kagi, Walsh, Roberts, Carlyle, Jinkins, Ormsby, and Dickerson)

READ FIRST TIME 02/07/12.

1 AN ACT Relating to establishing a flexible approach to child
2 protective services; amending RCW 26.44.030 and 26.44.031; reenacting
3 and amending RCW 26.44.020, 74.13.020, and 74.13.031; and adding a new
4 chapter to Title 74 RCW.

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

6 NEW SECTION. **Sec. 1.** The legislature recognizes that reports of
7 child abuse and neglect which allege a serious threat of substantial or
8 imminent harm to children must be responded to immediately with a
9 thorough investigation of the allegations. However, the legislature
10 also finds that the majority of reports of child abuse and neglect do
11 not involve children in danger of experiencing substantial or imminent
12 harm; many reports involve nonemergent neglect. The legislature
13 acknowledges that families who do not present a serious threat of
14 substantial child maltreatment may be better served through a more
15 positive response that focuses less on forensic investigation of
16 specific allegations and more on the assessment of the family's overall
17 need for assistance and engagement in services that meet their needs to
18 prevent future maltreatment. The legislature intends to provide a more

1 effective response to allegations of nonemergent neglect and to enable
2 more children to remain safely in their own homes with appropriate
3 support and services.

4 The legislature also finds that rigorous evaluations of
5 alternatives to investigation in other jurisdictions have demonstrated
6 that the integration of a noninvestigative approach within child
7 protective services can yield positive outcomes for children and
8 families, social workers, and community partnerships and reduce long-
9 term costs to child welfare agencies. Evaluations indicate that these
10 noninvestigative alternatives in other jurisdictions have not
11 compromised child safety and have reduced subsequent involvement of
12 children and families in the child welfare system. It is the
13 legislature's intent that child safety will not be compromised.

14 The legislature recognizes that partnerships with private
15 philanthropic organizations have played a crucial role in achieving
16 positive outcomes for children and families involved in the public
17 child welfare system. The legislature intends to build upon successful
18 relationships already established with private philanthropic partners
19 to implement system reforms and improve outcomes for children and
20 families.

21 Therefore, the legislature intends to implement a flexible response
22 system within child protective services, including a family assessment
23 response, to better serve families where alleged maltreatment does not
24 present a serious or imminent threat of substantial harm to children.
25 Implementation of family assessment response, in addition to
26 investigation, is intended to improve child safety and reduce
27 disruption to families by engaging families in an assessment of their
28 needs, and providing appropriate services to prevent future
29 maltreatment. The legislature intends to authorize an initial
30 implementation phase to test the effectiveness of a family assessment
31 model, leading to statewide implementation of a family assessment
32 response within child protective services. The department is directed
33 to incorporate evidence-based, research-based, and promising practices
34 in family assessment response to the greatest practicable extent. The
35 legislature intends to establish a flexible approach to child
36 protective services that will be implemented in compliance with
37 applicable provisions of intergovernmental agreements between the state

1 and tribal governments and the federal and Washington state Indian
2 child welfare act.

3 NEW SECTION. **Sec. 2.** The definitions in this section apply
4 throughout this chapter unless the context clearly requires otherwise.

5 (1) "Department" means the department of social and health
6 services.

7 (2) "Family assessment" means a comprehensive assessment of child
8 safety, risk of subsequent child maltreatment, and family strengths and
9 needs based on available and relevant information. It is a tool that
10 can be used to respond to certain reports of child abuse and neglect
11 made under chapter 26.44 RCW, consistent with section 3 of this act.

12 (3) "Family assessment response" means a way of responding to
13 certain reports of child abuse and neglect made under chapter 26.44
14 RCW, using a differential response approach to child protective
15 services, consistent with section 3 of this act. Family assessment
16 response does not include a determination of whether or not child abuse
17 or neglect occurred, but does determine need for services. No one is
18 named as a perpetrator, and no investigative finding is entered in the
19 record as a result of a family assessment response.

20 (4) "Family assessment worker" means a child protective services
21 worker whose role is to engage families for the purposes of conducting
22 family assessments, identifying and reducing child safety risks, and in
23 collaboration with community partners, identifying services that are
24 needed to keep the child safely at home.

25 (5) "Site" means a defined geographic area or specific child
26 welfare office, or offices, within, or across, one of the service
27 delivery regions of children's administration selected by the
28 department under section 3 of this act.

29 NEW SECTION. **Sec. 3.** (1) The department shall select at least two
30 sites to begin the process of implementing family assessment response
31 for child protective services statewide. The sites must include at
32 least one urban and one rural area. Implementation of the initial
33 sites is contingent on the provision of funding from philanthropic
34 partners to support needed services for families engaged in family
35 assessment response.

1 (2) The department shall develop an implementation plan in
2 consultation with stakeholders, and in compliance with
3 intergovernmental agreements between the state and tribal governments.
4 The department shall submit a summary report of the implementation plan
5 to the legislature by September 2012. The implementation plan is
6 deemed approved unless the legislature takes affirmative action in law
7 to reject or modify the plan. At minimum, the following must be
8 developed prior to implementation, and included in the summary report:

9 (a) Description of the family assessment response practice model;

10 (b) Identification of possible additional noninvestigative
11 responses or pathways;

12 (c) Delineation of staff training requirements prior and post
13 implementation of initial sites and how they will be met;

14 (d) Development of strategies to reduce disproportionality;

15 (e) Development of strategies to increase housing for child-welfare
16 involved families, in collaboration with philanthropic partners;

17 (f) Identification of methods to involve local community partners
18 in the development of community-based resources to meet families'
19 needs. Local community partners may include, but are not limited to:
20 Alumni of the foster care system and veteran parents, local private
21 service delivery agencies, schools, local health departments and other
22 health care providers, juvenile court, law enforcement, office of
23 public defense social workers or local defense attorneys, domestic
24 violence victim advocates, and other available community-based
25 entities. Involvement of local community representatives must be
26 accomplished using existing relevant groups wherever possible;

27 (g) Delineation of procedures to assure continuous quality
28 assurance;

29 (h) Identification of current departmental expenditures for
30 services appropriate for family assessment response, to the greatest
31 practicable extent;

32 (i) Identification of philanthropic and other private funding
33 available to supplement public resources in response to identified
34 family needs;

35 (j) Statement of time frames for operating family assessment
36 response sites;

37 (k) Delineation of policies and procedures necessary to implement
38 sites, including triage procedures and records retention;

1 (1) Development of effective mechanisms which assure and maximize,
2 to the greatest extent practicable, that family assessment response for
3 Native American Indian children will be completed in a timely manner by
4 a worker from the child's tribe or by a worker approved by the child's
5 tribe; and

6 (m) Review of operating guidelines provided in this act.

7 (3) The sites selected to implement family assessment response must
8 operate within the following guidelines:

9 (a) Select discrete responses to reports of child abuse or neglect
10 that are screened in and accepted for departmental response, such as:

11 (i) Investigation; or

12 (ii) Family assessment;

13 (b) Utilize a method to assign cases to investigation or family
14 assessment, based on an array of factors which may include, but is not
15 limited to: The presence of imminent danger, level of risk, and number
16 of previous reports;

17 (c) Allow for a change in response assignment based on new
18 information that alters risk or safety level;

19 (d) Allow families assigned to family assessment to choose to
20 receive an investigation rather than a family assessment;

21 (e) Refer families who refuse the initial family assessment to
22 investigation;

23 (f) Provide voluntary services to families based on the results of
24 the initial family assessment. If a family refuses voluntary services,
25 and the department cannot identify specific facts related to risk or
26 safety factors that warrant an investigation under chapter 26.44 RCW,
27 then the department must close the family assessment case. However, if
28 at any time the department identifies risk or safety factors that
29 warrant an investigation under chapter 26.44 RCW, then the family
30 assessment case must be closed, and an investigation must be conducted;

31 (g) Conduct an investigation, and not a family assessment, in
32 response to allegations that the department determines, based on the
33 initial intake assessment, pose:

34 (i) Risk of "imminent harm" consistent with the definition provided
35 in RCW 13.34.050, which includes, but is not limited to sexual abuse
36 and sexual exploitation as defined in chapter 26.44 RCW;

37 (ii) A serious threat of substantial harm to a child, consistent
38 with chapter 26.44 RCW;

1 (iii) Conduct involving a criminal offense that has, or is about to
2 occur, in which the child is the victim, consistent with chapter 26.44
3 RCW;

4 (iv) An abandoned child consistent with RCW 13.34.030;

5 (v) An adjudicated dependent child as defined in RCW 13.34.030 is
6 involved, or the child is in a facility that is licensed, operated, or
7 certified for care of children by the department, under chapter 74.13
8 RCW, or by the department of early learning;

9 (h) Establish a time limit for family assessment response cases
10 with provision of exceptions based on the safety of the child;

11 (i) Provide families engaged in family assessment response with
12 information about the process and instructions on how to contact the
13 office of the family and children's ombudsman to address disputes with
14 the department. Consistent with its duties, the ombudsman may assist
15 families engaged in family assessment response by providing information
16 regarding their rights and responsibilities, or investigating acts or
17 conduct by the department alleged to be contrary to law, rule, or
18 policy, imposed without an adequate statement of reason, or based on
19 irrelevant, immaterial, or erroneous grounds. When necessary, the
20 ombudsman may induce corrective action by the department;

21 (j) Maintain the confidentiality of families involved in family
22 assessment response consistent with RCW 26.44.031. Relevant
23 information about families may be shared with agencies and service
24 providers as needed, but those agencies and service providers may not
25 disseminate confidential information about the family; and

26 (k) Interview children as needed, consistent with RCW
27 26.44.030(12)(a).

28 (4) Nothing about the establishment of family assessment response
29 sites or operational guidelines as provided in this act creates an
30 individual right to family assessment response.

31 NEW SECTION. **Sec. 4.** The Washington state institute for public
32 policy shall conduct a rigorous evaluation of each implementation site
33 and define data to be gathered and maintained for evaluation purposes
34 in consultation with a university-based child welfare research entity
35 in Washington state and the department in compliance with applicable
36 provisions of intergovernmental agreements between the state and tribal
37 governments. At a minimum, the evaluations must address child safety

1 measures, out-of-home placement rates, re-referral rates, and
2 caseloads. The institute shall deliver a progress report to the
3 legislature after the demonstration sites have been operating for one
4 and one-half years. The institute shall deliver the final evaluation
5 reports after the demonstration sites have been operating for three
6 years. The legislature shall consider the final evaluation results and
7 decide whether to authorize statewide implementation of a family
8 assessment response.

9 **Sec. 5.** RCW 26.44.020 and 2010 c 176 s 1 are each reenacted and
10 amended to read as follows:

11 The definitions in this section apply throughout this chapter
12 unless the context clearly requires otherwise.

13 (1) "Abuse or neglect" means sexual abuse, sexual exploitation, or
14 injury of a child by any person under circumstances which cause harm to
15 the child's health, welfare, or safety, excluding conduct permitted
16 under RCW 9A.16.100; or the negligent treatment or maltreatment of a
17 child by a person responsible for or providing care to the child. An
18 abused child is a child who has been subjected to child abuse or
19 neglect as defined in this section.

20 (2) "Child" or "children" means any person under the age of
21 eighteen years of age.

22 (3) "Child protective services" means those services provided by
23 the department designed to protect children from child abuse and
24 neglect and safeguard such children from future abuse and neglect, and
25 conduct investigations of child abuse and neglect reports.
26 Investigations may be conducted regardless of the location of the
27 alleged abuse or neglect. Child protective services includes referral
28 to services to ameliorate conditions that endanger the welfare of
29 children, the coordination of necessary programs and services relevant
30 to the prevention, intervention, and treatment of child abuse and
31 neglect, and services to children to ensure that each child has a
32 permanent home. In determining whether protective services should be
33 provided, the department shall not decline to provide such services
34 solely because of the child's unwillingness or developmental inability
35 to describe the nature and severity of the abuse or neglect.

36 (4) "Child protective services section" means the child protective
37 services section of the department.

1 (5) "Children's advocacy center" means a child-focused facility in
2 good standing with the state chapter for children's advocacy centers
3 and that coordinates a multidisciplinary process for the investigation,
4 prosecution, and treatment of sexual and other types of child abuse.
5 Children's advocacy centers provide a location for forensic interviews
6 and coordinate access to services such as, but not limited to, medical
7 evaluations, advocacy, therapy, and case review by multidisciplinary
8 teams within the context of county protocols as defined in RCW
9 26.44.180 and 26.44.185.

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

14 (7) "Court" means the superior court of the state of Washington,
15 juvenile department.

16 (8) "Department" means the state department of social and health
17 services.

18 (9) "Founded" means the determination following an investigation by
19 the department that, based on available information, it is more likely
20 than not that child abuse or neglect did occur.

21 (10) "Inconclusive" means the determination following an
22 investigation by the department, prior to October 1, 2008, that based
23 on available information a decision cannot be made that more likely
24 than not, child abuse or neglect did or did not occur.

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

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

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

35 (14) "Negligent treatment or maltreatment" means an act or a
36 failure to act, or the cumulative effects of a pattern of conduct,
37 behavior, or inaction, that evidences a serious disregard of
38 consequences of such magnitude as to constitute a clear and present

1 danger to a child's health, welfare, or safety, including but not
2 limited to conduct prohibited under RCW 9A.42.100. When considering
3 whether a clear and present danger exists, evidence of a parent's
4 substance abuse as a contributing factor to negligent treatment or
5 maltreatment shall be given great weight. The fact that siblings share
6 a bedroom is not, in and of itself, negligent treatment or
7 maltreatment. Poverty, homelessness, or exposure to domestic violence
8 as defined in RCW 26.50.010 that is perpetrated against someone other
9 than the child does not constitute negligent treatment or maltreatment
10 in and of itself.

11 (15) "Pharmacist" means any registered pharmacist under chapter
12 18.64 RCW, whether acting in an individual capacity or as an employee
13 or agent of any public or private organization or institution.

14 (16) "Practitioner of the healing arts" or "practitioner" means a
15 person licensed by this state to practice podiatric medicine and
16 surgery, optometry, chiropractic, nursing, dentistry, osteopathic
17 medicine and surgery, or medicine and surgery or to provide other
18 health services. The term "practitioner" includes a duly accredited
19 Christian Science practitioner. A person who is being furnished
20 Christian Science treatment by a duly accredited Christian Science
21 practitioner will not be considered, for that reason alone, a neglected
22 person for the purposes of this chapter.

23 (17) "Professional school personnel" include, but are not limited
24 to, teachers, counselors, administrators, child care facility
25 personnel, and school nurses.

26 (18) "Psychologist" means any person licensed to practice
27 psychology under chapter 18.83 RCW, whether acting in an individual
28 capacity or as an employee or agent of any public or private
29 organization or institution.

30 (19) "Screened-out report" means a report of alleged child abuse or
31 neglect that the department has determined does not rise to the level
32 of a credible report of abuse or neglect and is not referred for
33 investigation.

34 (20) "Sexual exploitation" includes: (a) Allowing, permitting, or
35 encouraging a child to engage in prostitution by any person; or (b)
36 allowing, permitting, encouraging, or engaging in the obscene or
37 pornographic photographing, filming, or depicting of a child by any
38 person.

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

3 (22) "Social service counselor" means anyone engaged in a
4 professional capacity during the regular course of employment in
5 encouraging or promoting the health, welfare, support, or education of
6 children, or providing social services to adults or families, including
7 mental health, drug and alcohol treatment, and domestic violence
8 programs, whether in an individual capacity, or as an employee or agent
9 of any public or private organization or institution.

10 (23) "Supervising agency" means an agency licensed by the state
11 under RCW 74.15.090 or an Indian tribe under RCW 74.15.190 that has
12 entered into a performance-based contract with the department to
13 provide child welfare services.

14 (24) "Unfounded" means the determination following an investigation
15 by the department that available information indicates that, more
16 likely than not, child abuse or neglect did not occur, or that there is
17 insufficient evidence for the department to determine whether the
18 alleged child abuse did or did not occur.

19 (25) "Family assessment response" means a way of responding to
20 certain reports of child abuse and neglect made under chapter 26.44
21 RCW, using a differential response approach to child protective
22 services, consistent with section 3 of this act. Family assessment
23 response does not include a determination of whether or not child abuse
24 or neglect occurred, but does determine need for services. No one is
25 named as a perpetrator, and no investigative finding is entered in the
26 record as a result of a family assessment response.

27 **Sec. 6.** RCW 26.44.030 and 2009 c 480 s 1 are each amended to read
28 as follows:

29 (1)(a) When any practitioner, county coroner or medical examiner,
30 law enforcement officer, professional school personnel, registered or
31 licensed nurse, social service counselor, psychologist, pharmacist,
32 employee of the department of early learning, licensed or certified
33 child care providers or their employees, employee of the department,
34 juvenile probation officer, placement and liaison specialist,
35 responsible living skills program staff, HOPE center staff, or state
36 family and children's ombudsman or any volunteer in the ombudsman's
37 office has reasonable cause to believe that a child has suffered abuse

1 or neglect, he or she shall report such incident, or cause a report to
2 be made, to the proper law enforcement agency or to the department as
3 provided in RCW 26.44.040.

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

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

19 For the purposes of this subsection, the following definitions
20 apply:

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

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

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

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

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) The department may provide an investigation or family
33 assessment response consistent with section 3 of this act.

34 (12)(a) For reports of alleged abuse or neglect that are accepted
35 for investigation by the department, the investigation shall be
36 conducted within time frames established by the department in rule. In
37 no case shall the investigation extend longer than ninety days from the
38 date the report is received, unless the investigation is being

1 conducted under a written protocol pursuant to RCW 26.44.180 and a law
2 enforcement agency or prosecuting attorney has determined that a longer
3 investigation period is necessary. At the completion of the
4 investigation, the department shall make a finding that the report of
5 child abuse or neglect is founded or unfounded.

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

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

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

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

29 ~~((+13+))~~ (14) If a report of alleged abuse or neglect is founded
30 and constitutes the third founded report received by the department
31 within the last twelve months involving the same child or family, the
32 department shall promptly notify the office of the family and
33 children's ombudsman of the contents of the report. The department
34 shall also notify the ombudsman of the disposition of the report.

35 ~~((+14+))~~ (15) In investigating and responding to allegations of
36 child abuse and neglect, the department may conduct background checks
37 as authorized by state and federal law.

1 (~~(+15)~~) (16) The department shall maintain investigation records
2 and conduct timely and periodic reviews of all founded cases of abuse
3 and neglect. The department shall maintain a log of screened-out
4 nonabusive cases.

5 (~~(+16)~~) (17) The department shall use a risk assessment process
6 when investigating alleged child abuse and neglect referrals. The
7 department shall present the risk factors at all hearings in which the
8 placement of a dependent child is an issue. Substance abuse must be a
9 risk factor. The department shall, within funds appropriated for this
10 purpose, offer enhanced community-based services to persons who are
11 determined not to require further state intervention.

12 (~~(+17)~~) (18) Upon receipt of a report of alleged abuse or neglect
13 the law enforcement agency may arrange to interview the person making
14 the report and any collateral sources to determine if any malice is
15 involved in the reporting.

16 (~~(+18)~~) (19) Upon receiving a report of alleged abuse or neglect
17 involving a child under the court's jurisdiction under chapter 13.34
18 RCW, the department shall promptly notify the child's guardian ad litem
19 of the report's contents. The department shall also notify the
20 guardian ad litem of the disposition of the report. For purposes of
21 this subsection, "guardian ad litem" has the meaning provided in RCW
22 13.34.030.

23 **Sec. 7.** RCW 74.13.020 and 2011 c 330 s 4 are each reenacted and
24 amended to read as follows:

25 For purposes of this chapter:

26 (1) "Case management" means the management of services delivered to
27 children and families in the child welfare system, including permanency
28 services, caseworker-child visits, family visits, the convening of
29 family group conferences, the development and revision of the case
30 plan, the coordination and monitoring of services needed by the child
31 and family, and the assumption of court-related duties, excluding legal
32 representation, including preparing court reports, attending judicial
33 hearings and permanency hearings, and ensuring that the child is
34 progressing toward permanency within state and federal mandates,
35 including the Indian child welfare act.

36 (2) "Child" means:

37 (a) A person less than eighteen years of age; or

1 (b) A person age eighteen to twenty-one years who is eligible to
2 receive the extended foster care services authorized under RCW
3 74.13.031.

4 (3) "Child protective services" has the same meaning as in RCW
5 26.44.020.

6 (4) "Child welfare services" means social services including
7 voluntary and in-home services, out-of-home care, case management, and
8 adoption services which strengthen, supplement, or substitute for,
9 parental care and supervision for the purpose of:

10 (a) Preventing or remedying, or assisting in the solution of
11 problems which may result in families in conflict, or the neglect,
12 abuse, exploitation, or criminal behavior of children;

13 (b) Protecting and caring for dependent, abused, or neglected
14 children;

15 (c) Assisting children who are in conflict with their parents, and
16 assisting parents who are in conflict with their children, with
17 services designed to resolve such conflicts;

18 (d) Protecting and promoting the welfare of children, including the
19 strengthening of their own homes where possible, or, where needed;

20 (e) Providing adequate care of children away from their homes in
21 foster family homes or day care or other child care agencies or
22 facilities.

23 "Child welfare services" does not include child protection
24 services.

25 (5) "Committee" means the child welfare transformation design
26 committee.

27 (6) "Department" means the department of social and health
28 services.

29 (7) "Extended foster care services" means residential and other
30 support services the department is authorized to provide to foster
31 children. These services include, but are not limited to, placement in
32 licensed, relative, or otherwise approved care, or supervised
33 independent living settings; assistance in meeting basic needs;
34 independent living services; medical assistance; and counseling or
35 treatment.

36 (8) "Measurable effects" means a statistically significant change
37 which occurs as a result of the service or services a supervising

1 agency is assigned in a performance-based contract, in time periods
2 established in the contract.

3 (9) "Out-of-home care services" means services provided after the
4 shelter care hearing to or for children in out-of-home care, as that
5 term is defined in RCW 13.34.030, and their families, including the
6 recruitment, training, and management of foster parents, the
7 recruitment of adoptive families, and the facilitation of the adoption
8 process, family reunification, independent living, emergency shelter,
9 residential group care, and foster care, including relative placement.

10 (10) "Performance-based contracting" means the structuring of all
11 aspects of the procurement of services around the purpose of the work
12 to be performed and the desired results with the contract requirements
13 set forth in clear, specific, and objective terms with measurable
14 outcomes. Contracts shall also include provisions that link the
15 performance of the contractor to the level and timing of reimbursement.

16 (11) "Permanency services" means long-term services provided to
17 secure a child's safety, permanency, and well-being, including foster
18 care services, family reunification services, adoption services, and
19 preparation for independent living services.

20 (12) "Primary prevention services" means services which are
21 designed and delivered for the primary purpose of enhancing child and
22 family well-being and are shown, by analysis of outcomes, to reduce the
23 risk to the likelihood of the initial need for child welfare services.

24 (13) "Supervising agency" means an agency licensed by the state
25 under RCW 74.15.090, or licensed by a federally recognized Indian tribe
26 located in this state under RCW 74.15.190, that has entered into a
27 performance-based contract with the department to provide case
28 management for the delivery and documentation of child welfare
29 services, as defined in this section.

30 (14) "Family assessment response" means a way of responding to
31 certain reports of child abuse and neglect made under chapter 26.44
32 RCW, using a differential response approach to child protective
33 services, consistent with section 3 of this act. Family assessment
34 response does not include a determination of whether or not child abuse
35 or neglect occurred, but does determine need for services. No one is
36 named as a perpetrator, and no investigative finding is entered in the
37 record as a result of a family assessment response.

1 **Sec. 8.** RCW 74.13.031 and 2011 c 330 s 5 and 2011 c 160 s 2 are
2 each reenacted and amended to read as follows:

3 (1) The department and supervising agencies shall develop,
4 administer, supervise, and monitor a coordinated and comprehensive plan
5 that establishes, aids, and strengthens services for the protection and
6 care of runaway, dependent, or neglected children.

7 (2) Within available resources, the department and supervising
8 agencies shall recruit an adequate number of prospective adoptive and
9 foster homes, both regular and specialized, i.e. homes for children of
10 ethnic minority, including Indian homes for Indian children, sibling
11 groups, handicapped and emotionally disturbed, teens, pregnant and
12 parenting teens, and the department shall annually report to the
13 governor and the legislature concerning the department's and
14 supervising agency's success in: (a) Meeting the need for adoptive and
15 foster home placements; (b) reducing the foster parent turnover rate;
16 (c) completing home studies for legally free children; and (d)
17 implementing and operating the passport program required by RCW
18 74.13.285. The report shall include a section entitled "Foster Home
19 Turn-Over, Causes and Recommendations."

20 (3) The department shall investigate complaints of any recent act
21 or failure to act on the part of a parent or caretaker that results in
22 death, serious physical or emotional harm, or sexual abuse or
23 exploitation, or that presents an imminent risk of serious harm, and on
24 the basis of the findings of such investigation, offer child welfare
25 services in relation to the problem to such parents, legal custodians,
26 or persons serving in loco parentis, and/or bring the situation to the
27 attention of an appropriate court, or another community agency. An
28 investigation is not required of nonaccidental injuries which are
29 clearly not the result of a lack of care or supervision by the child's
30 parents, legal custodians, or persons serving in loco parentis. If the
31 investigation reveals that a crime against a child may have been
32 committed, the department shall notify the appropriate law enforcement
33 agency. The department shall provide an investigation or family
34 assessment response consistent with section 3 of this act.

35 (4) The department or supervising agencies shall offer, on a
36 voluntary basis, family reconciliation services to families who are in
37 conflict.

1 (5) The department or supervising agencies shall monitor placements
2 of children in out-of-home care and in-home dependencies to assure the
3 safety, well-being, and quality of care being provided is within the
4 scope of the intent of the legislature as defined in RCW 74.13.010 and
5 74.15.010. Under this section children in out-of-home care and in-home
6 dependencies and their caregivers shall receive a private and
7 individual face-to-face visit each month. The department and the
8 supervising agencies shall randomly select no less than ten percent of
9 the caregivers currently providing care to receive one unannounced
10 face-to-face visit in the caregiver's home per year. No caregiver will
11 receive an unannounced visit through the random selection process for
12 two consecutive years. If the caseworker makes a good faith effort to
13 conduct the unannounced visit to a caregiver and is unable to do so,
14 that month's visit to that caregiver need not be unannounced. The
15 department and supervising agencies are encouraged to group monthly
16 visits to caregivers by geographic area so that in the event an
17 unannounced visit cannot be completed, the caseworker may complete
18 other required monthly visits. The department shall use a method of
19 random selection that does not cause a fiscal impact to the department.

20 The department or supervising agencies shall conduct the monthly
21 visits with children and caregivers to whom it is providing child
22 welfare services.

23 (6) The department and supervising agencies shall have authority to
24 accept custody of children from parents and to accept custody of
25 children from juvenile courts, where authorized to do so under law, to
26 provide child welfare services including placement for adoption, to
27 provide for the routine and necessary medical, dental, and mental
28 health care, or necessary emergency care of the children, and to
29 provide for the physical care of such children and make payment of
30 maintenance costs if needed. Except where required by Public Law 95-
31 608 (25 U.S.C. Sec. 1915), no private adoption agency which receives
32 children for adoption from the department shall discriminate on the
33 basis of race, creed, or color when considering applications in their
34 placement for adoption.

35 (7) The department and supervising agency shall have authority to
36 provide temporary shelter to children who have run away from home and
37 who are admitted to crisis residential centers.

1 (8) The department and supervising agency shall have authority to
2 purchase care for children.

3 (9) The department shall establish a children's services advisory
4 committee with sufficient members representing supervising agencies
5 which shall assist the secretary in the development of a partnership
6 plan for utilizing resources of the public and private sectors, and
7 advise on all matters pertaining to child welfare, licensing of child
8 care agencies, adoption, and services related thereto. At least one
9 member shall represent the adoption community.

10 (10) The department and supervising agencies shall have authority
11 to provide continued extended foster care services to youth ages
12 eighteen to twenty-one years to participate in or complete a secondary
13 education program or a secondary education equivalency program.

14 (11) The department(~~(, has)~~) shall have authority to provide
15 adoption support benefits, or relative guardianship subsidies on behalf
16 of youth ages eighteen to twenty-one years who achieved permanency
17 through adoption or a relative guardianship at age sixteen or older and
18 who meet the criteria described in subsection (10) of this section.

19 (12) The department shall refer cases to the division of child
20 support whenever state or federal funds are expended for the care and
21 maintenance of a child, including a child with a developmental
22 disability who is placed as a result of an action under chapter 13.34
23 RCW, unless the department finds that there is good cause not to pursue
24 collection of child support against the parent or parents of the child.
25 Cases involving individuals age eighteen through twenty shall not be
26 referred to the division of child support unless required by federal
27 law.

28 (13) The department and supervising agencies shall have authority
29 within funds appropriated for foster care services to purchase care for
30 Indian children who are in the custody of a federally recognized Indian
31 tribe or tribally licensed child-placing agency pursuant to parental
32 consent, tribal court order, or state juvenile court order; and the
33 purchase of such care shall be subject to the same eligibility
34 standards and rates of support applicable to other children for whom
35 the department purchases care.

36 Notwithstanding any other provision of RCW 13.32A.170 through
37 13.32A.200 and 74.13.032 through 74.13.036, or of this section all
38 services to be provided by the department under subsections (4), (6),

1 and (7) of this section, subject to the limitations of these
2 subsections, may be provided by any program offering such services
3 funded pursuant to Titles II and III of the federal juvenile justice
4 and delinquency prevention act of 1974.

5 (14) Within amounts appropriated for this specific purpose, the
6 supervising agency or department shall provide preventive services to
7 families with children that prevent or shorten the duration of an out-
8 of-home placement.

9 (15) The department and supervising agencies shall have authority
10 to provide independent living services to youths, including individuals
11 who have attained eighteen years of age, and have not attained twenty-
12 one years of age who are or have been in foster care.

13 (16) The department and supervising agencies shall consult at least
14 quarterly with foster parents, including members of the foster parent
15 association of Washington state, for the purpose of receiving
16 information and comment regarding how the department and supervising
17 agencies are performing the duties and meeting the obligations
18 specified in this section and RCW 74.13.250 and 74.13.320 regarding the
19 recruitment of foster homes, reducing foster parent turnover rates,
20 providing effective training for foster parents, and administering a
21 coordinated and comprehensive plan that strengthens services for the
22 protection of children. Consultation shall occur at the regional and
23 statewide levels.

24 (~~((18))~~) (17)(a) The department shall, within current funding
25 levels, place on its public web site a document listing the duties and
26 responsibilities the department has to a child subject to a dependency
27 petition including, but not limited to, the following:

28 (i) Reasonable efforts, including the provision of services, toward
29 reunification of the child with his or her family;

30 (ii) Sibling visits subject to the restrictions in RCW
31 13.34.136(2)(b)(ii);

32 (iii) Parent-child visits;

33 (iv) Statutory preference for placement with a relative or other
34 suitable person, if appropriate; and

35 (v) Statutory preference for an out-of-home placement that allows
36 the child to remain in the same school or school district, if practical
37 and in the child's best interests.

1 (b) The document must be prepared in conjunction with a community-
2 based organization and must be updated as needed.

3 **Sec. 9.** RCW 26.44.031 and 2007 c 220 s 3 are each amended to read
4 as follows:

5 (1) To protect the privacy in reporting and the maintenance of
6 reports of nonaccidental injury, neglect, death, sexual abuse, and
7 cruelty to children by their parents, and to safeguard against
8 arbitrary, malicious, or erroneous information or actions, the
9 department shall not disclose or maintain information related to
10 reports of child abuse or neglect except as provided in this section or
11 as otherwise required by state and federal law.

12 (2) The department shall destroy all of its records concerning:

13 (a) A screened-out report, within three years from the receipt of
14 the report; and

15 (b) An unfounded or inconclusive report, within six years of
16 completion of the investigation, unless a prior or subsequent founded
17 report has been received regarding the child who is the subject of the
18 report, a sibling or half-sibling of the child, or a parent, guardian,
19 or legal custodian of the child, before the records are destroyed.

20 (3) The department may keep records concerning founded reports of
21 child abuse or neglect, and family assessment response referrals and
22 case information, as the department determines by rule. Family
23 assessment response referral and case information may not be disclosed
24 for background check purposes.

25 (4) An unfounded, screened-out, or inconclusive report may not be
26 disclosed to a child-placing agency, private adoption agency, or any
27 other provider licensed under chapter 74.15 RCW.

28 (5)(a) If the department fails to comply with this section, an
29 individual who is the subject of a report may institute proceedings for
30 injunctive or other appropriate relief for enforcement of the
31 requirement to purge information. These proceedings may be instituted
32 in the superior court for the county in which the person resides or, if
33 the person is not then a resident of this state, in the superior court
34 for Thurston county.

35 (b) If the department fails to comply with subsection (4) of this
36 section and an individual who is the subject of the report is harmed by
37 the disclosure of information, in addition to the relief provided in

1 (a) of this subsection, the court may award a penalty of up to one
2 thousand dollars and reasonable attorneys' fees and court costs to the
3 petitioner.

4 (c) A proceeding under this subsection does not preclude other
5 methods of enforcement provided for by law.

6 (6) Nothing in this section shall prevent the department from
7 retaining general, nonidentifying information which is required for
8 state and federal reporting and management purposes.

9 NEW SECTION. **Sec. 10.** Sections 1 through 4 of this act constitute
10 a new chapter in Title 74 RCW.

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