
SENATE BILL 6549

State of Washington

62nd Legislature

2012 Regular Session

By Senators Becker, Swecker, Stevens, Litzow, Hill, and Roach

Read first time 01/31/12. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to adopting a model policy to require a third
2 person to be present during interviews; amending RCW 26.44.030; and
3 providing an effective date.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 by the department. If the department makes an oral report, a written
2 report must also be made to the proper law enforcement agency within
3 five days thereafter.

4 (5) Any law enforcement agency 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 in writing as provided
9 in RCW 26.44.040 to the proper county prosecutor or city attorney for
10 appropriate action whenever the law enforcement agency's investigation
11 reveals that a crime may have been committed. The law enforcement
12 agency shall also notify the department of all reports received and the
13 law enforcement agency's disposition of them. In emergency cases,
14 where the child's welfare is endangered, the law enforcement agency
15 shall notify the department within twenty-four hours. In all other
16 cases, the law enforcement agency shall notify the department within
17 seventy-two hours after a report is received by the law enforcement
18 agency.

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

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

35 (8) Any case referred to the department by a physician licensed
36 under chapter 18.57 or 18.71 RCW on the basis of an expert medical
37 opinion that child abuse, neglect, or sexual assault has occurred and
38 that the child's safety will be seriously endangered if returned home,

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

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

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

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

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

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

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

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

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

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

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

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

27 (b) The Washington state school directors' association shall adopt
28 a model policy to implement (a)(i) of this subsection.

29 (13) If a report of alleged abuse or neglect is founded and
30 constitutes the third founded report received by the department within
31 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) In investigating and responding to allegations of child abuse
36 and neglect, the department may conduct background checks as authorized
37 by state and federal law.

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

5 (16) The department shall use a risk assessment process when
6 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) Upon receipt of a report of alleged abuse or neglect the law
13 enforcement agency may arrange to interview the person making the
14 report and any collateral sources to determine if any malice is
15 involved in the reporting.

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

23 NEW SECTION. **Sec. 2.** This act takes effect July 1, 2012.

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