

---

HOUSE BILL 2948

---

State of Washington

52nd Legislature

1992 Regular Session

By Representatives P. Johnson, Casada, Hochstatter, Van Luven, Padden, Chandler, Horn, Wynne, Mitchell, Paris, Nealey and Bowman

Read first time 02/05/92. Referred to Committee on Human Services.

1 AN ACT Relating to abuse of children and adult dependent or  
2 developmentally disabled persons; 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 1991 c 111 s 1 are each amended to read  
5 as follows:

6 (1) When any practitioner, professional school personnel,  
7 registered or licensed nurse, social service counselor, psychologist,  
8 pharmacist, licensed or certified child care providers or their  
9 employees, employee of the department, or juvenile probation officer  
10 has reasonable cause to believe that a child or adult dependent or  
11 developmentally disabled person, has suffered abuse or neglect, he or  
12 she shall report such incident, or cause a report to be made, to the  
13 proper law enforcement agency or to the department as provided in RCW  
14 26.44.040. The report shall be made at the first opportunity, but in

1 no case longer than forty-eight hours after there is reasonable cause  
2 to believe that the child or adult has suffered abuse or neglect. The  
3 report shall include the identity of the accused if known.

4 (2) The reporting requirement of subsection (1) of this section  
5 does not apply to the discovery of abuse or neglect that occurred  
6 during childhood if it is discovered after the child has become an  
7 adult. However, if there is reasonable cause to believe other  
8 children, dependent adults, or developmentally disabled persons are or  
9 may be at risk of abuse or neglect by the accused, the reporting  
10 requirement of subsection (1) of this section shall apply.

11 (3) Any other person who has reasonable cause to believe that a  
12 child or adult dependent or developmentally disabled person has  
13 suffered abuse or neglect may report such incident to the proper law  
14 enforcement agency or to the department of social and health services  
15 as provided in RCW 26.44.040.

16 (4) The department, upon receiving a report of an incident of abuse  
17 or neglect pursuant to this chapter, involving a child or adult  
18 dependent or developmentally disabled person who has died or has had  
19 physical injury or injuries inflicted upon him or her other than by  
20 accidental means or who has been subjected to sexual abuse, shall  
21 report such incident to the proper law enforcement agency. In  
22 emergency cases, where the child, adult dependent, or developmentally  
23 disabled person's welfare is endangered, the department shall notify  
24 the proper law enforcement agency within twenty-four hours after a  
25 report is received by the department. In all other cases, the  
26 department shall notify the law enforcement agency within seventy-two  
27 hours after a report is received by the department. If the department  
28 makes an oral report, a written report shall also be made to the proper  
29 law enforcement agency within five days thereafter.

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

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

22           (7) The department may conduct ongoing case planning and  
23 consultation with those persons or agencies required to report under  
24 this section, with consultants designated by the department, and with  
25 designated representatives of Washington Indian tribes if the client  
26 information exchanged is pertinent to cases currently receiving child  
27 protective services or department case services for the developmentally  
28 disabled. Upon request, the department shall conduct such planning and  
29 consultation with those persons required to report under this section  
30 if the department determines it is in the best interests of the child

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

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

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

22 (10)(a) Upon receiving reports of abuse or neglect, the department  
23 or law enforcement agency may interview children. The interviews may  
24 be conducted on school premises, at day-care facilities, at the child's  
25 home, or at other suitable locations outside of the presence of  
26 parents. Parental notification of the interview shall occur at the  
27 earliest possible point in the investigation that will not jeopardize  
28 the safety or protection of the child or the course of the  
29 investigation. Prior to commencing the interview the department or law  
30 enforcement agency shall determine whether the child wishes a third

1 party to be present for the interview and(~~(, if so,)~~) shall make  
2 reasonable efforts to accommodate the child's wishes. Unless the child  
3 objects, the department or law enforcement agency shall make reasonable  
4 efforts to include a third party in any interview so long as the  
5 presence of the third party will not jeopardize the course of the  
6 investigation.

7 (b)(i) If the interview is conducted by a joint team of a child  
8 protective services worker and a law enforcement officer, the  
9 department shall make a written report of the interview and place it  
10 into the file on the day of the interview.

11 (ii) If the interview is not conducted by a joint team under (b)(i)  
12 of this subsection, the department shall record the interview by  
13 audiotape, videotape, or a verbatim transcript.

14 (iii) Except for treatment interviews, subsequent interviews are  
15 also subject to the requirements of this subsection (10)(b) until  
16 evidence is turned over to the prosecuting attorney.

17 (11) Upon receiving a report of incidents, conditions, or  
18 circumstances of child abuse and neglect, the department shall have  
19 access to all relevant records of the child in the possession of  
20 mandated reporters and their employees.

21 (12) The department shall maintain investigation records and  
22 conduct timely and periodic reviews of all cases constituting abuse and  
23 neglect. The department shall maintain a log of screened-out  
24 nonabusive cases.

25 (13) The department of social and health services shall, within  
26 funds appropriated for this purpose, use a risk assessment tool when  
27 investigating child abuse and neglect referrals. The tool shall be  
28 used, on a pilot basis, in three local office service areas. The  
29 department shall, within funds appropriated for this purpose, offer

1 enhanced community-based services to persons who are determined not to  
2 require further state intervention.

3 ~~((The department shall report to the ways and means committees of  
4 the senate and house of representatives on the use of the tool by  
5 December 1, 1989. The report shall include recommendations on the  
6 continued use and possible expanded use of the tool.))~~

7 (14) Upon receipt of such report the law enforcement agency may  
8 arrange to interview the person making the report and any collateral  
9 sources to determine if any malice is involved in the reporting.