
SUBSTITUTE SENATE BILL 6084

State of Washington

52nd Legislature

1992 Regular Session

By Senate Committee on Children & Family Services (originally sponsored by Senators L. Smith, Craswell, Stratton, Metcalf, Oke and Roach)

Read first time 02/07/92.

1 AN ACT Relating to interviews of children conducted by the
2 department of social and health services; amending RCW 26.44.030;
3 adding a new section to chapter 26.44 RCW; and adding a new section to
4 chapter 9A.44 RCW.

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

6 **Sec. 1.** RCW 26.44.030 and 1991 c 111 s 1 are each amended to read
7 as follows:

8 (1) When any practitioner, professional school personnel,
9 registered or licensed nurse, social service counselor, psychologist,
10 pharmacist, licensed or certified child care providers or their
11 employees, employee of the department, or juvenile probation officer
12 has reasonable cause to believe that a child or adult dependent or
13 developmentally disabled person, has suffered abuse or neglect, he or
14 she shall report such incident, or cause a report to be made, to the

1 proper law enforcement agency or to the department as provided in RCW
2 26.44.040. The report shall be made at the first opportunity, but in
3 no case longer than forty-eight hours after there is reasonable cause
4 to believe that the child or adult has suffered abuse or neglect. The
5 report shall include the identity of the accused if known.

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

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

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

1 makes an oral report, a written report shall also be made to the proper
2 law enforcement agency within five days thereafter.

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

1 consultation with those persons required to report under this section
2 if the department determines it is in the best interests of the child
3 or developmentally disabled person. Information considered privileged
4 by statute and not directly related to reports required by this section
5 shall not be divulged without a valid written waiver of the privilege.

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

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

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

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

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

13 (12) The department shall maintain investigation records and
14 conduct timely and periodic reviews of all cases constituting abuse and
15 neglect. The department shall maintain a log of screened-out
16 nonabusive cases.

17 (13) The department of social and health services shall, within
18 funds appropriated for this purpose, use a risk assessment tool when
19 investigating child abuse and neglect referrals. The tool shall be
20 used, on a pilot basis, in three local office service areas. The
21 department shall, within funds appropriated for this purpose, offer
22 enhanced community-based services to persons who are determined not to
23 require further state intervention.

24 (~~The department shall report to the ways and means committees of
25 the senate and house of representatives on the use of the tool by
26 December 1, 1989. The report shall include recommendations on the
27 continued use and possible expanded use of the tool.~~)

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

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

3 (1) When an interview of a child regarding allegations of sexual
4 abuse is conducted by the department under RCW 26.44.030, without a law
5 enforcement officer present, that interview shall be recorded by
6 audiotape or videotape. Failure to record the interview shall not
7 affect the admissibility of statements pursuant to RCW 9A.44.120 unless
8 the failure was willful. The willful failure of the department to
9 record, by audiotape or videotape, an interview of a child regarding
10 allegations of sexual abuse shall create a presumption that such
11 statements are inadmissible for the purpose of RCW 9A.44.120.

12 (2) The department shall not make any copies of an audiotape or
13 videotape recorded under this section. The original tape shall be
14 immediately transmitted to the prosecuting attorney's office or the
15 local law enforcement agency to be preserved as evidence.

16 (3) Only persons accused of alleged sexual abuse or the person's
17 attorney may view or listen to the tape as necessary to prepare an
18 adequate defense, but the tape shall remain in the custody of the
19 prosecuting attorney's office or the local law enforcement agency. If
20 the tape has been introduced as evidence it shall remain in the custody
21 of the court. If the charges against the accused are dismissed or if
22 the accused is found not guilty, all tapes shall be destroyed.

23 NEW SECTION. **Sec. 3.** A new section is added to chapter 9A.44 RCW
24 to read as follows:

25 If an audiotape or videotape is made in compliance with section 2
26 of this act, the recorded statements by the child may be admitted into
27 evidence through the audiotape or videotape, subject to the
28 requirements of RCW 9A.44.120. A videotaped interview with the child
29 may be admitted into evidence in lieu of the child's live testimony at

1 trial, by stipulation of the accused person and the state, or as
2 otherwise admissible by law.