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HOUSE BILL 1836

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State of Washington

55th Legislature

1997 Regular Session

By Representatives Costa, Ballasiotes, Mitchell, Quall, Cooke and Ogden

Read first time 02/11/97. Referred to Committee on Children & Family Services.

1 AN ACT Relating to child, adult dependent, and developmentally  
2 disabled person abuse; and amending RCW 26.44.030 and 26.44.080.

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

4 **Sec. 1.** RCW 26.44.030 and 1996 c 278 s 2 are each amended to read  
5 as follows:

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

16 (b) The reporting requirement shall also apply to department of  
17 corrections personnel who, in the course of their employment, observe  
18 offenders or the children with whom the offenders are in contact. If,  
19 as a result of observations or information received in the course of

1 his or her employment, any department of corrections personnel has  
2 reasonable cause to believe that a child or adult dependent or  
3 developmentally disabled person has suffered abuse or neglect, he or  
4 she shall report the incident, or cause a report to be made, to the  
5 proper law enforcement agency or to the department as provided in RCW  
6 26.44.040.

7 (c) The reporting requirement shall also apply to any (~~adult~~)  
8 person who has reasonable cause to believe that a child or adult  
9 dependent or developmentally disabled person(~~(, who resides with~~  
10 ~~them,)~~) has suffered severe abuse(~~(, and is able or capable of making~~  
11 ~~a report)~~). For the purposes of this subsection, "severe abuse" means  
12 any of the following: Any single act of abuse that causes physical  
13 trauma of sufficient severity that, if left untreated, could cause  
14 death; any single act of sexual abuse that causes significant bleeding,  
15 deep bruising, or significant external or internal swelling; or more  
16 than one act of physical abuse, each of which causes bleeding, deep  
17 bruising, significant external or internal swelling, bone fracture, or  
18 unconsciousness.

19 (d) The report shall be made at the first opportunity, but in no  
20 case longer than forty-eight hours after there is reasonable cause to  
21 believe that the child or adult has suffered abuse or neglect. The  
22 report shall include the identity of the accused if known.

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

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

35 (~~4~~)) The department, upon receiving a report of an incident of  
36 abuse or neglect pursuant to this chapter, involving a child or adult  
37 dependent or developmentally disabled person who has died or has had  
38 physical injury or injuries inflicted upon him or her other than by  
39 accidental means or who has been subjected to sexual abuse, shall

1 report such incident to the proper law enforcement agency. In  
2 emergency cases, where the child, adult dependent, or developmentally  
3 disabled person's welfare is endangered, the department shall notify  
4 the proper law enforcement agency within twenty-four hours after a  
5 report is received by the department. In all other cases, the  
6 department shall notify the law enforcement agency within seventy-two  
7 hours after a report is received by the department. If the department  
8 makes an oral report, a written report shall also be made to the proper  
9 law enforcement agency within five days thereafter.

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

26 ((+6)) (5) Any county prosecutor or city attorney receiving a  
27 report under subsection ((+5)) (4) of this section shall notify the  
28 victim, any persons the victim requests, and the local office of the  
29 department, of the decision to charge or decline to charge a crime,  
30 within five days of making the decision.

31 ((+7)) (6) The department may conduct ongoing case planning and  
32 consultation with those persons or agencies required to report under  
33 this section, with consultants designated by the department, and with  
34 designated representatives of Washington Indian tribes if the client  
35 information exchanged is pertinent to cases currently receiving child  
36 protective services or department case services for the developmentally  
37 disabled. Upon request, the department shall conduct such planning and  
38 consultation with those persons required to report under this section  
39 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+))~~ (7) Any case referred to the department by a physician  
5 licensed under chapter 18.57 or 18.71 RCW on the basis of an expert  
6 medical opinion that child abuse, neglect, or sexual assault has  
7 occurred and that the child's safety will be seriously endangered if  
8 returned home, the department shall file a dependency petition unless  
9 a second licensed physician of the parents' choice believes that such  
10 expert medical opinion is incorrect. If the parents fail to designate  
11 a 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+))~~ (8) Persons or agencies exchanging information under  
19 subsection ~~((+7+))~~ (6) of this section shall not further disseminate or  
20 release the information except as authorized by state or federal  
21 statute. Violation of this subsection is a misdemeanor.

22 ~~((+10+))~~ (9) Upon receiving reports of abuse or neglect, the  
23 department or law enforcement agency may interview children. The  
24 interviews may be conducted on school premises, at day-care facilities,  
25 at the child's home, or at other suitable locations outside of the  
26 presence of parents. Parental notification of the interview shall  
27 occur at the earliest possible point in the investigation that will not  
28 jeopardize 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  
31 party to be present for the interview and, if so, shall make reasonable  
32 efforts to accommodate the child's wishes. Unless the child objects,  
33 the department or law enforcement agency shall make reasonable efforts  
34 to include a third party in any interview so long as the presence of  
35 the third party will not jeopardize the course of the investigation.

36 ~~((+11+))~~ (10) Upon receiving a report of child abuse and neglect,  
37 the department or investigating law enforcement agency shall have  
38 access to all relevant records of the child in the possession of  
39 mandated reporters and their employees.

1        (~~(12)~~) (11) The department shall maintain investigation records  
2 and conduct timely and periodic reviews of all cases constituting abuse  
3 and neglect. The department shall maintain a log of screened-out  
4 nonabusive cases.

5        (~~(13)~~) (12) The department shall use a risk assessment process  
6 when investigating child abuse and neglect referrals. The department  
7 shall present the risk factors at all hearings in which the placement  
8 of a dependent child is an issue. The department shall, within funds  
9 appropriated for this purpose, offer enhanced community-based services  
10 to persons who are determined not to require further state  
11 intervention.

12        The department shall provide annual reports to the legislature on  
13 the effectiveness of the risk assessment process.

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

18        **Sec. 2.** RCW 26.44.080 and 1982 c 129 s 10 are each amended to read  
19 as follows:

20        Every person who is required to make, or to cause to be made, a  
21 report pursuant to RCW 26.44.030 and 26.44.040, and who knowingly fails  
22 to make, or fails to cause to be made, such report, shall be guilty of  
23 a gross misdemeanor, unless the person was prevented from making a  
24 report due to threats or abuse.

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