

---

**SUBSTITUTE HOUSE BILL 2829**

---

**State of Washington**

**55th Legislature**

**1998 Regular Session**

**By** House Committee on Children & Family Services (originally sponsored by Representatives Ballasiotes, Costa, O'Brien, Hatfield and Mitchell)

Read first time 02/06/98. Referred to Committee on .

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 1997 c 386 s 25 are each amended to read  
5 as follows:

6 (1)(a) When any practitioner, county coroner or medical examiner,  
7 law enforcement officer, professional school personnel, registered or  
8 licensed nurse, social service counselor, psychologist, pharmacist,  
9 licensed or certified child care providers or their employees, employee  
10 of the department, juvenile probation officer, or state family and  
11 children's ombudsman or any volunteer in the ombudsman's office has  
12 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  
15 proper law enforcement agency or to the department as provided in RCW  
16 26.44.040.

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

1 as a result of observations or information received in the course of  
2 his or her employment, any department of corrections personnel has  
3 reasonable cause to believe that a child or adult dependent or  
4 developmentally disabled person has suffered abuse or neglect, he or  
5 she shall report the incident, or cause a report to be made, to the  
6 proper law enforcement agency or to the department as provided in RCW  
7 26.44.040.

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

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

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

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

36 (4) When any employee working in a religious institution, excluding  
37 a member of the clergy or a priest, has reasonable cause to believe  
38 that a child or adult dependent or developmentally disabled person, has  
39 suffered abuse or neglect, he or she shall report such incident, or

1 cause a report to be made, to the proper law enforcement agency or to  
2 the department as provided in RCW 26.44.040.

3       (5) The department, upon receiving a report of an incident of  
4 alleged abuse or neglect pursuant to this chapter, involving a child or  
5 adult dependent or developmentally disabled person who has died or has  
6 had physical injury or injuries inflicted upon him or her other than by  
7 accidental means or who has been subjected to alleged sexual abuse,  
8 shall report such incident to the proper law enforcement agency. In  
9 emergency cases, where the child, adult dependent, or developmentally  
10 disabled person's welfare is endangered, the department shall notify  
11 the proper law enforcement agency within twenty-four hours after a  
12 report is received by the department. In all other cases, the  
13 department shall notify the law enforcement agency within seventy-two  
14 hours after a report is received by the department. If the department  
15 makes an oral report, a written report shall also be made to the proper  
16 law enforcement agency within five days thereafter.

17       (~~(5)~~) (6) Any law enforcement agency receiving a report of an  
18 incident of alleged abuse or neglect pursuant to this chapter,  
19 involving a child or adult dependent or developmentally disabled person  
20 who has died or has had physical injury or injuries inflicted upon him  
21 or her other than by accidental means, or who has been subjected to  
22 alleged sexual abuse, shall report such incident in writing as provided  
23 in RCW 26.44.040 to the proper county prosecutor or city attorney for  
24 appropriate action whenever the law enforcement agency's investigation  
25 reveals that a crime may have been committed. The law enforcement  
26 agency shall also notify the department of all reports received and the  
27 law enforcement agency's disposition of them. In emergency cases,  
28 where the child, adult dependent, or developmentally disabled person's  
29 welfare is endangered, the law enforcement agency shall notify the  
30 department within twenty-four hours. In all other cases, the law  
31 enforcement agency shall notify the department within seventy-two hours  
32 after a report is received by the law enforcement agency.

33       (~~(6)~~) (7) Any county prosecutor or city attorney receiving a  
34 report under subsection (~~(5)~~) (6) of this section shall notify the  
35 victim, any persons the victim requests, and the local office of the  
36 department, of the decision to charge or decline to charge a crime,  
37 within five days of making the decision.

38       (~~(7)~~) (8) The department may conduct ongoing case planning and  
39 consultation with those persons or agencies required to report under

1 this section, with consultants designated by the department, and with  
2 designated representatives of Washington Indian tribes if the client  
3 information exchanged is pertinent to cases currently receiving child  
4 protective services or department case services for the developmentally  
5 disabled. Upon request, the department shall conduct such planning and  
6 consultation with those persons required to report under this section  
7 if the department determines it is in the best interests of the child  
8 or developmentally disabled person. Information considered privileged  
9 by statute and not directly related to reports required by this section  
10 shall not be divulged without a valid written waiver of the privilege.

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

25 ~~((+9+))~~ (10) Persons or agencies exchanging information under  
26 subsection ~~((+7+))~~ (8) of this section shall not further disseminate or  
27 release the information except as authorized by state or federal  
28 statute. Violation of this subsection is a misdemeanor.

29 ~~((+10+))~~ (11) Upon receiving reports of alleged abuse or neglect,  
30 the department or law enforcement agency may interview children. The  
31 interviews may be conducted on school premises, at day-care facilities,  
32 at the child's home, or at other suitable locations outside of the  
33 presence of parents. Parental notification of the interview shall  
34 occur at the earliest possible point in the investigation that will not  
35 jeopardize the safety or protection of the child or the course of the  
36 investigation. Prior to commencing the interview the department or law  
37 enforcement agency shall determine whether the child wishes a third  
38 party to be present for the interview and, if so, shall make reasonable  
39 efforts to accommodate the child's wishes. Unless the child objects,

1 the department or law enforcement agency shall make reasonable efforts  
2 to include a third party in any interview so long as the presence of  
3 the third party will not jeopardize the course of the investigation.

4 ~~((+11))~~ (12) Upon receiving a report of alleged child abuse and  
5 neglect, the department or investigating law enforcement agency shall  
6 have access to all relevant records of the child in the possession of  
7 mandated reporters and their employees.

8 ~~((+12))~~ (13) The department shall maintain investigation records  
9 and conduct timely and periodic reviews of all cases constituting abuse  
10 and neglect. The department shall maintain a log of screened-out  
11 nonabusive cases.

12 ~~((+13))~~ (14) The department shall use a risk assessment process  
13 when investigating alleged child abuse and neglect referrals. The  
14 department shall present the risk factors at all hearings in which the  
15 placement of a dependent child is an issue. The department shall,  
16 within funds appropriated for this purpose, offer enhanced community-  
17 based services to persons who are determined not to require further  
18 state intervention.

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

21 ~~((+14))~~ (15) Upon receipt of a report of alleged abuse or neglect  
22 the law enforcement agency may arrange to interview the person making  
23 the report and any collateral sources to determine if any malice is  
24 involved in the reporting.

25 ~~((+15))~~ (16) The department shall make reasonable efforts to learn  
26 the name, address, and telephone number of each person making a report  
27 of abuse or neglect under this section. The department shall provide  
28 assurances of appropriate confidentiality of the identification of  
29 persons reporting under this section. If the department is unable to  
30 learn the information required under this subsection, the department  
31 shall only investigate cases in which: (a) The department believes  
32 there is a serious threat of substantial harm to the child; (b) the  
33 report indicates conduct involving a criminal offense that has, or is  
34 about to occur, in which the child is the victim; or (c) the department  
35 has, after investigation, a report of abuse or neglect that has been  
36 founded with regard to a member of the household within three years of  
37 receipt of the referral.

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

3       Every person who is required to make, or to cause to be made, a  
4 report pursuant to RCW 26.44.030 and 26.44.040, and who knowingly fails  
5 to make, or fails to cause to be made, such report, shall be guilty of  
6 a gross misdemeanor, unless the person was prevented from making a  
7 report due to threats or abuse.

--- END ---