
HOUSE BILL 2829

State of Washington

55th Legislature

1998 Regular Session

By Representatives Ballasiotes, Costa, O'Brien, Hatfield and Mitchell

Read first time 01/21/98. 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 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 personnel or volunteer working in a religious
37 institution has reasonable cause to believe that a child or adult
38 dependent or developmentally disabled person, has suffered abuse or
39 neglect, he or she shall report such incident, or cause a report to be

1 made, to the proper law enforcement agency or to the department as
2 provided in RCW 26.44.040. A member of the clergy or a priest may not,
3 without the consent of a person making the statement, be required to
4 report as to any statement made to him or her in his or her
5 professional character.

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

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

36 ((+6)) (7) Any county prosecutor or city attorney receiving a
37 report under subsection ((+5)) (6) of this section shall notify the
38 victim, any persons the victim requests, and the local office of the

1 department, of the decision to charge or decline to charge a crime,
2 within five days of making the decision.

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

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

29 ~~((+9))~~ (10) Persons or agencies exchanging information under
30 subsection ~~((+7))~~ (8) of this section shall not further disseminate or
31 release the information except as authorized by state or federal
32 statute. Violation of this subsection is a misdemeanor.

33 ~~((+10))~~ (11) Upon receiving reports of alleged abuse or neglect,
34 the department or law enforcement agency may interview children. The
35 interviews may be conducted on school premises, at day-care facilities,
36 at the child's home, or at other suitable locations outside of the
37 presence of parents. Parental notification of the interview shall
38 occur at the earliest possible point in the investigation that will not
39 jeopardize 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 reasonable
4 efforts to accommodate the child's wishes. Unless the child objects,
5 the department or law enforcement agency shall make reasonable efforts
6 to include a third party in any interview so long as the presence of
7 the third party will not jeopardize the course of the investigation.

8 ~~((11))~~ (12) Upon receiving a report of alleged child abuse and
9 neglect, the department or investigating law enforcement agency shall
10 have access to all relevant records of the child in the possession of
11 mandated reporters and their employees.

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

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

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

25 ~~((14))~~ (15) Upon receipt of a report of alleged abuse or neglect
26 the law enforcement agency may arrange to interview the person making
27 the report and any collateral sources to determine if any malice is
28 involved in the reporting.

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

1 founded with regard to a member of the household within three years of
2 receipt of the referral.

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

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

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