
SENATE BILL 5932

State of Washington

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By Senators Kohl-Welles, Long, Hargrove, Kastama, Franklin, Stevens and Rasmussen

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1 AN ACT Relating to audio recording of interviews of children
2 disclosing sexual abuse; amending RCW 26.44.035; and reenacting and
3 amending RCW 26.44.030.

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

5 **Sec. 1.** RCW 26.44.030 and 1999 c 267 s 20 and 1999 c 176 s 30 are
6 each reenacted and amended to read as follows:

7 (1)(a) When any practitioner, county coroner or medical examiner,
8 law enforcement officer, professional school personnel, registered or
9 licensed nurse, social service counselor, psychologist, pharmacist,
10 licensed or certified child care providers or their employees, employee
11 of the department, juvenile probation officer, placement and liaison
12 specialist, responsible living skills program staff, HOPE center staff,
13 or state family and children's ombudsman or any volunteer in the
14 ombudsman's office has reasonable cause to believe that a child has
15 suffered abuse or neglect, he or she shall report such incident, or
16 cause a report to be made, to the proper law enforcement agency or to
17 the department as provided in RCW 26.44.040.

18 (b) The reporting requirement also applies to department of
19 corrections personnel who, in the course of their employment, observe

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

8 (c) The reporting requirement shall also apply to any adult who has
9 reasonable cause to believe that a child who resides with them, has
10 suffered severe abuse, and is able or capable of making a report. For
11 the purposes of this subsection, "severe abuse" means any of the
12 following: Any single act of abuse that causes physical trauma of
13 sufficient severity that, if left untreated, could cause death; any
14 single act of sexual abuse that causes significant bleeding, deep
15 bruising, or significant external or internal swelling; or more than
16 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 must 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 has suffered abuse or neglect. The report must
22 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 children
27 are or may be at risk of abuse or neglect by the accused, the reporting
28 requirement of subsection (1) of this section does apply.

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

33 (4) The department, upon receiving a report of an incident of
34 alleged abuse or neglect pursuant to this chapter, involving a child
35 who has died or has had physical injury or injuries inflicted upon him
36 or her other than by accidental means or who has been subjected to
37 alleged sexual abuse, shall report such incident to the proper law
38 enforcement agency. In emergency cases, where the child's welfare is
39 endangered, the department shall notify the proper law enforcement

1 agency within twenty-four hours after a report is received by the
2 department. In all other cases, the department shall notify the law
3 enforcement agency within seventy-two hours after a report is received
4 by the department. If the department makes an oral report, a written
5 report must also be made to the proper law enforcement agency within
6 five days thereafter.

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

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

27 (7) The department may conduct ongoing case planning and
28 consultation with those persons or agencies required to report under
29 this section, with consultants designated by the department, and with
30 designated representatives of Washington Indian tribes if the client
31 information exchanged is pertinent to cases currently receiving child
32 protective services. Upon request, the department shall conduct such
33 planning and consultation with those persons required to report under
34 this section if the department determines it is in the best interests
35 of the child. Information considered privileged by statute and not
36 directly related to reports required by this section must not be
37 divulged without a valid written waiver of the privilege.

38 (8) Any case referred to the department by a physician licensed
39 under chapter 18.57 or 18.71 RCW on the basis of an expert medical

1 opinion that child abuse, neglect, or sexual assault has occurred and
2 that the child's safety will be seriously endangered if returned home,
3 the department shall file a dependency petition unless a second
4 licensed physician of the parents' choice believes that such expert
5 medical opinion is incorrect. If the parents fail to designate a
6 second physician, the department may make the selection. If a
7 physician finds that a child has suffered abuse or neglect but that
8 such abuse or neglect does not constitute imminent danger to the
9 child's health or safety, and the department agrees with the
10 physician's assessment, the child may be left in the parents' home
11 while the department proceeds with reasonable efforts to remedy
12 parenting deficiencies.

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

17 (10) Upon receiving reports of alleged abuse or neglect, the
18 department or law enforcement agency may interview children. The
19 interviews may be conducted on school premises, at day-care facilities,
20 at the child's home, or at other suitable locations outside of the
21 presence of parents. The interviews shall be audio recorded by
22 recording device when required by RCW 26.44.035. Parental notification
23 of the interview must occur at the earliest possible point in the
24 investigation that will not jeopardize the safety or protection of the
25 child or the course of the investigation. Prior to commencing the
26 interview the department or law enforcement agency shall determine
27 whether the child wishes a third party to be present for the interview
28 and, if so, shall make reasonable efforts to accommodate the child's
29 wishes. Unless the child objects, the department or law enforcement
30 agency shall make reasonable efforts to include a third party in any
31 interview so long as the presence of the third party will not
32 jeopardize the course of the investigation.

33 (11) Upon receiving a report of alleged child abuse and neglect,
34 the department or investigating law enforcement agency shall have
35 access to all relevant records of the child in the possession of
36 mandated reporters and their employees.

37 (12) The department shall maintain investigation records and
38 conduct timely and periodic reviews of all cases constituting abuse and

1 neglect. The department shall maintain a log of screened-out
2 nonabusive cases.

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

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

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

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

29 **Sec. 2.** RCW 26.44.035 and 1999 c 389 s 7 are each amended to read
30 as follows:

31 (1) If the department or a law enforcement agency responds to a
32 complaint of alleged child abuse or neglect and discovers that another
33 agency has also responded to the complaint, the agency shall notify the
34 other agency of their presence, and the agencies shall coordinate the
35 investigation and keep each other apprised of progress.

36 (2) The department, each law enforcement agency, each county
37 prosecuting attorney, each city attorney, and each court shall make as

1 soon as practicable a written record and shall maintain records of all
2 incidents of suspected child abuse reported to that person or agency.

3 (3) Every employee of the department who conducts an interview of
4 any person involved in an allegation of abuse or neglect shall retain
5 his or her original written records or notes setting forth the content
6 of the interview unless the notes were entered into the electronic
7 system operated by the department which is designed for storage,
8 retrieval, and preservation of such records.

9 (4) (~~Written~~) Interviews of children disclosing sexual abuse
10 shall be audio recorded by recording device, unless waived by
11 management on a case-by-case basis, or because the child objected to
12 being audio recorded.

13 (5) In cases in which audio recording has been waived, records
14 involving child sexual abuse shall, at a minimum, be a written, near
15 verbatim record for the disclosure interview. The near verbatim record
16 shall be produced within fifteen calendar days of the disclosure
17 interview, unless waived by management on a case-by-case basis.

18 (~~(5)~~) (6) Records kept under this section shall be identifiable
19 by means of an agency code for child abuse.

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