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HOUSE BILL 1054

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By Representatives Dickerson, Skinner, Romero, Haigh, O'Brien, Kenney, Darneille, Kagi, Clements, Sommers, Chase, Miloscia, McDermott, Kirby, Schual-Berke, Lovick and Kessler

Read first time 01/14/2003. Referred to Committee on Children & Family Services.

1 AN ACT Relating to duty of clergy to report child abuse or neglect;  
2 and reenacting and amending RCW 26.44.030.

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

4 **Sec. 1.** RCW 26.44.030 and 1999 c 267 s 20 and 1999 c 176 s 30 are  
5 each reenacted and amended to read 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, placement and liaison  
11 specialist, responsible living skills program staff, HOPE center staff,  
12 ((~~or~~)) state family and children's ombudsman or any volunteer in the  
13 ombudsman's office, or clergy has reasonable cause to believe that a  
14 child has suffered abuse or neglect, he or she shall report such  
15 incident, or cause a report to be made, to the proper law enforcement  
16 agency or to the department as provided in RCW 26.44.040.

17 (b) The reporting requirement also applies 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 has suffered abuse or neglect,  
4 he or she shall report the incident, or cause a report to be made, to  
5 the proper law enforcement agency or to the department as provided in  
6 RCW 26.44.040.

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

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

22 (2) The notification requirements of subsection (1)(a) of this  
23 section do not apply to clergy, without the consent of the person  
24 making the confession, with regard to any confession made to him or her  
25 in his or her professional character in the course of discipline  
26 enjoined by the church to which he or she belongs, if:

27 (a) The confession was made directly to the clergy by the  
28 perpetrator; and

29 (b) The clergy is, under canon law or church doctrine or practice,  
30 bound to maintain the confidentiality of that confession.

31 (3)(a) When a clergy receives information about abuse or neglect  
32 from any source other than confession of the perpetrator, he or she is  
33 required to give notification on the basis of that information even  
34 though he or she may have also received a report of abuse or neglect  
35 from the confession of the perpetrator.

36 (b) Exemption of notification requirements for a clergy does not  
37 exempt the clergy from any other efforts required by law to prevent  
38 further abuse or neglect by the perpetrator.

1        (4) The reporting requirement of subsection (1) of this section  
2 does not apply to the discovery of abuse or neglect that occurred  
3 during childhood if it is discovered after the child has become an  
4 adult. However, if there is reasonable cause to believe other children  
5 are or may be at risk of abuse or neglect by the accused, the reporting  
6 requirement of subsection (1) of this section does apply.

7        ~~((+3))~~ (5) Any other person who has reasonable cause to believe  
8 that a child has suffered abuse or neglect may report such incident to  
9 the proper law enforcement agency or to the department of social and  
10 health services as provided in RCW 26.44.040.

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

24        ~~((+5))~~ (7) Any law enforcement agency receiving a report of an  
25 incident of alleged abuse or neglect pursuant to this chapter,  
26 involving a child who has died or has had physical injury or injuries  
27 inflicted upon him or her other than by accidental means, or who has  
28 been subjected to alleged sexual abuse, shall report such incident in  
29 writing as provided in RCW 26.44.040 to the proper county prosecutor or  
30 city attorney for appropriate action whenever the law enforcement  
31 agency's investigation reveals that a crime may have been committed.  
32 The law enforcement agency shall also notify the department of all  
33 reports received and the law enforcement agency's disposition of them.  
34 In emergency cases, where the child's welfare is endangered, the law  
35 enforcement agency shall notify the department within twenty-four  
36 hours. In all other cases, the law enforcement agency shall notify the  
37 department within seventy-two hours after a report is received by the  
38 law enforcement agency.

1       ~~((+6+))~~ (8) Any county prosecutor or city attorney receiving a  
2 report under subsection ~~((+5+))~~ (7) of this section shall notify the  
3 victim, any persons the victim requests, and the local office of the  
4 department, of the decision to charge or decline to charge a crime,  
5 within five days of making the decision.

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

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

31       ~~((+9+))~~ (11) Persons or agencies exchanging information under  
32 subsection ~~((+7+))~~ (9) of this section shall not further disseminate or  
33 release the information except as authorized by state or federal  
34 statute. Violation of this subsection is a misdemeanor.

35       ~~((+10+))~~ (12) Upon receiving reports of alleged abuse or neglect,  
36 the department or law enforcement agency may interview children. The  
37 interviews may be conducted on school premises, at day-care facilities,  
38 at the child's home, or at other suitable locations outside of the

1 presence of parents. Parental notification of the interview must occur  
2 at the earliest possible point in the investigation that will not  
3 jeopardize the safety or protection of the child or the course of the  
4 investigation. Prior to commencing the interview the department or law  
5 enforcement agency shall determine whether the child wishes a third  
6 party to be present for the interview and, if so, shall make reasonable  
7 efforts to accommodate the child's wishes. Unless the child objects,  
8 the department or law enforcement agency shall make reasonable efforts  
9 to include a third party in any interview so long as the presence of  
10 the third party will not jeopardize the course of the investigation.

11 ~~((+11+))~~ (13) Upon receiving a report of alleged child abuse and  
12 neglect, the department or investigating law enforcement agency shall  
13 have access to all relevant records of the child in the possession of  
14 mandated reporters and their employees.

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

19 ~~((+13+))~~ (15) The department shall use a risk assessment process  
20 when investigating alleged child abuse and neglect referrals. The  
21 department shall present the risk factors at all hearings in which the  
22 placement of a dependent child is an issue. Substance abuse must be a  
23 risk factor. The department shall, within funds appropriated for this  
24 purpose, offer enhanced community-based services to persons who are  
25 determined not to require further state intervention.

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

28 ~~((+14+))~~ (16) Upon receipt of a report of alleged abuse or neglect  
29 the law enforcement agency may arrange to interview the person making  
30 the report and any collateral sources to determine if any malice is  
31 involved in the reporting.

32 ~~((+15+))~~ (17) The department shall make reasonable efforts to learn  
33 the name, address, and telephone number of each person making a report  
34 of abuse or neglect under this section. The department shall provide  
35 assurances of appropriate confidentiality of the identification of  
36 persons reporting under this section. If the department is unable to  
37 learn the information required under this subsection, the department  
38 shall only investigate cases in which: (a) The department believes

1 there is a serious threat of substantial harm to the child; (b) the  
2 report indicates conduct involving a criminal offense that has, or is  
3 about to occur, in which the child is the victim; or (c) the department  
4 has, after investigation, a report of abuse or neglect that has been  
5 founded with regard to a member of the household within three years of  
6 receipt of the referral.

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