
SENATE BILL 5252

State of Washington

58th Legislature

2003 Regular Session

By Senators Roach, Benton and Swecker

Read first time 01/20/2003. Referred to Committee on Children & Family Services & Corrections.

1 AN ACT Relating to requiring library staff to report child abuse;
2 amending RCW 26.44.020; and reenacting and amending RCW 26.44.030.

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

4 **Sec. 1.** RCW 26.44.020 and 2000 c 162 s 19 are each amended to read
5 as follows:

6 The definitions in this section apply throughout this chapter
7 unless the context clearly requires otherwise.

8 (1) "Court" means the superior court of the state of Washington,
9 juvenile department.

10 (2) "Law enforcement agency" means the police department, the
11 prosecuting attorney, the state patrol, the director of public safety,
12 or the office of the sheriff.

13 (3) "Practitioner of the healing arts" or "practitioner" means a
14 person licensed by this state to practice podiatric medicine and
15 surgery, optometry, chiropractic, nursing, dentistry, osteopathic
16 medicine and surgery, or medicine and surgery or to provide other
17 health services. The term "practitioner" includes a duly accredited
18 Christian Science practitioner: PROVIDED, HOWEVER, That a person who

1 is being furnished Christian Science treatment by a duly accredited
2 Christian Science practitioner will not be considered, for that reason
3 alone, a neglected person for the purposes of this chapter.

4 (4) "Institution" means a private or public hospital or any other
5 facility providing medical diagnosis, treatment or care.

6 (5) "Department" means the state department of social and health
7 services.

8 (6) "Child" or "children" means any person under the age of
9 eighteen years of age.

10 (7) "Professional school personnel" include, but are not limited
11 to, teachers, counselors, administrators, child care facility
12 personnel, and school nurses.

13 (8) "Social service counselor" means anyone engaged in a
14 professional capacity during the regular course of employment in
15 encouraging or promoting the health, welfare, support or education of
16 children, or providing social services to adults or families, including
17 mental health, drug and alcohol treatment, and domestic violence
18 programs, whether in an individual capacity, or as an employee or agent
19 of any public or private organization or institution.

20 (9) "Psychologist" means any person licensed to practice psychology
21 under chapter 18.83 RCW, whether acting in an individual capacity or as
22 an employee or agent of any public or private organization or
23 institution.

24 (10) "Pharmacist" means any registered pharmacist under chapter
25 18.64 RCW, whether acting in an individual capacity or as an employee
26 or agent of any public or private organization or institution.

27 (11) "Clergy" means any regularly licensed or ordained minister,
28 priest, or rabbi of any church or religious denomination, whether
29 acting in an individual capacity or as an employee or agent of any
30 public or private organization or institution.

31 (12) "Abuse or neglect" means the injury, sexual abuse, sexual
32 exploitation, negligent treatment, or maltreatment of a child by any
33 person under circumstances which indicate that the child's health,
34 welfare, and safety is harmed, excluding conduct permitted under RCW
35 9A.16.100. An abused child is a child who has been subjected to child
36 abuse or neglect as defined in this section.

37 (13) "Child protective services section" means the child protective
38 services section of the department.

1 (14) "Sexual exploitation" includes: (a) Allowing, permitting, or
2 encouraging a child to engage in prostitution by any person; or (b)
3 allowing, permitting, encouraging, or engaging in the obscene or
4 pornographic photographing, filming, or depicting of a child by any
5 person.

6 (15) "Negligent treatment or maltreatment" means an act or omission
7 that evidences a serious disregard of consequences of such magnitude as
8 to constitute a clear and present danger to the child's health,
9 welfare, and safety. The fact that siblings share a bedroom is not, in
10 and of itself, negligent treatment or maltreatment.

11 (16) "Child protective services" means those services provided by
12 the department designed to protect children from child abuse and
13 neglect and safeguard such children from future abuse and neglect, and
14 conduct investigations of child abuse and neglect reports.
15 Investigations may be conducted regardless of the location of the
16 alleged abuse or neglect. Child protective services includes referral
17 to services to ameliorate conditions that endanger the welfare of
18 children, the coordination of necessary programs and services relevant
19 to the prevention, intervention, and treatment of child abuse and
20 neglect, and services to children to ensure that each child has a
21 permanent home. In determining whether protective services should be
22 provided, the department shall not decline to provide such services
23 solely because of the child's unwillingness or developmental inability
24 to describe the nature and severity of the abuse or neglect.

25 (17) "Malice" or "maliciously" means an evil intent, wish, or
26 design to vex, annoy, or injure another person. Such malice may be
27 inferred from an act done in willful disregard of the rights of
28 another, or an act wrongfully done without just cause or excuse, or an
29 act or omission of duty betraying a willful disregard of social duty.

30 (18) "Sexually aggressive youth" means a child who is defined in
31 RCW 74.13.075(1)(b) as being a sexually aggressive youth.

32 (19) "Unfounded" means available information indicates that, more
33 likely than not, child abuse or neglect did not occur. No unfounded
34 allegation of child abuse or neglect may be disclosed to a child-
35 placing agency, private adoption agency, or any other provider licensed
36 under chapter 74.15 RCW.

37 (20) "Sexual abuse" includes any sex offense against a child under
38 chapter 9A.44 RCW.

1 **Sec. 2.** RCW 26.44.030 and 1999 c 267 s 20 and 1999 c 176 s 30 are
2 each reenacted and amended to read as follows:

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

15 (b) The reporting requirement also applies to department of
16 corrections personnel who, in the course of their employment, observe
17 offenders or the children with whom the offenders are in contact. If,
18 as a result of observations or information received in the course of
19 his or her employment, any department of corrections personnel has
20 reasonable cause to believe that a child has suffered abuse or neglect,
21 he or she shall report the incident, or cause a report to be made, to
22 the proper law enforcement agency or to the department as provided in
23 RCW 26.44.040.

24 (c) The reporting requirement shall also apply to any adult who has
25 reasonable cause to believe that a child who resides with them, has
26 suffered severe abuse, and is able or capable of making a report. For
27 the purposes of this subsection, "severe abuse" means any of the
28 following: Any single act of abuse that causes physical trauma of
29 sufficient severity that, if left untreated, could cause death; any
30 single act of sexual abuse that causes significant bleeding, deep
31 bruising, or significant external or internal swelling; or more than
32 one act of physical abuse, each of which causes bleeding, deep
33 bruising, significant external or internal swelling, bone fracture, or
34 unconsciousness.

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

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

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

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

6 (7) 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) Any case referred to the department by a physician licensed
18 under chapter 18.57 or 18.71 RCW on the basis of an expert medical
19 opinion that child abuse, neglect, or sexual assault has occurred and
20 that the child's safety will be seriously endangered if returned home,
21 the department shall file a dependency petition unless a second
22 licensed physician of the parents' choice believes that such expert
23 medical opinion is incorrect. If the parents fail to designate a
24 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) Persons or agencies exchanging information under subsection (7)
32 of this section shall not further disseminate or release the
33 information except as authorized by state or federal statute.
34 Violation of this subsection is a misdemeanor.

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

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

19 (13) The department shall use a risk assessment process when
20 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) Upon receipt of a report of alleged abuse or neglect the law
29 enforcement agency may arrange to interview the person making the
30 report and any collateral sources to determine if any malice is
31 involved in the reporting.

32 (15) The department shall make reasonable efforts to learn the
33 name, address, and telephone number of each person making a report of
34 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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