
SUBSTITUTE HOUSE BILL 1467

State of Washington

59th Legislature

2005 Regular Session

By House Committee on Children & Family Services (originally sponsored by Representatives Dickerson, Wallace, P. Sullivan, Kagi, Roberts, Simpson, Appleton, Moeller, Green, Ericks, Takko and Chase)

READ FIRST TIME 02/16/05.

1 AN ACT Relating to mandatory reporting of abuse or neglect; and
2 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 2003 c 207 s 4 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, 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 has reasonable cause to believe that a child has
14 suffered abuse or neglect, he or she shall report such incident, or
15 cause a report to be made, to the proper law enforcement agency or to
16 the department as provided in RCW 26.44.040.

17 (b)(i) When any person who is an employee or regular-service
18 volunteer of a nonprofit entity as defined in RCW 84.36.800 has
19 reasonable cause to believe that a child has suffered abuse or neglect,

1 and the alleged perpetrator is an employee, contractor, or regular-
2 service or occasional-service volunteer of the same nonprofit entity,
3 he or she shall report such incident, or cause a report to be made, to
4 the proper law enforcement agency or to the department as provided in
5 RCW 26.44.040.

6 (ii) Nothing in this subsection (1)(b) shall limit a person's duty
7 to report under (a) of this subsection.

8 (c) The reporting requirement also applies to department of
9 corrections personnel who, in the course of their employment, observe
10 offenders or the children with whom the offenders are in contact. If,
11 as a result of observations or information received in the course of
12 his or her employment, any department of corrections personnel has
13 reasonable cause to believe that a child has suffered abuse or neglect,
14 he or she shall report the incident, or cause a report to be made, to
15 the proper law enforcement agency or to the department as provided in
16 RCW 26.44.040.

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

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

32 (2)(a) The reporting requirement of subsection (1) of this section
33 does not apply to a member of the clergy with regard to information
34 obtained by the member of the clergy in his or her professional
35 character as a religious or spiritual advisor when the information is
36 obtained solely as a result of a confession made pursuant to the
37 clergy-penitent privilege as provided in RCW 5.60.060(3), and the
38 member of the clergy is authorized to hear such confession, and has a

1 duty under the discipline, tenets, doctrine, or custom of his or her
2 church, religious denomination, religious body, spiritual community, or
3 sect to keep the confession secret. The privilege shall not apply, and
4 the member of the clergy shall report child abuse or neglect pursuant
5 to this section, if the member of the clergy has received the
6 information from any source other than from a confession.

7 (b) Nothing in this subsection shall exempt a member of the clergy
8 from making a report of child abuse or neglect as required in
9 subsection (1) of this section when the member of the clergy is acting
10 in some other capacity that would otherwise require him or her to make
11 a report.

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

18 ~~((+3))~~ (4) Any other person who has reasonable cause to believe
19 that a child has suffered abuse or neglect may report such incident to
20 the proper law enforcement agency or to the department of social and
21 health services as provided in RCW 26.44.040.

22 ~~((+4))~~ (5) The department, upon receiving a report of an incident
23 of alleged abuse or neglect pursuant to this chapter, involving a child
24 who has died or has had physical injury or injuries inflicted upon him
25 or her other than by accidental means or who has been subjected to
26 alleged sexual abuse, shall report such incident to the proper law
27 enforcement agency. In emergency cases, where the child's welfare is
28 endangered, the department shall notify the proper law enforcement
29 agency within twenty-four hours after a report is received by the
30 department. In all other cases, the department shall notify the law
31 enforcement agency within seventy-two hours after a report is received
32 by the department. If the department makes an oral report, a written
33 report must also be made to the proper law enforcement agency within
34 five days thereafter.

35 ~~((+5))~~ (6) Any law enforcement agency receiving a report of an
36 incident of alleged abuse or neglect pursuant to this chapter,
37 involving a child who has died or has had physical injury or injuries
38 inflicted upon him or her other than by accidental means, or who has

1 been subjected to alleged sexual abuse, shall report such incident in
2 writing as provided in RCW 26.44.040 to the proper county prosecutor or
3 city attorney for appropriate action whenever the law enforcement
4 agency's investigation reveals that a crime may have been committed.
5 The law enforcement agency shall also notify the department of all
6 reports received and the law enforcement agency's disposition of them.
7 In emergency cases, where the child's welfare is endangered, the law
8 enforcement agency shall notify the department within twenty-four
9 hours. In all other cases, the law enforcement agency shall notify the
10 department within seventy-two hours after a report is received by the
11 law enforcement agency.

12 ~~((+6+))~~ (7) Any county prosecutor or city attorney receiving a
13 report under subsection ~~((+5+))~~ (6) of this section shall notify the
14 victim, any persons the victim requests, and the local office of the
15 department, of the decision to charge or decline to charge a crime,
16 within five days of making the decision.

17 ~~((+7+))~~ (8) The department may conduct ongoing case planning and
18 consultation with those persons or agencies required to report under
19 this section, with consultants designated by the department, and with
20 designated representatives of Washington Indian tribes if the client
21 information exchanged is pertinent to cases currently receiving child
22 protective services. Upon request, the department shall conduct such
23 planning and consultation with those persons required to report under
24 this section if the department determines it is in the best interests
25 of the child. Information considered privileged by statute and not
26 directly related to reports required by this section must not be
27 divulged without a valid written waiver of the privilege.

28 ~~((+8+))~~ (9) Any case referred to the department by a physician
29 licensed under chapter 18.57 or 18.71 RCW on the basis of an expert
30 medical opinion that child abuse, neglect, or sexual assault has
31 occurred and that the child's safety will be seriously endangered if
32 returned home, the department shall file a dependency petition unless
33 a second licensed physician of the parents' choice believes that such
34 expert medical opinion is incorrect. If the parents fail to designate
35 a second physician, the department may make the selection. If a
36 physician finds that a child has suffered abuse or neglect but that
37 such abuse or neglect does not constitute imminent danger to the
38 child's health or safety, and the department agrees with the

1 physician's assessment, the child may be left in the parents' home
2 while the department proceeds with reasonable efforts to remedy
3 parenting deficiencies.

4 ~~((+9))~~ (10) Persons or agencies exchanging information under
5 subsection ~~((+7))~~ (8) of this section shall not further disseminate or
6 release the information except as authorized by state or federal
7 statute. Violation of this subsection is a misdemeanor.

8 ~~((+10))~~ (11) Upon receiving reports of alleged abuse or neglect,
9 the department or law enforcement agency may interview children. The
10 interviews may be conducted on school premises, at day-care facilities,
11 at the child's home, or at other suitable locations outside of the
12 presence of parents. Parental notification of the interview must occur
13 at the earliest possible point in the investigation that will not
14 jeopardize the safety or protection of the child or the course of the
15 investigation. Prior to commencing the interview the department or law
16 enforcement agency shall determine whether the child wishes a third
17 party to be present for the interview and, if so, shall make reasonable
18 efforts to accommodate the child's wishes. Unless the child objects,
19 the department or law enforcement agency shall make reasonable efforts
20 to include a third party in any interview so long as the presence of
21 the third party will not jeopardize the course of the investigation.

22 ~~((+11))~~ (12) Upon receiving a report of alleged child abuse and
23 neglect, the department or investigating law enforcement agency shall
24 have access to all relevant records of the child in the possession of
25 mandated reporters and their employees.

26 ~~((+12))~~ (13) The department shall maintain investigation records
27 and conduct timely and periodic reviews of all cases constituting abuse
28 and neglect. The department shall maintain a log of screened-out
29 nonabusive cases.

30 ~~((+13))~~ (14) The department shall use a risk assessment process
31 when investigating alleged child abuse and neglect referrals. The
32 department shall present the risk factors at all hearings in which the
33 placement of a dependent child is an issue. Substance abuse must be a
34 risk factor. The department shall, within funds appropriated for this
35 purpose, offer enhanced community-based services to persons who are
36 determined not to require further state intervention.

37 ~~((+14))~~ (15) Upon receipt of a report of alleged abuse or neglect

1 the law enforcement agency may arrange to interview the person making
2 the report and any collateral sources to determine if any malice is
3 involved in the reporting.

4 ~~((15))~~ (16) The department shall make reasonable efforts to learn
5 the name, address, and telephone number of each person making a report
6 of abuse or neglect under this section. The department shall provide
7 assurances of appropriate confidentiality of the identification of
8 persons reporting under this section. If the department is unable to
9 learn the information required under this subsection, the department
10 shall only investigate cases in which: (a) The department believes
11 there is a serious threat of substantial harm to the child; (b) the
12 report indicates conduct involving a criminal offense that has, or is
13 about to occur, in which the child is the victim; or (c) the department
14 has, after investigation, a report of abuse or neglect that has been
15 founded with regard to a member of the household within three years of
16 receipt of the referral.

17 (17) For the purposes of this section, the following definitions
18 apply:

19 (a) "Volunteer" means any person who, of his or her own free will,
20 provides goods or services without any financial gain to any agency,
21 instrumentality, political subdivision, or school district of the state
22 of Washington;

23 (b) "Occasional-service volunteer" means any person who provides a
24 one-time or occasional volunteer service; and

25 (c) "Regular-service volunteer" means any person engaged in
26 specific volunteer service activities on an ongoing or continuing
27 basis.

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