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ENGROSSED SUBSTITUTE SENATE BILL 5308

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State of Washington

59th Legislature

2005 Regular Session

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Kohl-Welles, Hargrove and Oke)

READ FIRST TIME 02/16/05.

1 AN ACT Relating to mandatory reporting of child abuse or neglect;  
2 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 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) When any person, in his or her official supervisory capacity  
18 with a nonprofit or for-profit organization, has reasonable cause to  
19 believe that a child has suffered abuse or neglect caused by a person

1 over whom he or she regularly exercises supervisory authority, he or  
2 she shall report such incident, or cause a report to be made, to the  
3 proper law enforcement agency, provided that the person alleged to have  
4 caused the abuse or neglect is employed by, contracted by, or  
5 volunteers with the organization and coaches, trains, educates, or  
6 counsels a child or children or regularly has unsupervised access to a  
7 child or children as part of the employment, contract, or voluntary  
8 service. No one shall be required to report under this section when he  
9 or she obtains the information solely as a result of a privileged  
10 communication as provided in RCW 5.60.060.

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

13 For the purposes of this subsection, the following definitions  
14 apply:

15 (i) "Official supervisory capacity" means a position, status, or  
16 role created, recognized, or designated by any nonprofit or for-profit  
17 organization, either for financial gain or without financial gain,  
18 whose scope includes, but is not limited to, overseeing, directing, or  
19 managing another person who is employed by, contracted by, or  
20 volunteers with the nonprofit or for-profit organization.

21 (ii) "Regularly exercises supervisory authority" means to act in  
22 his or her official supervisory capacity on an ongoing or continuing  
23 basis with regards to a particular person.

24 (c) The reporting requirement also applies to department of  
25 corrections personnel who, in the course of their employment, observe  
26 offenders or the children with whom the offenders are in contact. If,  
27 as a result of observations or information received in the course of  
28 his or her employment, any department of corrections personnel has  
29 reasonable cause to believe that a child has suffered abuse or neglect,  
30 he or she shall report the incident, or cause a report to be made, to  
31 the proper law enforcement agency or to the department as provided in  
32 RCW 26.44.040.

33 ((+e)) (d) The reporting requirement shall also apply to any adult  
34 who has reasonable cause to believe that a child who resides with them,  
35 has suffered severe abuse, and is able or capable of making a report.  
36 For the purposes of this subsection, "severe abuse" means any of the  
37 following: Any single act of abuse that causes physical trauma of  
38 sufficient severity that, if left untreated, could cause death; any

1 single act of sexual abuse that causes significant bleeding, deep  
2 bruising, or significant external or internal swelling; or more than  
3 one act of physical abuse, each of which causes bleeding, deep  
4 bruising, significant external or internal swelling, bone fracture, or  
5 unconsciousness.

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

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

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

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

33 (5) Any law enforcement agency 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 in writing as provided  
38 in RCW 26.44.040 to the proper county prosecutor or city attorney for

1 appropriate action whenever the law enforcement agency's investigation  
2 reveals that a crime may have been committed. The law enforcement  
3 agency shall also notify the department of all reports received and the  
4 law enforcement agency's disposition of them. In emergency cases,  
5 where the child's welfare is endangered, the law enforcement agency  
6 shall notify the department within twenty-four hours. In all other  
7 cases, the law enforcement agency shall notify the department within  
8 seventy-two hours after a report is received by the law enforcement  
9 agency.

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

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

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

1 while the department proceeds with reasonable efforts to remedy  
2 parenting deficiencies.

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

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

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

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

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

36 (14) Upon receipt of a report of alleged abuse or neglect the law  
37 enforcement agency may arrange to interview the person making the

1 report and any collateral sources to determine if any malice is  
2 involved in the reporting.

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

16 NEW SECTION. **Sec. 2.** If any provision of this act or its  
17 application to any person or circumstance is held invalid, the  
18 remainder of the act or the application of the provision to other  
19 persons or circumstances is not affected.

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