
SENATE BILL 5922

State of Washington

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By Senators Stevens, Hargrove, Roach, Schmidt, Zarelli, Carrell and Finkbeiner

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1 AN ACT Relating to investigations of child abuse or neglect;
2 amending RCW 26.44.030, 26.44.100, 26.44.110, 26.44.115, 26.44.120, and
3 13.34.062; adding a new section to chapter 43.20A RCW; and creating a
4 new section.

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

6 NEW SECTION. **Sec. 1.** It is the intent of the legislature to
7 improve the quality and effectiveness of services to families and
8 children. It is the intent of the legislature to ensure the state's
9 continued receipt of federal funding and reduce the liability of the
10 state by requiring the department of social and health services to
11 train employees investigating child abuse and neglect in their duty to
12 protect the statutory and constitutional rights of those they are
13 investigating. It is also the intent of the legislature to require
14 departmental employees investigating child abuse and neglect to advise
15 individuals subject to child abuse and neglect investigations of the
16 complaint or allegation made against them. Furthermore, it is the
17 intent of the legislature to ensure the integrity of medical and other
18 health care records used by the state to evaluate the risk of harm to
19 children in their care.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.20A RCW
2 to read as follows:

3 The training of child protective workers shall include but is not
4 limited to the worker's legal duties to protect the constitutional and
5 statutory rights of a child and the child's family member throughout
6 the child and family member's period of involvement with the department
7 beginning with the child abuse report and ending with the department's
8 closure of the case. The curriculum used for the training shall
9 specifically include instruction on the fourth amendment to the
10 Constitution of the United States and parents' legal rights.

11 **Sec. 3.** RCW 26.44.030 and 2003 c 207 s 4 are each amended to read
12 as follows:

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

24 (b) 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 (c) The reporting requirement shall also apply to any adult who has
34 reasonable cause to believe that a child who resides with them, has
35 suffered severe abuse, and is able or capable of making a report. For
36 the purposes of this subsection, "severe abuse" means any of the
37 following: Any single act of abuse that causes physical trauma of

1 sufficient severity that, if left untreated, could cause death; any
2 single act of sexual abuse that causes significant bleeding, deep
3 bruising, or significant external or internal swelling; or more than
4 one act of physical abuse, each of which causes bleeding, deep
5 bruising, significant external or internal swelling, bone fracture, or
6 unconsciousness.

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

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

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

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

34 (5) Any law enforcement agency receiving a report of an incident of
35 alleged abuse or neglect pursuant to this chapter, involving a child
36 who has died or has had physical injury or injuries inflicted upon him
37 or her other than by accidental means, or who has been subjected to
38 alleged sexual abuse, shall report such incident in writing as provided

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

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

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

27 (8) Any case referred to the department by a physician licensed
28 under chapter 18.57 or 18.71 RCW on the basis of an expert medical
29 opinion that child abuse, neglect, or sexual assault has occurred and
30 that the child's safety will be seriously endangered if returned home,
31 the department shall file a dependency petition unless a second
32 licensed physician of the parents' choice believes that such expert
33 medical opinion is incorrect. If the parents fail to designate a
34 second physician, the department may make the selection. If a
35 physician finds that a child has suffered abuse or neglect but that
36 such abuse or neglect does not constitute imminent danger to the
37 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) Persons or agencies exchanging information under subsection (7)
5 of this section shall not further disseminate or release the
6 information except as authorized by state or federal statute.
7 Violation of this subsection is a misdemeanor.

8 (10) Upon receiving reports of alleged abuse or neglect, the
9 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. If the parent is the subject of the abuse and neglect
16 investigation, at the initial point of contact with the parent, all
17 department of social and health services and law enforcement personnel
18 must advise the parent of the complaints and allegations made against
19 them consistent with the laws protecting the rights of the person
20 making the report. Prior to commencing the interview the department or
21 law enforcement agency shall determine whether the child wishes a third
22 party to be present for the interview and, if so, shall make reasonable
23 efforts to accommodate the child's wishes. Unless the child objects,
24 the department or law enforcement agency shall make reasonable efforts
25 to include a third party in any interview so long as the presence of
26 the third party will not jeopardize the course of the investigation.

27 (11) Upon receiving reports of alleged abuse and neglect, the
28 department or law enforcement agency must interview the person subject
29 to investigation of child abuse and neglect. All departmental or law
30 enforcement agency personnel shall, at the initial time of contact with
31 the individual who is subject to a child abuse and neglect
32 investigation, advise the individual of the complaints or allegations
33 made against them consistent with the laws protecting the rights of the
34 person making the report.

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

1 (~~(12)~~) (13) The department shall maintain investigation records
2 and conduct timely and periodic reviews of all cases constituting abuse
3 and neglect. The department shall maintain a log of screened-out
4 nonabusive cases.

5 (~~(13)~~) (14) The department shall use a risk assessment process
6 when investigating alleged child abuse and neglect referrals. The
7 department shall present the risk factors at all hearings in which the
8 placement of a dependent child is an issue. Substance abuse must be a
9 risk factor. The department shall, within funds appropriated for this
10 purpose, offer enhanced community-based services to persons who are
11 determined not to require further state intervention.

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

16 (~~(15)~~) (16) The department shall make reasonable efforts to learn
17 the name, address, and telephone number of each person making a report
18 of 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. 4.** RCW 26.44.100 and 1998 c 314 s 8 are each amended to read
30 as follows:

31 (1) The legislature finds (~~(parents and children)~~) persons subject
32 to a child abuse and neglect investigation often are not aware of their
33 due process rights when agencies are investigating complaints and
34 allegations of child abuse and neglect. The legislature reaffirms that
35 all citizens, including parents, shall be afforded due process, that
36 protection of children remains the priority of the legislature, and
37 that this protection includes protecting the family unit from

1 unnecessary disruption. To facilitate this goal, the legislature
2 (~~wishes to ensure that parents and children~~) requires that persons
3 subject to child abuse and neglect investigations, at the initial time
4 of contact with the department or law enforcement, be advised in
5 writing and orally, if feasible, of the name of the investigator, who
6 the investigator represents, and the specific complaints or allegations
7 made against them, consistent with the laws protecting the rights of
8 the person making the report. They must also be advised of their basic
9 statutory and constitutional rights and other specific information as
10 set forth in this chapter, provided that nothing contained in this
11 chapter shall cause any delay in protective custody action.

12 (2) The department shall notify the (~~alleged perpetrator~~) person
13 subject to a child abuse and neglect investigation of the complaints or
14 allegations of child abuse and neglect at the earliest possible point
15 in the investigation, but not later than the initial point of contact
16 with the person subject to a child abuse and neglect investigation,
17 consistent with laws protecting the rights of the person making the
18 report, that will not jeopardize the safety and protection of the child
19 or the investigation process.

20 Whenever the department completes an investigation of a child abuse
21 or neglect report under chapter 26.44 RCW, the department shall notify
22 the (~~alleged perpetrator~~) person subject to a child abuse and neglect
23 investigation of the report and the department's investigative
24 findings. The notice shall also advise the alleged perpetrator that:

25 (a) A written response to the report may be provided to the
26 department and that such response will be filed in the record following
27 receipt by the department;

28 (b) Information in the department's record may be considered in
29 subsequent investigations or proceedings related to child protection or
30 child custody;

31 (c) Founded reports of child abuse and neglect may be considered in
32 determining whether the person is disqualified from being licensed to
33 provide child care, employed by a licensed child care agency, or
34 authorized by the department to care for children; and

35 (d) (~~An alleged perpetrator~~) A person subject to a child abuse
36 and neglect investigation named in a founded report of child abuse or
37 neglect has the right to seek review of the finding as provided in this
38 chapter.

1 (3) The notification required by this section shall be made by
2 certified mail, return receipt requested, to the person's last known
3 address.

4 (4) The duty of notification created by this section is subject to
5 the ability of the department to ascertain the location of the person
6 to be notified. The department shall exercise reasonable, good-faith
7 efforts to ascertain the location of persons entitled to notification
8 under this section.

9 **Sec. 5.** RCW 26.44.110 and 1985 c 183 s 3 are each amended to read
10 as follows:

11 If a child has been taken into custody by law enforcement pursuant
12 to RCW 26.44.050, the law enforcement agency shall leave a written
13 statement with a parent or in the residence of the parent if no parent
14 is present. The statement shall advise the parent of the complaints or
15 allegations made against them consistent with the laws protecting the
16 rights of the person making the report and give the reasons for the
17 removal of the child from the home, the name of the law enforcement
18 investigator, and who the investigator represents, advice regarding
19 their basic statutory and constitutional rights, and the telephone
20 number of the child protective services office in the parent's
21 jurisdiction.

22 **Sec. 6.** RCW 26.44.115 and 2000 c 122 s 39 are each amended to read
23 as follows:

24 If a child is taken into custody by child protective services
25 pursuant to a court order issued under RCW 13.34.062, the child
26 protective services worker shall take reasonable steps to advise the
27 parents immediately, regardless of the time of day, of the complaints
28 or allegations made against them consistent with the laws protecting
29 the rights of the person making the report, that the child has been
30 taken into custody, the reasons why the child was taken into custody,
31 ~~((and))~~ general information about the child's placement, and advice
32 regarding their basic statutory and constitutional rights. The
33 department shall comply with RCW 13.34.060 when providing notice under
34 this section.

1 (~~3-~~) 5. At the hearing, you have the right to speak on your own
2 behalf, to introduce evidence, to examine witnesses, and to receive a
3 decision based solely on the evidence presented to the judge.

4 (~~4-~~) 6. If your hearing occurs before a court commissioner, you
5 have the right to have the decision of the court commissioner reviewed
6 by a superior court judge. To obtain that review, you must, within ten
7 days after the entry of the decision of the court commissioner, file
8 with the court a motion for revision of the decision, as provided in
9 RCW 2.24.050.

10 You should be present at any shelter care hearing. If you do not
11 come, the judge will not hear what you have to say.

12 You may call the Child Protective Services' caseworker for more
13 information about your child. The caseworker's name and telephone
14 number are: (insert name and telephone number) .

15 (~~5-~~) 7. You have a right to a case conference to develop a
16 written service agreement following the shelter care hearing. The
17 service agreement may not conflict with the court's order of shelter
18 care. You may request that a multidisciplinary team, family group
19 conference, or prognostic staffing be convened for your child's case.
20 You may participate in these processes with your counsel present."

21 Upon receipt of the written notice, the parent, guardian, or legal
22 custodian shall acknowledge such notice by signing a receipt prepared
23 by child protective services. If the parent, guardian, or legal
24 custodian does not sign the receipt, the reason for lack of a signature
25 shall be written on the receipt. The receipt shall be made a part of
26 the court's file in the dependency action.

27 If after making reasonable efforts to provide notification, child
28 protective services is unable to determine the whereabouts of the
29 parents, guardian, or legal custodian, the notice shall be delivered or
30 sent to the last known address of the parent, guardian, or legal
31 custodian.

32 (2) If child protective services is not required to give notice
33 under RCW 13.34.060(2) and subsection (1) of this section, the juvenile
34 court counselor assigned to the matter shall make all reasonable
35 efforts to advise the parents, guardian, or legal custodian of the time
36 and place of any shelter care hearing, request that they be present,
37 and inform them of their basic rights as provided in RCW 13.34.090.

1 (3) Reasonable efforts to advise and to give notice, as required in
2 RCW 13.34.060(2) and subsections (1) and (2) of this section, shall
3 include, at a minimum, investigation of the whereabouts of the parent,
4 guardian, or legal custodian. If such reasonable efforts are not
5 successful, or the parent, guardian, or legal custodian does not appear
6 at the shelter care hearing, the petitioner shall testify at the
7 hearing or state in a declaration:

8 (a) The efforts made to investigate the whereabouts of, and to
9 advise, the parent, guardian, or legal custodian; and

10 (b) Whether actual advice of rights was made, to whom it was made,
11 and how it was made, including the substance of any oral communication
12 or copies of written materials used.

13 (4) The court shall hear evidence regarding notice given to, and
14 efforts to notify, the parent, guardian, or legal custodian and shall
15 examine the need for shelter care. The court shall hear evidence
16 regarding the efforts made to place the child with a relative. The
17 court shall make an express finding as to whether the notice required
18 under RCW 13.34.060(2) and subsections (1) and (2) of this section was
19 given to the parent, guardian, or legal custodian. All parties have
20 the right to present testimony to the court regarding the need or lack
21 of need for shelter care. Hearsay evidence before the court regarding
22 the need or lack of need for shelter care must be supported by sworn
23 testimony, affidavit, or declaration of the person offering such
24 evidence.

25 (5)(a) A shelter care order issued pursuant to RCW 13.34.065 shall
26 include the requirement for a case conference as provided in RCW
27 13.34.067. However, if the parent is not present at the shelter care
28 hearing, or does not agree to the case conference, the court shall not
29 include the requirement for the case conference in the shelter care
30 order.

31 (b) If the court orders a case conference, the shelter care order
32 shall include notice to all parties and establish the date, time, and
33 location of the case conference which shall be no later than thirty
34 days prior to the fact-finding hearing.

35 (c) The court may order a conference or meeting as an alternative
36 to the case conference required under RCW 13.34.067 so long as the
37 conference or meeting ordered by the court meets all requirements under

1 RCW 13.34.067, including the requirement of a written agreement
2 specifying the services to be provided to the parent.

3 (6) A shelter care order issued pursuant to RCW 13.34.065 may be
4 amended at any time with notice and hearing thereon. The shelter care
5 decision of placement shall be modified only upon a showing of change
6 in circumstances. No child may be placed in shelter care for longer
7 than thirty days without an order, signed by the judge, authorizing
8 continued shelter care.

9 (7) Any parent, guardian, or legal custodian who for good cause is
10 unable to attend the initial shelter care hearing may request that a
11 subsequent shelter care hearing be scheduled. The request shall be
12 made to the clerk of the court where the petition is filed prior to the
13 initial shelter care hearing. Upon the request of the parent, the
14 court shall schedule the hearing within seventy-two hours of the
15 request, excluding Saturdays, Sundays, and holidays. The clerk shall
16 notify all other parties of the hearing by any reasonable means.

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