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**SUBSTITUTE SENATE BILL 6331**

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**State of Washington**

**59th Legislature**

**2006 Regular Session**

**By** Senate Committee on Human Services & Corrections (originally sponsored by Senators Carrell and Stevens)

READ FIRST TIME 02/03/06.

1 AN ACT Relating to child welfare; amending RCW 26.44.020,  
2 26.44.030, 26.44.031, 74.13.280, and 74.15.130; adding a new section to  
3 chapter 74.13 RCW; creating a new section; and providing a contingent  
4 effective date.

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

6 **Sec. 1.** RCW 26.44.020 and 2005 c 512 s 5 are each amended to read  
7 as follows:

8 The definitions in this section apply throughout this chapter  
9 unless the context clearly requires otherwise.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (13) "Child protective services section" means the child protective  
2 services section of the department.

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

8 (15) "Negligent treatment or maltreatment" means an act or a  
9 failure to act, or the cumulative effects of a pattern of conduct,  
10 behavior, or inaction, that evidences a serious disregard of  
11 consequences of such magnitude as to constitute a clear and present  
12 danger to a child's health, welfare, or safety. When considering  
13 whether a clear and present danger exists, evidence of a parent's  
14 substance abuse as a contributing factor to negligent treatment or  
15 maltreatment shall be given great weight. The fact that siblings share  
16 a bedroom is not, in and of itself, negligent treatment or  
17 maltreatment. Poverty, homelessness, or exposure to domestic violence  
18 as defined in RCW 26.50.010 that is perpetrated against someone other  
19 than the child (~~do~~ ~~does~~) does not constitute negligent treatment or  
20 maltreatment in and of (~~themselves~~ ~~itself~~) itself.

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

35 (17) "Malice" or "maliciously" means an evil intent, wish, or  
36 design to vex, annoy, or injure another person. Such malice may be  
37 inferred from an act done in willful disregard of the rights of

1 another, or an act wrongfully done without just cause or excuse, or an  
2 act or omission of duty betraying a willful disregard of social duty.

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

5 (19) "Screened-out report" means a report of alleged child abuse or  
6 neglect that the department has determined does not rise to the level  
7 of a credible report of abuse or neglect and is not referred for  
8 investigation.

9 (20) "Unfounded" means (~~available information indicates~~) a  
10 finding at the completion of an investigation by the department or a  
11 judicial finding that, more likely than not, child abuse or neglect did  
12 not occur. (~~No unfounded allegation of child abuse or neglect may be~~  
13 ~~disclosed to a child placing agency, private adoption agency, or any~~  
14 ~~other provider licensed under chapter 74.15 RCW.))~~

15 (21) "Inconclusive" means a finding at the completion of an  
16 investigation by the department that there is insufficient evidence to  
17 conclude that the alleged child abuse or neglect occurred.

18 (22) "Founded" means a finding at the completion of an  
19 investigation by the department or a judicial finding that, more likely  
20 than not, the alleged child abuse or neglect occurred.

21 **Sec. 2.** RCW 26.44.030 and 2005 c 417 s 1 are each amended to read  
22 as follows:

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

34 (b) When any person, in his or her official supervisory capacity  
35 with a nonprofit or for-profit organization, has reasonable cause to  
36 believe that a child has suffered abuse or neglect caused by a person  
37 over whom he or she regularly exercises supervisory authority, he or

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

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

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

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

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

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

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

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

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

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

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

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

32 (5) Any law enforcement agency receiving a report of an incident of  
33 alleged abuse or neglect pursuant to this chapter, involving a child  
34 who has died or has had physical injury or injuries inflicted upon him  
35 or her other than by accidental means, or who has been subjected to  
36 alleged sexual abuse, shall report such incident in writing as provided  
37 in RCW 26.44.040 to the proper county prosecutor or city attorney for  
38 appropriate action whenever the law enforcement agency's investigation

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

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

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

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

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

5 (10) Upon receiving a report(~~(s)~~) of alleged abuse or neglect, the  
6 department shall:

7 (a) Make reasonable efforts to learn the name, address, and  
8 telephone number of each person making a report of abuse or neglect  
9 under this section. The department shall provide assurances of  
10 appropriate confidentiality of the identification of persons reporting  
11 under this section. If the department is unable to learn the  
12 information required under this subsection, the department shall only  
13 investigate cases in which:

14 (i) The department believes there is a serious threat of  
15 substantial harm to the child;

16 (ii) The report indicates conduct involving a criminal offense that  
17 has, or is about to occur, in which the child is the victim; or

18 (iii) The department has a prior founded report of abuse or neglect  
19 that is within three years of receipt of the referral;

20 (b) Unless the report is screened-out or being investigated by a  
21 law enforcement agency, conduct an investigation within time frames  
22 established by the department in rule; and

23 (c) Make a finding that the report of child abuse or neglect is  
24 unfounded, founded, or inconclusive at the completion of the  
25 investigation.

26 (11) In conducting an investigation of alleged abuse or neglect,  
27 the department or law enforcement agency:

28 (a) May interview children. The interviews may be conducted on  
29 school premises, at day-care facilities, at the child's home, or at  
30 other suitable locations outside of the presence of parents. Parental  
31 notification of the interview must occur at the earliest possible point  
32 in the investigation that will not jeopardize the safety or protection  
33 of the child or the course of the investigation. Prior to commencing  
34 the interview the department or law enforcement agency shall determine  
35 whether the child wishes a third party to be present for the interview  
36 and, if so, shall make reasonable efforts to accommodate the child's  
37 wishes. Unless the child objects, the department or law enforcement



1 agency shall make reasonable efforts to include a third party in any  
2 interview so long as the presence of the third party will not  
3 jeopardize the course of the investigation((~~-~~

4 ~~(11) Upon receiving a report of alleged child abuse and neglect,~~  
5 ~~the department or investigating law enforcement agency)); and~~

6 (b) Shall have access to all relevant records of the child in the  
7 possession of mandated reporters and their employees.

8 (12) The department shall maintain investigation records and  
9 conduct timely and periodic reviews of all founded cases  
10 ~~((constituting))~~ of abuse and neglect. The department shall maintain  
11 a log of screened-out nonabusive cases.

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

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

23 ~~((15) The department shall make reasonable efforts to learn the  
24 name, address, and telephone number of each person making a report of  
25 abuse or neglect under this section. The department shall provide  
26 assurances of appropriate confidentiality of the identification of  
27 persons reporting under this section. If the department is unable to  
28 learn the information required under this subsection, the department  
29 shall only investigate cases in which: (a) The department believes  
30 there is a serious threat of substantial harm to the child; (b) the  
31 report indicates conduct involving a criminal offense that has, or is  
32 about to occur, in which the child is the victim; or (c) the department  
33 has, after investigation, a report of abuse or neglect that has been  
34 founded with regard to a member of the household within three years of  
35 receipt of the referral.))~~

36 **Sec. 3.** RCW 26.44.031 and 1997 c 282 s 1 are each amended to read  
37 as follows:

1       (1) To protect the privacy in reporting and the maintenance of  
2 reports of nonaccidental injury, neglect, death, sexual abuse, and  
3 cruelty to children by their parents, and to safeguard against  
4 arbitrary, malicious, or erroneous information or actions, the  
5 department shall not disclose or maintain information related to  
6 ((unfounded referrals in files or)) reports of child abuse or neglect  
7 ((for longer than six years)) except as provided in this section.

8       ~~((At the end of six years from receipt of the unfounded report, the~~  
9 ~~information shall be purged unless an additional report has been~~  
10 ~~received in the intervening period.))~~

11       (2) The department shall destroy all of its records concerning:

12       (a) A screened-out report, within thirty days from the receipt of  
13 the report;

14       (b) An unfounded report, within one year of completion of the  
15 investigation; and

16       (c) An inconclusive report, within six years of completion of the  
17 investigation, unless a prior or subsequent founded report has been  
18 received before the records are destroyed.

19       (3) The department may keep records concerning founded reports of  
20 child abuse or neglect as the department determines by rule.

21       (4) An unfounded or screened-out report may not be disclosed to a  
22 child-placing agency, private adoption agency, or any other provider  
23 licensed under chapter 74.15 RCW.

24       (5) A person who is the subject of an unfounded report that was  
25 made prior to the effective date of this section may request that the  
26 department destroy all of the records concerning the unfounded report  
27 if one year or more has elapsed since the completion of the  
28 investigation.

29       (6)(a) If the department fails to comply with this section, an  
30 individual who is the subject of a report may institute proceedings for  
31 injunctive or other appropriate relief for enforcement of the  
32 requirement to purge information. These proceedings may be instituted  
33 in the superior court for the county in which the person resides or, if  
34 the person is not then a resident of this state, in the superior court  
35 for Thurston county.

36       (b) If the department fails to comply with subsection (4) of this  
37 section and an individual who is the subject of the report is harmed by  
38 the disclosure of information, in addition to the relief provided in

1 (a) of this subsection, the court may award a penalty of up to one  
2 thousand dollars and reasonable attorneys' fees and court costs to the  
3 petitioner.

4 (c) A proceeding under this subsection does not preclude other  
5 methods of enforcement provided for by law.

6 (7) The department shall establish, by rule, a process and  
7 standards for an individual who is the subject of an inconclusive  
8 report of child abuse or neglect to request destruction of department  
9 records earlier than the time frames set out in this section.

10 (8) Nothing in this section shall prevent the department from  
11 retaining general, nonidentifying information which is required for  
12 state and federal reporting and management purposes.

13 **Sec. 4.** RCW 74.13.280 and 2001 c 318 s 3 are each amended to read  
14 as follows:

15 (1) Except as provided in RCW 70.24.105, whenever a child is placed  
16 in out-of-home care by the department or a child-placing agency, the  
17 department or agency shall share information about the child and the  
18 child's family with the care provider and shall consult with the care  
19 provider regarding the child's case plan. If the child is dependent  
20 pursuant to a proceeding under chapter 13.34 RCW, the department or  
21 agency shall keep the care provider informed regarding the dates and  
22 location of dependency review and permanency planning hearings  
23 pertaining to the child.

24 (2) Information about the child and the child's family shall  
25 include information about behavioral and emotional problems of the  
26 child and whether the child is a sexually aggressive youth as provided  
27 in RCW 74.13.075.

28 (3) Any person who receives information about a child or a child's  
29 family pursuant to this section shall keep the information confidential  
30 and shall not further disclose or disseminate the information except as  
31 authorized by law.

32 ~~((+3))~~ (4) Nothing in this section shall be construed to limit the  
33 authority of the department or child-placing agencies to disclose  
34 client information or to maintain client confidentiality as provided by  
35 law.

1        NEW SECTION.    **Sec. 5.** A new section is added to chapter 74.13 RCW  
2 to read as follows:

3        (1) A care provider may not be found to have abused or neglected a  
4 child under chapter 26.44 RCW or be denied a license pursuant to  
5 chapter 74.15 RCW and RCW 74.13.031 for any allegations of failure to  
6 supervise wherein:

7        (a) The allegations arise from the child's conduct that is  
8 substantially similar to prior behavior of the child and:

9        (i) The child is a sexually aggressive youth as defined in RCW  
10 74.13.075 and this fact was not disclosed to the care provider as  
11 required by RCW 74.13.280; or

12        (ii) The child has behavioral or emotional problems that were known  
13 to the department and the problems were not disclosed to the care  
14 provider as required by RCW 74.13.280; or

15        (b) The child was not within the reasonable control of the care  
16 provider at the time of the incident that is the subject of the  
17 allegation.

18        (2) Allegations of child abuse or neglect that meet the provisions  
19 of this section shall be designated as "unfounded" as defined in RCW  
20 26.44.020.

21        **Sec. 6.** RCW 74.15.130 and 2005 c 473 s 6 are each amended to read  
22 as follows:

23        (1) An agency may be denied a license, or any license issued  
24 pursuant to chapter 74.15 RCW and RCW 74.13.031 may be suspended,  
25 revoked, modified, or not renewed by the secretary upon proof (a) that  
26 the agency has failed or refused to comply with the provisions of  
27 chapter 74.15 RCW and RCW 74.13.031 or the requirements promulgated  
28 pursuant to the provisions of chapter 74.15 RCW and RCW 74.13.031; or  
29 (b) that the conditions required for the issuance of a license under  
30 chapter 74.15 RCW and RCW 74.13.031 have ceased to exist with respect  
31 to such licenses. RCW 43.20A.205 governs notice of a license denial,  
32 revocation, suspension, or modification and provides the right to an  
33 adjudicative proceeding.

34        (2) In any adjudicative proceeding regarding the denial,  
35 modification, suspension, or revocation of a foster family home  
36 license, the department's decision shall be upheld if there is  
37 reasonable cause to believe that:

1 (a) The applicant or licensee lacks the character, suitability, or  
2 competence to care for children placed in out-of-home care, however, no  
3 unfounded or screened-out report of child abuse or neglect may be used  
4 to deny employment or a license;

5 (b) The applicant or licensee has failed or refused to comply with  
6 any provision of chapter 74.15 RCW, RCW 74.13.031, or the requirements  
7 adopted pursuant to such provisions; or

8 (c) The conditions required for issuance of a license under chapter  
9 74.15 RCW and RCW 74.13.031 have ceased to exist with respect to such  
10 licenses.

11 (3) In any adjudicative proceeding regarding the denial,  
12 modification, suspension, or revocation of any license under this  
13 chapter, other than a foster family home license, the department's  
14 decision shall be upheld if it is supported by a preponderance of the  
15 evidence.

16 (4) The department may assess civil monetary penalties upon proof  
17 that an agency has failed or refused to comply with the rules adopted  
18 under the provisions of this chapter and RCW 74.13.031 or that an  
19 agency subject to licensing under this chapter and RCW 74.13.031 is  
20 operating without a license except that civil monetary penalties shall  
21 not be levied against a licensed foster home. Monetary penalties  
22 levied against unlicensed agencies that submit an application for  
23 licensure within thirty days of notification and subsequently become  
24 licensed will be forgiven. These penalties may be assessed in addition  
25 to or in lieu of other disciplinary actions. Civil monetary penalties,  
26 if imposed, may be assessed and collected, with interest, for each day  
27 an agency is or was out of compliance. Civil monetary penalties shall  
28 not exceed seventy-five dollars per violation for a family day-care  
29 home and two hundred fifty dollars per violation for group homes, child  
30 day-care centers, and child-placing agencies. Each day upon which the  
31 same or substantially similar action occurs is a separate violation  
32 subject to the assessment of a separate penalty. The department shall  
33 provide a notification period before a monetary penalty is effective  
34 and may forgive the penalty levied if the agency comes into compliance  
35 during this period. The department may suspend, revoke, or not renew  
36 a license for failure to pay a civil monetary penalty it has assessed  
37 pursuant to this chapter within ten days after such assessment becomes  
38 final. Chapter 43.20A RCW governs notice of a civil monetary penalty

1 and provides the right of an adjudicative proceeding. The  
2 preponderance of evidence standard shall apply in adjudicative  
3 proceedings related to assessment of civil monetary penalties.

4 (5)(a) In addition to or in lieu of an enforcement action being  
5 taken, the department may place a child day-care center or family day-  
6 care provider on nonreferral status if the center or provider has  
7 failed or refused to comply with this chapter or rules adopted under  
8 this chapter or an enforcement action has been taken. The nonreferral  
9 status may continue until the department determines that: (i) No  
10 enforcement action is appropriate; or (ii) a corrective action plan has  
11 been successfully concluded.

12 (b) Whenever a child day-care center or family day-care provider is  
13 placed on nonreferral status, the department shall provide written  
14 notification to the child day-care center or family day-care provider.

15 (6) The department shall notify appropriate public and private  
16 child care resource and referral agencies of the department's decision  
17 to: (a) Take an enforcement action against a child day-care center or  
18 family day-care provider; or (b) place or remove a child day-care  
19 center or family day-care provider on nonreferral status.

20 NEW SECTION. **Sec. 7.** The code reviser shall alphabetize the  
21 definitions in RCW 26.44.020 and correct any references.

22 NEW SECTION. **Sec. 8.** Sections 1 through 3, 6, and 7 of this act  
23 take effect January 1, 2007, unless the department of social and health  
24 services presents a report to the appropriate committees of the  
25 legislature before that date, including recommendations and proposed  
26 legislation, addressing the retention, expungement, and disclosure of  
27 reports of child abuse and neglect made to the department, in which  
28 case sections 1 through 3, 6, and 7 are void.

--- END ---