

ESSB 5991 - H COMM AMD

By Committee on Early Learning & Human Services

NOT ADOPTED 03/01/2012

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 26.44.030 and 2009 c 480 s 1 are each amended to read
4 as follows:

5 (1)(a) When any practitioner, county coroner or medical examiner,
6 law enforcement officer, professional school personnel, registered or
7 licensed nurse, social service counselor, psychologist, pharmacist,
8 employee of the department of early learning, licensed or certified
9 child care providers or their employees, employee of the department,
10 juvenile probation officer, placement and liaison specialist,
11 responsible living skills program staff, HOPE center staff, or state
12 family and children's ombudsman or any volunteer in the ombudsman's
13 office has reasonable cause to believe that a child has suffered abuse
14 or neglect, he or she shall report such incident, or cause a report to
15 be made, to the proper law enforcement agency or to the department as
16 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
20 over whom he or she regularly exercises supervisory authority, he or
21 she shall report such incident, or cause a report to be made, to the
22 proper law enforcement agency, provided that the person alleged to have
23 caused the abuse or neglect is employed by, contracted by, or
24 volunteers with the organization and coaches, trains, educates, or
25 counsels a child or children or regularly has unsupervised access to a
26 child or children as part of the employment, contract, or voluntary
27 service. No one shall be required to report under this section when he
28 or she obtains the information solely as a result of a privileged
29 communication as provided in RCW 5.60.060.

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

3 For the purposes of this subsection, the following definitions
4 apply:

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

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

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

23 (d) The reporting requirement shall also apply to any adult who has
24 reasonable cause to believe that a child (~~((who resides with them,))~~) has
25 suffered severe abuse or neglect, and is able or capable of making a
26 report. For the purposes of this subsection, "severe abuse or neglect"
27 means any of the following: Any (~~((single))~~) act of abuse (~~((that causes~~
28 ~~physical trauma))~~) causes significant bleeding, deep bruising,
29 significant external or internal swelling, bone fracture, or
30 unconsciousness; any act or acts of withholding basic necessities of
31 life that create or cause an imminent risk of substantial bodily harm;
32 or any ((single)) act of ((sexual abuse that causes significant
33 bleeding, deep bruising, or significant external or internal swelling;
34 or more than one act of physical abuse, each of which causes bleeding,
35 deep bruising, significant external or internal swelling, bone
36 fracture, or unconsciousness)) intentionally touching the sexual or

1 other intimate parts of a child for the purpose of gratifying sexual
2 desire.

3 (e) The reporting requirement also applies to guardians ad litem,
4 including court-appointed special advocates, appointed under Titles 11,
5 13, and 26 RCW, who in the course of their representation of children
6 in these actions have reasonable cause to believe a child has been
7 abused or neglected.

8 (f) The reporting requirement in (a) of this subsection also
9 applies to administrative and academic or athletic department
10 employees, including student employees, of institutions of higher
11 education, as defined in RCW 28B.10.016, and of private institutions of
12 higher education.

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

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

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

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

1 report must also be made to the proper law enforcement agency within
2 five days thereafter.

3 (5) Any law enforcement agency receiving a report of an incident of
4 alleged abuse or neglect pursuant to this chapter, involving a child
5 who has died or has had physical injury or injuries inflicted upon him
6 or her other than by accidental means, or who has been subjected to
7 alleged sexual abuse, shall report such incident in writing as provided
8 in RCW 26.44.040 to the proper county prosecutor or city attorney for
9 appropriate action whenever the law enforcement agency's investigation
10 reveals that a crime may have been committed. The law enforcement
11 agency shall also notify the department of all reports received and the
12 law enforcement agency's disposition of them. In emergency cases,
13 where the child's welfare is endangered, the law enforcement agency
14 shall notify the department within twenty-four hours. In all other
15 cases, the law enforcement agency shall notify the department within
16 seventy-two hours after a report is received by the law enforcement
17 agency.

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

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

34 (8) Any case referred to the department by a physician licensed
35 under chapter 18.57 or 18.71 RCW on the basis of an expert medical
36 opinion that child abuse, neglect, or sexual assault has occurred and
37 that the child's safety will be seriously endangered if returned home,
38 the department shall file a dependency petition unless a second

1 licensed physician of the parents' choice believes that such expert
2 medical opinion is incorrect. If the parents fail to designate a
3 second physician, the department may make the selection. If a
4 physician finds that a child has suffered abuse or neglect but that
5 such abuse or neglect does not constitute imminent danger to the
6 child's health or safety, and the department agrees with the
7 physician's assessment, the child may be left in the parents' home
8 while the department proceeds with reasonable efforts to remedy
9 parenting deficiencies.

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

14 (10) Upon receiving a report of alleged abuse or neglect, the
15 department shall make reasonable efforts to learn the name, address,
16 and telephone number of each person making a report of abuse or neglect
17 under this section. The department shall provide assurances of
18 appropriate confidentiality of the identification of persons reporting
19 under this section. If the department is unable to learn the
20 information required under this subsection, the department shall only
21 investigate cases in which:

22 (a) The department believes there is a serious threat of
23 substantial harm to the child;

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

26 (c) The department has a prior founded report of abuse or neglect
27 with regard to a member of the household that is within three years of
28 receipt of the referral.

29 (11)(a) For reports of alleged abuse or neglect that are accepted
30 for investigation by the department, the investigation shall be
31 conducted within time frames established by the department in rule. In
32 no case shall the investigation extend longer than ninety days from the
33 date the report is received, unless the investigation is being
34 conducted under a written protocol pursuant to RCW 26.44.180 and a law
35 enforcement agency or prosecuting attorney has determined that a longer
36 investigation period is necessary. At the completion of the
37 investigation, the department shall make a finding that the report of
38 child abuse or neglect is founded or unfounded.

1 (b) If a court in a civil or criminal proceeding, considering the
2 same facts or circumstances as are contained in the report being
3 investigated by the department, makes a judicial finding by a
4 preponderance of the evidence or higher that the subject of the pending
5 investigation has abused or neglected the child, the department shall
6 adopt the finding in its investigation.

7 (12) In conducting an investigation of alleged abuse or neglect,
8 the department or law enforcement agency:

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

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

24 (13) If a report of alleged abuse or neglect is founded and
25 constitutes the third founded report received by the department within
26 the last twelve months involving the same child or family, the
27 department shall promptly notify the office of the family and
28 children's ombudsman of the contents of the report. The department
29 shall also notify the ombudsman of the disposition of the report.

30 (14) In investigating and responding to allegations of child abuse
31 and neglect, the department may conduct background checks as authorized
32 by state and federal law.

33 (15) The department shall maintain investigation records and
34 conduct timely and periodic reviews of all founded cases of abuse and
35 neglect. The department shall maintain a log of screened-out
36 nonabusive cases.

37 (16) The department shall use a risk assessment process when
38 investigating alleged child abuse and neglect referrals. The

1 department shall present the risk factors at all hearings in which the
2 placement of a dependent child is an issue. Substance abuse must be a
3 risk factor. The department shall, within funds appropriated for this
4 purpose, offer enhanced community-based services to persons who are
5 determined not to require further state intervention.

6 (17) Upon receipt of a report of alleged abuse or neglect the law
7 enforcement agency may arrange to interview the person making the
8 report and any collateral sources to determine if any malice is
9 involved in the reporting.

10 (18) Upon receiving a report of alleged abuse or neglect involving
11 a child under the court's jurisdiction under chapter 13.34 RCW, the
12 department shall promptly notify the child's guardian ad litem of the
13 report's contents. The department shall also notify the guardian ad
14 litem of the disposition of the report. For purposes of this
15 subsection, "guardian ad litem" has the meaning provided in RCW
16 13.34.030.

17 NEW SECTION. **Sec. 2.** A new section is added to chapter 28B.10 RCW
18 to read as follows:

19 (1)(a) All employees of institutions of higher education, not
20 considered academic or athletic department employees, who have
21 reasonable cause to believe a child has suffered abuse or neglect, must
22 report such abuse or neglect immediately to the appropriate
23 administrator or supervisor, as designated by the institution. The
24 administrator or supervisor to whom the report was made, if not already
25 a mandatory reporter under RCW 26.44.030, must report the abuse or
26 neglect within forty-eight hours to a mandatory reporter designated by
27 the institution for this purpose.

28 (b) For purposes of this section, "child" has the same meaning as
29 in RCW 26.44.020(2).

30 (c) For purposes of this section, "abuse or neglect" has the same
31 meaning as in RCW 26.44.020(1).

32 (2) Institutions of higher education must ensure that the employees
33 covered by the provisions of RCW 26.44.030 and subsection (1)(a) of
34 this section have knowledge of their reporting responsibilities through
35 whatever means are most likely to succeed in providing this information
36 to affected employees.

1 **Sec. 3.** RCW 26.44.080 and 1982 c 129 s 10 are each amended to read
2 as follows:

3 Every person who is required to make, or to cause to be made, a
4 report pursuant to RCW 26.44.030 and 26.44.040, and who knowingly fails
5 to make, or fails to cause to be made, such report, shall be guilty of
6 a ((~~gross~~)) misdemeanor."

7 Correct the title.

EFFECT: (1) Adds a provision that requires any adult who has
reasonable cause to believe that a child has suffered severe abuse or
neglect to report such abuse or neglect to law enforcement or the
Department of Social and Health Services.

(2) Adds a provision that states that the penalty for a mandatory
reporter who knowingly fails to report is a misdemeanor.

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