

ESSB 6555 - H AMD TO ELHS COMM AMD (6555-S.E AMH ELHS H4436.1) **1281**
By Representative Kagi

ADOPTED 03/01/2012

1 On page 1 of the striking amendment, strike all material after
2 line 2 and insert the following:

3 "Sec. 1. RCW 26.44.020 and 2010 c 176 s 1 are each reenacted and
4 amended to read as follows:

5 The definitions in this section apply throughout this chapter
6 unless the context clearly requires otherwise.

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

14 (2) "Child" or "children" means any person under the age of
15 eighteen years of age.

16 (3) "Child protective services" means those services provided by
17 the department designed to protect children from child abuse and
18 neglect and safeguard such children from future abuse and neglect, and
19 conduct investigations of child abuse and neglect reports.
20 Investigations may be conducted regardless of the location of the
21 alleged abuse or neglect. Child protective services includes referral
22 to services to ameliorate conditions that endanger the welfare of
23 children, the coordination of necessary programs and services relevant
24 to the prevention, intervention, and treatment of child abuse and
25 neglect, and services to children to ensure that each child has a
26 permanent home. In determining whether protective services should be
27 provided, the department shall not decline to provide such services

1 solely because of the child's unwillingness or developmental inability
2 to describe the nature and severity of the abuse or neglect.

3 (4) "Child protective services section" means the child protective
4 services section of the department.

5 (5) "Children's advocacy center" means a child-focused facility in
6 good standing with the state chapter for children's advocacy centers
7 and that coordinates a multidisciplinary process for the
8 investigation, prosecution, and treatment of sexual and other types of
9 child abuse. Children's advocacy centers provide a location for
10 forensic interviews and coordinate access to services such as, but not
11 limited to, medical evaluations, advocacy, therapy, and case review by
12 multidisciplinary teams within the context of county protocols as
13 defined in RCW 26.44.180 and 26.44.185.

14 (6) "Clergy" means any regularly licensed or ordained minister,
15 priest, or rabbi of any church or religious denomination, whether
16 acting in an individual capacity or as an employee or agent of any
17 public or private organization or institution.

18 (7) "Court" means the superior court of the state of Washington,
19 juvenile department.

20 (8) "Department" means the state department of social and health
21 services.

22 (9) "Family assessment" means a comprehensive assessment of child
23 safety, risk of subsequent child abuse or neglect, and family
24 strengths and needs that is applied to a child abuse or neglect
25 report. Family assessment does not include a determination as to
26 whether child abuse or neglect occurred, but does determine the need
27 for services to address the safety of the child and the risk of
28 subsequent maltreatment.

29 (10) "Family assessment response" means a way of responding to
30 certain reports of child abuse or neglect made under this chapter
31 using a differential response approach to child protective services.
32 The family assessment response shall focus on the safety of the child,
33 the integrity and preservation of the family, and shall assess the
34 status of the child and the family in terms of risk of abuse and

1 neglect including the parent's or guardian's or other caretaker's
2 capacity and willingness to protect the child and, if necessary, plan
3 and arrange the provision of services to reduce the risk and otherwise
4 support the family. No one is named as a perpetrator, and no
5 investigative finding is entered in the record as a result of a family
6 assessment.

7 (11) "Founded" means the determination following an investigation
8 by the department that, based on available information, it is more
9 likely than not that child abuse or neglect did occur.

10 ~~((+10))~~ (12) "Inconclusive" means the determination following an
11 investigation by the department, prior to October 1, 2008, that based
12 on available information a decision cannot be made that more likely
13 than not, child abuse or neglect did or did not occur.

14 ~~((+11))~~ (13) "Institution" means a private or public hospital or
15 any other facility providing medical diagnosis, treatment, or care.

16 ~~((+12))~~ (14) "Law enforcement agency" means the police
17 department, the prosecuting attorney, the state patrol, the director
18 of public safety, or the office of the sheriff.

19 ~~((+13))~~ (15) "Malice" or "maliciously" means an intent, wish, or
20 design to intimidate, annoy, or injure another person. Such malice
21 may be inferred from an act done in willful disregard of the rights of
22 another, or an act wrongfully done without just cause or excuse, or an
23 act or omission of duty betraying a willful disregard of social duty.

24 ~~((+14))~~ (16) "Negligent treatment or maltreatment" means an act
25 or a failure to act, or the cumulative effects of a pattern of
26 conduct, behavior, or inaction, that evidences a serious disregard of
27 consequences of such magnitude as to constitute a clear and present
28 danger to a child's health, welfare, or safety, including but not
29 limited to conduct prohibited under RCW 9A.42.100. When considering
30 whether a clear and present danger exists, evidence of a parent's
31 substance abuse as a contributing factor to negligent treatment or
32 maltreatment shall be given great weight. The fact that siblings
33 share a bedroom is not, in and of itself, negligent treatment or
34 maltreatment. Poverty, homelessness, or exposure to domestic violence

1 as defined in RCW 26.50.010 that is perpetrated against someone other
2 than the child does not constitute negligent treatment or maltreatment
3 in and of itself.

4 ~~((15))~~ (17) "Pharmacist" means any registered pharmacist under
5 chapter 18.64 RCW, whether acting in an individual capacity or as an
6 employee or agent of any public or private organization or
7 institution.

8 ~~((16))~~ (18) "Practitioner of the healing arts" or "practitioner"
9 means a person licensed by this state to practice podiatric medicine
10 and surgery, optometry, chiropractic, nursing, dentistry, osteopathic
11 medicine and surgery, or medicine and surgery or to provide other
12 health services. The term "practitioner" includes a duly accredited
13 Christian Science practitioner. A person who is being furnished
14 Christian Science treatment by a duly accredited Christian Science
15 practitioner will not be considered, for that reason alone, a
16 neglected person for the purposes of this chapter.

17 ~~((17))~~ (19) "Professional school personnel" include, but are not
18 limited to, teachers, counselors, administrators, child care facility
19 personnel, and school nurses.

20 ~~((18))~~ (20) "Psychologist" means any person licensed to practice
21 psychology under chapter 18.83 RCW, whether acting in an individual
22 capacity or as an employee or agent of any public or private
23 organization or institution.

24 ~~((19))~~ (21) "Screened-out report" means a report of alleged
25 child abuse or neglect that the department has determined does not
26 rise to the level of a credible report of abuse or neglect and is not
27 referred for investigation.

28 ~~((20))~~ (22) "Sexual exploitation" includes: (a) Allowing,
29 permitting, or encouraging a child to engage in prostitution by any
30 person; or (b) allowing, permitting, encouraging, or engaging in the
31 obscene or pornographic photographing, filming, or depicting of a
32 child by any person.

33 ~~((21))~~ (23) "Sexually aggressive youth" means a child who is
34 defined in RCW 74.13.075(1)(b) as being a sexually aggressive youth.

1 (~~(+22+)~~) (24) "Social service counselor" means anyone engaged in a
2 professional capacity during the regular course of employment in
3 encouraging or promoting the health, welfare, support, or education of
4 children, or providing social services to adults or families,
5 including mental health, drug and alcohol treatment, and domestic
6 violence programs, whether in an individual capacity, or as an
7 employee or agent of any public or private organization or
8 institution.

9 (~~(+23+)~~) (25) "Supervising agency" means an agency licensed by the
10 state under RCW 74.15.090 or an Indian tribe under RCW 74.15.190 that
11 has entered into a performance-based contract with the department to
12 provide child welfare services.

13 (~~(+24+)~~) (26) "Unfounded" means the determination following an
14 investigation by the department that available information indicates
15 that, more likely than not, child abuse or neglect did not occur, or
16 that there is insufficient evidence for the department to determine
17 whether the alleged child abuse did or did not occur.

18
19 NEW SECTION. **Sec. 2.** A new section is added to chapter 26.44 RCW
20 to read as follows:

21 (1) No later than December 1, 2013, the department shall implement
22 the family assessment response. The department may implement the
23 family assessment response on a phased-in basis, by geographical area.

24 (2) The department shall develop an implementation plan in
25 consultation with stakeholders, including tribes. The department
26 shall submit a report of the implementation plan to the appropriate
27 committees of the legislature by December 31, 2012. At a minimum, the
28 following must be developed before implementation and included in the
29 report to the legislature:

- 30 (a) Description of the family assessment response practice model;
31 (b) Identification of possible additional noninvestigative
32 responses or pathways;
33 (c) Development of an intake screening tool and a family
34 assessment tool specifically to be used in the family assessment

1 response. The family assessment tool must, at minimum, evaluate the
2 safety of the child and determine services needed by the family to
3 improve or restore family well-being;

4 (d) Delineation of staff training requirements;

5 (e) Development of strategies to reduce disproportionality;

6 (f) Development of strategies to assist and connect families with
7 the appropriate private or public housing support agencies, for those
8 parents whose inability to obtain or maintain safe housing creates a
9 risk of harm to the child, risk of out-of-home placement of the child,
10 or a barrier to reunification;

11 (g) Identification of methods to involve local community partners
12 in the development of community-based resources to meet families'
13 needs. Local community partners may include, but are not limited to:
14 Alumni of the foster care system and veteran parents, local private
15 service delivery agencies, schools, local health departments and other
16 health care providers, juvenile court, law enforcement, office of
17 public defense social workers or local defense attorneys, domestic
18 violence victims advocates, and other available community-based
19 entities;

20 (h) Delineation of procedures to assure continuous quality
21 assurance;

22 (i) Identification of current departmental expenditures for
23 services appropriate for the family assessment response, to the
24 greatest practicable extent;

25 (j) Identification of philanthropic funding and other private
26 funding available to supplement public resources in response to
27 identified family needs;

28 (k) Development of effective mechanisms which assure and
29 maximize, to the greatest extent practicable, that family assessment
30 response for Native American Indian children will be completed in a
31 timely manner by a worker from the child's tribe or by a worker
32 approved by the child's tribe.

33 (l) A potential phase-in schedule if proposed; and

34

1 (m) Recommendations for legislative action required to implement
2 the plan.

3

4 **Sec. 3.** RCW 26.44.030 and 2009 c 480 s 1 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 employee of the department of early learning, licensed or certified
10 child care providers or their employees, employee of the department,
11 juvenile probation officer, placement and liaison specialist,
12 responsible living skills program staff, HOPE center staff, or state
13 family and children's ombudsman or any volunteer in the ombudsman's
14 office has reasonable cause to believe that a child has suffered abuse
15 or neglect, he or she shall report such incident, or cause a report to
16 be made, to the proper law enforcement agency or to the department as
17 provided in RCW 26.44.040.

18 (b) When any person, in his or her official supervisory capacity
19 with a nonprofit or for-profit organization, has reasonable cause to
20 believe that a child has suffered abuse or neglect caused by a person
21 over whom he or she regularly exercises supervisory authority, he or
22 she shall report such incident, or cause a report to be made, to the
23 proper law enforcement agency, provided that the person alleged to
24 have caused the abuse or neglect is employed by, contracted by, or
25 volunteers with the organization and coaches, trains, educates, or
26 counsels a child or children or regularly has unsupervised access to a
27 child or children as part of the employment, contract, or voluntary
28 service. No one shall be required to report under this section when
29 he or she obtains the information solely as a result of a privileged
30 communication as provided in RCW 5.60.060.

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

33 For the purposes of this subsection, the following definitions
34 apply:

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

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

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

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

30 (e) The reporting requirement also applies to guardians ad litem,
31 including court-appointed special advocates, appointed under Titles
32 11, 13, and 26 RCW, who in the course of their representation of
33 children in these actions have reasonable cause to believe a child has
34 been abused or neglected.

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (11)(a) Upon receiving a report of alleged abuse or neglect, the
25 department shall use one of the following discrete responses to
26 reports of child abuse or neglect that are screened in and accepted
27 for departmental response:

28 (i) Investigation; or

29 (ii) Family assessment.

30 (b) In making the response in (a) of this subsection the
31 department shall:

32 (i) Use a method by which to assign cases to investigation or
33 family assessment which are based on an array of factors that may
34 include the presence of: Imminent danger, level of risk, number of

1 previous child abuse or neglect reports, or other presenting case
2 characteristics, such as the type of alleged maltreatment and the age
3 of the alleged victim. Age of the alleged victim shall not be used as
4 the sole criterion for determining case assignment;

5 (ii) Allow for a change in response assignment based on new
6 information that alters risk or safety level;

7 (iii) Allow families assigned to family assessment to choose to
8 receive an investigation rather than a family assessment;

9 (iv) Provide a full investigation if a family refuses the initial
10 family assessment;

11 (v) Provide voluntary services to families based on the results of
12 the initial family assessment. If a family refuses voluntary
13 services, and the department cannot identify specific facts related to
14 risk or safety that warrant assignment to investigation under this
15 chapter, and there is not a history of reports of child abuse or
16 neglect related to the family, then the department must close the
17 family assessment response case. However, if at any time the
18 department identifies risk or safety factors that warrant an
19 investigation under this chapter, then the family assessment response
20 case must be reassigned to investigation;

21 (vi) Conduct an investigation, and not a family assessment, in
22 response to an allegation that, the department determines based on the
23 intake assessment:

24 (A) Poses a risk of "imminent harm" consistent with the definition
25 provided in RCW 13.34.050, which includes, but is not limited to,
26 sexual abuse and sexual exploitation as defined in this chapter;

27 (B) Poses a serious threat of substantial harm to a child;

28 (C) Constitutes conduct involving a criminal offense that has, or
29 is about to occur, in which the child is the victim;

30 (D) The child is an abandoned child as defined in RCW 13.34.030;

31 (E) The child is an adjudicated dependent child as defined in RCW
32 13.34.030, or the child is in a facility that is licensed, operated,
33 or certified for care of children by the department under chapter
34 74.15 RCW, or by the department of early learning.

1 (c) The department may not be held civilly liable for the decision
2 to respond to an allegation of child abuse or neglect by using the
3 family assessment response under this section unless the state or its
4 officers, agents, or employees acted with reckless disregard.

5 (12)(a) For reports of alleged abuse or neglect that are accepted
6 for investigation by the department, the investigation shall be
7 conducted within time frames established by the department in rule.
8 In no case shall the investigation extend longer than ninety days from
9 the date the report is received, unless the investigation is being
10 conducted under a written protocol pursuant to RCW 26.44.180 and a law
11 enforcement agency or prosecuting attorney has determined that a
12 longer investigation period is necessary. At the completion of the
13 investigation, the department shall make a finding that the report of
14 child abuse or neglect is founded or unfounded.

15 (b) If a court in a civil or criminal proceeding, considering the
16 same facts or circumstances as are contained in the report being
17 investigated by the department, makes a judicial finding by a
18 preponderance of the evidence or higher that the subject of the
19 pending investigation has abused or neglected the child, the
20 department shall adopt the finding in its investigation.

21 ~~((+12))~~ (13) For reports of alleged abuse or neglect that are
22 responded to through family assessment response, the department shall:

23 (a) Provide the family with a written explanation of the procedure
24 for assessment of the child and the family and its purposes;

25 (b) Collaborate with the family to identify family strengths,
26 resources, and service needs, and develop a service plan with the goal
27 of reducing risk of harm to the child and improving or restoring
28 family well-being;

29 (c) Complete the family assessment response within forty-five days
30 of receiving the report; however, upon parental agreement, the family
31 assessment response period may be extended up to ninety days;

32 (d) Offer services to the family in a manner that makes it clear
33 that acceptance of the services is voluntary;

34 (e) Implement the family assessment response in a consistent and

1 cooperative manner;

2 (f) Have the parent or guardian sign an agreement to participate
3 in services before services are initiated that informs the parents of
4 their rights under family assessment response, all of their options,
5 and the options the department has if the parents do not sign the
6 consent form.

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

9 (a) May interview children. If the department determines that the
10 response to the allegation will be family assessment response, the
11 preferred practice is to request a parent's, guardian's, or
12 custodian's permission to interview the child before conducting the
13 child interview unless doing so would compromise the safety of the
14 child or the integrity of the assessment. The interviews may be
15 conducted on school premises, at day-care facilities, at the child's
16 home, or at other suitable locations outside of the presence of
17 parents. If the allegation is investigated, parental notification of
18 the interview must occur at the earliest possible point in the
19 investigation that will not jeopardize the safety or protection of the
20 child or the course of the investigation. Prior to commencing the
21 interview the department or law enforcement agency shall determine
22 whether the child wishes a third party to be present for the interview
23 and, if so, shall make reasonable efforts to accommodate the child's
24 wishes. Unless the child objects, the department or law enforcement
25 agency shall make reasonable efforts to include a third party in any
26 interview so long as the presence of the third party will not
27 jeopardize the course of the investigation; and

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

30 ~~((+13+))~~ (15) If a report of alleged abuse or neglect is founded
31 and constitutes the third founded report received by the department
32 within the last twelve months involving the same child or family, the
33 department shall promptly notify the office of the family and
34

1 children's ombudsman of the contents of the report. The department
2 shall also notify the ombudsman of the disposition of the report.

3 ~~((14))~~ (16) In investigating and responding to allegations of
4 child abuse and neglect, the department may conduct background checks
5 as authorized by state and federal law.

6 ~~((15))~~ (17)(a) The department shall maintain investigation
7 records and conduct timely and periodic reviews of all founded cases
8 of abuse and neglect. The department shall maintain a log of
9 screened-out nonabusive cases.

10 (b) In the family assessment response, the department shall not
11 make a finding as to whether child abuse or neglect occurred. No one
12 shall be named as a perpetrator and no investigative finding shall be
13 entered in the department's child abuse or neglect database.

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

21 ~~—(17))~~ (19) Upon receipt of a report of alleged abuse or neglect
22 the law enforcement agency may arrange to interview the person making
23 the report and any collateral sources to determine if any malice is
24 involved in the reporting.

25 ~~((18))~~ (20) Upon receiving a report of alleged abuse or neglect
26 involving a child under the court's jurisdiction under chapter 13.34
27 RCW, the department shall promptly notify the child's guardian ad
28 litem of the report's contents. The department shall also notify the
29 guardian ad litem of the disposition of the report. For purposes of
30 this subsection, "guardian ad litem" has the meaning provided in RCW
31 13.34.030.

32
33 **Sec. 4.** RCW 26.44.031 and 2007 c 220 s 3 are each amended to read
34 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 reports of child abuse or neglect except as provided in this section
7 or as otherwise required by state and federal law.

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

9 (a) A screened-out report, within three years from the receipt of
10 the report; and

11 (b) An unfounded or inconclusive report, within six years of
12 completion of the investigation, unless a prior or subsequent founded
13 report has been received regarding the child who is the subject of the
14 report, a sibling or half-sibling of the child, or a parent, guardian,
15 or legal custodian of the child, before the records are destroyed.

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

18 (4) ~~((An))~~ No unfounded, screened-out, or inconclusive report or
19 information about a family's participation or nonparticipation in the
20 family assessment response may ~~((not))~~ be disclosed to a child-placing
21 agency, private adoption agency, or any other provider licensed under
22 chapter 74.15 RCW without the consent of the individual who is the
23 subject of the report or family assessment, unless:

24 (a) The individual seeks to become a licensed foster parent or
25 adoptive parent; or

26 (b) The individual is the parent or legal custodian of a child
27 being served by one of the agencies referenced in this subsection.

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

1 (b) If the department fails to comply with subsection (4) of this
2 section and an individual who is the subject of the report or family
3 assessment response information is harmed by the disclosure of
4 information, in addition to the relief provided in (a) of this
5 subsection, the court may award a penalty of up to one thousand
6 dollars and reasonable attorneys' fees and court costs to the
7 petitioner.

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

10 (6) 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
14 **Sec. 5.** RCW 26.44.050 and 1999 c 176 s 33 are each amended to
15 read as follows:

16 Except as provided in RCW 26.44.030(11), upon the receipt of a
17 report concerning the possible occurrence of abuse or neglect, the law
18 enforcement agency or the department of social and health services
19 must investigate and provide the protective services section with a
20 report in accordance with chapter 74.13 RCW, and where necessary to
21 refer such report to the court.

22 A law enforcement officer may take, or cause to be taken, a child
23 into custody without a court order if there is probable cause to
24 believe that the child is abused or neglected and that the child would
25 be injured or could not be taken into custody if it were necessary to
26 first obtain a court order pursuant to RCW 13.34.050. The law
27 enforcement agency or the department of social and health services
28 investigating such a report is hereby authorized to photograph such a
29 child for the purpose of providing documentary evidence of the
30 physical condition of the child.

31
32 NEW SECTION. **Sec. 6.** A new section is added to chapter 26.44 RCW
33 to read as follows:

1 (1) Within ten days of the conclusion of the family assessment,
2 the department must meet with the child's parent or guardian to
3 discuss the recommendation for services to address child safety
4 concerns or significant risk of subsequent child maltreatment.

5 (2) If the parent or guardian disagrees with the department's
6 recommendation regarding the provision of services, the department
7 shall convene a family team decision-making meeting to discuss the
8 recommendations and objections. The caseworker's supervisor and area
9 administrator shall attend the meeting.

10 (3) If the department determines, based on the results of the
11 family assessment, that services are not recommended then the
12 department shall close the family assessment response case.

13

14 **Sec. 7.** RCW 74.13.020 and 2011 c 330 s 4 are each reenacted and
15 amended to read as follows:

16 For purposes of this chapter:

17 (1) "Case management" means the management of services delivered
18 to children and families in the child welfare system, including
19 permanency services, caseworker-child visits, family visits, the
20 convening of family group conferences, the development and revision of
21 the case plan, the coordination and monitoring of services needed by
22 the child and family, and the assumption of court-related duties,
23 excluding legal representation, including preparing court reports,
24 attending judicial hearings and permanency hearings, and ensuring that
25 the child is progressing toward permanency within state and federal
26 mandates, including the Indian child welfare act.

27 (2) "Child" means:

28 (a) A person less than eighteen years of age; or

29 (b) A person age eighteen to twenty-one years who is eligible to
30 receive the extended foster care services authorized under RCW
31 74.13.031.

32 (3) "Child protective services" has the same meaning as in RCW
33 26.44.020.

34

1 (4) "Child welfare services" means social services including
2 voluntary and in-home services, out-of-home care, case management, and
3 adoption services which strengthen, supplement, or substitute for,
4 parental care and supervision for the purpose of:

5 (a) Preventing or remedying, or assisting in the solution of
6 problems which may result in families in conflict, or the neglect,
7 abuse, exploitation, or criminal behavior of children;

8 (b) Protecting and caring for dependent, abused, or neglected
9 children;

10 (c) Assisting children who are in conflict with their parents, and
11 assisting parents who are in conflict with their children, with
12 services designed to resolve such conflicts;

13 (d) Protecting and promoting the welfare of children, including
14 the strengthening of their own homes where possible, or, where needed;

15 (e) Providing adequate care of children away from their homes in
16 foster family homes or day care or other child care agencies or
17 facilities.

18 "Child welfare services" does not include child protection
19 services.

20 (5) "Committee" means the child welfare transformation design
21 committee.

22 (6) "Department" means the department of social and health
23 services.

24 (7) "Extended foster care services" means residential and other
25 support services the department is authorized to provide to foster
26 children. These services include, but are not limited to, placement
27 in licensed, relative, or otherwise approved care, or supervised
28 independent living settings; assistance in meeting basic needs;
29 independent living services; medical assistance; and counseling or
30 treatment.

31 (8) "Family assessment" means a comprehensive assessment of child
32 safety, risk of subsequent child abuse or neglect, and family
33 strengths and needs that is applied to a child abuse or neglect
34 report. Family assessment does not include a determination as to

1 whether child abuse or neglect occurred, but does determine the need
2 for services to address the safety of the child and the risk of
3 subsequent maltreatment.

4 (9) "Measurable effects" means a statistically significant change
5 which occurs as a result of the service or services a supervising
6 agency is assigned in a performance-based contract, in time periods
7 established in the contract.

8 ~~((9))~~ (10) "Out-of-home care services" means services provided
9 after the shelter care hearing to or for children in out-of-home care,
10 as that term is defined in RCW 13.34.030, and their families,
11 including the recruitment, training, and management of foster parents,
12 the recruitment of adoptive families, and the facilitation of the
13 adoption process, family reunification, independent living, emergency
14 shelter, residential group care, and foster care, including relative
15 placement.

16 ~~((10))~~ (11) "Performance-based contracting" means the
17 structuring of all aspects of the procurement of services around the
18 purpose of the work to be performed and the desired results with the
19 contract requirements set forth in clear, specific, and objective
20 terms with measurable outcomes. Contracts shall also include
21 provisions that link the performance of the contractor to the level
22 and timing of reimbursement.

23 ~~((11))~~ (12) "Permanency services" means long-term services
24 provided to secure a child's safety, permanency, and well-being,
25 including foster care services, family reunification services,
26 adoption services, and preparation for independent living services.

27 ~~((12))~~ (13) "Primary prevention services" means services which
28 are designed and delivered for the primary purpose of enhancing child
29 and family well-being and are shown, by analysis of outcomes, to
30 reduce the risk to the likelihood of the initial need for child
31 welfare services.

32 ~~((13))~~ (14) "Supervising agency" means an agency licensed by the
33 state under RCW 74.15.090, or licensed by a federally recognized
34 Indian tribe located in this state under RCW 74.15.190, that has

1 entered into a performance-based contract with the department to
2 provide case management for the delivery and documentation of child
3 welfare services, as defined in this section.

4
5 **Sec. 8.** RCW 74.13.031 and 2011 c 330 s 5 and 2011 c 160 s 2 are
6 each reenacted and amended to read as follows:

7 (1) The department and supervising agencies shall develop,
8 administer, supervise, and monitor a coordinated and comprehensive
9 plan that establishes, aids, and strengthens services for the
10 protection and care of runaway, dependent, or neglected children.

11 (2) Within available resources, the department and supervising
12 agencies shall recruit an adequate number of prospective adoptive and
13 foster homes, both regular and specialized, i.e. homes for children of
14 ethnic minority, including Indian homes for Indian children, sibling
15 groups, handicapped and emotionally disturbed, teens, pregnant and
16 parenting teens, and the department shall annually report to the
17 governor and the legislature concerning the department's and
18 supervising agency's success in: (a) Meeting the need for adoptive
19 and foster home placements; (b) reducing the foster parent turnover
20 rate; (c) completing home studies for legally free children; and (d)
21 implementing and operating the passport program required by RCW
22 74.13.285. The report shall include a section entitled "Foster Home
23 Turn-Over, Causes and Recommendations."

24 (3) The department shall investigate complaints of any recent act
25 or failure to act on the part of a parent or caretaker that results in
26 death, serious physical or emotional harm, or sexual abuse or
27 exploitation, or that presents an imminent risk of serious harm, and
28 on the basis of the findings of such investigation, offer child
29 welfare services in relation to the problem to such parents, legal
30 custodians, or persons serving in loco parentis, and/or bring the
31 situation to the attention of an appropriate court, or another
32 community agency. An investigation is not required of nonaccidental
33 injuries which are clearly not the result of a lack of care or
34 supervision by the child's parents, legal custodians, or persons

1 serving in loco parentis. If the investigation reveals that a crime
2 against a child may have been committed, the department shall notify
3 the appropriate law enforcement agency.

4 (4) As provided in RCW 26.44.030(11), the department may respond
5 to a report of child abuse or neglect by using the family assessment
6 response.

7 (5) The department or supervising agencies shall offer, on a
8 voluntary basis, family reconciliation services to families who are in
9 conflict.

10 ~~((+5+))~~ (6) The department or supervising agencies shall monitor
11 placements of children in out-of-home care and in-home dependencies to
12 assure the safety, well-being, and quality of care being provided is
13 within the scope of the intent of the legislature as defined in RCW
14 74.13.010 and 74.15.010. Under this section children in out-of-home
15 care and in-home dependencies and their caregivers shall receive a
16 private and individual face-to-face visit each month. The department
17 and the supervising agencies shall randomly select no less than ten
18 percent of the caregivers currently providing care to receive one
19 unannounced face-to-face visit in the caregiver's home per year. No
20 caregiver will receive an unannounced visit through the random
21 selection process for two consecutive years. If the caseworker makes
22 a good faith effort to conduct the unannounced visit to a caregiver
23 and is unable to do so, that month's visit to that caregiver need not
24 be unannounced. The department and supervising agencies are
25 encouraged to group monthly visits to caregivers by geographic area so
26 that in the event an unannounced visit cannot be completed, the
27 caseworker may complete other required monthly visits. The department
28 shall use a method of random selection that does not cause a fiscal
29 impact to the department.

30 The department or supervising agencies shall conduct the monthly
31 visits with children and caregivers to whom it is providing child
32 welfare services.

33 ~~((+6+))~~ (7) The department and supervising agencies shall have
34 authority to accept custody of children from parents and to accept

1 custody of children from juvenile courts, where authorized to do so
2 under law, to provide child welfare services including placement for
3 adoption, to provide for the routine and necessary medical, dental,
4 and mental health care, or necessary emergency care of the children,
5 and to provide for the physical care of such children and make payment
6 of maintenance costs if needed. Except where required by Public Law
7 95-608 (25 U.S.C. Sec. 1915), no private adoption agency which
8 receives children for adoption from the department shall discriminate
9 on the basis of race, creed, or color when considering applications in
10 their placement for adoption.

11 ~~((+7))~~ (8) The department and supervising agency shall have
12 authority to provide temporary shelter to children who have run away
13 from home and who are admitted to crisis residential centers.

14 ~~((+8))~~ (9) The department and supervising agency shall have
15 authority to purchase care for children.

16 ~~((+9))~~ (10) The department shall establish a children's services
17 advisory committee with sufficient members representing supervising
18 agencies which shall assist the secretary in the development of a
19 partnership plan for utilizing resources of the public and private
20 sectors, and advise on all matters pertaining to child welfare,
21 licensing of child care agencies, adoption, and services related
22 thereto. At least one member shall represent the adoption community.

23 ~~((+10))~~ (11) The department and supervising agencies shall have
24 authority to provide continued extended foster care services to youth
25 ages eighteen to twenty-one years to participate in or complete a
26 secondary education program or a secondary education equivalency
27 program.

28 ~~((+11))~~ (12) The department ~~((, - has))~~ shall have authority to
29 provide adoption support benefits, or relative guardianship subsidies
30 on behalf of youth ages eighteen to twenty-one years who achieved
31 permanency through adoption or a relative guardianship at age sixteen
32 or older and who meet the criteria described in subsection ~~((+10))~~
33 (11) of this section.

34

1 ~~((12))~~ (13) The department shall refer cases to the division of
2 child support whenever state or federal funds are expended for the
3 care and maintenance of a child, including a child with a
4 developmental disability who is placed as a result of an action under
5 chapter 13.34 RCW, unless the department finds that there is good
6 cause not to pursue collection of child support against the parent or
7 parents of the child. Cases involving individuals age eighteen
8 through twenty shall not be referred to the division of child support
9 unless required by federal law.

10 ~~((13))~~ (14) The department and supervising agencies shall have
11 authority within funds appropriated for foster care services to
12 purchase care for Indian children who are in the custody of a
13 federally recognized Indian tribe or tribally licensed child-placing
14 agency pursuant to parental consent, tribal court order, or state
15 juvenile court order; and the purchase of such care shall be subject
16 to the same eligibility standards and rates of support applicable to
17 other children for whom the department purchases care.

18 Notwithstanding any other provision of RCW 13.32A.170 through
19 13.32A.200 and 74.13.032 through 74.13.036, or of this section all
20 services to be provided by the department under subsections (4),
21 ~~((6), and)~~ (7), and (8) of this section, subject to the limitations
22 of these subsections, may be provided by any program offering such
23 services funded pursuant to Titles II and III of the federal juvenile
24 justice and delinquency prevention act of 1974.

25 ~~((14))~~ (15) Within amounts appropriated for this specific
26 purpose, the supervising agency or department shall provide preventive
27 services to families with children that prevent or shorten the
28 duration of an out-of-home placement.

29 ~~((15))~~ (16) The department and supervising agencies shall have
30 authority to provide independent living services to youths, including
31 individuals who have attained eighteen years of age, and have not
32 attained twenty-one years of age who are or have been in foster care.

33 ~~((16))~~ (17) The department and supervising agencies shall
34 consult at least quarterly with foster parents, including members of

1 the foster parent association of Washington state, for the purpose of
2 receiving information and comment regarding how the department and
3 supervising agencies are performing the duties and meeting the
4 obligations specified in this section and RCW 74.13.250 and 74.13.320
5 regarding the recruitment of foster homes, reducing foster parent
6 turnover rates, providing effective training for foster parents, and
7 administering a coordinated and comprehensive plan that strengthens
8 services for the protection of children. Consultation shall occur at
9 the regional and statewide levels.

10 (18)(a) The department shall, within current funding levels, place
11 on its public web site a document listing the duties and
12 responsibilities the department has to a child subject to a dependency
13 petition including, but not limited to, the following:

14 (i) Reasonable efforts, including the provision of services,
15 toward reunification of the child with his or her family;

16 (ii) Sibling visits subject to the restrictions in RCW
17 13.34.136(2)(b)(ii);

18 (iii) Parent-child visits;

19 (iv) Statutory preference for placement with a relative or other
20 suitable person, if appropriate; and

21 (v) Statutory preference for an out-of-home placement that allows
22 the child to remain in the same school or school district, if
23 practical and in the child's best interests.

24 (b) The document must be prepared in conjunction with a community-
25 based organization and must be updated as needed.

26

27 NEW SECTION. **Sec. 9.** The Washington state institute for public
28 policy shall conduct an evaluation of the implementation of the family
29 assessment response. The institute shall define the data to be
30 gathered and maintained. At a minimum, the evaluations must address
31 child safety measures, out-of-home placement rates, re-referral rates,
32 and caseload sizes and demographics. The institute shall deliver its
33 first report no later than December 1, 2014, and its final report by
34 December 1, 2016.

1 NEW SECTION. **Sec. 10.** The department of social and health
2 services shall conduct two client satisfaction surveys of families
3 that have been placed in the family assessment response. The first
4 survey results shall be reported no later than December 1, 2014. The
5 second survey results shall be reported no later than December 1,
6 2016.

7
8 **Sec. 11.** RCW 26.44.125 and 1998 c 314 s 9 are each amended to
9 read as follows:

10 (1) A person who is named as an alleged perpetrator after October
11 1, 1998, in a founded report of child abuse or neglect has the right
12 to seek review and amendment of the finding as provided in this
13 section.

14 (2) Within ~~((twenty))~~ thirty calendar days after ~~((receiving~~
15 ~~written notice from the department))~~ the department has notified the
16 alleged perpetrator under RCW 26.44.100 that ~~((a))~~ the person is named
17 as an alleged perpetrator in a founded report of child abuse or
18 neglect, he or she may request that the department review the finding.
19 The request must be made in writing. The written notice provided by
20 the department must contain at least the following information in
21 plain language:

22 (a) Information about the department's investigative finding as it
23 relates to the alleged perpetrator;

24 (b) Sufficient factual information to apprise the alleged
25 perpetrator of the date and nature of the founded reports;

26 (c) That the alleged perpetrator has the right to submit to child
27 protective services a written response regarding the child protective
28 services finding which, if received, shall be filed in the
29 department's records;

30 (d) That information in the department's records, including
31 information about this founded report, may be considered in a later
32 investigation or proceeding related to a different allegation of child
33 abuse or neglect or child custody;

34 (e) That founded allegations of child abuse or neglect may be used

1 by the department in determining:

2 (i) If a perpetrator is qualified to be licensed or approved to
3 care for children or vulnerable adults; or

4 (ii) If a perpetrator is qualified to be employed by the
5 department in a position having unsupervised access to children or
6 vulnerable adults;

7 (f) That the alleged perpetrator has a right to challenge a
8 founded allegation of child abuse or neglect.

9 (3) If a request for review is not made as provided in this
10 subsection, the alleged perpetrator may not further challenge the
11 finding and shall have no right to agency review or to an adjudicative
12 hearing or judicial review of the finding, unless he or she can show
13 that the department did not comply with the notice requirements of RCW
14 26.44.100.

15 ~~((+3))~~ (4) Upon receipt of a written request for review, the
16 department shall review and, if appropriate, may amend the finding.
17 Management level staff within the children's administration designated
18 by the secretary shall be responsible for the review. The review must
19 be completed within thirty days after receiving the written request
20 for review. The review must be conducted in accordance with
21 procedures the department establishes by rule. Upon completion of the
22 review, the department shall notify the alleged perpetrator in writing
23 of the agency's determination. The notification must be sent by
24 certified mail, return receipt requested, to the person's last known
25 address.

26 ~~((+4))~~ (5) If, following agency review, the report remains
27 founded, the person named as the alleged perpetrator in the report may
28 request an adjudicative hearing to contest the finding. The
29 adjudicative proceeding is governed by chapter 34.05 RCW and this
30 section. The request for an adjudicative proceeding must be filed
31 within thirty calendar days after receiving notice of the agency
32 review determination. If a request for an adjudicative proceeding is
33 not made as provided in this subsection, the alleged perpetrator may
34 not further challenge the finding and shall have no right to agency

1 review or to an adjudicative hearing or judicial review of the
2 finding.

3 ~~((5))~~ (6) Reviews and hearings conducted under this section are
4 confidential and shall not be open to the public. Information about
5 reports, reviews, and hearings may be disclosed only in accordance
6 with federal and state laws pertaining to child welfare records and
7 child protective services reports.

8 ~~((6))~~ (7) The department may adopt rules to implement this
9 section.

10
11 NEW SECTION. **Sec. 12.** Sections 1 through 11 of this act take
12 effect December 1, 2013.

13
14 Correct the title"

EFFECT: Requires the Department of Social and Health Services to
develop effective mechanisms which assure and maximize, to the
greatest extent practicable, that family assessment response for
Native American Indian children will be completed in a timely manner
by a worker from the child's tribe or by a worker approved by the
child's tribe, as part of the family assessment response (FAR)
implementation plan.

Prohibits age of the child from being used as the sole criterion for
determining whether a case will be assigned to investigation or
family assessment response.

Removes Sec. 7. which prescribes what the family assessment tool
must specifically assess.

Clarifies that FAR must be completed within 45 days, unless a parent
agrees to an extension. Upon parental agreement, the FAR may be
extended up to 90 days.

Specifies that a child may be interviewed without a parent or guardian's permission if requesting such permission would compromise the integrity of the family assessment.

Corrects the RCW reference in Sec. 3 (RCW 74.13 is changed to 74.15).

--- END ---