

2SHB 2289 - S COMM AMD

By Committee on Human Services & Corrections

1 Strike everything after the enacting clause and insert the
2 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 to
9 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
28 solely because of the child's unwillingness or developmental inability
29 to describe the nature and severity of the abuse or neglect.

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

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

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

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

18 (8) "Department" means the state department of social and health
19 services.

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

27 (10) "Family assessment response track" means a way of responding
28 to certain reports of child abuse or neglect made under this chapter
29 using a differential response approach to child protective services.
30 The family assessment response track shall focus on the safety of the
31 child, the integrity and preservation of the family, and shall assess
32 the status of the child and the family in terms of risk of abuse and
33 neglect including the parent's or guardian's or other caretaker's
34 capacity and willingness to protect the child and, if necessary, plan
35 and arrange the provision of services to reduce the risk and otherwise
36 support the family. No one is named as a perpetrator, and no
37 investigative finding is entered in the record as a result of a family
38 assessment.

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

4 ~~((+10+))~~ (12) "Inconclusive" means the determination following an
5 investigation by the department, prior to October 1, 2008, that based
6 on available information a decision cannot be made that more likely
7 than not, child abuse or neglect did or did not occur.

8 ~~((+11+))~~ (13) "Institution" means a private or public hospital or
9 any other facility providing medical diagnosis, treatment, or care.

10 ~~((+12+))~~ (14) "Law enforcement agency" means the police department,
11 the prosecuting attorney, the state patrol, the director of public
12 safety, or the office of the sheriff.

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

18 ~~((+14+))~~ (16) "Negligent treatment or maltreatment" means an act or
19 a failure to act, or the cumulative effects of a pattern of conduct,
20 behavior, or inaction, that evidences a serious disregard of
21 consequences of such magnitude as to constitute a clear and present
22 danger to a child's health, welfare, or safety, including but not
23 limited to conduct prohibited under RCW 9A.42.100. When considering
24 whether a clear and present danger exists, evidence of a parent's
25 substance abuse as a contributing factor to negligent treatment or
26 maltreatment shall be given great weight. The fact that siblings share
27 a bedroom is not, in and of itself, negligent treatment or
28 maltreatment. Poverty, homelessness, or exposure to domestic violence
29 as defined in RCW 26.50.010 that is perpetrated against someone other
30 than the child does not constitute negligent treatment or maltreatment
31 in and of itself.

32 ~~((+15+))~~ (17) "Pharmacist" means any registered pharmacist under
33 chapter 18.64 RCW, whether acting in an individual capacity or as an
34 employee or agent of any public or private organization or institution.

35 ~~((+16+))~~ (18) "Practitioner of the healing arts" or "practitioner"
36 means a person licensed by this state to practice podiatric medicine
37 and surgery, optometry, chiropractic, nursing, dentistry, osteopathic
38 medicine and surgery, or medicine and surgery or to provide other

1 health services. The term "practitioner" includes a duly accredited
2 Christian Science practitioner. A person who is being furnished
3 Christian Science treatment by a duly accredited Christian Science
4 practitioner will not be considered, for that reason alone, a neglected
5 person for the purposes of this chapter.

6 ~~((+17))~~ (19) "Professional school personnel" include, but are not
7 limited to, teachers, counselors, administrators, child care facility
8 personnel, and school nurses.

9 ~~((+18))~~ (20) "Psychologist" means any person licensed to practice
10 psychology under chapter 18.83 RCW, whether acting in an individual
11 capacity or as an employee or agent of any public or private
12 organization or institution.

13 ~~((+19))~~ (21) "Screened-out report" means a report of alleged child
14 abuse or neglect that the department has determined does not rise to
15 the level of a credible report of abuse or neglect and is not referred
16 for investigation.

17 ~~((+20))~~ (22) "Sexual exploitation" includes: (a) Allowing,
18 permitting, or encouraging a child to engage in prostitution by any
19 person; or (b) allowing, permitting, encouraging, or engaging in the
20 obscene or pornographic photographing, filming, or depicting of a child
21 by any person.

22 ~~((+21))~~ (23) "Sexually aggressive youth" means a child who is
23 defined in RCW 74.13.075(1)(b) as being a sexually aggressive youth.

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

31 ~~((+23))~~ (25) "Supervising agency" means an agency licensed by the
32 state under RCW 74.15.090 or an Indian tribe under RCW 74.15.190 that
33 has entered into a performance-based contract with the department to
34 provide child welfare services.

35 ~~((+24))~~ (26) "Unfounded" means the determination following an
36 investigation by the department that available information indicates
37 that, more likely than not, child abuse or neglect did not occur, or

1 that there is insufficient evidence for the department to determine
2 whether the alleged child abuse did or did not occur.

3 NEW SECTION. **Sec. 2.** A new section is added to chapter 26.44 RCW
4 to read as follows:

5 (1) No later than December 1, 2013, the department shall implement
6 the family assessment response track.

7 (2) The department shall develop an implementation plan in
8 consultation with stakeholders, including tribes. The department shall
9 submit a report of the implementation plan to the appropriate
10 committees of the legislature by December 31, 2012. At a minimum, the
11 following must be developed before implementation and included in the
12 report to the legislature:

13 (a) Description of the family assessment response track practice
14 model;

15 (b) Identification of possible additional noninvestigative
16 responses or pathways;

17 (c) Development of an intake screening tool and a family assessment
18 tool specifically to be used in the family assessment response track;

19 (d) Delineation of staff training requirements;

20 (e) Development of strategies to reduce disproportionality;

21 (f) Development of strategies to secure safe and stable housing for
22 child-welfare involved families;

23 (g) Identification of methods to involve local community partners
24 in the development of community-based resources to meet families'
25 needs. Local community partners may include, but are not limited to:
26 Alumni of the foster care system and veteran parents, local private
27 service delivery agencies, schools, local health departments and other
28 health care providers, juvenile court, law enforcement, office of
29 public defense social workers or local defense attorneys, and other
30 available community-based entities;

31 (h) Delineation of procedures to assure continuous quality
32 assurance; and

33 (i) Identification of current departmental expenditures for
34 services appropriate for the family assessment response track, to the
35 greatest practicable extent.

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

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

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

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

30 For the purposes of this subsection, the following definitions
31 apply:

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

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

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

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

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

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

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

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

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

18 (5) Any law enforcement agency receiving a report of an incident of
19 alleged abuse or neglect pursuant to this chapter, involving a child
20 who has died or has had physical injury or injuries inflicted upon him
21 or her other than by accidental means, or who has been subjected to
22 alleged sexual abuse, shall report such incident in writing as provided
23 in RCW 26.44.040 to the proper county prosecutor or city attorney for
24 appropriate action whenever the law enforcement agency's investigation
25 reveals that a crime may have been committed. The law enforcement
26 agency shall also notify the department of all reports received and the
27 law enforcement agency's disposition of them. In emergency cases,
28 where the child's welfare is endangered, the law enforcement agency
29 shall notify the department within twenty-four hours. In all other
30 cases, the law enforcement agency shall notify the department within
31 seventy-two hours after a report is received by the law enforcement
32 agency.

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

1 (7) The department may conduct ongoing case planning and
2 consultation with those persons or agencies required to report under
3 this section, with consultants designated by the department, and with
4 designated representatives of Washington Indian tribes if the client
5 information exchanged is pertinent to cases currently receiving child
6 protective services. Upon request, the department shall conduct such
7 planning and consultation with those persons required to report under
8 this section if the department determines it is in the best interests
9 of the child. Information considered privileged by statute and not
10 directly related to reports required by this section must not be
11 divulged without a valid written waiver of the privilege.

12 (8) Any case referred to the department by a physician licensed
13 under chapter 18.57 or 18.71 RCW on the basis of an expert medical
14 opinion that child abuse, neglect, or sexual assault has occurred and
15 that the child's safety will be seriously endangered if returned home,
16 the department shall file a dependency petition unless a second
17 licensed physician of the parents' choice believes that such expert
18 medical opinion is incorrect. If the parents fail to designate a
19 second physician, the department may make the selection. If a
20 physician finds that a child has suffered abuse or neglect but that
21 such abuse or neglect does not constitute imminent danger to the
22 child's health or safety, and the department agrees with the
23 physician's assessment, the child may be left in the parents' home
24 while the department proceeds with reasonable efforts to remedy
25 parenting deficiencies.

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

30 (10) Upon receiving a report of alleged abuse or neglect, the
31 department shall make reasonable efforts to learn the name, address,
32 and telephone number of each person making a report of abuse or neglect
33 under this section. The department shall provide assurances of
34 appropriate confidentiality of the identification of persons reporting
35 under this section. If the department is unable to learn the
36 information required under this subsection, the department shall only
37 investigate cases in which:

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

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

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

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

12 (i) Investigation; or

13 (ii) Family assessment.

14 (b) In making the response in (a) of this subsection the department
15 shall:

16 (i) Use a method by which to assign cases to investigation or
17 family assessment which are based on an array of factors that may
18 include:

19 The presence of imminent danger, level of risk, number of previous
20 child abuse or neglect reports, or other presenting case
21 characteristics, such as the type of alleged maltreatment and the age
22 of the alleged victim;

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

25 (iii) Allow families assigned to the family assessment response
26 track to choose to receive an investigation rather than a family
27 assessment;

28 (iv) Provide a full investigation if a family refuses the initial
29 family assessment;

30 (v) Provide voluntary services to families based on the results of
31 the initial family assessment. If a family refuses voluntary services,
32 and the department cannot identify specific facts related to risk or
33 safety factors that warrant an investigation under this chapter, then
34 the department must close the family assessment response track case.
35 However, if at any time the department identifies risk or safety
36 factors that warrant an investigation under this chapter, then the
37 family assessment response track case must be closed, and an
38 investigation must be conducted;

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

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

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

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

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

11 (E) The child is an adjudicated dependent child who is in the care
12 of a parent, guardian, or relative.

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

17 (12)(a) For reports of alleged abuse or neglect that are accepted
18 for investigation by the department, the investigation shall be
19 conducted within time frames established by the department in rule. In
20 no case shall the investigation extend longer than ninety days from the
21 date the report is received, unless the investigation is being
22 conducted under a written protocol pursuant to RCW 26.44.180 and a law
23 enforcement agency or prosecuting attorney has determined that a longer
24 investigation period is necessary. At the completion of the
25 investigation, the department shall make a finding that the report of
26 child abuse or neglect is founded or unfounded.

27 (b) If a court in a civil or criminal proceeding, considering the
28 same facts or circumstances as are contained in the report being
29 investigated by the department, makes a judicial finding by a
30 preponderance of the evidence or higher that the subject of the pending
31 investigation has abused or neglected the child, the department shall
32 adopt the finding in its investigation.

33 ((+12+)) (13) For reports of alleged abuse or neglect that are
34 placed in the family assessment response track, the department shall:

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

37 (b) Complete the family assessment within forty-five days of

1 receiving the report; however, upon parental agreement, the assessment
2 period may be extended up to sixty days;

3 (c) Offer services to the family in a manner that makes it clear
4 that acceptance of the services is voluntary;

5 (d) Implement the family assessment response track in a
6 nonarbitrary, noncoercive manner;

7 (e) Have the parent or guardian sign an agreement to participate in
8 services form before services are initiated that informs the parents of
9 their rights under the family assessment response track, all of their
10 options, and the options the department has if the parents do not sign
11 the consent form.

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

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

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

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

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 of
8 abuse and neglect. The department shall maintain a log of screened-out
9 nonabusive cases.

10 (b) In the family assessment response track, the department shall
11 not make a finding as to whether child abuse or neglect occurred. No
12 one shall be named as a perpetrator and no investigative finding shall
13 be 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 litem
28 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 **Sec. 4.** RCW 26.44.031 and 2007 c 220 s 3 are each amended to read
33 as follows:

34 (1) To protect the privacy in reporting and the maintenance of
35 reports of nonaccidental injury, neglect, death, sexual abuse, and
36 cruelty to children by their parents, and to safeguard against
37 arbitrary, malicious, or erroneous information or actions, the

1 department shall not disclose or maintain information related to
2 reports of child abuse or neglect except as provided in this section or
3 as otherwise required by state and federal law.

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

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

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

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

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

20 (5)(a) If the department fails to comply with this section, an
21 individual who is the subject of a report may institute proceedings for
22 injunctive or other appropriate relief for enforcement of the
23 requirement to purge information. These proceedings may be instituted
24 in the superior court for the county in which the person resides or, if
25 the person is not then a resident of this state, in the superior court
26 for Thurston county.

27 (b) If the department fails to comply with subsection (4) of this
28 section and an individual who is the subject of the report or family
29 assessment response track information is harmed by the disclosure of
30 information, in addition to the relief provided in (a) of this
31 subsection, the court may award a penalty of up to one thousand dollars
32 and reasonable attorneys' fees and court costs to the petitioner.

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

35 (6) Nothing in this section shall prevent the department from
36 retaining general, nonidentifying information which is required for
37 state and federal reporting and management purposes.

1 **Sec. 5.** RCW 26.44.050 and 1999 c 176 s 33 are each amended to read
2 as follows:

3 Except as provided in RCW 26.44.030(11), upon the receipt of a
4 report concerning the possible occurrence of abuse or neglect, the law
5 enforcement agency or the department of social and health services must
6 investigate and provide the protective services section with a report
7 in accordance with chapter 74.13 RCW, and where necessary to refer such
8 report to the court.

9 A law enforcement officer may take, or cause to be taken, a child
10 into custody without a court order if there is probable cause to
11 believe that the child is abused or neglected and that the child would
12 be injured or could not be taken into custody if it were necessary to
13 first obtain a court order pursuant to RCW 13.34.050. The law
14 enforcement agency or the department of social and health services
15 investigating such a report is hereby authorized to photograph such a
16 child for the purpose of providing documentary evidence of the physical
17 condition of the child.

18 NEW SECTION. **Sec. 6.** A new section is added to chapter 26.44 RCW
19 to read as follows:

20 (1) Upon completion of the family assessment, if the department
21 recommends that no services be offered, the case shall be closed.

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

26 (3) If the parent or guardian disagrees with the department's
27 recommendation regarding the provision of services, the department
28 shall convene a family team decision-making meeting to discuss the
29 recommendations and objections. The caseworker's supervisor and area
30 administrator shall attend the meeting.

31 NEW SECTION. **Sec. 7.** A new section is added to chapter 26.44 RCW
32 to read as follows:

33 The department shall develop a family assessment tool which, at a
34 minimum, must include the following:

35 (1) An interview with the child's parent, guardian, or any other

1 adult residing in the child's home who serves in a parental role. The
2 interview shall focus on ensuring the immediate safety of the child and
3 mitigating future risk of harm to the child in the home environment.

4 (2) An interview of other persons suggested by the family or whom
5 the department believes have valuable information.

6 (3) An evaluation of the safety of the child and any other children
7 living in the same home. The evaluation may include an interview with
8 or observation of the child or children. The preferred method is to
9 request a parent's, guardian's, or custodian's permission to interview
10 the child before conducting the child interview unless doing so would
11 compromise the safety of the child.

12 (4) In collaboration with the family, identification of family
13 strengths, resources, and service needs, and the development of a plan
14 of services with the goal of reducing risk of harm to the child and
15 improving or restoring family well-being.

16 **Sec. 8.** RCW 74.13.020 and 2011 c 330 s 4 are each reenacted and
17 amended to read as follows:

18 For purposes of this chapter:

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

29 (2) "Child" means:

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

31 (b) A person age eighteen to twenty-one years who is eligible to
32 receive the extended foster care services authorized under RCW
33 74.13.031.

34 (3) "Child protective services" has the same meaning as in RCW
35 26.44.020.

36 (4) "Child welfare services" means social services including

1 voluntary and in-home services, out-of-home care, case management, and
2 adoption services which strengthen, supplement, or substitute for,
3 parental care and supervision for the purpose of:

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

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

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

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

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

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

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

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

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

30 (8) "Family assessment" means a comprehensive assessment of child
31 safety, risk of subsequent child abuse or neglect, and family strengths
32 and needs that is applied to a child abuse or neglect report. Family
33 assessment does not include a determination as to whether child abuse
34 or neglect occurred, but does determine the need for services to
35 address the safety of the child and the risk of subsequent
36 maltreatment.

37 (9) "Measurable effects" means a statistically significant change

1 which occurs as a result of the service or services a supervising
2 agency is assigned in a performance-based contract, in time periods
3 established in the contract.

4 ~~((+9))~~ (10) "Out-of-home care services" means services provided
5 after the shelter care hearing to or for children in out-of-home care,
6 as that term is defined in RCW 13.34.030, and their families, including
7 the recruitment, training, and management of foster parents, the
8 recruitment of adoptive families, and the facilitation of the adoption
9 process, family reunification, independent living, emergency shelter,
10 residential group care, and foster care, including relative placement.

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

18 ~~((+11))~~ (12) "Permanency services" means long-term services
19 provided to secure a child's safety, permanency, and well-being,
20 including foster care services, family reunification services, adoption
21 services, and preparation for independent living services.

22 ~~((+12))~~ (13) "Primary prevention services" means services which
23 are designed and delivered for the primary purpose of enhancing child
24 and family well-being and are shown, by analysis of outcomes, to reduce
25 the risk to the likelihood of the initial need for child welfare
26 services.

27 ~~((+13))~~ (14) "Supervising agency" means an agency licensed by the
28 state under RCW 74.15.090, or licensed by a federally recognized Indian
29 tribe located in this state under RCW 74.15.190, that has entered into
30 a performance-based contract with the department to provide case
31 management for the delivery and documentation of child welfare
32 services, as defined in this section.

33 **Sec. 9.** RCW 74.13.031 and 2011 c 330 s 5 and 2011 c 160 s 2 are
34 each reenacted and amended to read as follows:

35 (1) The department and supervising agencies shall develop,
36 administer, supervise, and monitor a coordinated and comprehensive plan

1 that establishes, aids, and strengthens services for the protection and
2 care of runaway, dependent, or neglected children.

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

16 (3) The department shall investigate complaints of any recent act
17 or failure to act on the part of a parent or caretaker that results in
18 death, serious physical or emotional harm, or sexual abuse or
19 exploitation, or that presents an imminent risk of serious harm, and on
20 the basis of the findings of such investigation, offer child welfare
21 services in relation to the problem to such parents, legal custodians,
22 or persons serving in loco parentis, and/or bring the situation to the
23 attention of an appropriate court, or another community agency. An
24 investigation is not required of nonaccidental injuries which are
25 clearly not the result of a lack of care or supervision by the child's
26 parents, legal custodians, or persons serving in loco parentis. If the
27 investigation reveals that a crime against a child may have been
28 committed, the department shall notify the appropriate law enforcement
29 agency.

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

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

36 ((+5)) (6) The department or supervising agencies shall monitor
37 placements of children in out-of-home care and in-home dependencies to
38 assure the safety, well-being, and quality of care being provided is

1 within the scope of the intent of the legislature as defined in RCW
2 74.13.010 and 74.15.010. Under this section children in out-of-home
3 care and in-home dependencies and their caregivers shall receive a
4 private and individual face-to-face visit each month. The department
5 and the supervising agencies shall randomly select no less than ten
6 percent of the caregivers currently providing care to receive one
7 unannounced face-to-face visit in the caregiver's home per year. No
8 caregiver will receive an unannounced visit through the random
9 selection process for two consecutive years. If the caseworker makes
10 a good faith effort to conduct the unannounced visit to a caregiver and
11 is unable to do so, that month's visit to that caregiver need not be
12 unannounced. The department and supervising agencies are encouraged to
13 group monthly visits to caregivers by geographic area so that in the
14 event an unannounced visit cannot be completed, the caseworker may
15 complete other required monthly visits. The department shall use a
16 method of random selection that does not cause a fiscal impact to the
17 department.

18 The department or supervising agencies shall conduct the monthly
19 visits with children and caregivers to whom it is providing child
20 welfare services.

21 ~~((+6))~~ (7) The department and supervising agencies shall have
22 authority to accept custody of children from parents and to accept
23 custody of children from juvenile courts, where authorized to do so
24 under law, to provide child welfare services including placement for
25 adoption, to provide for the routine and necessary medical, dental, and
26 mental health care, or necessary emergency care of the children, and to
27 provide for the physical care of such children and make payment of
28 maintenance costs if needed. Except where required by Public Law 95-
29 608 (25 U.S.C. Sec. 1915), no private adoption agency which receives
30 children for adoption from the department shall discriminate on the
31 basis of race, creed, or color when considering applications in their
32 placement for adoption.

33 ~~((+7))~~ (8) The department and supervising agency shall have
34 authority to provide temporary shelter to children who have run away
35 from home and who are admitted to crisis residential centers.

36 ~~((+8))~~ (9) The department and supervising agency shall have
37 authority to purchase care for children.

1 ~~and~~) (7), and (8) of this section, subject to the limitations of these
2 subsections, may be provided by any program offering such services
3 funded pursuant to Titles II and III of the federal juvenile justice
4 and delinquency prevention act of 1974.

5 ~~((+14))~~ (15) Within amounts appropriated for this specific
6 purpose, the supervising agency or department shall provide preventive
7 services to families with children that prevent or shorten the duration
8 of an out-of-home placement.

9 ~~((+15))~~ (16) The department and supervising agencies shall have
10 authority to provide independent living services to youths, including
11 individuals who have attained eighteen years of age, and have not
12 attained twenty-one years of age who are or have been in foster care.

13 ~~((+16))~~ (17) The department and supervising agencies shall consult
14 at least quarterly with foster parents, including members of the foster
15 parent association of Washington state, for the purpose of receiving
16 information and comment regarding how the department and supervising
17 agencies are performing the duties and meeting the obligations
18 specified in this section and RCW 74.13.250 and 74.13.320 regarding the
19 recruitment of foster homes, reducing foster parent turnover rates,
20 providing effective training for foster parents, and administering a
21 coordinated and comprehensive plan that strengthens services for the
22 protection of children. Consultation shall occur at the regional and
23 statewide levels.

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

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

30 (ii) Sibling visits subject to the restrictions in RCW
31 13.34.136(2)(b)(ii);

32 (iii) Parent-child visits;

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

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

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

3 NEW SECTION. **Sec. 10.** The Washington state institute for public
4 policy shall conduct an evaluation of the implementation of the family
5 assessment response track. The institute shall define the data to be
6 gathered and maintained. At a minimum, the evaluations must address
7 child safety measures, out-of-home placement rates, re-referral rates,
8 and caseload sizes and demographics. The institute shall deliver its
9 first report no later than December 1, 2014, and its final report by
10 December 1, 2016.

11 NEW SECTION. **Sec. 11.** The department of social and health
12 services shall conduct two client satisfaction surveys of families that
13 have been placed in the family assessment response track. The first
14 survey results shall be reported no later than December 1, 2014. The
15 second survey results shall be reported no later than December 1, 2016.

16 **Sec. 12.** RCW 26.44.125 and 1998 c 314 s 9 are each amended to read
17 as follows:

18 (1) A person who is named as an alleged perpetrator after October
19 1, 1998, in a founded report of child abuse or neglect has the right to
20 seek review and amendment of the finding as provided in this section.

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

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

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

33 (c) That the alleged perpetrator has the right to submit to child
34 protective services a written response regarding the child protective

1 services finding which, if received, shall be filed in the department's
2 records;

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

7 (e) That founded allegations of child abuse or neglect may be used
8 by the department in determining:

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

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

14 (f) That founded allegations of child abuse or neglect may be used
15 by others only if the perpetrator consents to the release of the
16 information to another individual;

17 (g) That the alleged perpetrator has a right to challenge a founded
18 allegation of child abuse or neglect.

19 (3) If a request for review is not made as provided in this
20 subsection, the alleged perpetrator may not further challenge the
21 finding and shall have no right to agency review or to an adjudicative
22 hearing or judicial review of the finding, unless he or she can show
23 that the department did not comply with the notice requirements of RCW
24 26.44.100.

25 ((+3)) (4) Upon receipt of a written request for review, the
26 department shall review and, if appropriate, may amend the finding.
27 Management level staff within the children's administration designated
28 by the secretary shall be responsible for the review. The review must
29 be completed within thirty days after receiving the written request for
30 review. The review must be conducted in accordance with procedures the
31 department establishes by rule. Upon completion of the review, the
32 department shall notify the alleged perpetrator in writing of the
33 agency's determination. The notification must be sent by certified
34 mail, return receipt requested, to the person's last known address.

35 ((+4)) (5) If, following agency review, the report remains
36 founded, the person named as the alleged perpetrator in the report may
37 request an adjudicative hearing to contest the finding. The
38 adjudicative proceeding is governed by chapter 34.05 RCW and this

1 section. The request for an adjudicative proceeding must be filed
2 within thirty calendar days after receiving notice of the agency review
3 determination. If a request for an adjudicative proceeding is not made
4 as provided in this subsection, the alleged perpetrator may not further
5 challenge the finding and shall have no right to agency review or to an
6 adjudicative hearing or judicial review of the finding.

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

12 (6) The department may adopt rules to implement this section.

13 NEW SECTION. **Sec. 13.** Sections 1 through 11 of this act take
14 effect December 1, 2013."

2SHB 2289 - S COMM AMD

By Committee on Human Services & Corrections

15 On page 1, line 2 of the title, after "services;" strike the
16 remainder of the title and insert "amending RCW 26.44.030, 26.44.031,
17 26.44.050, and 26.44.125; reenacting and amending RCW 26.44.020,
18 74.13.020, and 74.13.031; adding new sections to chapter 26.44 RCW;
19 creating new sections; and providing an effective date."

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