

SSB 5991 - S AMD 130

By Senators Kohl-Welles, Hargrove, Carrell

ADOPTED 02/14/2012

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

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

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

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

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

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

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

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

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

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

34 (e) The reporting requirement also applies to guardians ad litem,
35 including court-appointed special advocates, appointed under Titles 11,
36 13, and 26 RCW, who in the course of their representation of children
37 in these actions have reasonable cause to believe a child has been
38 abused or neglected.

1 (f) The reporting requirement in (a) of this subsection also
2 applies to administrative and academic or athletic department
3 employees, including student employees, of institutions of higher
4 education, as defined in RCW 28B.10.016, and of private institutions of
5 higher education.

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

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

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

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

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

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

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

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

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

1 while the department proceeds with reasonable efforts to remedy
2 parenting deficiencies.

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

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

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

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

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

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

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

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

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

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

18 (13) If a report of alleged abuse or neglect is founded and
19 constitutes the third founded report received by the department within
20 the last twelve months involving the same child or family, the
21 department shall promptly notify the office of the family and
22 children's ombudsman of the contents of the report. The department
23 shall also notify the ombudsman of the disposition of the report.

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

27 (15) The department shall maintain investigation records and
28 conduct timely and periodic reviews of all founded cases of abuse and
29 neglect. The department shall maintain a log of screened-out
30 nonabusive cases.

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

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

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

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

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

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

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

27 (2) Institutions of higher education must ensure that the employees
28 covered by the provisions of RCW 26.44.030 and subsection (1)(a) of
29 this section have knowledge of their reporting responsibilities through
30 whatever means are most likely to succeed in providing this information
31 to affected employees."

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1 On page 1, line 1 of the title, after "neglect;" strike the
2 remainder of the title and insert "amending RCW 26.44.030; and adding
3 a new section to chapter 28B.10 RCW."

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