
ENGROSSED SUBSTITUTE HOUSE BILL 2331

State of Washington

62nd Legislature

2012 Regular Session

By House Early Learning & Human Services (originally sponsored by Representatives Dickerson, Darneille, Takko, Roberts, Pettigrew, Goodman, Jinkins, Miloscia, Ryu, Hurst, and Santos)

READ FIRST TIME 01/31/12.

1 AN ACT Relating to mandatory reporting regarding abuse or neglect;
2 and amending RCW 26.44.030 and 26.44.080.

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

4 **Sec. 1.** 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

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

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

14 For the purposes of this subsection, the following definitions
15 apply:

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

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

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

34 (d) The reporting requirement shall also apply to any adult who has
35 reasonable cause to believe that a child (~~who resides with them,~~) has
36 suffered severe abuse or neglect, and is able or capable of making a
37 report. For the purposes of this subsection, "severe abuse or neglect"
38 means any of the following: Any (~~single~~) act of abuse (~~that causes~~

1 ~~physical-trauma~~) of sufficient severity that(~~(,if-left-untreated,~~
2 ~~could-cause-death~~) causes significant bleeding, deep bruising,
3 significant external or internal swelling, bone fracture, or
4 unconsciousness; any act or acts of withholding basic necessities of
5 life that create or cause an imminent risk of substantial bodily harm;
6 or any ((single)) act of ((sexual-abuse-that-causes-significant
7 ~~bleeding, deep bruising, or significant external or internal swelling;~~
8 ~~or more than one act of physical abuse, each of which causes bleeding,~~
9 ~~deep-bruising, - significant - external - or - internal - swelling, - bone~~
10 ~~fracture,-or-unconscienceess))~~ intentionally touching the sexual or
11 other intimate parts of a child for the purpose of gratifying sexual
12 desire.

13 (e) The reporting requirement also applies to guardians ad litem,
14 including court-appointed special advocates, appointed under Titles 11,
15 13, and 26 RCW, who in the course of their representation of children
16 in these actions have reasonable cause to believe a child has been
17 abused or neglected.

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

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

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

32 (4) The department, upon receiving a report of an incident of
33 alleged abuse or neglect pursuant to this chapter, involving a child
34 who has died or has had physical injury or injuries inflicted upon him
35 or her other than by accidental means or who has been subjected to
36 alleged sexual abuse, shall report such incident to the proper law
37 enforcement agency. In emergency cases, where the child's welfare is
38 endangered, the department shall notify the proper law enforcement

1 agency within twenty-four hours after a report is received by the
2 department. In all other cases, the department shall notify the law
3 enforcement agency within seventy-two hours after a report is received
4 by the department. If the department makes an oral report, a written
5 report must also be made to the proper law enforcement agency within
6 five days thereafter.

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

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

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

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

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

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

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

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

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

34 (11)(a) For reports of alleged abuse or neglect that are accepted
35 for investigation by the department, the investigation shall be
36 conducted within time frames established by the department in rule. In
37 no case shall the investigation extend longer than ninety days from the
38 date the report is received, unless the investigation is being

1 conducted under a written protocol pursuant to RCW 26.44.180 and a law
2 enforcement agency or prosecuting attorney has determined that a longer
3 investigation period is necessary. At the completion of the
4 investigation, the department shall make a finding that the report of
5 child abuse or neglect is founded or unfounded.

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

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

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

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

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

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

1 (15) The department shall maintain investigation records and
2 conduct timely and periodic reviews of all founded cases of abuse and
3 neglect. The department shall maintain a log of screened-out
4 nonabusive cases.

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

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

16 (18) Upon receiving a report of alleged abuse or neglect involving
17 a child under the court's jurisdiction under chapter 13.34 RCW, the
18 department shall promptly notify the child's guardian ad litem of the
19 report's contents. The department shall also notify the guardian ad
20 litem of the disposition of the report. For purposes of this
21 subsection, "guardian ad litem" has the meaning provided in RCW
22 13.34.030.

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

25 Every person who is required to make, or to cause to be made, a
26 report pursuant to RCW 26.44.030 and 26.44.040, and who knowingly fails
27 to make, or fails to cause to be made, such report, shall be guilty of
28 a ((~~gross~~)) misdemeanor.

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