
HOUSE BILL 1844

State of Washington

63rd Legislature

2013 Regular Session

By Representatives Kagi, Ryu, Tharinger, and Freeman

Read first time 02/12/13. Referred to Committee on Early Learning & Human Services.

1 AN ACT Relating to family assessment response in child protective
2 services; amending RCW 26.44.270; reenacting and amending RCW
3 26.44.030; adding a new section to chapter 26.44 RCW; repealing 2012 c
4 259 ss 9 and 10 (uncodified); and providing an effective date.

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

6 **Sec. 1.** RCW 26.44.030 and 2012 c 259 s 3 and 2012 c 55 s 1 are
7 each reenacted and amended to read as follows:

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

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

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

16 For the purposes of this subsection, the following definitions
17 apply:

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

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

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

36 (d) The reporting requirement shall also apply to any adult who has
37 reasonable cause to believe that a child who resides with them, has
38 suffered severe abuse, and is able or capable of making a report. For

1 the purposes of this subsection, "severe abuse" means any of the
2 following: Any single act of abuse that causes physical trauma of
3 sufficient severity that, if left untreated, could cause death; any
4 single act of sexual abuse that causes significant bleeding, deep
5 bruising, or significant external or internal swelling; or more than
6 one act of physical abuse, each of which causes bleeding, deep
7 bruising, significant external or internal swelling, bone fracture, or
8 unconsciousness.

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

14 (f) The reporting requirement in (a) of this subsection also
15 applies to administrative and academic or athletic department
16 employees, including student employees, of institutions of higher
17 education, as defined in RCW 28B.10.016, and of private institutions of
18 higher education.

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

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

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

33 (4) The department, upon 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 to the proper law
38 enforcement agency. In emergency cases, where the child's welfare is

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

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

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

28 (7) The department may conduct ongoing case planning and
29 consultation with those persons or agencies required to report under
30 this section, with consultants designated by the department, and with
31 designated representatives of Washington Indian tribes if the client
32 information exchanged is pertinent to cases currently receiving child
33 protective services. Upon request, the department shall conduct such
34 planning and consultation with those persons required to report under
35 this section if the department determines it is in the best interests
36 of the child. Information considered privileged by statute and not
37 directly related to reports required by this section must not be
38 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) Upon receiving a report of alleged abuse or neglect, the
35 department shall use one of the following discrete responses to reports
36 of child abuse or neglect that are screened in and accepted for
37 departmental response:

38 (i) Investigation; or

1 (ii) Family assessment.

2 (b) In making the response in (a) of this subsection the department
3 shall:

4 (i) Use a method by which to assign cases to investigation or
5 family assessment which are based on an array of factors that may
6 include the presence of: Imminent danger, level of risk, number of
7 previous child abuse or neglect reports, or other presenting case
8 characteristics, such as the type of alleged maltreatment and the age
9 of the alleged victim. Age of the alleged victim shall not be used as
10 the sole criterion for determining case assignment;

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

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

15 (iv) Provide a full investigation if a family refuses the initial
16 family assessment;

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

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

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

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

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

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

37 (E) The child is an adjudicated dependent child as defined in RCW

1 13.34.030, or the child is in a facility that is licensed, operated, or
2 certified for care of children by the department under chapter 74.15
3 RCW, or by the department of early learning.

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

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

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

24 (13) For reports of alleged abuse or neglect that are responded to
25 through family assessment response, the department shall:

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

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

32 (c) Complete the family assessment response within forty-five days
33 of receiving the report; however, upon parental agreement, the family
34 assessment response period may be extended up to ~~((ninety))~~ one hundred
35 twenty days if the family is referred to a specific service that
36 requires longer than forty-five days for successful completion;

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

1 (e) Implement the family assessment response in a consistent and
2 cooperative manner;

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

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

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

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

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

37 (16) In investigating and responding to allegations of child abuse

1 and neglect, the department may conduct background checks as authorized
2 by state and federal law.

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

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

11 (18) The department shall use a risk assessment process when
12 investigating alleged child abuse and neglect referrals. The
13 department shall present the risk factors at all hearings in which the
14 placement of a dependent child is an issue. Substance abuse must be a
15 risk factor.

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

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

27 **Sec. 2.** RCW 26.44.270 and 2012 c 259 s 6 are each amended to read
28 as follows:

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

33 (2) If the parent or guardian disagrees with the department's
34 recommendation regarding the provision of services, the department
35 shall convene a family team decision-making meeting or a shared
36 planning meeting to discuss the recommendations and objections. The

1 caseworker's supervisor and area administrator shall attend the
2 meeting, if the caseworker's supervisor or area administrator is needed
3 to resolve the disagreement.

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

7 NEW SECTION. Sec. 3. A new section is added to chapter 26.44 RCW
8 to read as follows:

9 (1) The department shall implement and maintain its family
10 assessment response consistent with the requirements and conditions
11 outlined in the approved federal Title IV-E waiver and any required
12 federal Title IV-E evaluation process.

13 (2) In order to fully evaluate the effectiveness of the family
14 assessment response, the department's evaluation must be conducted in
15 a manner that maintains a control group. If a family is assigned to a
16 control group, the family is not eligible to participate in the family
17 assessment response services.

18 (3) Nothing in this section creates an entitlement to the family
19 assessment response services.

20 NEW SECTION. Sec. 4. 2012 c 259 ss 9 and 10 (uncodified) are each
21 repealed.

22 NEW SECTION. Sec. 5. Sections 1 through 3 of this act take effect
23 December 1, 2013.

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