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HOUSE BILL 1825

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State of Washington

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2017 Regular Session

**By** Representatives Senn, Dent, Kilduff, Muri, Sawyer, Klippert, Ortiz-Self, Kagi, Goodman, Ormsby, and Fey; by request of Department of Social and Health Services

Read first time 01/31/17. Referred to Committee on Early Learning & Human Services.

1 AN ACT Relating to extending the timeline for completing a family  
2 assessment response, allowing the department of social and health  
3 services to complete a family assessment response upon the verbal  
4 agreement of a parent to participate, and defining disqualifying  
5 crimes; and amending RCW 26.44.030.

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

7 **Sec. 1.** RCW 26.44.030 and 2016 c 166 s 4 are each amended to  
8 read as follows:

9 (1)(a) When any practitioner, county coroner or medical examiner,  
10 law enforcement officer, professional school personnel, registered or  
11 licensed nurse, social service counselor, psychologist, pharmacist,  
12 employee of the department of early learning, licensed or certified  
13 child care providers or their employees, employee of the department,  
14 juvenile probation officer, placement and liaison specialist,  
15 responsible living skills program staff, HOPE center staff, state  
16 family and children's ombuds or any volunteer in the ombuds's office,  
17 or host home program has reasonable cause to believe that a child has  
18 suffered abuse or neglect, he or she shall report such incident, or  
19 cause a report to be made, to the proper law enforcement agency or to  
20 the department as 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  
7 have 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  
10 a child or children as part of the employment, contract, or voluntary  
11 service. No one shall be required to report under this section when  
12 he 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-  
20 profit organization, either for financial gain or without financial  
21 gain, whose scope includes, but is not limited to, overseeing,  
22 directing, or managing another person who is employed by, contracted  
23 by, or volunteers with the nonprofit or for-profit organization.

24 (ii) "Organization" includes a sole proprietor, partnership,  
25 corporation, limited liability company, trust, association, financial  
26 institution, governmental entity, other than the federal government,  
27 and any other individual or group engaged in a trade, occupation,  
28 enterprise, governmental function, charitable function, or similar  
29 activity in this state whether or not the entity is operated as a  
30 nonprofit or for-profit entity.

31 (iii) "Reasonable cause" means a person witnesses or receives a  
32 credible written or oral report alleging abuse, including sexual  
33 contact, or neglect of a child.

34 (iv) "Regularly exercises supervisory authority" means to act in  
35 his or her official supervisory capacity on an ongoing or continuing  
36 basis with regards to a particular person.

37 (v) "Sexual contact" has the same meaning as in RCW 9A.44.010.

38 (c) The reporting requirement also applies to department of  
39 corrections personnel who, in the course of their employment, observe  
40 offenders or the children with whom the offenders are in contact. If,

1 as a result of observations or information received in the course of  
2 his or her employment, any department of corrections personnel has  
3 reasonable cause to believe that a child has suffered abuse or  
4 neglect, he or she shall report the incident, or cause a report to be  
5 made, to the proper law enforcement agency or to the department as  
6 provided in RCW 26.44.040.

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

18 (e) The reporting requirement also applies to guardians ad litem,  
19 including court-appointed special advocates, appointed under Titles  
20 11 and 13 RCW and this title, who in the course of their  
21 representation of children in these actions have reasonable cause to  
22 believe a child has been abused or neglected.

23 (f) The reporting requirement in (a) of this subsection also  
24 applies to administrative and academic or athletic department  
25 employees, including student employees, of institutions of higher  
26 education, as defined in RCW 28B.10.016, and of private institutions  
27 of higher education.

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

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

39 (3) Any other person who has reasonable cause to believe that a  
40 child has suffered abuse or neglect may report such incident to the

1 proper law enforcement agency or to the department of social and  
2 health services as provided in RCW 26.44.040.

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

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

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

37 (7) The department may conduct ongoing case planning and  
38 consultation with those persons or agencies required to report under  
39 this section, with consultants designated by the department, and with  
40 designated representatives of Washington Indian tribes if the client

1 information exchanged is pertinent to cases currently receiving child  
2 protective services. Upon request, the department shall conduct such  
3 planning and consultation with those persons required to report under  
4 this section if the department determines it is in the best interests  
5 of the child. Information considered privileged by statute and not  
6 directly related to reports required by this section must not be  
7 divulged without a valid written waiver of the privilege.

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

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

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

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

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

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

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

- 5 (i) Investigation; or
- 6 (ii) Family assessment.

7 (b) In making the response in (a) of this subsection the  
8 department shall:

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

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

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

20 (iv) Provide a full investigation if a family refuses the initial  
21 family assessment;

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

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

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

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

1 (C) Constitutes conduct involving a criminal offense that is  
2 within the categories of disqualifying crimes described in the  
3 adoption and safe families act of 1997, codified at 42 U.S.C. Sec.  
4 671, that has, or is about to occur, in which the child is the  
5 victim;

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

7 (E) The child is an adjudicated dependent child as defined in RCW  
8 13.34.030, or the child is in a facility that is licensed, operated,  
9 or certified for care of children by the department under chapter  
10 74.15 RCW, or by the department of early learning.

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

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

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

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

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

37 (b) Collaborate with the family to identify family strengths,  
38 resources, and service needs, and develop a service plan with the  
39 goal of reducing risk of harm to the child and improving or restoring  
40 family well-being;

1 (c) Complete the family assessment response within (~~forty-five~~)  
2 ninety days of receiving the report; however, upon parental  
3 agreement, the family assessment response period may be extended (~~up~~  
4 ~~to ninety days~~) for services essential to reducing risk of harm to  
5 the child and improving or restoring family well-being;

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

8 (e) Implement the family assessment response in a consistent and  
9 cooperative manner;

10 (f) Have the parent or guardian (~~sign an agreement~~) agree to  
11 participate in services before services are initiated (~~that~~). The  
12 department shall inform(~~s~~) the parents of their rights under family  
13 assessment response, all of their options, and the options the  
14 department has if the parents do not (~~sign the consent form~~) agree  
15 to participate in services.

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

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

37 (ii) Shall have access to all relevant records of the child in  
38 the possession of mandated reporters and their employees.

39 (b) The Washington state school directors' association shall  
40 adopt a model policy addressing protocols when an interview, as



1 authorized by this subsection, is conducted on school premises. In  
2 formulating its policy, the association shall consult with the  
3 department and the Washington association of sheriffs and police  
4 chiefs.

5 (15) If a report of alleged abuse or neglect is founded and  
6 constitutes the third founded report received by the department  
7 within the last twelve months involving the same child or family, the  
8 department shall promptly notify the office of the family and  
9 children's ombuds of the contents of the report. The department shall  
10 also notify the ombuds of the disposition of the report.

11 (16) In investigating and responding to allegations of child  
12 abuse and neglect, the department may conduct background checks as  
13 authorized by state and federal law.

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

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

22 (18) The department shall use a risk assessment process when  
23 investigating alleged child abuse and neglect referrals. The  
24 department shall present the risk factors at all hearings in which  
25 the placement of a dependent child is an issue. Substance abuse must  
26 be a risk factor.

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

31 (20) Upon receiving a report of alleged abuse or neglect  
32 involving a child under the court's jurisdiction under chapter 13.34  
33 RCW, the department shall promptly notify the child's guardian ad  
34 litem of the report's contents. The department shall also notify the  
35 guardian ad litem of the disposition of the report. For purposes of  
36 this subsection, "guardian ad litem" has the meaning provided in RCW  
37 13.34.030.

38 (21) The department shall make efforts as soon as practicable to  
39 determine the military status of parents whose children are subject  
40 to abuse or neglect allegations. If the department determines that a

1 parent or guardian is in the military, the department shall notify a  
2 department of defense family advocacy program that there is an  
3 allegation of abuse and neglect that is screened in and open for  
4 investigation that relates to that military parent or guardian.

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