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By Representatives Chambers, Paul, Dent, Van Werven, Thai, Eslick, Lekanoff, Corry, Shewmake, and Frame

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1 AN ACT Relating to mandatory reporting of child abuse and
2 neglect; amending RCW 26.44.080 and 26.44.030; and prescribing
3 penalties.

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

5 **Sec. 1.** RCW 26.44.080 and 1982 c 129 s 10 are each amended to
6 read as follows:

7 (1)(a) Every person who is required to make, or to cause to be
8 made, a report pursuant to RCW 26.44.030 and 26.44.040, and who
9 knowingly fails to make, or knowingly fails to cause to be made, such
10 report, shall be guilty of a ((gross)) misdemeanor.

11 (b) Any person who knowingly obstructs the duty of a mandatory
12 reporter to make a report pursuant to RCW 26.44.030 and 26.44.040
13 shall be guilty of a gross misdemeanor.

14 (2) A class 1 civil infraction may be issued pursuant to chapter
15 7.80 RCW to any person who is required to make, or to cause to be
16 made, a report pursuant to RCW 26.44.030 and 26.44.040, and fails to
17 make, or fails to cause to be made, such report, due to negligence,
18 which shall be served by a notice of infraction in accordance with
19 infraction rules included in chapter 7.80 RCW.

20 (3) In addition to the options provided under RCW 7.80.080 and in
21 response to the infraction established under subsection (2) of this

1 section, a court may defer findings, or in a hearing to explain
2 mitigating circumstances may defer entry of its order, for up to one
3 year and impose conditions upon the defendant that the court deems
4 appropriate. Upon deferring its findings, the court may assess costs
5 as the court deems appropriate for administrative processing. If at
6 the end of the deferral period the defendant has met all conditions
7 and has not been determined to have committed another infraction
8 under subsection (2) of this section, the court may dismiss the
9 infraction.

10 **Sec. 2.** RCW 26.44.030 and 2018 c 77 s 1 are each amended to read
11 as follows:

12 (1)(a) When any practitioner, county coroner or medical examiner,
13 law enforcement officer, professional school personnel, registered or
14 licensed nurse, social service counselor, psychologist, pharmacist,
15 employee of the department of children, youth, and families, licensed
16 or certified child care providers or their employees, employee of the
17 department of social and health services, juvenile probation officer,
18 placement and liaison specialist, responsible living skills program
19 staff, HOPE center staff, state family and children's ombuds or any
20 volunteer in the ombuds's office, or host home program has reasonable
21 cause to believe that a child has suffered abuse or neglect, he or
22 she shall report such incident, or cause a report to be made, to the
23 proper law enforcement agency or to the department as provided in RCW
24 26.44.040.

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

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

1 For the purposes of this subsection, the following definitions
2 apply:

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

9 (ii) "Organization" includes a sole proprietor, partnership,
10 corporation, limited liability company, trust, association, financial
11 institution, governmental entity, other than the federal government,
12 and any other individual or group engaged in a trade, occupation,
13 enterprise, governmental function, charitable function, or similar
14 activity in this state whether or not the entity is operated as a
15 nonprofit or for-profit entity.

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

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

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

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

32 (d) The reporting requirement shall also apply to any adult who
33 has reasonable cause to believe that a child who resides with them,
34 has suffered severe abuse, and is able or capable of making a report.
35 For the purposes of this subsection, "severe abuse" means any of the
36 following: Any single act of abuse that causes physical trauma of
37 sufficient severity that, if left untreated, could cause death; any
38 single act of sexual abuse that causes significant bleeding, deep
39 bruising, or significant external or internal swelling; or more than
40 one act of physical abuse, each of which causes bleeding, deep

1 bruising, significant external or internal swelling, bone fracture,
2 or unconsciousness.

3 (e) The reporting requirement also applies to guardians ad litem,
4 including court-appointed special advocates, appointed under Titles
5 11 and 13 RCW and this title, who in the course of their
6 representation of children in these actions have reasonable cause to
7 believe a child has been abused or neglected.

8 (f) The reporting requirement in (a) of this subsection also
9 applies to administrative and academic or athletic department
10 employees, including student employees, of institutions of higher
11 education, as defined in RCW 28B.10.016, and of private institutions
12 of higher education.

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

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

24 (3) Any other person who has reasonable cause to believe that a
25 child has suffered abuse or neglect may report such incident to the
26 proper law enforcement agency or to the department as provided in RCW
27 26.44.040.

28 (4) The department, upon receiving a report of an incident of
29 alleged abuse or neglect pursuant to this chapter, involving a child
30 who has died or has had physical injury or injuries inflicted upon
31 him or her other than by accidental means or who has been subjected
32 to alleged sexual abuse, shall report such incident to the proper law
33 enforcement agency, including military law enforcement, if
34 appropriate. In emergency cases, where the child's welfare is
35 endangered, the department shall notify the proper law enforcement
36 agency within twenty-four hours after a report is received by the
37 department. In all other cases, the department shall notify the law
38 enforcement agency within seventy-two hours after a report is
39 received by the department. If the department makes an oral report, a

1 written report must also be made to the proper law enforcement agency
2 within five days thereafter.

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

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

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

34 (8) Any case referred to the department by a physician licensed
35 under chapter 18.57 or 18.71 RCW on the basis of an expert medical
36 opinion that child abuse, neglect, or sexual assault has occurred and
37 that the child's safety will be seriously endangered if returned
38 home, the department shall file a dependency petition unless a second
39 licensed physician of the parents' choice believes that such expert
40 medical opinion is incorrect. If the parents fail to designate a

1 second physician, the department may make the selection. If a
2 physician finds that a child has suffered abuse or neglect but that
3 such abuse or neglect does not constitute imminent danger to the
4 child's health or safety, and the department agrees with the
5 physician's assessment, the child may be left in the parents' home
6 while the department proceeds with reasonable efforts to remedy
7 parenting deficiencies.

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

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

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

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

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

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

31 (i) Investigation; or

32 (ii) Family assessment.

33 (b) In making the response in (a) of this subsection the
34 department shall:

35 (i) Use a method by which to assign cases to investigation or
36 family assessment which are based on an array of factors that may
37 include the presence of: Imminent danger, level of risk, number of
38 previous child abuse or neglect reports, or other presenting case
39 characteristics, such as the type of alleged maltreatment and the age

1 of the alleged victim. Age of the alleged victim shall not be used as
2 the sole criterion for determining case assignment;

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

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

7 (iv) Provide a full investigation if a family refuses the initial
8 family assessment;

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

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

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

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

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

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

30 (E) The child is an adjudicated dependent child as defined in RCW
31 13.34.030, or the child is in a facility that is licensed, operated,
32 or certified for care of children by the department under chapter
33 74.15 RCW.

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

39 (12)(a) For reports of alleged abuse or neglect that are accepted
40 for investigation by the department, the investigation shall be

1 conducted within time frames established by the department in rule.
2 In no case shall the investigation extend longer than ninety days
3 from the date the report is received, unless the investigation is
4 being conducted under a written protocol pursuant to RCW 26.44.180
5 and a law enforcement agency or prosecuting attorney has determined
6 that a longer investigation period is necessary. At the completion of
7 the investigation, the department shall make a finding that the
8 report of child abuse or neglect is founded or unfounded.

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

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

17 (a) Provide the family with a written explanation of the
18 procedure for assessment of the child and the family and its
19 purposes;

20 (b) Collaborate with the family to identify family strengths,
21 resources, and service needs, and develop a service plan with the
22 goal of reducing risk of harm to the child and improving or restoring
23 family well-being;

24 (c) Complete the family assessment response within forty-five
25 days of receiving the report; however, upon parental agreement, the
26 family assessment response period may be extended up to one hundred
27 twenty days. The department's extension of the family assessment
28 response period must be operated within the department's
29 appropriations;

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

32 (e) Implement the family assessment response in a consistent and
33 cooperative manner;

34 (f) Have the parent or guardian agree to participate in services
35 before services are initiated. The department shall inform the
36 parents of their rights under family assessment response, all of
37 their options, and the options the department has if the parents do
38 not agree to participate in services.

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

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

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

22 (b) The Washington state school directors' association shall
23 adopt a model policy addressing protocols when an interview, as
24 authorized by this subsection, is conducted on school premises. In
25 formulating its policy, the association shall consult with the
26 department and the Washington association of sheriffs and police
27 chiefs.

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

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

37 (17)(a) The department shall maintain investigation records and
38 conduct timely and periodic reviews of all founded cases of abuse and
39 neglect. The department shall maintain a log of screened-out
40 nonabusive cases.

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

5 (18) 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
8 the placement of a dependent child is an issue. Substance abuse must
9 be a risk factor.

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

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

21 (21) The department shall make efforts as soon as practicable to
22 determine the military status of parents whose children are subject
23 to abuse or neglect allegations. If the department determines that a
24 parent or guardian is in the military, the department shall notify a
25 department of defense family advocacy program that there is an
26 allegation of abuse and neglect that is screened in and open for
27 investigation that relates to that military parent or guardian.

28 (22) The department shall make available on its public web site a
29 downloadable and printable poster that includes the reporting
30 requirements included in this section. The poster must be no smaller
31 than eight and one-half by eleven inches with all information on one
32 side. The poster must be made available in both the English and
33 Spanish languages. Organizations that include employees or volunteers
34 subject to the reporting requirements of this section must clearly
35 display this poster in a common area. At a minimum, this poster must
36 include the following:

- 37 (a) Who is required to report child abuse and neglect;
- 38 (b) The standard of knowledge to justify a report;
- 39 (c) The definition of reportable crimes;
- 40 (d) Where to report suspected child abuse and neglect; and

1 (e) What should be included in a report and the appropriate
2 timing.

3 (23) State contracts with youth-serving organizations shall
4 include a requirement that youth-serving organizations provide a
5 signed acknowledgment of the organization's compliance with the
6 mandatory reporter posting law contained in subsection (22) of this
7 section.

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