
SUBSTITUTE SENATE BILL 5971

State of Washington

62nd Legislature

2012 Regular Session

By Senate Human Services & Corrections (originally sponsored by Senators Carrell, Stevens, and Swecker)

READ FIRST TIME 02/03/12.

1 AN ACT Relating to mandatory reporting of child abuse or neglect by
2 supervised persons; and amending RCW 26.44.030.

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

29 (iii) "Reasonable cause" means a person witnesses or receives a
30 credible written or oral report alleging abuse, including sexual
31 contact, or neglect of a child by another over whom the person
32 regularly exercises supervisory authority.

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

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

37 (c) The reporting requirement also applies to department of
38 corrections personnel who, in the course of their employment, observe

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

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

19 (e) The reporting requirement also applies to guardians ad litem,
20 including court-appointed special advocates, appointed under Titles 11,
21 13, and 26 RCW, who in the course of their representation of children
22 in these actions have reasonable cause to believe a child has been
23 abused or neglected.

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

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

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

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

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

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

34 (7) The department may conduct ongoing case planning and
35 consultation with those persons or agencies required to report under
36 this section, with consultants designated by the department, and with
37 designated representatives of Washington Indian tribes if the client
38 information exchanged is pertinent to cases currently receiving child

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

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

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

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

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

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

37 (c) The department has a prior founded report of abuse or neglect

1 with regard to a member of the household that is within three years of
2 receipt of the referral.

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

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

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

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

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

36 (13) If a report of alleged abuse or neglect is founded and
37 constitutes the third founded report received by the department within
38 the last twelve months involving the same child or family, the

1 department shall promptly notify the office of the family and
2 children's ombudsman of the contents of the report. The department
3 shall also notify the ombudsman of the disposition of the report.

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

7 (15) The department shall maintain investigation records and
8 conduct timely and periodic reviews of all founded cases of abuse and
9 neglect. The department shall maintain a log of screened-out
10 nonabusive cases.

11 (16) 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. The department shall, within funds appropriated for this
16 purpose, offer enhanced community-based services to persons who are
17 determined not to require further state intervention.

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

22 (18) Upon receiving a report of alleged abuse or neglect involving
23 a child under the court's jurisdiction under chapter 13.34 RCW, the
24 department shall promptly notify the child's guardian ad litem of the
25 report's contents. The department shall also notify the guardian ad
26 litem of the disposition of the report. For purposes of this
27 subsection, "guardian ad litem" has the meaning provided in RCW
28 13.34.030.

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