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**ENGROSSED SUBSTITUTE SENATE BILL 5991**

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**State of Washington**

**62nd Legislature**

**2012 Regular Session**

**By** Senate Human Services & Corrections (originally sponsored by Senators Kohl-Welles, Carrell, Tom, Hill, Hargrove, Conway, Haugen, Fraser, Litzow, Kline, Fain, Roach, and Frockt)

READ FIRST TIME 02/03/12.

1       AN ACT Relating to reporting child abuse or neglect; amending RCW  
2 26.44.030; and adding a new section to chapter 28B.10 RCW.

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, and is able or capable of making a report. For  
37 the purposes of this subsection, "severe abuse" means any of the  
38 following: Any single act of abuse that causes physical trauma of

1 sufficient severity that, if left untreated, could cause death; any  
2 single act of sexual abuse that causes significant bleeding, deep  
3 bruising, or significant external or internal swelling; or more than  
4 one act of physical abuse, each of which causes bleeding, deep  
5 bruising, significant external or internal swelling, bone fracture, or  
6 unconsciousness.

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

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

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

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

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

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

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

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

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

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

37 (8) Any case referred to the department by a physician licensed  
38 under chapter 18.57 or 18.71 RCW on the basis of an expert medical

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

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

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

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

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

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

32 (11)(a) For reports of alleged abuse or neglect that are accepted  
33 for investigation by the department, the investigation shall be  
34 conducted within time frames established by the department in rule. In  
35 no case shall the investigation extend longer than ninety days from the  
36 date the report is received, unless the investigation is being  
37 conducted under a written protocol pursuant to RCW 26.44.180 and a law  
38 enforcement agency or prosecuting attorney has determined that a longer

1 investigation period is necessary. At the completion of the  
2 investigation, the department shall make a finding that the report of  
3 child abuse or neglect is founded or unfounded.

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

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

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

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

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

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

36 (15) The department shall maintain investigation records and  
37 conduct timely and periodic reviews of all founded cases of abuse and

1 neglect. The department shall maintain a log of screened-out  
2 nonabusive cases.

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

10 (17) 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 (18) Upon receiving a report of alleged abuse or neglect involving  
15 a child under the court's jurisdiction under chapter 13.34 RCW, the  
16 department shall promptly notify the child's guardian ad litem of the  
17 report's contents. The department shall also notify the guardian ad  
18 litem of the disposition of the report. For purposes of this  
19 subsection, "guardian ad litem" has the meaning provided in RCW  
20 13.34.030.

21 NEW SECTION. **Sec. 2.** A new section is added to chapter 28B.10 RCW  
22 to read as follows:

23 (1)(a) All employees of institutions of higher education, not  
24 considered academic or athletic department employees, who have  
25 reasonable cause to believe a child has suffered abuse or neglect, must  
26 report such abuse or neglect immediately to the appropriate  
27 administrator or supervisor, as designated by the institution. The  
28 administrator or supervisor to whom the report was made, if not already  
29 a mandatory reporter under RCW 26.44.030, must report the abuse or  
30 neglect within forty-eight hours to a mandatory reporter designated by  
31 the institution for this purpose.

32 (b) For purposes of this section, "child" has the same meaning as  
33 in RCW 26.44.020(2).

34 (c) For purposes of this section, "abuse or neglect" has the same  
35 meaning as in RCW 26.44.020(1).

36 (2) Institutions of higher education must ensure that the employees  
37 covered by the provisions of RCW 26.44.030 and subsection (1)(a) of

1 this section have knowledge of their reporting responsibilities through  
2 whatever means are most likely to succeed in providing this information  
3 to affected employees.

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