

SHB 2331 - H AMD 971

By Representative Walsh

FAILED 02/09/2012

1 Strike everything after the enacting clause and insert the  
2 following:

3  
4 **"Sec. 1.** RCW 26.44.030 and 2009 c 480 s 1 are each amended to  
5 read 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  
20 believe that a child has suffered abuse or neglect caused by a person  
21 over whom he or she regularly exercises supervisory authority, he or  
22 she shall report such incident, or cause a report to be made, to the  
23 proper law enforcement agency, provided that the person alleged to  
24 have caused the abuse or neglect is employed by, contracted by, or  
25 volunteers with the organization and coaches, trains, educates, or  
26 counsels a child or children or regularly has unsupervised access to a  
27 child or children as part of the employment, contract, or voluntary

1 service. No one shall be required to report under this section when  
2 he or she obtains the information solely as a result of a privileged  
3 communication as provided in RCW 5.60.060.

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

6 For the purposes of this subsection, the following definitions  
7 apply:

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

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

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

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

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

3 (e) The reporting requirement also applies to guardians ad litem,  
4 including court-appointed special advocates, appointed under Titles  
5 11, 13, and 26 RCW, who in the course of their representation of  
6 children in these actions have reasonable cause to believe a child has  
7 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, who, through observations made or information  
13 received during the course of their employment, have reasonable cause  
14 to believe that a child has suffered abuse or neglect.

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

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

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

29 (4) The department, upon receiving a report of an incident of  
30 alleged abuse or neglect pursuant to this chapter, involving a child  
31 who has died or has had physical injury or injuries inflicted upon him  
32 or her other than by accidental means or who has been subjected to  
33 alleged sexual abuse, shall report such incident to the proper law  
34 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  
9 of alleged abuse or neglect pursuant to this chapter, involving a  
10 child who has died or has had physical injury or injuries inflicted  
11 upon him or her other than by accidental means, or who has been  
12 subjected to alleged sexual abuse, shall report such incident in  
13 writing as provided in RCW 26.44.040 to the proper county prosecutor  
14 or city attorney for appropriate action whenever the law enforcement  
15 agency's investigation reveals that a crime may have been committed.  
16 The law enforcement agency shall also notify the department of all  
17 reports received and the law enforcement agency's disposition of them.  
18 In emergency cases, where the child's welfare is endangered, the law  
19 enforcement agency shall notify the department within twenty-four  
20 hours. In all other cases, the law enforcement agency shall notify  
21 the department within seventy-two hours after a report is received by  
22 the law enforcement agency.

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

1 this section if the department determines it is in the best interests  
2 of the child. Information considered privileged by statute and not  
3 directly related to reports required by this section must not be  
4 divulged without a valid written waiver of the privilege.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34

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

3 (1)(a) All employees of institutions of higher education, not  
4 considered academic or athletic department employees, who, through  
5 observations made or information received during the course of their  
6 employment, have reasonable cause to believe a child has suffered  
7 abuse or neglect, must report such abuse or neglect immediately to the  
8 appropriate administrator or supervisor, as designated by the  
9 institution. The administrator or supervisor to whom the report was  
10 made, if not already a mandatory reporter under RCW 26.44.030, must  
11 report the abuse or neglect within forty-eight hours to a mandatory  
12 reporter designated by the institution for this purpose.

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

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

17 (2) Institutions of higher education must ensure that the  
18 employees covered by the provisions of RCW 26.44.030 and subsection  
19 (1)(a) of this section have knowledge of their reporting  
20 responsibilities through whatever means are most likely to succeed in  
21 providing this information to affected employees.

22  
23 NEW SECTION. **Sec. 3.** A new section is added to chapter 28B.10  
24 RCW to read as follows:

25 (1) An employee of an institution of higher education who has  
26 knowledge or reasonable cause to believe that a child has been a  
27 victim of physical abuse or sexual misconduct by another employee of  
28 the institution of higher education shall report such abuse or  
29 misconduct to the appropriate administrator of the institution. The  
30 administrator shall cause a report to be made to the proper law  
31 enforcement agency if he or she has reasonable cause to believe that  
32 misconduct or abuse has occurred. During the process of making a  
33 reasonable cause determination, the administrator shall contact all  
34 parties involved in the complaint.

1 (2) Nothing in this section changes any of the duties established  
2 under RCW 26.44.030."

3

4 Correct the title.

5

EFFECT: (1) Removes language that requires any adult to report when the adult has reasonable cause to believe that a child has suffered "severe abuse or neglect" and reinstates existing statutory language that requires an adult to report "severe abuse" and only if a child resides with the adult.

(2) Removes the definition of "severe abuse or neglect" which is defined as "any act of abuse of sufficient severity that causes significant bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness; any act or acts of withholding basic necessities of life that create or cause an imminent risk of substantial bodily harm or any act of intentionally touching the sexual or other intimate parts of a child for the purpose of gratifying sexual desire."

(3) Reinstates existing statutory language of the mandatory reporting statute that defines "severe abuse" as "any single act of abuse that causes physical trauma of sufficient severity that if left untreated, could cause death; any single act of sexual abuse that causes significant bleeding, deep bruising, or significant external or internal swelling; or more than one act of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness."

(4) Adds language creating a new category of mandatory reporters that includes administrative and academic or athletic department employees, including students, of higher education institutions, who observe or receive information during the course of their employment or otherwise have reasonable cause to believe that a child has suffered abuse or neglect.

(5) Adds language requiring that employees of higher education institutions who are not academic or athletic department employees who, during the course of their employment, have reasonable cause to believe that a child has suffered abuse or neglect to immediately report to the appropriate administrator or supervisor.

(6) Adds language requiring an administrator or supervisor of a higher education institution, to whom a report is made, to report abuse or neglect within 48 hours to a mandatory reporter.

(7) Adds language requiring higher education institutions to ensure that employees are informed of their reporting responsibilities.

(8) Adds language requiring employees of higher education institutions who have knowledge or reasonable cause to believe that a child has been a victim of physical abuse or sexual misconduct to report to an appropriate administrator, and requiring the administrator to report to the proper law enforcement agency if the administrator, after contacting all parties involved, has reasonable cause to believe that misconduct or abuse has occurred.

--- END ---