
SUBSTITUTE SENATE BILL 6555

State of Washington 62nd Legislature 2012 Regular Session

By Senate Human Services & Corrections (originally sponsored by Senators Hargrove, Shin, and Roach)

READ FIRST TIME 02/03/12.

1 AN ACT Relating to child protective services; amending RCW
2 26.44.030, 26.44.031, 26.44.050, and 26.44.125; reenacting and amending
3 RCW 26.44.020, 74.13.020, and 74.13.031; adding new sections to chapter
4 26.44 RCW; creating new sections; and providing an effective date.

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

6 **Sec. 1.** RCW 26.44.020 and 2010 c 176 s 1 are each reenacted and
7 amended to read as follows:

8 The definitions in this section apply throughout this chapter
9 unless the context clearly requires otherwise.

10 (1) "Abuse or neglect" means sexual abuse, sexual exploitation, or
11 injury of a child by any person under circumstances which cause harm to
12 the child's health, welfare, or safety, excluding conduct permitted
13 under RCW 9A.16.100; or the negligent treatment or maltreatment of a
14 child by a person responsible for or providing care to the child. An
15 abused child is a child who has been subjected to child abuse or
16 neglect as defined in this section.

17 (2) "Child" or "children" means any person under the age of
18 eighteen years of age.

1 (3) "Child protective services" means those services provided by
2 the department designed to protect children from child abuse and
3 neglect and safeguard such children from future abuse and neglect, and
4 conduct investigations of child abuse and neglect reports.
5 Investigations may be conducted regardless of the location of the
6 alleged abuse or neglect. Child protective services includes referral
7 to services to ameliorate conditions that endanger the welfare of
8 children, the coordination of necessary programs and services relevant
9 to the prevention, intervention, and treatment of child abuse and
10 neglect, and services to children to ensure that each child has a
11 permanent home. In determining whether protective services should be
12 provided, the department shall not decline to provide such services
13 solely because of the child's unwillingness or developmental inability
14 to describe the nature and severity of the abuse or neglect.

15 (4) "Child protective services section" means the child protective
16 services section of the department.

17 (5) "Children's advocacy center" means a child-focused facility in
18 good standing with the state chapter for children's advocacy centers
19 and that coordinates a multidisciplinary process for the investigation,
20 prosecution, and treatment of sexual and other types of child abuse.
21 Children's advocacy centers provide a location for forensic interviews
22 and coordinate access to services such as, but not limited to, medical
23 evaluations, advocacy, therapy, and case review by multidisciplinary
24 teams within the context of county protocols as defined in RCW
25 26.44.180 and 26.44.185.

26 (6) "Clergy" means any regularly licensed or ordained minister,
27 priest, or rabbi of any church or religious denomination, whether
28 acting in an individual capacity or as an employee or agent of any
29 public or private organization or institution.

30 (7) "Court" means the superior court of the state of Washington,
31 juvenile department.

32 (8) "Department" means the state department of social and health
33 services.

34 (9) "Family assessment" means a comprehensive assessment of child
35 safety, risk of subsequent child abuse or neglect, and family strengths
36 and needs that is applied to a child abuse or neglect report. Family
37 assessment does not include a determination as to whether child abuse

1 or neglect occurred, but does determine the need for services to
2 address the safety of the child and the risk of subsequent
3 maltreatment.

4 (10) "Family assessment track" means a way of responding to certain
5 reports of child abuse or neglect made under this chapter using a
6 differential response approach to child protective services. The
7 family assessment track shall focus on the safety of the child, the
8 integrity and preservation of the family, and shall assess the status
9 of the child and the family in terms of risk of abuse and neglect
10 including the parent's or guardian's or other caretaker's capacity and
11 willingness to protect the child and, if necessary, plan and arrange
12 the provision of services to reduce the risk and otherwise support the
13 family. No one is named as a perpetrator, and no investigative finding
14 is entered in the record as a result of a family assessment.

15 (11) "Founded" means the determination following an investigation
16 by the department that, based on available information, it is more
17 likely than not that child abuse or neglect did occur.

18 ~~((+10))~~ (12) "Inconclusive" means the determination following an
19 investigation by the department, prior to October 1, 2008, that based
20 on available information a decision cannot be made that more likely
21 than not, child abuse or neglect did or did not occur.

22 ~~((+11))~~ (13) "Institution" means a private or public hospital or
23 any other facility providing medical diagnosis, treatment, or care.

24 ~~((+12))~~ (14) "Law enforcement agency" means the police department,
25 the prosecuting attorney, the state patrol, the director of public
26 safety, or the office of the sheriff.

27 ~~((+13))~~ (15) "Malice" or "maliciously" means an intent, wish, or
28 design to intimidate, annoy, or injure another person. Such malice may
29 be inferred from an act done in willful disregard of the rights of
30 another, or an act wrongfully done without just cause or excuse, or an
31 act or omission of duty betraying a willful disregard of social duty.

32 ~~((+14))~~ (16) "Negligent treatment or maltreatment" means an act or
33 a failure to act, or the cumulative effects of a pattern of conduct,
34 behavior, or inaction, that evidences a serious disregard of
35 consequences of such magnitude as to constitute a clear and present
36 danger to a child's health, welfare, or safety, including but not
37 limited to conduct prohibited under RCW 9A.42.100. When considering
38 whether a clear and present danger exists, evidence of a parent's

1 substance abuse as a contributing factor to negligent treatment or
2 maltreatment shall be given great weight. The fact that siblings share
3 a bedroom is not, in and of itself, negligent treatment or
4 maltreatment. Poverty, homelessness, or exposure to domestic violence
5 as defined in RCW 26.50.010 that is perpetrated against someone other
6 than the child does not constitute negligent treatment or maltreatment
7 in and of itself.

8 ~~((+15+))~~ (17) "Pharmacist" means any registered pharmacist under
9 chapter 18.64 RCW, whether acting in an individual capacity or as an
10 employee or agent of any public or private organization or institution.

11 ~~((+16+))~~ (18) "Practitioner of the healing arts" or "practitioner"
12 means a person licensed by this state to practice podiatric medicine
13 and surgery, optometry, chiropractic, nursing, dentistry, osteopathic
14 medicine and surgery, or medicine and surgery or to provide other
15 health services. The term "practitioner" includes a duly accredited
16 Christian Science practitioner. A person who is being furnished
17 Christian Science treatment by a duly accredited Christian Science
18 practitioner will not be considered, for that reason alone, a neglected
19 person for the purposes of this chapter.

20 ~~((+17+))~~ (19) "Professional school personnel" include, but are not
21 limited to, teachers, counselors, administrators, child care facility
22 personnel, and school nurses.

23 ~~((+18+))~~ (20) "Psychologist" means any person licensed to practice
24 psychology under chapter 18.83 RCW, whether acting in an individual
25 capacity or as an employee or agent of any public or private
26 organization or institution.

27 ~~((+19+))~~ (21) "Screened-out report" means a report of alleged child
28 abuse or neglect that the department has determined does not rise to
29 the level of a credible report of abuse or neglect and is not referred
30 for investigation.

31 ~~((+20+))~~ (22) "Sexual exploitation" includes: (a) Allowing,
32 permitting, or encouraging a child to engage in prostitution by any
33 person; or (b) allowing, permitting, encouraging, or engaging in the
34 obscene or pornographic photographing, filming, or depicting of a child
35 by any person.

36 ~~((+21+))~~ (23) "Sexually aggressive youth" means a child who is
37 defined in RCW 74.13.075(1)(b) as being a sexually aggressive youth.

1 ~~((+22+))~~ (24) "Social service counselor" means anyone engaged in a
2 professional capacity during the regular course of employment in
3 encouraging or promoting the health, welfare, support, or education of
4 children, or providing social services to adults or families, including
5 mental health, drug and alcohol treatment, and domestic violence
6 programs, whether in an individual capacity, or as an employee or agent
7 of any public or private organization or institution.

8 ~~((+23+))~~ (25) "Supervising agency" means an agency licensed by the
9 state under RCW 74.15.090 or an Indian tribe under RCW 74.15.190 that
10 has entered into a performance-based contract with the department to
11 provide child welfare services.

12 ~~((+24+))~~ (26) "Unfounded" means the determination following an
13 investigation by the department that available information indicates
14 that, more likely than not, child abuse or neglect did not occur, or
15 that there is insufficient evidence for the department to determine
16 whether the alleged child abuse did or did not occur.

17 NEW SECTION. **Sec. 2.** A new section is added to chapter 26.44 RCW
18 to read as follows:

19 (1) No later than December 1, 2013, the department shall implement
20 the family assessment track.

21 (2) The department shall develop an implementation plan in
22 consultation with stakeholders, including tribes. The department shall
23 submit a report of the implementation plan to the appropriate
24 committees of the legislature by December 31, 2012. At a minimum, the
25 following must be developed before implementation and included in the
26 report to the legislature:

27 (a) Description of the family assessment track practice model;

28 (b) Identification of possible additional noninvestigative
29 responses or pathways;

30 (c) Development of an intake screening tool and a family assessment
31 tool specifically to be used in the family assessment track;

32 (d) Delineation of staff training requirements;

33 (e) Development of strategies to reduce disproportionality;

34 (f) Development of strategies to secure safe and stable housing for
35 child-welfare involved families;

36 (g) Identification of methods to involve local community partners
37 in the development of community-based resources to meet families'

1 needs. Local community partners may include, but are not limited to:
2 Alumni of the foster care system and veteran parents, local private
3 service delivery agencies, schools, local health departments and other
4 health care providers, juvenile court, law enforcement, office of
5 public defense social workers or local defense attorneys, and other
6 available community-based entities;

7 (h) Delineation of procedures to assure continuous quality
8 assurance; and

9 (i) Identification of current departmental expenditures for
10 services appropriate for the family assessment track, to the greatest
11 practicable extent.

12 **Sec. 3.** RCW 26.44.030 and 2009 c 480 s 1 are each amended to read
13 as follows:

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

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

1 or she obtains the information solely as a result of a privileged
2 communication as provided in RCW 5.60.060.

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

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

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

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

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

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

36 (e) The reporting requirement also applies to guardians ad litem,
37 including court-appointed special advocates, appointed under Titles 11,

1 13, and 26 RCW, who in the course of their representation of children
2 in these actions have reasonable cause to believe a child has been
3 abused or neglected.

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

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

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

18 (4) The department, upon receiving a report of an incident of
19 alleged abuse or neglect pursuant to this chapter, involving a child
20 who has died or has had physical injury or injuries inflicted upon him
21 or her other than by accidental means or who has been subjected to
22 alleged sexual abuse, shall report such incident to the proper law
23 enforcement agency. In emergency cases, where the child's welfare is
24 endangered, the department shall notify the proper law enforcement
25 agency within twenty-four hours after a report is received by the
26 department. In all other cases, the department shall notify the law
27 enforcement agency within seventy-two hours after a report is received
28 by the department. If the department makes an oral report, a written
29 report must also be made to the proper law enforcement agency within
30 five days thereafter.

31 (5) Any law enforcement agency 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 in writing as provided
36 in RCW 26.44.040 to the proper county prosecutor or city attorney for
37 appropriate action whenever the law enforcement agency's investigation
38 reveals that a crime may have been committed. The law enforcement

1 agency shall also notify the department of all reports received and the
2 law enforcement agency's disposition of them. In emergency cases,
3 where the child's welfare is endangered, the law enforcement agency
4 shall notify the department within twenty-four hours. In all other
5 cases, the law enforcement agency shall notify the department within
6 seventy-two hours after a report is received by the law enforcement
7 agency.

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

13 (7) The department may conduct ongoing case planning and
14 consultation with those persons or agencies required to report under
15 this section, with consultants designated by the department, and with
16 designated representatives of Washington Indian tribes if the client
17 information exchanged is pertinent to cases currently receiving child
18 protective services. Upon request, the department shall conduct such
19 planning and consultation with those persons required to report under
20 this section if the department determines it is in the best interests
21 of the child. Information considered privileged by statute and not
22 directly related to reports required by this section must not be
23 divulged without a valid written waiver of the privilege.

24 (8) Any case referred to the department by a physician licensed
25 under chapter 18.57 or 18.71 RCW on the basis of an expert medical
26 opinion that child abuse, neglect, or sexual assault has occurred and
27 that the child's safety will be seriously endangered if returned home,
28 the department shall file a dependency petition unless a second
29 licensed physician of the parents' choice believes that such expert
30 medical opinion is incorrect. If the parents fail to designate a
31 second physician, the department may make the selection. If a
32 physician finds that a child has suffered abuse or neglect but that
33 such abuse or neglect does not constitute imminent danger to the
34 child's health or safety, and the department agrees with the
35 physician's assessment, the child may be left in the parents' home
36 while the department proceeds with reasonable efforts to remedy
37 parenting deficiencies.

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

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

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

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

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

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

24 (i) Investigation; or

25 (ii) Family assessment.

26 (b) In making the response in (a) of this subsection the department
27 shall:

28 (i) Use a method by which to assign cases to investigation or
29 family assessment which are based on an array of factors that may
30 include:

31 The presence of imminent danger, level of risk, number of previous
32 child abuse or neglect reports, or other presenting case
33 characteristics, such as the type of alleged maltreatment and the age
34 of the alleged victim;

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

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

1 (iv) Provide a full investigation if a family refuses the initial
2 family assessment;

3 (v) Provide voluntary services to families based on the results of
4 the initial family assessment. If a family refuses voluntary services,
5 and the department cannot identify specific facts related to risk or
6 safety factors that warrant an investigation under this chapter, then
7 the department must close the family assessment track case. However,
8 if at any time the department identifies risk or safety factors that
9 warrant an investigation under this chapter, then the family assessment
10 case must be closed, and an investigation must be conducted;

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

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

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

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

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

21 (E) The child is an adjudicated dependent child that is in the care
22 of a parent, guardian, or relative.

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

33 (b) If a court in a civil or criminal proceeding, considering the
34 same facts or circumstances as are contained in the report being
35 investigated by the department, makes a judicial finding by a
36 preponderance of the evidence or higher that the subject of the pending
37 investigation has abused or neglected the child, the department shall
38 adopt the finding in its investigation.

1 ~~((12))~~ (13) For reports of alleged abuse or neglect that are
2 placed in the family assessment track, the department shall:

3 (a) Provide the family with a written explanation of the procedure
4 for assessment of the child and the family and its purposes;

5 (b) Complete the family assessment within forty-five days of
6 receiving the report; however, upon parental agreement, the assessment
7 period may be extended up to sixty days;

8 (c) Offer services to the family in a manner that makes it clear
9 that acceptance of the services is voluntary;

10 (d) Implement the family assessment track in a nonarbitrary,
11 noncoercive manner;

12 (e) Have the parent or guardian sign an agreement to participate in
13 services form before services are initiated that informs the parents of
14 their rights under the family assessment track, all of their options,
15 and the options the department has if the parents do not sign the
16 consent form.

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

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

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

1 ~~((+13+))~~ (15) If a report of alleged abuse or neglect is founded
2 and constitutes the third founded report received by the department
3 within the last twelve months involving the same child or family, the
4 department shall promptly notify the office of the family and
5 children's ombudsman of the contents of the report. The department
6 shall also notify the ombudsman of the disposition of the report.

7 ~~((+14+))~~ (16) In investigating and responding to allegations of
8 child abuse and neglect, the department may conduct background checks
9 as authorized by state and federal law.

10 ~~((+15+))~~ (17)(a) The department shall maintain investigation
11 records and conduct timely and periodic reviews of all founded cases of
12 abuse and neglect. The department shall maintain a log of screened-out
13 nonabusive cases.

14 (b) In the family assessment track, the department shall not make
15 a finding as to whether child abuse or neglect occurred. No one shall
16 be named as a perpetrator and no investigative finding shall be entered
17 in the department's child abuse or neglect database.

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

25 ~~(+17+))~~ (19) Upon receipt of a report of alleged abuse or neglect
26 the law enforcement agency may arrange to interview the person making
27 the report and any collateral sources to determine if any malice is
28 involved in the reporting.

29 ~~((+18+))~~ (20) Upon receiving a report of alleged abuse or neglect
30 involving a child under the court's jurisdiction under chapter 13.34
31 RCW, the department shall promptly notify the child's guardian ad litem
32 of the report's contents. The department shall also notify the
33 guardian ad litem of the disposition of the report. For purposes of
34 this subsection, "guardian ad litem" has the meaning provided in RCW
35 13.34.030.

36 **Sec. 4.** RCW 26.44.031 and 2007 c 220 s 3 are each amended to read
37 as follows:

1 (1) To protect the privacy in reporting and the maintenance of
2 reports of nonaccidental injury, neglect, death, sexual abuse, and
3 cruelty to children by their parents, and to safeguard against
4 arbitrary, malicious, or erroneous information or actions, the
5 department shall not disclose or maintain information related to
6 reports of child abuse or neglect except as provided in this section or
7 as otherwise required by state and federal law.

8 (2) The department shall destroy all of its records concerning:

9 (a) A screened-out report, within three years from the receipt of
10 the report; and

11 (b) An unfounded or inconclusive report, within six years of
12 completion of the investigation, unless a prior or subsequent founded
13 report has been received regarding the child who is the subject of the
14 report, a sibling or half-sibling of the child, or a parent, guardian,
15 or legal custodian of the child, before the records are destroyed.

16 (3) The department may keep records concerning founded reports of
17 child abuse or neglect as the department determines by rule.

18 (4) ~~((An))~~ No unfounded, screened-out, or inconclusive report or
19 information about a family's participation or nonparticipation in the
20 family assessment track may ~~((not))~~ be disclosed to a child-placing
21 agency, private adoption agency, or any other provider licensed under
22 chapter 74.15 RCW without the consent of the individual who is the
23 subject of the report or family assessment.

24 (5)(a) If the department fails to comply with this section, an
25 individual who is the subject of a report may institute proceedings for
26 injunctive or other appropriate relief for enforcement of the
27 requirement to purge information. These proceedings may be instituted
28 in the superior court for the county in which the person resides or, if
29 the person is not then a resident of this state, in the superior court
30 for Thurston county.

31 (b) If the department fails to comply with subsection (4) of this
32 section and an individual who is the subject of the report or family
33 assessment track information is harmed by the disclosure of
34 information, in addition to the relief provided in (a) of this
35 subsection, the court may award a penalty of up to one thousand dollars
36 and reasonable attorneys' fees and court costs to the petitioner.

37 (c) A proceeding under this subsection does not preclude other
38 methods of enforcement provided for by law.

1 (6) Nothing in this section shall prevent the department from
2 retaining general, nonidentifying information which is required for
3 state and federal reporting and management purposes.

4 **Sec. 5.** RCW 26.44.050 and 1999 c 176 s 33 are each amended to read
5 as follows:

6 Except as provided in RCW 26.44.030(11), upon the receipt of a
7 report concerning the possible occurrence of abuse or neglect, the law
8 enforcement agency or the department of social and health services must
9 investigate and provide the protective services section with a report
10 in accordance with chapter 74.13 RCW, and where necessary to refer such
11 report to the court.

12 A law enforcement officer may take, or cause to be taken, a child
13 into custody without a court order if there is probable cause to
14 believe that the child is abused or neglected and that the child would
15 be injured or could not be taken into custody if it were necessary to
16 first obtain a court order pursuant to RCW 13.34.050. The law
17 enforcement agency or the department of social and health services
18 investigating such a report is hereby authorized to photograph such a
19 child for the purpose of providing documentary evidence of the physical
20 condition of the child.

21 NEW SECTION. **Sec. 6.** A new section is added to chapter 26.44 RCW
22 to read as follows:

23 (1) Upon completion of the family assessment, if the department
24 recommends that no services be offered, the case shall be closed.

25 (2) Within ten days of the conclusion of the family assessment, the
26 department must meet with the child's parent or guardian to discuss the
27 recommendation for services to address child safety concerns or
28 significant risk of subsequent child maltreatment.

29 (3) If the parent or guardian disagrees with the department's
30 recommendation regarding the provision of services, the department
31 shall convene a family team decision-making meeting to discuss the
32 recommendations and objections. The caseworker's supervisor and area
33 administrator shall attend the meeting.

34 NEW SECTION. **Sec. 7.** A new section is added to chapter 26.44 RCW
35 to read as follows:

1 The department shall develop a family assessment tool which, at a
2 minimum, must include the following:

3 (1) An interview with the child's parent, guardian, or any other
4 adult residing in the child's home who serves in a parental role. The
5 interview shall focus on ensuring the immediate safety of the child and
6 mitigating future risk of harm to the child in the home environment.

7 (2) An interview of other persons suggested by the family or whom
8 the department believes have valuable information.

9 (3) An evaluation of the safety of the child and any other children
10 living in the same home. The evaluation may include an interview with
11 or observation of the child or children. The preferred method is to
12 request a parent's, guardian's, or custodian's permission to interview
13 the child before conducting the child interview unless doing so would
14 compromise the safety of the child.

15 (4) In collaboration with the family, identification of family
16 strengths, resources, and service needs, and the development of a plan
17 of services with the goal of reducing risk of harm to the child and
18 improving or restoring family well-being.

19 **Sec. 8.** RCW 74.13.020 and 2011 c 330 s 4 are each reenacted and
20 amended to read as follows:

21 For purposes of this chapter:

22 (1) "Case management" means the management of services delivered to
23 children and families in the child welfare system, including permanency
24 services, caseworker-child visits, family visits, the convening of
25 family group conferences, the development and revision of the case
26 plan, the ((~~coordination~~ and)) monitoring of services needed by the
27 child and family, and the assumption of court-related duties, excluding
28 legal representation, including preparing court reports, attending
29 judicial hearings and permanency hearings, and ensuring that the child
30 is progressing toward permanency within state and federal mandates,
31 including the Indian child welfare act.

32 (2) "Child" means:

33 (a) A person less than eighteen years of age; or

34 (b) A person age eighteen to twenty-one years who is eligible to
35 receive the extended foster care services authorized under RCW
36 74.13.031.

1 (3) "Child protective services" has the same meaning as in RCW
2 26.44.020.

3 (4) "Child welfare services" means social services including
4 voluntary and in-home services, out-of-home care, case management, and
5 adoption services which strengthen, supplement, or substitute for,
6 parental care and supervision for the purpose of:

7 (a) Preventing or remedying, or assisting in the solution of
8 problems which may result in families in conflict, or the neglect,
9 abuse, exploitation, or criminal behavior of children;

10 (b) Protecting and caring for dependent, abused, or neglected
11 children;

12 (c) Assisting children who are in conflict with their parents, and
13 assisting parents who are in conflict with their children, with
14 services designed to resolve such conflicts;

15 (d) Protecting and promoting the welfare of children, including the
16 strengthening of their own homes where possible, or, where needed;

17 (e) Providing adequate care of children away from their homes in
18 foster family homes or day care or other child care agencies or
19 facilities.

20 "Child welfare services" does not include child protection
21 services.

22 (5) "Committee" means the child welfare transformation design
23 committee.

24 (6) "Department" means the department of social and health
25 services.

26 (7) "Extended foster care services" means residential and other
27 support services the department is authorized to provide to foster
28 children. These services include, but are not limited to, placement in
29 licensed, relative, or otherwise approved care, or supervised
30 independent living settings; assistance in meeting basic needs;
31 independent living services; medical assistance; and counseling or
32 treatment.

33 (8) "Family assessment" means a comprehensive assessment of child
34 safety, risk of subsequent child abuse or neglect, and family strengths
35 and needs that is applied to a child abuse or neglect report. Family
36 assessment does not include a determination as to whether child abuse
37 or neglect occurred, but does determine the need for services to

1 address the safety of the child and the risk of subsequent
2 maltreatment.

3 (9) "Measurable effects" means a statistically significant change
4 which occurs as a result of the service or services a supervising
5 agency is assigned in a performance-based contract, in time periods
6 established in the contract.

7 ~~((+9))~~ (10) "Out-of-home care services" means services provided
8 after the shelter care hearing to or for children in out-of-home care,
9 as that term is defined in RCW 13.34.030, and their families, including
10 the recruitment, training, and management of foster parents, the
11 recruitment of adoptive families, and the facilitation of the adoption
12 process, family reunification, independent living, emergency shelter,
13 residential group care, and foster care, including relative placement.

14 ~~((+10))~~ (11) "Performance-based contracting" means the structuring
15 of all aspects of the procurement of services around the purpose of the
16 work to be performed and the desired results with the contract
17 requirements set forth in clear, specific, and objective terms with
18 measurable outcomes. Contracts shall also include provisions that link
19 the performance of the contractor to the level and timing of
20 reimbursement.

21 ~~((+11))~~ (12) "Permanency services" means long-term services
22 provided to secure a child's safety, permanency, and well-being,
23 including foster care services, family reunification services, adoption
24 services, and preparation for independent living services.

25 ~~((+12))~~ (13) "Primary prevention services" means services which
26 are designed and delivered for the primary purpose of enhancing child
27 and family well-being and are shown, by analysis of outcomes, to reduce
28 the risk to the likelihood of the initial need for child welfare
29 services.

30 ~~((+13))~~ (14) "Supervising agency" means an agency licensed by the
31 state under RCW 74.15.090, or licensed by a federally recognized Indian
32 tribe located in this state under RCW 74.15.190, that has entered into
33 a performance-based contract with the department to provide case
34 management for the delivery and documentation of child welfare
35 services, as defined in this section.

36 **Sec. 9.** RCW 74.13.031 and 2011 c 330 s 5 and 2011 c 160 s 2 are
37 each reenacted and amended to read as follows:

1 (1) The department and supervising agencies shall develop,
2 administer, supervise, and monitor a coordinated and comprehensive plan
3 that establishes, aids, and strengthens services for the protection and
4 care of runaway, dependent, or neglected children.

5 (2) Within available resources, the department and supervising
6 agencies shall recruit an adequate number of prospective adoptive and
7 foster homes, both regular and specialized, i.e. homes for children of
8 ethnic minority, including Indian homes for Indian children, sibling
9 groups, handicapped and emotionally disturbed, teens, pregnant and
10 parenting teens, and the department shall annually report to the
11 governor and the legislature concerning the department's and
12 supervising agency's success in: (a) Meeting the need for adoptive and
13 foster home placements; (b) reducing the foster parent turnover rate;
14 (c) completing home studies for legally free children; and (d)
15 implementing and operating the passport program required by RCW
16 74.13.285. The report shall include a section entitled "Foster Home
17 Turn-Over, Causes and Recommendations."

18 (3) The department shall investigate complaints of any recent act
19 or failure to act on the part of a parent or caretaker that results in
20 death, serious physical or emotional harm, or sexual abuse or
21 exploitation, or that presents an imminent risk of serious harm, and on
22 the basis of the findings of such investigation, offer child welfare
23 services in relation to the problem to such parents, legal custodians,
24 or persons serving in loco parentis, and/or bring the situation to the
25 attention of an appropriate court, or another community agency. An
26 investigation is not required of nonaccidental injuries which are
27 clearly not the result of a lack of care or supervision by the child's
28 parents, legal custodians, or persons serving in loco parentis. If the
29 investigation reveals that a crime against a child may have been
30 committed, the department shall notify the appropriate law enforcement
31 agency.

32 (4) As provided in RCW 26.44.030(11), the department may respond to
33 a report of child abuse or neglect by using the family assessment
34 track.

35 (5) The department or supervising agencies shall offer, on a
36 voluntary basis, family reconciliation services to families who are in
37 conflict.

1 (~~(5)~~) (6) The department or supervising agencies shall monitor
2 placements of children in out-of-home care and in-home dependencies to
3 assure the safety, well-being, and quality of care being provided is
4 within the scope of the intent of the legislature as defined in RCW
5 74.13.010 and 74.15.010. Under this section children in out-of-home
6 care and in-home dependencies and their caregivers shall receive a
7 private and individual face-to-face visit each month. The department
8 and the supervising agencies shall randomly select no less than ten
9 percent of the caregivers currently providing care to receive one
10 unannounced face-to-face visit in the caregiver's home per year. No
11 caregiver will receive an unannounced visit through the random
12 selection process for two consecutive years. If the caseworker makes
13 a good faith effort to conduct the unannounced visit to a caregiver and
14 is unable to do so, that month's visit to that caregiver need not be
15 unannounced. The department and supervising agencies are encouraged to
16 group monthly visits to caregivers by geographic area so that in the
17 event an unannounced visit cannot be completed, the caseworker may
18 complete other required monthly visits. The department shall use a
19 method of random selection that does not cause a fiscal impact to the
20 department.

21 The department or supervising agencies shall conduct the monthly
22 visits with children and caregivers to whom it is providing child
23 welfare services.

24 (~~(6)~~) (7) The department and supervising agencies shall have
25 authority to accept custody of children from parents and to accept
26 custody of children from juvenile courts, where authorized to do so
27 under law, to provide child welfare services including placement for
28 adoption, to provide for the routine and necessary medical, dental, and
29 mental health care, or necessary emergency care of the children, and to
30 provide for the physical care of such children and make payment of
31 maintenance costs if needed. Except where required by Public Law 95-
32 608 (25 U.S.C. Sec. 1915), no private adoption agency which receives
33 children for adoption from the department shall discriminate on the
34 basis of race, creed, or color when considering applications in their
35 placement for adoption.

36 (~~(7)~~) (8) The department and supervising agency shall have
37 authority to provide temporary shelter to children who have run away
38 from home and who are admitted to crisis residential centers.

1 (~~(+8)~~) (9) The department and supervising agency shall have
2 authority to purchase care for children.

3 (~~(+9)~~) (10) The department shall establish a children's services
4 advisory committee with sufficient members representing supervising
5 agencies which shall assist the secretary in the development of a
6 partnership plan for utilizing resources of the public and private
7 sectors, and advise on all matters pertaining to child welfare,
8 licensing of child care agencies, adoption, and services related
9 thereto. At least one member shall represent the adoption community.

10 (~~(+10)~~) (11) The department and supervising agencies shall have
11 authority to provide continued extended foster care services to youth
12 ages eighteen to twenty-one years to participate in or complete a
13 secondary education program or a secondary education equivalency
14 program.

15 (~~(+11)~~) (12) The department(~~(, has)~~) shall have authority to
16 provide adoption support benefits, or relative guardianship subsidies
17 on behalf of youth ages eighteen to twenty-one years who achieved
18 permanency through adoption or a relative guardianship at age sixteen
19 or older and who meet the criteria described in subsection (~~(+10)~~)
20 (11) of this section.

21 (~~(+12)~~) (13) The department shall refer cases to the division of
22 child support whenever state or federal funds are expended for the care
23 and maintenance of a child, including a child with a developmental
24 disability who is placed as a result of an action under chapter 13.34
25 RCW, unless the department finds that there is good cause not to pursue
26 collection of child support against the parent or parents of the child.
27 Cases involving individuals age eighteen through twenty shall not be
28 referred to the division of child support unless required by federal
29 law.

30 (~~(+13)~~) (14) The department and supervising agencies shall have
31 authority within funds appropriated for foster care services to
32 purchase care for Indian children who are in the custody of a federally
33 recognized Indian tribe or tribally licensed child-placing agency
34 pursuant to parental consent, tribal court order, or state juvenile
35 court order; and the purchase of such care shall be subject to the same
36 eligibility standards and rates of support applicable to other children
37 for whom the department purchases care.

1 Notwithstanding any other provision of RCW 13.32A.170 through
2 13.32A.200 and 74.13.032 through 74.13.036, or of this section all
3 services to be provided by the department under subsections (4), ~~((+6+),~~
4 ~~and))~~ (7), and (8) of this section, subject to the limitations of these
5 subsections, may be provided by any program offering such services
6 funded pursuant to Titles II and III of the federal juvenile justice
7 and delinquency prevention act of 1974.

8 ~~((+14+))~~ (15) Within amounts appropriated for this specific
9 purpose, the supervising agency or department shall provide preventive
10 services to families with children that prevent or shorten the duration
11 of an out-of-home placement.

12 ~~((+15+))~~ (16) The department and supervising agencies shall have
13 authority to provide independent living services to youths, including
14 individuals who have attained eighteen years of age, and have not
15 attained twenty-one years of age who are or have been in foster care.

16 ~~((+16+))~~ (17) The department and supervising agencies shall consult
17 at least quarterly with foster parents, including members of the foster
18 parent association of Washington state, for the purpose of receiving
19 information and comment regarding how the department and supervising
20 agencies are performing the duties and meeting the obligations
21 specified in this section and RCW 74.13.250 and 74.13.320 regarding the
22 recruitment of foster homes, reducing foster parent turnover rates,
23 providing effective training for foster parents, and administering a
24 coordinated and comprehensive plan that strengthens services for the
25 protection of children. Consultation shall occur at the regional and
26 statewide levels.

27 (18)(a) The department shall, within current funding levels, place
28 on its public web site a document listing the duties and
29 responsibilities the department has to a child subject to a dependency
30 petition including, but not limited to, the following:

31 (i) Reasonable efforts, including the provision of services, toward
32 reunification of the child with his or her family;

33 (ii) Sibling visits subject to the restrictions in RCW
34 13.34.136(2)(b)(ii);

35 (iii) Parent-child visits;

36 (iv) Statutory preference for placement with a relative or other
37 suitable person, if appropriate; and

1 (v) Statutory preference for an out-of-home placement that allows
2 the child to remain in the same school or school district, if practical
3 and in the child's best interests.

4 (b) The document must be prepared in conjunction with a community-
5 based organization and must be updated as needed.

6 NEW SECTION. **Sec. 10.** The Washington state institute for public
7 policy shall conduct an evaluation of the implementation of the family
8 assessment track. The institute shall define the data to be gathered
9 and maintained. At a minimum, the evaluations must address child
10 safety measures, out-of-home placement rates, re-referral rates, and
11 caseload sizes and demographics. The institute shall deliver its first
12 report no later than December 1, 2014, and its final report by December
13 1, 2016.

14 NEW SECTION. **Sec. 11.** The department of social and health
15 services shall conduct two client satisfaction surveys of families that
16 have been placed in the family assessment track. The first survey
17 results shall be reported no later than December 1, 2014. The second
18 survey results shall be reported no later than December 1, 2016.

19 **Sec. 12.** RCW 26.44.125 and 1998 c 314 s 9 are each amended to read
20 as follows:

21 (1) A person who is named as an alleged perpetrator after October
22 1, 1998, in a founded report of child abuse or neglect has the right to
23 seek review and amendment of the finding as provided in this section.

24 (2) Within ~~((twenty))~~ thirty calendar days after ~~((receiving~~
25 ~~written notice from the department))~~ the department has notified the
26 alleged perpetrator under RCW 26.44.100 that ~~((a))~~ the person is named
27 as an alleged perpetrator in a founded report of child abuse or
28 neglect, he or she may request that the department review the finding.
29 The request must be made in writing. The written notice provided by
30 the department must contain at least the following information in plain
31 language:

32 (a) Information about the department's investigative finding as it
33 relates to the alleged perpetrator;

34 (b) Sufficient factual information to apprise the alleged
35 perpetrator of the date and nature of the founded reports;

1 (c) That the alleged perpetrator has the right to submit to child
2 protective services a written response regarding the child protective
3 services finding which, if received, shall be filed in the department's
4 records;

5 (d) That information in the department's records, including
6 information about this founded report, may be considered in a later
7 investigation or proceeding related to a different allegation of child
8 abuse or neglect or child custody;

9 (e) That founded allegations of child abuse or neglect may be used
10 by the department in determining:

11 (i) If a perpetrator is qualified to be licensed or approved to
12 care for children or vulnerable adults; or

13 (ii) If a perpetrator is qualified to be employed by the department
14 in a position having unsupervised access to children or vulnerable
15 adults;

16 (f) That founded allegations of child abuse or neglect may be used
17 by others only if the perpetrator consents to the release of the
18 information to another individual;

19 (g) That the alleged perpetrator has a right to challenge a founded
20 allegation of child abuse or neglect.

21 (3) If a request for review is not made as provided in this
22 subsection, the alleged perpetrator may not further challenge the
23 finding and shall have no right to agency review or to an adjudicative
24 hearing or judicial review of the finding, unless he or she can show
25 that the department did not comply with the notice requirements of RCW
26 26.44.100.

27 ((+3)) (4) Upon receipt of a written request for review, the
28 department shall review and, if appropriate, may amend the finding.
29 Management level staff within the children's administration designated
30 by the secretary shall be responsible for the review. The review must
31 be completed within thirty days after receiving the written request for
32 review. The review must be conducted in accordance with procedures the
33 department establishes by rule. Upon completion of the review, the
34 department shall notify the alleged perpetrator in writing of the
35 agency's determination. The notification must be sent by certified
36 mail, return receipt requested, to the person's last known address.

37 ((+4)) (5) If, following agency review, the report remains
38 founded, the person named as the alleged perpetrator in the report may

1 request an adjudicative hearing to contest the finding. The
2 adjudicative proceeding is governed by chapter 34.05 RCW and this
3 section. The request for an adjudicative proceeding must be filed
4 within thirty calendar days after receiving notice of the agency review
5 determination. If a request for an adjudicative proceeding is not made
6 as provided in this subsection, the alleged perpetrator may not further
7 challenge the finding and shall have no right to agency review or to an
8 adjudicative hearing or judicial review of the finding.

9 (5) Reviews and hearings conducted under this section are
10 confidential and shall not be open to the public. Information about
11 reports, reviews, and hearings may be disclosed only in accordance with
12 federal and state laws pertaining to child welfare records and child
13 protective services reports.

14 (6) The department may adopt rules to implement this section.

15 NEW SECTION. **Sec. 13.** Sections 1 through 11 of this act take
16 effect December 1, 2013.

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