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SENATE BILL 6555

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State of Washington

62nd Legislature

2012 Regular Session

By Senators Hargrove, Shin, and Roach

Read first time 01/31/12. Referred to Committee on Human Services & Corrections.

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; 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 that does  
37 not allege substantial child endangerment. Family assessment does not

1 include a determination as to whether child abuse or neglect occurred,  
2 but does determine the need for services to address the safety of  
3 family members and the risk of subsequent 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 integrity and preservation  
8 of the family and shall assess the status of the child and the family  
9 in terms of risk of abuse and neglect and, if necessary, plan and  
10 arrange the provision of services to reduce the risk and otherwise  
11 support the family.

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

15 ~~((+10+))~~ (12) "Inconclusive" means the determination following an  
16 investigation by the department, prior to October 1, 2008, that based  
17 on available information a decision cannot be made that more likely  
18 than not, child abuse or neglect did or did not occur.

19 ~~((+11+))~~ (13) "Institution" means a private or public hospital or  
20 any other facility providing medical diagnosis, treatment, or care.

21 ~~((+12+))~~ (14) "Law enforcement agency" means the police department,  
22 the prosecuting attorney, the state patrol, the director of public  
23 safety, or the office of the sheriff.

24 ~~((+13+))~~ (15) "Malice" or "maliciously" means an intent, wish, or  
25 design to intimidate, annoy, or injure another person. Such malice may  
26 be inferred from an act done in willful disregard of the rights of  
27 another, or an act wrongfully done without just cause or excuse, or an  
28 act or omission of duty betraying a willful disregard of social duty.

29 ~~((+14+))~~ (16) "Negligent treatment or maltreatment" means an act or  
30 a failure to act, or the cumulative effects of a pattern of conduct,  
31 behavior, or inaction, that evidences a serious disregard of  
32 consequences of such magnitude as to constitute a clear and present  
33 danger to a child's health, welfare, or safety, including but not  
34 limited to conduct prohibited under RCW 9A.42.100. When considering  
35 whether a clear and present danger exists, evidence of a parent's  
36 substance abuse as a contributing factor to negligent treatment or  
37 maltreatment shall be given great weight. The fact that siblings share  
38 a bedroom is not, in and of itself, negligent treatment or

1 maltreatment. Poverty, homelessness, or exposure to domestic violence  
2 as defined in RCW 26.50.010 that is perpetrated against someone other  
3 than the child does not constitute negligent treatment or maltreatment  
4 in and of itself.

5 ~~((+15+))~~ (17) "Pharmacist" means any registered pharmacist under  
6 chapter 18.64 RCW, whether acting in an individual capacity or as an  
7 employee or agent of any public or private organization or institution.

8 ~~((+16+))~~ (18) "Practitioner of the healing arts" or "practitioner"  
9 means a person licensed by this state to practice podiatric medicine  
10 and surgery, optometry, chiropractic, nursing, dentistry, osteopathic  
11 medicine and surgery, or medicine and surgery or to provide other  
12 health services. The term "practitioner" includes a duly accredited  
13 Christian Science practitioner. A person who is being furnished  
14 Christian Science treatment by a duly accredited Christian Science  
15 practitioner will not be considered, for that reason alone, a neglected  
16 person for the purposes of this chapter.

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

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

24 ~~((+19+))~~ (21) "Screened-out report" means a report of alleged child  
25 abuse or neglect that the department has determined does not rise to  
26 the level of a credible report of abuse or neglect and is not referred  
27 for investigation.

28 ~~((+20+))~~ (22) "Sexual exploitation" includes: (a) Allowing,  
29 permitting, or encouraging a child to engage in prostitution by any  
30 person; or (b) allowing, permitting, encouraging, or engaging in the  
31 obscene or pornographic photographing, filming, or depicting of a child  
32 by any person.

33 ~~((+21+))~~ (23) "Sexually aggressive youth" means a child who is  
34 defined in RCW 74.13.075(1)(b) as being a sexually aggressive youth.

35 ~~((+22+))~~ (24) "Social service counselor" means anyone engaged in a  
36 professional capacity during the regular course of employment in  
37 encouraging or promoting the health, welfare, support, or education of  
38 children, or providing social services to adults or families, including

1 mental health, drug and alcohol treatment, and domestic violence  
2 programs, whether in an individual capacity, or as an employee or agent  
3 of any public or private organization or institution.

4 ~~((+23))~~ (25) "Substantial child endangerment" means a person  
5 responsible for the child's care, and in the case of sexual abuse  
6 includes a person who has a significant relationship to the child, or  
7 a person in a position of authority who by act or omission commits or  
8 attempts to commit an act against a child under their care that  
9 constitutes any of the following:

10 (a) Abandonment as defined in RCW 13.34.030;

11 (b) Neglect, as defined in this section, that substantially  
12 endangers the child's physical or mental health;

13 (c) Murder in the first or second degree under chapter 9A.32 RCW;

14 (d) Homicide by abuse under chapter 9A.32 RCW;

15 (e) Manslaughter in the first or second degree under chapter 9A.32  
16 RCW;

17 (f) Assault in the first, second, or third degree under chapter  
18 9A.36 RCW;

19 (g) Sexual exploitation as defined in this section;

20 (h) Criminal mistreatment under chapter 9A.42 RCW;

21 (i) Rape of a child in the first, second, or third degree under  
22 chapter 9A.44 RCW; or

23 (j) Child molestation in the first, second, or third degree under  
24 chapter 9A.44 RCW.

25 (26) "Supervising agency" means an agency licensed by the state  
26 under RCW 74.15.090 or an Indian tribe under RCW 74.15.190 that has  
27 entered into a performance-based contract with the department to  
28 provide child welfare services.

29 ~~((+24))~~ (27) "Unfounded" means the determination following an  
30 investigation by the department that available information indicates  
31 that, more likely than not, child abuse or neglect did not occur, or  
32 that there is insufficient evidence for the department to determine  
33 whether the alleged child abuse did or did not occur.

34 **Sec. 2.** RCW 26.44.030 and 2009 c 480 s 1 are each amended to read  
35 as follows:

36 (1)(a) When any practitioner, county coroner or medical examiner,  
37 law enforcement officer, professional school personnel, registered or

1 licensed nurse, social service counselor, psychologist, pharmacist,  
2 employee of the department of early learning, licensed or certified  
3 child care providers or their employees, employee of the department,  
4 juvenile probation officer, placement and liaison specialist,  
5 responsible living skills program staff, HOPE center staff, or state  
6 family and children's ombudsman or any volunteer in the ombudsman's  
7 office has reasonable cause to believe that a child has suffered abuse  
8 or neglect, he or she shall report such incident, or cause a report to  
9 be made, to the proper law enforcement agency or to the department as  
10 provided in RCW 26.44.040.

11 (b) When any person, in his or her official supervisory capacity  
12 with a nonprofit or for-profit organization, has reasonable cause to  
13 believe that a child has suffered abuse or neglect caused by a person  
14 over whom he or she regularly exercises supervisory authority, he or  
15 she shall report such incident, or cause a report to be made, to the  
16 proper law enforcement agency, provided that the person alleged to have  
17 caused the abuse or neglect is employed by, contracted by, or  
18 volunteers with the organization and coaches, trains, educates, or  
19 counsels a child or children or regularly has unsupervised access to a  
20 child or children as part of the employment, contract, or voluntary  
21 service. No one shall be required to report under this section when he  
22 or she obtains the information solely as a result of a privileged  
23 communication as provided in RCW 5.60.060.

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

26 For the purposes of this subsection, the following definitions  
27 apply:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 (11) Upon receiving a report of alleged abuse or neglect, the  
4 department shall determine, within twenty-four hours, whether to  
5 conduct a family assessment or an investigation as follows:

6 (a) The department shall conduct an investigation on reports  
7 involving substantial child endangerment;

8 (b) The department may conduct a family assessment on a report that  
9 was initially screened in and accepted for an investigation. In  
10 determining that a complete investigation is not required, the  
11 department must document the reason for terminating the investigation  
12 and shall notify the local law enforcement agency if that agency has  
13 been involved in the investigation;

14 (c) The department shall begin an immediate investigation if, at  
15 any time it is using the family assessment, it determines that there is  
16 reason to believe that substantial child endangerment or a serious and  
17 immediate threat to the child's safety exists;

18 (d) The department may conduct a family assessment on reports that  
19 do not allege substantial child endangerment.

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

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

36 ((+12+)) (13) For reports of alleged abuse or neglect that are  
37 placed in the family assessment track, the department shall:

1 (a) Provide the family with a written and oral explanation of the  
2 procedure for assessment of the child and the family and its purposes;

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

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

8 (d) Implement the family assessment track in a nonarbitrary,  
9 noncoercive manner;

10 (e) Use a consent form before services are initiated that informs  
11 the parents of their rights under the family assessment track, all of  
12 their options, and the options the department has if the parents do not  
13 sign the consent form.

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

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

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

36 ~~((+13))~~ (15) If a report of alleged abuse or neglect is founded  
37 and constitutes the third founded report received by the department  
38 within the last twelve months involving the same child or family, the

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

4 ~~((+14))~~ (16) In investigating and responding to allegations of  
5 child abuse and neglect, the department may conduct background checks  
6 as authorized by state and federal law.

7 ~~((+15))~~ (17)(a) The department shall maintain investigation  
8 records and conduct timely and periodic reviews of all founded cases of  
9 abuse and neglect. The department shall maintain a log of screened-out  
10 nonabusive cases.

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

15 ~~((+16))~~ (18) The department shall use a risk assessment process  
16 when investigating alleged child abuse and neglect referrals. The  
17 department shall present the risk factors at all hearings in which the  
18 placement of a dependent child is an issue. Substance abuse must be a  
19 risk factor. ~~((The department shall, within funds appropriated for~~  
20 ~~this purpose, offer enhanced community based services to persons who~~  
21 ~~are determined not to require further state intervention.~~

22 ~~(+17))~~ (19) Upon receipt of a report of alleged abuse or neglect  
23 the law enforcement agency may arrange to interview the person making  
24 the report and any collateral sources to determine if any malice is  
25 involved in the reporting.

26 ~~((+18))~~ (20) Upon receiving a report of alleged abuse or neglect  
27 involving a child under the court's jurisdiction under chapter 13.34  
28 RCW, the department shall promptly notify the child's guardian ad litem  
29 of the report's contents. The department shall also notify the  
30 guardian ad litem of the disposition of the report. For purposes of  
31 this subsection, "guardian ad litem" has the meaning provided in RCW  
32 13.34.030.

33 **Sec. 3.** RCW 26.44.031 and 2007 c 220 s 3 are each amended to read  
34 as follows:

35 (1) To protect the privacy in reporting and the maintenance of  
36 reports of nonaccidental injury, neglect, death, sexual abuse, and  
37 cruelty to children by their parents, and to safeguard against

1 arbitrary, malicious, or erroneous information or actions, the  
2 department shall not disclose or maintain information related to  
3 reports of child abuse or neglect except as provided in this section or  
4 as otherwise required by state and federal law.

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

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

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

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

15 (4) ~~((An))~~ No unfounded, screened-out, or inconclusive report or  
16 information about a family's participation or nonparticipation in the  
17 family assessment track may ~~((not))~~ be disclosed to a child-placing  
18 agency, private adoption agency, or any other provider licensed under  
19 chapter 74.15 RCW.

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

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

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

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

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

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

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

18           NEW SECTION. **Sec. 5.** A new section is added to chapter 26.44 RCW  
19 to read as follows:

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

22           (2) Within ten days of the conclusion of the family assessment, the  
23 department must notify the child's parent or guardian of the  
24 recommendation for services to address child safety concerns or  
25 significant risk of subsequent child maltreatment.

26           (3) If the parent or guardian disagrees with the department's  
27 conclusion regarding the provision of services, the parent can seek  
28 review of the department's recommendation by the assistant secretary of  
29 the children's administration. The department shall develop rules to  
30 implement this review process.

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

33           A family assessment shall include the following:

34           (1) An interview with the child's parent, guardian, or any other  
35 adult residing in the child's home who serves in a parental role. The

1 interview shall focus on ensuring the immediate safety of the child and  
2 mitigating future risk of harm to the child in the home environment.

3 (2) An evaluation of the safety of the child and any other children  
4 living in the same home. The evaluation may include an interview with  
5 or observation of the child or children. Such interviews will occur  
6 only with the permission of the child's parent, guardian, or custodian.

7 (3) In collaboration with the family, identification of family  
8 strengths, resources, and service needs, and the development of a plan  
9 of services that reduces risk of harm and improves or restores family  
10 well-being.

11 **Sec. 7.** RCW 74.13.020 and 2011 c 330 s 4 are each reenacted and  
12 amended to read as follows:

13 For purposes of this chapter:

14 (1) "Case management" means the management of services delivered to  
15 children and families in the child welfare system, including permanency  
16 services, caseworker-child visits, family visits, the convening of  
17 family group conferences, the development and revision of the case  
18 plan, the coordination and monitoring of services needed by the child  
19 and family, and the assumption of court-related duties, excluding legal  
20 representation, including preparing court reports, attending judicial  
21 hearings and permanency hearings, and ensuring that the child is  
22 progressing toward permanency within state and federal mandates,  
23 including the Indian child welfare act.

24 (2) "Child" means:

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

26 (b) A person age eighteen to twenty-one years who is eligible to  
27 receive the extended foster care services authorized under RCW  
28 74.13.031.

29 (3) "Child protective services" has the same meaning as in RCW  
30 26.44.020.

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

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

1 (b) Protecting and caring for dependent, abused, or neglected  
2 children;

3 (c) Assisting children who are in conflict with their parents, and  
4 assisting parents who are in conflict with their children, with  
5 services designed to resolve such conflicts;

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

8 (e) Providing adequate care of children away from their homes in  
9 foster family homes or day care or other child care agencies or  
10 facilities.

11 "Child welfare services" does not include child protection  
12 services.

13 (5) "Committee" means the child welfare transformation design  
14 committee.

15 (6) "Department" means the department of social and health  
16 services.

17 (7) "Extended foster care services" means residential and other  
18 support services the department is authorized to provide to foster  
19 children. These services include, but are not limited to, placement in  
20 licensed, relative, or otherwise approved care, or supervised  
21 independent living settings; assistance in meeting basic needs;  
22 independent living services; medical assistance; and counseling or  
23 treatment.

24 (8) "Family assessment" means a comprehensive assessment of child  
25 safety, risk of subsequent child abuse or neglect, and family strengths  
26 and needs that is applied to a child abuse or neglect report that does  
27 not allege substantial child endangerment. Family assessment does not  
28 include a determination as to whether child abuse or neglect occurred,  
29 but does determine the need for services to address the safety of  
30 family members and the risk of subsequent maltreatment.

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

35 ((+9)) (10) "Out-of-home care services" means services provided  
36 after the shelter care hearing to or for children in out-of-home care,  
37 as that term is defined in RCW 13.34.030, and their families, including  
38 the recruitment, training, and management of foster parents, the

1 recruitment of adoptive families, and the facilitation of the adoption  
2 process, family reunification, independent living, emergency shelter,  
3 residential group care, and foster care, including relative placement.

4 ~~((+10+))~~ (11) "Performance-based contracting" means the structuring  
5 of all aspects of the procurement of services around the purpose of the  
6 work to be performed and the desired results with the contract  
7 requirements set forth in clear, specific, and objective terms with  
8 measurable outcomes. Contracts shall also include provisions that link  
9 the performance of the contractor to the level and timing of  
10 reimbursement.

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

15 ~~((+12+))~~ (13) "Primary prevention services" means services which  
16 are designed and delivered for the primary purpose of enhancing child  
17 and family well-being and are shown, by analysis of outcomes, to reduce  
18 the risk to the likelihood of the initial need for child welfare  
19 services.

20 ~~((+13+))~~ (14) "Supervising agency" means an agency licensed by the  
21 state under RCW 74.15.090, or licensed by a federally recognized Indian  
22 tribe located in this state under RCW 74.15.190, that has entered into  
23 a performance-based contract with the department to provide case  
24 management for the delivery and documentation of child welfare  
25 services, as defined in this section.

26 **Sec. 8.** RCW 74.13.031 and 2011 c 330 s 5 and 2011 c 160 s 2 are  
27 each reenacted and amended to read as follows:

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

32 (2) Within available resources, the department and supervising  
33 agencies shall recruit an adequate number of prospective adoptive and  
34 foster homes, both regular and specialized, i.e. homes for children of  
35 ethnic minority, including Indian homes for Indian children, sibling  
36 groups, handicapped and emotionally disturbed, teens, pregnant and  
37 parenting teens, and the department shall annually report to the

1 governor and the legislature concerning the department's and  
2 supervising agency's success in: (a) Meeting the need for adoptive and  
3 foster home placements; (b) reducing the foster parent turnover rate;  
4 (c) completing home studies for legally free children; and (d)  
5 implementing and operating the passport program required by RCW  
6 74.13.285. The report shall include a section entitled "Foster Home  
7 Turn-Over, Causes and Recommendations."

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

22 (4) The department shall offer, on a voluntary basis, family  
23 assessment to families who are appropriate as determined under RCW  
24 26.44.030.

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

28 ((+5)) (6) The department or supervising agencies shall monitor  
29 placements of children in out-of-home care and in-home dependencies to  
30 assure the safety, well-being, and quality of care being provided is  
31 within the scope of the intent of the legislature as defined in RCW  
32 74.13.010 and 74.15.010. Under this section children in out-of-home  
33 care and in-home dependencies and their caregivers shall receive a  
34 private and individual face-to-face visit each month. The department  
35 and the supervising agencies shall randomly select no less than ten  
36 percent of the caregivers currently providing care to receive one  
37 unannounced face-to-face visit in the caregiver's home per year. No  
38 caregiver will receive an unannounced visit through the random

1 selection process for two consecutive years. If the caseworker makes  
2 a good faith effort to conduct the unannounced visit to a caregiver and  
3 is unable to do so, that month's visit to that caregiver need not be  
4 unannounced. The department and supervising agencies are encouraged to  
5 group monthly visits to caregivers by geographic area so that in the  
6 event an unannounced visit cannot be completed, the caseworker may  
7 complete other required monthly visits. The department shall use a  
8 method of random selection that does not cause a fiscal impact to the  
9 department.

10 The department or supervising agencies shall conduct the monthly  
11 visits with children and caregivers to whom it is providing child  
12 welfare services.

13 ~~((+6))~~ (7) The department and supervising agencies shall have  
14 authority to accept custody of children from parents and to accept  
15 custody of children from juvenile courts, where authorized to do so  
16 under law, to provide child welfare services including placement for  
17 adoption, to provide for the routine and necessary medical, dental, and  
18 mental health care, or necessary emergency care of the children, and to  
19 provide for the physical care of such children and make payment of  
20 maintenance costs if needed. Except where required by Public Law 95-  
21 608 (25 U.S.C. Sec. 1915), no private adoption agency which receives  
22 children for adoption from the department shall discriminate on the  
23 basis of race, creed, or color when considering applications in their  
24 placement for adoption.

25 ~~((+7))~~ (8) The department and supervising agency shall have  
26 authority to provide temporary shelter to children who have run away  
27 from home and who are admitted to crisis residential centers.

28 ~~((+8))~~ (9) The department and supervising agency shall have  
29 authority to purchase care for children.

30 ~~((+9))~~ (10) The department shall establish a children's services  
31 advisory committee with sufficient members representing supervising  
32 agencies which shall assist the secretary in the development of a  
33 partnership plan for utilizing resources of the public and private  
34 sectors, and advise on all matters pertaining to child welfare,  
35 licensing of child care agencies, adoption, and services related  
36 thereto. At least one member shall represent the adoption community.

37 ~~((+10))~~ (11) The department and supervising agencies shall have  
38 authority to provide continued extended foster care services to youth

1 ages eighteen to twenty-one years to participate in or complete a  
2 secondary education program or a secondary education equivalency  
3 program.

4 ~~((+11+))~~ (12) The department ~~((, has))~~ shall have authority to  
5 provide adoption support benefits, or relative guardianship subsidies  
6 on behalf of youth ages eighteen to twenty-one years who achieved  
7 permanency through adoption or a relative guardianship at age sixteen  
8 or older and who meet the criteria described in subsection ~~((+10+))~~  
9 (11) of this section.

10 ~~((+12+))~~ (13) The department shall refer cases to the division of  
11 child support whenever state or federal funds are expended for the care  
12 and maintenance of a child, including a child with a developmental  
13 disability who is placed as a result of an action under chapter 13.34  
14 RCW, unless the department finds that there is good cause not to pursue  
15 collection of child support against the parent or parents of the child.  
16 Cases involving individuals age eighteen through twenty shall not be  
17 referred to the division of child support unless required by federal  
18 law.

19 ~~((+13+))~~ (14) The department and supervising agencies shall have  
20 authority within funds appropriated for foster care services to  
21 purchase care for Indian children who are in the custody of a federally  
22 recognized Indian tribe or tribally licensed child-placing agency  
23 pursuant to parental consent, tribal court order, or state juvenile  
24 court order; and the purchase of such care shall be subject to the same  
25 eligibility standards and rates of support applicable to other children  
26 for whom the department purchases care.

27 Notwithstanding any other provision of RCW 13.32A.170 through  
28 13.32A.200 and 74.13.032 through 74.13.036, or of this section all  
29 services to be provided by the department under subsections (4), ~~((+6+)~~  
30 ~~and))~~ (7), and (8) of this section, subject to the limitations of these  
31 subsections, may be provided by any program offering such services  
32 funded pursuant to Titles II and III of the federal juvenile justice  
33 and delinquency prevention act of 1974.

34 ~~((+14+))~~ (15) Within amounts appropriated for this specific  
35 purpose, the supervising agency or department shall provide preventive  
36 services to families with children that prevent or shorten the duration  
37 of an out-of-home placement.

1           (~~(15)~~) (16) The department and supervising agencies shall have  
2 authority to provide independent living services to youths, including  
3 individuals who have attained eighteen years of age, and have not  
4 attained twenty-one years of age who are or have been in foster care.

5           (~~(16)~~) (17) The department and supervising agencies shall consult  
6 at least quarterly with foster parents, including members of the foster  
7 parent association of Washington state, for the purpose of receiving  
8 information and comment regarding how the department and supervising  
9 agencies are performing the duties and meeting the obligations  
10 specified in this section and RCW 74.13.250 and 74.13.320 regarding the  
11 recruitment of foster homes, reducing foster parent turnover rates,  
12 providing effective training for foster parents, and administering a  
13 coordinated and comprehensive plan that strengthens services for the  
14 protection of children. Consultation shall occur at the regional and  
15 statewide levels.

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

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

22           (ii) Sibling visits subject to the restrictions in RCW  
23 13.34.136(2)(b)(ii);

24           (iii) Parent-child visits;

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

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

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

32           **Sec. 9.** RCW 26.44.125 and 1998 c 314 s 9 are each amended to read  
33 as follows:

34           (1) A person who is named as an alleged perpetrator after October  
35 1, 1998, in a founded report of child abuse or neglect has the right to  
36 seek review and amendment of the finding as provided in this section.

1           (2) Within (~~twenty~~) sixty calendar days after receiving written  
2 notice from the department under RCW 26.44.100 that a person is named  
3 as an alleged perpetrator in a founded report of child abuse or  
4 neglect, he or she may request that the department review the finding.  
5 The request must be made in writing. The written notice provided by  
6 the department must contain at least the following information in plain  
7 language:

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

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

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

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

20           (e) That founded allegations of child abuse or neglect may be used  
21 in determining:

22           (i) If an alleged perpetrator is qualified to be licensed to care  
23 for children or vulnerable adults;

24           (ii) If an alleged perpetrator is qualified to be employed by a  
25 child care agency or facility; or

26           (iii) If an alleged perpetrator will be authorized or funded by the  
27 department to provide care or services to children or vulnerable  
28 adults;

29           (f) That the alleged perpetrator has a right to challenge a founded  
30 allegation of child abuse or neglect.

31           (3) If a request for review is not made as provided in this  
32 subsection, the alleged perpetrator may not further challenge the  
33 finding and shall have no right to agency review or to an adjudicative  
34 hearing or judicial review of the finding, unless he or she can show  
35 that the department did not exercise reasonable, good faith efforts in  
36 providing notice to the alleged perpetrator.

37           (~~(+3)~~) (4) Upon receipt of a written request for review, the  
38 department shall review and, if appropriate, may amend the finding.

1 Management level staff within the children's administration designated  
2 by the secretary shall be responsible for the review. The review must  
3 be completed within sixty days after receiving the written request for  
4 review. The review must be conducted in accordance with procedures the  
5 department establishes by rule. Upon completion of the review, the  
6 department shall notify the alleged perpetrator in writing of the  
7 agency's determination. The notification must be sent by certified  
8 mail, return receipt requested, to the person's last known address.

9 ((+4)) (5) If, following agency review, the report remains  
10 founded, the person named as the alleged perpetrator in the report may  
11 request an adjudicative hearing to contest the finding. The  
12 adjudicative proceeding is governed by chapter 34.05 RCW and this  
13 section. The request for an adjudicative proceeding must be filed  
14 within ((thirty)) sixty calendar days after receiving notice of the  
15 agency review determination. If a request for an adjudicative  
16 proceeding is not made as provided in this subsection, the alleged  
17 perpetrator may not further challenge the finding and shall have no  
18 right to agency review or to an adjudicative hearing or judicial review  
19 of the finding.

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

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

26 NEW SECTION. **Sec. 10.** This act takes effect July 1, 2013.

--- END ---