

---

HOUSE BILL 1931

---

State of Washington

65th Legislature

2017 Regular Session

By Representatives Hayes, Macri, McDonald, and Jinkins

Read first time 02/03/17. Referred to Committee on Early Learning & Human Services.

1 AN ACT Relating to posting child abuse and neglect mandated  
2 reporter requirements; and amending RCW 26.44.030.

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

4 **Sec. 1.** RCW 26.44.030 and 2016 c 166 s 4 are each amended to  
5 read as follows:

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

18 (b) When any person, in his or her official supervisory capacity  
19 with a nonprofit or for-profit organization, has reasonable cause to  
20 believe that a child has suffered abuse or neglect caused by a person  
21 over whom he or she regularly exercises supervisory authority, he or

1 she shall report such incident, or cause a report to be made, to the  
2 proper law enforcement agency, provided that the person alleged to  
3 have caused the abuse or neglect is employed by, contracted by, or  
4 volunteers with the organization and coaches, trains, educates, or  
5 counsels a child or children or regularly has unsupervised access to  
6 a child or children as part of the employment, contract, or voluntary  
7 service. No one shall be required to report under this section when  
8 he or she obtains the information solely as a result of a privileged  
9 communication as provided in RCW 5.60.060.

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

12 For the purposes of this subsection, the following definitions  
13 apply:

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

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

27 (iii) "Reasonable cause" means a person witnesses or receives a  
28 credible written or oral report alleging abuse, including sexual  
29 contact, or neglect of a child.

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

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

34 (c) The reporting requirement also applies to department of  
35 corrections personnel who, in the course of their employment, observe  
36 offenders or the children with whom the offenders are in contact. If,  
37 as a result of observations or information received in the course of  
38 his or her employment, any department of corrections personnel has  
39 reasonable cause to believe that a child has suffered abuse or  
40 neglect, he or she shall report the incident, or cause a report to be

1 made, to the proper law enforcement agency or to the department as  
2 provided in RCW 26.44.040.

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

14 (e) The reporting requirement also applies to guardians ad litem,  
15 including court-appointed special advocates, appointed under Titles  
16 11 and 13 RCW and this title, who in the course of their  
17 representation of children in these actions have reasonable cause to  
18 believe a child has been abused or neglected.

19 (f) The reporting requirement in (a) of this subsection also  
20 applies to administrative and academic or athletic department  
21 employees, including student employees, of institutions of higher  
22 education, as defined in RCW 28B.10.016, and of private institutions  
23 of higher education.

24 (g) 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  
32 children are or may be at risk of abuse or neglect by the accused,  
33 the reporting requirement of subsection (1) of this section does  
34 apply.

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

39 (4) The department, upon receiving a report of an incident of  
40 alleged abuse or neglect pursuant to this chapter, involving a child

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

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

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

33 (7) The department may conduct ongoing case planning and  
34 consultation with those persons or agencies required to report under  
35 this section, with consultants designated by the department, and with  
36 designated representatives of Washington Indian tribes if the client  
37 information exchanged is pertinent to cases currently receiving child  
38 protective services. Upon request, the department shall conduct such  
39 planning and consultation with those persons required to report under  
40 this section if the department determines it is in the best interests

1 of the child. Information considered privileged by statute and not  
2 directly related to reports required by this section must not be  
3 divulged without a valid written waiver of the privilege.

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

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

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

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

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

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

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

- 1 (i) Investigation; or
- 2 (ii) Family assessment.

3 (b) In making the response in (a) of this subsection the  
4 department shall:

5 (i) Use a method by which to assign cases to investigation or  
6 family assessment which are based on an array of factors that may  
7 include the presence of: Imminent danger, level of risk, number of  
8 previous child abuse or neglect reports, or other presenting case  
9 characteristics, such as the type of alleged maltreatment and the age  
10 of the alleged victim. Age of the alleged victim shall not be used as  
11 the sole criterion for determining case assignment;

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

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

16 (iv) Provide a full investigation if a family refuses the initial  
17 family assessment;

18 (v) Provide voluntary services to families based on the results  
19 of the initial family assessment. If a family refuses voluntary  
20 services, and the department cannot identify specific facts related  
21 to risk or safety that warrant assignment to investigation under this  
22 chapter, and there is not a history of reports of child abuse or  
23 neglect related to the family, then the department must close the  
24 family assessment response case. However, if at any time the  
25 department identifies risk or safety factors that warrant an  
26 investigation under this chapter, then the family assessment response  
27 case must be reassigned to investigation;

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

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

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

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

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

39 (E) The child is an adjudicated dependent child as defined in RCW  
40 13.34.030, or the child is in a facility that is licensed, operated,

1 or certified for care of children by the department under chapter  
2 74.15 RCW, or by the department of early learning.

3 (c) The department may not be held civilly liable for the  
4 decision to respond to an allegation of child abuse or neglect by  
5 using the family assessment response under this section unless the  
6 state or its officers, agents, or employees acted with reckless  
7 disregard.

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

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

24 (13) For reports of alleged abuse or neglect that are responded  
25 to through family assessment response, the department shall:

26 (a) Provide the family with a written explanation of the  
27 procedure for assessment of the child and the family and its  
28 purposes;

29 (b) Collaborate with the family to identify family strengths,  
30 resources, and service needs, and develop a service plan with the  
31 goal of reducing risk of harm to the child and improving or restoring  
32 family well-being;

33 (c) Complete the family assessment response within forty-five  
34 days of receiving the report; however, upon parental agreement, the  
35 family assessment response period may be extended up to ninety days;

36 (d) Offer services to the family in a manner that makes it clear  
37 that acceptance of the services is voluntary;

38 (e) Implement the family assessment response in a consistent and  
39 cooperative manner;

1 (f) Have the parent or guardian sign an agreement to participate  
2 in services before services are initiated that informs the parents of  
3 their rights under family assessment response, all of their options,  
4 and the options the department has if the parents do not sign the  
5 consent form.

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

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

27 (ii) Shall have access to all relevant records of the child in  
28 the possession of mandated reporters and their employees.

29 (b) The Washington state school directors' association shall  
30 adopt a model policy addressing protocols when an interview, as  
31 authorized by this subsection, is conducted on school premises. In  
32 formulating its policy, the association shall consult with the  
33 department and the Washington association of sheriffs and police  
34 chiefs.

35 (15) If a report of alleged abuse or neglect is founded and  
36 constitutes the third founded report received by the department  
37 within the last twelve months involving the same child or family, the  
38 department shall promptly notify the office of the family and  
39 children's ombuds of the contents of the report. The department shall  
40 also notify the ombuds of the disposition of the report.



1 (16) In investigating and responding to allegations of child  
2 abuse and neglect, the department may conduct background checks as  
3 authorized by state and federal law.

4 (17)(a) The department shall maintain investigation records and  
5 conduct timely and periodic reviews of all founded cases of abuse and  
6 neglect. The department shall maintain a log of screened-out  
7 nonabusive cases.

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

12 (18) The department shall use a risk assessment process when  
13 investigating alleged child abuse and neglect referrals. The  
14 department shall present the risk factors at all hearings in which  
15 the placement of a dependent child is an issue. Substance abuse must  
16 be a risk factor.

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

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

28 (21) The department shall make efforts as soon as practicable to  
29 determine the military status of parents whose children are subject  
30 to abuse or neglect allegations. If the department determines that a  
31 parent or guardian is in the military, the department shall notify a  
32 department of defense family advocacy program that there is an  
33 allegation of abuse and neglect that is screened in and open for  
34 investigation that relates to that military parent or guardian.

35 (22) The department shall make available on its public web site a  
36 downloadable and printable poster that includes the reporting  
37 requirements included in this section. The poster must be no smaller  
38 than eight and one-half by eleven inches with all information on one  
39 side. The poster must be made available in both the English and  
40 Spanish languages. Organizations that include employees or volunteers

1 subject to the reporting requirements of this section must clearly  
2 display this poster in a common area. At a minimum, this poster must  
3 include the following:

4 (a) Who is required to report child abuse and neglect;

5 (b) The standard of knowledge to justify a report;

6 (c) The definition of reportable crimes;

7 (d) Where to report suspected child abuse and neglect; and

8 (e) What should be included in a report and the appropriate  
9 timing.

--- END ---