
SENATE BILL 6159

State of Washington

54th Legislature

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By Senators Roach and Schow

Read first time 01/08/96. Referred to Committee on Law & Justice.

1 AN ACT Relating to interviews of children conducted by the
2 department of social and health services; amending RCW 26.44.030;
3 adding a new section to chapter 26.44 RCW; and adding a new section to
4 chapter 9A.44 RCW.

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

6 **Sec. 1.** RCW 26.44.030 and 1995 c 311 s 17 are each amended to read
7 as follows:

8 (1)(a) When any practitioner, county coroner or medical examiner,
9 law enforcement officer, professional school personnel, registered or
10 licensed nurse, social service counselor, psychologist, pharmacist,
11 licensed or certified child care providers or their employees, employee
12 of the department, or juvenile probation officer has reasonable cause
13 to believe that a child or adult dependent or developmentally disabled
14 person, has suffered abuse or neglect, he or she shall report such
15 incident, or cause a report to be made, to the proper law enforcement
16 agency or to the department as provided in RCW 26.44.040.

17 (b) The reporting requirement shall also apply to any adult who has
18 reasonable cause to believe that a child or adult dependent or
19 developmentally disabled person, who resides with them, has suffered

1 severe abuse, and is able or capable of making a report. For the
2 purposes of this subsection, "severe abuse" means any of the following:
3 Any single act of abuse that causes physical trauma of sufficient
4 severity that, if left untreated, could cause death; any single act of
5 sexual abuse that causes significant bleeding, deep bruising, or
6 significant external or internal swelling; or more than one act of
7 physical abuse, each of which causes bleeding, deep bruising,
8 significant external or internal swelling, bone fracture, or
9 unconsciousness.

10 (c) The report shall be made at the first opportunity, but in no
11 case longer than forty-eight hours after there is reasonable cause to
12 believe that the child or adult has suffered abuse or neglect. The
13 report shall include the identity of the accused if known.

14 (2) The reporting requirement of subsection (1) of this section
15 does not apply to the discovery of abuse or neglect that occurred
16 during childhood if it is discovered after the child has become an
17 adult. However, if there is reasonable cause to believe other
18 children, dependent adults, or developmentally disabled persons are or
19 may be at risk of abuse or neglect by the accused, the reporting
20 requirement of subsection (1) of this section shall apply.

21 (3) Any other person who has reasonable cause to believe that a
22 child or adult dependent or developmentally disabled person has
23 suffered abuse or neglect may report such incident to the proper law
24 enforcement agency or to the department of social and health services
25 as provided in RCW 26.44.040.

26 (4) The department, upon receiving a report of an incident of abuse
27 or neglect pursuant to this chapter, involving a child or adult
28 dependent or developmentally disabled person who has died or has had
29 physical injury or injuries inflicted upon him or her other than by
30 accidental means or who has been subjected to sexual abuse, shall
31 report such incident to the proper law enforcement agency. In
32 emergency cases, where the child, adult dependent, or developmentally
33 disabled person's welfare is endangered, the department shall notify
34 the proper law enforcement agency within twenty-four hours after a
35 report is received by the department. In all other cases, the
36 department shall notify the law enforcement agency within seventy-two
37 hours after a report is received by the department. If the department
38 makes an oral report, a written report shall also be made to the proper
39 law enforcement agency within five days thereafter.

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

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

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

34 (8) Any case referred to the department by a physician licensed
35 under chapter 18.57 or 18.71 RCW on the basis of an expert medical
36 opinion that child abuse, neglect, or sexual assault has occurred and
37 that the child's safety will be seriously endangered if returned home,
38 the department shall file a dependency petition unless a second
39 licensed physician of the parents' choice believes that such expert

1 medical opinion is incorrect. If the parents fail to designate a
2 second physician, the department may make the selection. If a
3 physician finds that a child has suffered abuse or neglect but that
4 such abuse or neglect does not constitute imminent danger to the
5 child's health or safety, and the department agrees with the
6 physician's assessment, the child may be left in the parents' home
7 while the department proceeds with reasonable efforts to remedy
8 parenting deficiencies.

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

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

28 (11) Upon receiving a report of child abuse and neglect, the
29 department or investigating law enforcement agency shall have access to
30 all relevant records of the child in the possession of mandated
31 reporters and their employees.

32 (12) The department shall maintain investigation records and
33 conduct timely and periodic reviews of all cases constituting abuse and
34 neglect. The department shall maintain a log of screened-out
35 nonabusive cases.

36 (13) The department shall use a risk assessment process when
37 investigating child abuse and neglect referrals. The department shall
38 present the risk factors at all hearings in which the placement of a
39 dependent child is an issue. The department shall, within funds

1 appropriated for this purpose, offer enhanced community-based services
2 to persons who are determined not to require further state
3 intervention.

4 The department shall provide annual reports to the legislature on
5 the effectiveness of the risk assessment process.

6 (14) Upon receipt of a report of abuse or neglect the law
7 enforcement agency may arrange to interview the person making the
8 report and any collateral sources to determine if any malice is
9 involved in the reporting.

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

12 (1) When an interview of a child regarding allegations of sexual
13 abuse is conducted by the department under RCW 26.44.030 without a law
14 enforcement officer present, that interview shall be recorded by
15 audiotape or videotape. Failure to record the interview shall not
16 affect the admissibility of statements pursuant to RCW 9A.44.120 unless
17 the failure was willful. The willful failure of the department to
18 record, by audiotape or videotape, an interview of a child regarding
19 allegations of sexual abuse creates a presumption that such statements
20 are inadmissible for the purpose of RCW 9A.44.120.

21 (2) The department shall not make any copies of an audiotape or
22 videotape recorded under this section. The original tape shall be
23 immediately transmitted to the prosecuting attorney's office or the
24 local law enforcement agency to be preserved as evidence.

25 (3) Only persons accused of alleged sexual abuse or the person's
26 attorney may view or listen to the tape as necessary to prepare an
27 adequate defense, but the tape shall remain in the custody of the
28 prosecuting attorney's office or the local law enforcement agency. If
29 the tape has been introduced as evidence it shall remain in the custody
30 of the court. If the charges against the accused are dismissed or if
31 the accused is found not guilty, all tapes shall be destroyed.

32 NEW SECTION. **Sec. 3.** A new section is added to chapter 9A.44 RCW
33 to read as follows:

34 If an audiotape or videotape is made in compliance with section 2
35 of this act, the recorded statements by the child may be admitted into
36 evidence through the audiotape or videotape, subject to the
37 requirements of RCW 9A.44.120. A videotaped interview with the child

1 may be admitted into evidence in lieu of the child's live testimony at
2 trial, by stipulation of the accused person and the state, or as
3 otherwise admissible by law.

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