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**SUBSTITUTE SENATE BILL 5308**

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**State of Washington**

**59th Legislature**

**2005 Regular Session**

**By** Senate Committee on Human Services & Corrections (originally sponsored by Senators Kohl-Welles, Hargrove and Oke)

READ FIRST TIME 02/16/05.

1 AN ACT Relating to mandatory reporting of child abuse or neglect;  
2 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 2003 c 207 s 4 are each amended to read  
5 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 licensed or certified child care providers or their employees, employee  
10 of the department, juvenile probation officer, placement and liaison  
11 specialist, responsible living skills program staff, HOPE center staff,  
12 or state family and children's ombudsman or any volunteer in the  
13 ombudsman's office has reasonable cause to believe that a child has  
14 suffered abuse or neglect, he or she shall report such incident, or  
15 cause a report to be made, to the proper law enforcement agency or to  
16 the department as provided in RCW 26.44.040.

17 (b) When any person, in his or her official supervisory capacity  
18 with a nonprofit or for-profit organization, has reasonable cause to  
19 believe that a child has suffered abuse or neglect caused by a person

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

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

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

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

33 ((+d)) (e) The report must be made at the first opportunity, but  
34 in no case longer than forty-eight hours after there is reasonable  
35 cause to believe that the child has suffered abuse or neglect. The  
36 report must include the identity of the accused if known.

37 (2) The reporting requirement of subsection (1) of this section  
38 does not apply to the discovery of abuse or neglect that occurred

1 during childhood if it is discovered after the child has become an  
2 adult. However, if there is reasonable cause to believe other children  
3 are or may be at risk of abuse or neglect by the accused, the reporting  
4 requirement of subsection (1) of this section does apply.

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

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

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

37 (6) Any county prosecutor or city attorney receiving a report under  
38 subsection (5) of this section shall notify the victim, any persons the

1 victim requests, and the local office of the department, of the  
2 decision to charge or decline to charge a crime, within five days of  
3 making the decision.

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

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

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

33 (10) Upon receiving reports of alleged abuse or neglect, the  
34 department or law enforcement agency may interview children. The  
35 interviews may be conducted on school premises, at day-care facilities,  
36 at the child's home, or at other suitable locations outside of the  
37 presence of parents. Parental notification of the interview must occur  
38 at the earliest possible point in the investigation that will not

1 jeopardize the safety or protection of the child or the course of the  
2 investigation. Prior to commencing the interview the department or law  
3 enforcement agency shall determine whether the child wishes a third  
4 party to be present for the interview and, if so, shall make reasonable  
5 efforts to accommodate the child's wishes. Unless the child objects,  
6 the department or law enforcement agency shall make reasonable efforts  
7 to include a third party in any interview so long as the presence of  
8 the third party will not jeopardize the course of the investigation.

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

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

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

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

28 (15) The department shall make reasonable efforts to learn the  
29 name, address, and telephone number of each person making a report of  
30 abuse or neglect under this section. The department shall provide  
31 assurances of appropriate confidentiality of the identification of  
32 persons reporting under this section. If the department is unable to  
33 learn the information required under this subsection, the department  
34 shall only investigate cases in which: (a) The department believes  
35 there is a serious threat of substantial harm to the child; (b) the  
36 report indicates conduct involving a criminal offense that has, or is  
37 about to occur, in which the child is the victim; or (c) the department

1 has, after investigation, a report of abuse or neglect that has been  
2 founded with regard to a member of the household within three years of  
3 receipt of the referral.

4 NEW SECTION. **Sec. 2.** If any provision of this act or its  
5 application to any person or circumstance is held invalid, the  
6 remainder of the act or the application of the provision to other  
7 persons or circumstances is not affected.

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