6555-S.E AMH KAGI PALC 108

**ESSB 6555** - H AMD TO ELHS COMM AMD (6555-S.E AMH ELHS H4436.1) **1281**

By Representative Kagi

**ADOPTED 03/01/2012**

 On page 1 of the striking amendment, strike all material after line 2 and insert the following:

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

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

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

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

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

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

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

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

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

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

 (9) "Family assessment" means a comprehensive assessment of child safety, risk of subsequent child abuse or neglect, and family strengths and needs that is applied to a child abuse or neglect report. Family assessment does not include a determination as to whether child abuse or neglect occurred, but does determine the need for services to address the safety of the child and the risk of subsequent maltreatment.
 (10) "Family assessment response" means a way of responding to certain reports of child abuse or neglect made under this chapter using a differential response approach to child protective services. The family assessment response shall focus on the safety of the child, the integrity and preservation of the family, and shall assess the status of the child and the family in terms of risk of abuse and neglect including the parent's or guardian's or other caretaker's capacity and willingness to protect the child and, if necessary, plan and arrange the provision of services to reduce the risk and otherwise support the family. No one is named as a perpetrator, and no investigative finding is entered in the record as a result of a family assessment.
 (11) "Founded" means the determination following an investigation by the department that, based on available information, it is more likely than not that child abuse or neglect did occur.

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

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

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

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

 ((~~(14)~~)) (16) "Negligent treatment or maltreatment" means an act or a failure to act, or the cumulative effects of a pattern of conduct, behavior, or inaction, that evidences a serious disregard of consequences of such magnitude as to constitute a clear and present danger to a child's health, welfare, or safety, including but not limited to conduct prohibited under RCW 9A.42.100. When considering whether a clear and present danger exists, evidence of a parent's substance abuse as a contributing factor to negligent treatment or maltreatment shall be given great weight. The fact that siblings share a bedroom is not, in and of itself, negligent treatment or maltreatment. Poverty, homelessness, or exposure to domestic violence as defined in RCW 26.50.010 that is perpetrated against someone other than the child does not constitute negligent treatment or maltreatment in and of itself.

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

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

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

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

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

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

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

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

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

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

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

 (1) No later than December 1, 2013, the department shall implement the family assessment response. The department may implement the family assessment response on a phased-in basis, by geographical area.

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

 (a) Description of the family assessment response practice model;

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

 (c) Development of an intake screening tool and a family assessment tool specifically to be used in the family assessment response. The family assessment tool must, at minimum, evaluate the safety of the child and determine services needed by the family to improve or restore family well-being;

 (d) Delineation of staff training requirements;

 (e) Development of strategies to reduce disproportionality;

 (f) Development of strategies to assist and connect families with the appropriate private or public housing support agencies, for those parents whose inability to obtain or maintain safe housing creates a risk of harm to the child, risk of out-of-home placement of the child, or a barrier to reunification;

 (g) Identification of methods to involve local community partners in the development of community-based resources to meet families' needs. Local community partners may include, but are not limited to: Alumni of the foster care system and veteran parents, local private service delivery agencies, schools, local health departments and other health care providers, juvenile court, law enforcement, office of public defense social workers or local defense attorneys, domestic violence victims advocates, and other available community-based entities;

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

 (i) Identification of current departmental expenditures for services appropriate for the family assessment response, to the greatest practicable extent;

 (j) Identification of philanthropic funding and other private funding available to supplement public resources in response to identified family needs;

 (k) Development of effective mechanisms which assure and maximize, to the greatest extent practicable, that family assessment response for Native American Indian children will be completed in a timely manner by a worker from the child's tribe or by a worker approved by the child's tribe.

 (l) A potential phase-in schedule if proposed; and

 (m) Recommendations for legislative action required to implement the plan.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

 (11)(a) Upon receiving a report of alleged abuse or neglect, the department shall use one of the following discrete responses to reports of child abuse or neglect that are screened in and accepted for departmental response:
 (i) Investigation; or
 (ii) Family assessment.
 (b) In making the response in (a) of this subsection the department shall:
 (i) Use a method by which to assign cases to investigation or family assessment which are based on an array of factors that may include the presence of: Imminent danger, level of risk, number of previous child abuse or neglect reports, or other presenting case characteristics, such as the type of alleged maltreatment and the age of the alleged victim. Age of the alleged victim shall not be used as the sole criterion for determining case assignment;
 (ii) Allow for a change in response assignment based on new information that alters risk or safety level;
 (iii) Allow families assigned to family assessment to choose to receive an investigation rather than a family assessment;
 (iv) Provide a full investigation if a family refuses the initial family assessment;
 (v) Provide voluntary services to families based on the results of the initial family assessment. If a family refuses voluntary services, and the department cannot identify specific facts related to risk or safety that warrant assignment to investigation under this chapter, and there is not a history of reports of child abuse or neglect related to the family, then the department must close the family assessment response case. However, if at any time the department identifies risk or safety factors that warrant an investigation under this chapter, then the family assessment response case must be reassigned to investigation;
 (vi) Conduct an investigation, and not a family assessment, in response to an allegation that, the department determines based on the intake assessment:
 (A) Poses a risk of "imminent harm" consistent with the definition provided in RCW 13.34.050, which includes, but is not limited to, sexual abuse and sexual exploitation as defined in this chapter;
 (B) Poses a serious threat of substantial harm to a child;
 (C) Constitutes conduct involving a criminal offense that has, or is about to occur, in which the child is the victim;
 (D) The child is an abandoned child as defined in RCW 13.34.030;
 (E) The child is an adjudicated dependent child as defined in RCW 13.34.030, or the child is in a facility that is licensed, operated, or certified for care of children by the department under chapter 74.15 RCW, or by the department of early learning.
 (c) The department may not be held civilly liable for the decision to respond to an allegation of child abuse or neglect by using the family assessment response under this section unless the state or its officers, agents, or employees acted with reckless disregard.
 (12)(a) For reports of alleged abuse or neglect that are accepted for investigation by the department, the investigation shall be conducted within time frames established by the department in rule. In no case shall the investigation extend longer than ninety days from the date the report is received, unless the investigation is being conducted under a written protocol pursuant to RCW 26.44.180 and a law enforcement agency or prosecuting attorney has determined that a longer investigation period is necessary. At the completion of the investigation, the department shall make a finding that the report of child abuse or neglect is founded or unfounded.

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

 ((~~(12)~~)) (13) For reports of alleged abuse or neglect that are responded to through family assessment response, the department shall:
 (a) Provide the family with a written explanation of the procedure for assessment of the child and the family and its purposes;
 (b) Collaborate with the family to identify family strengths, resources, and service needs, and develop a service plan with the goal of reducing risk of harm to the child and improving or restoring family well-being;

 (c) Complete the family assessment response within forty-five days of receiving the report; however, upon parental agreement, the family assessment response period may be extended up to ninety days;
 (d) Offer services to the family in a manner that makes it clear that acceptance of the services is voluntary;
 (e) Implement the family assessment response in a consistent and cooperative manner;
 (f) Have the parent or guardian sign an agreement to participate in services before services are initiated that informs the parents of their rights under family assessment response, all of their options, and the options the department has if the parents do not sign the consent form.
 (14) In conducting an investigation or family assessment of alleged abuse or neglect, the department or law enforcement agency:

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

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

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

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

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

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

 ((~~(16)~~)) (18) The department shall use a risk assessment process when investigating alleged child abuse and neglect referrals. The department shall present the risk factors at all hearings in which the placement of a dependent child is an issue. Substance abuse must be a risk factor. ((~~The department shall, within funds appropriated for this purpose, offer enhanced community-based services to persons who are determined not to require further state intervention.~~
 ~~(17)~~)) (19) Upon receipt of a report of alleged abuse or neglect the law enforcement agency may arrange to interview the person making the report and any collateral sources to determine if any malice is involved in the reporting.

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

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

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

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

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

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

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

 (4) ((~~An~~)) No unfounded, screened-out, or inconclusive report or information about a family's participation or nonparticipation in the family assessment response may ((~~not~~)) be disclosed to a child-placing agency, private adoption agency, or any other provider licensed under chapter 74.15 RCW without the consent of the individual who is the subject of the report or family assessment, unless:
 (a) The individual seeks to become a licensed foster parent or adoptive parent; or
 (b) The individual is the parent or legal custodian of a child being served by one of the agencies referenced in this subsection.

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

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

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

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

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

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

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

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

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

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

 (3) If the department determines, based on the results of the family assessment, that services are not recommended then the department shall close the family assessment response case.

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

 For purposes of this chapter:

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

 (2) "Child" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

 (8) "Family assessment" means a comprehensive assessment of child safety, risk of subsequent child abuse or neglect, and family strengths and needs that is applied to a child abuse or neglect report. Family assessment does not include a determination as to whether child abuse or neglect occurred, but does determine the need for services to address the safety of the child and the risk of subsequent maltreatment.
 (9) "Measurable effects" means a statistically significant change which occurs as a result of the service or services a supervising agency is assigned in a performance-based contract, in time periods established in the contract.

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

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

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

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

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

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

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

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

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

 (4) As provided in RCW 26.44.030(11), the department may respond to a report of child abuse or neglect by using the family assessment response.
 (5) The department or supervising agencies shall offer, on a voluntary basis, family reconciliation services to families who are in conflict.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

 (iii) Parent-child visits;

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

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

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

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

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

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

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

 (2) Within ((~~twenty~~)) thirty calendar days after ((~~receiving written notice from the department~~)) the department has notified the alleged perpetrator under RCW 26.44.100 that ((~~a~~)) the person is named as an alleged perpetrator in a founded report of child abuse or neglect, he or she may request that the department review the finding. The request must be made in writing. The written notice provided by the department must contain at least the following information in plain language:
 (a) Information about the department's investigative finding as it relates to the alleged perpetrator;
 (b) Sufficient factual information to apprise the alleged perpetrator of the date and nature of the founded reports;
 (c) That the alleged perpetrator has the right to submit to child protective services a written response regarding the child protective services finding which, if received, shall be filed in the department's records;
 (d) That information in the department's records, including information about this founded report, may be considered in a later investigation or proceeding related to a different allegation of child abuse or neglect or child custody;
 (e) That founded allegations of child abuse or neglect may be used by the department in determining:
 (i) If a perpetrator is qualified to be licensed or approved to care for children or vulnerable adults; or
 (ii) If a perpetrator is qualified to be employed by the department in a position having unsupervised access to children or vulnerable adults;
 (f) That the alleged perpetrator has a right to challenge a founded allegation of child abuse or neglect.
 (3) If a request for review is not made as provided in this subsection, the alleged perpetrator may not further challenge the finding and shall have no right to agency review or to an adjudicative hearing or judicial review of the finding, unless he or she can show that the department did not comply with the notice requirements of RCW 26.44.100.

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

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

 ((~~(5)~~)) (6) Reviews and hearings conducted under this section are confidential and shall not be open to the public. Information about reports, reviews, and hearings may be disclosed only in accordance with federal and state laws pertaining to child welfare records and child protective services reports.

 ((~~(6)~~)) (7) The department may adopt rules to implement this section.

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

 Correct the title"

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|  |  EFFECT: Requires the Department of Social and Health Services to develop effective mechanisms which assure and maximize, to the greatest extent practicable, that family assessment response for Native American Indian children will be completed in a timely manner by a worker from the child's tribe or by a worker approved by the child's tribe, as part of the family assessment response (FAR) implementation plan.Prohibits age of the child from being used as the sole criterion for determining whether a case will be assigned to investigation or family assessment response.Removes Sec. 7. which prescribes what the family assessment tool must specifically assess. Clarifies that FAR must be completed within 45 days, unless a parent agrees to an extension. Upon parental agreement, the FAR may be extended up to 90 days.Specifies that a child may be interviewed without a parent or guardian's permission if requesting such permission would compromise the integrity of the family assessment.Corrects the RCW reference in Sec. 3 (RCW 74.13 is changed to 74.15). |

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