

ESSB 6555 - H COMM AMD

By Committee on Early Learning & Human Services

ADOPTED AND ENGROSSED 3/1/12

1 Strike everything after the enacting clause and insert the
2 following:

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

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

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

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

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

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

3 (5) "Children's advocacy center" means a child-focused facility in
4 good standing with the state chapter for children's advocacy centers
5 and that coordinates a multidisciplinary process for the investigation,
6 prosecution, and treatment of sexual and other types of child abuse.
7 Children's advocacy centers provide a location for forensic interviews
8 and coordinate access to services such as, but not limited to, medical
9 evaluations, advocacy, therapy, and case review by multidisciplinary
10 teams within the context of county protocols as defined in RCW
11 26.44.180 and 26.44.185.

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

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

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

20 (9) "Family assessment" means a comprehensive assessment of child
21 safety, risk of subsequent child abuse or neglect, and family strengths
22 and needs that is applied to a child abuse or neglect report. Family
23 assessment does not include a determination as to whether child abuse
24 or neglect occurred, but does determine the need for services to
25 address the safety of the child and the risk of subsequent
26 maltreatment.

27 (10) "Family assessment response" means a way of responding to
28 certain reports of child abuse or neglect made under this chapter using
29 a differential response approach to child protective services. The
30 family assessment response shall focus on the safety of the child, the
31 integrity and preservation of the family, and shall assess the status
32 of the child and the family in terms of risk of abuse and neglect
33 including the parent's or guardian's or other caretaker's capacity and
34 willingness to protect the child and, if necessary, plan and arrange
35 the provision of services to reduce the risk and otherwise support the
36 family. No one is named as a perpetrator, and no investigative finding
37 is entered in the record as a result of a family assessment.

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

4 ~~((+10+))~~ (12) "Inconclusive" means the determination following an
5 investigation by the department, prior to October 1, 2008, that based
6 on available information a decision cannot be made that more likely
7 than not, child abuse or neglect did or did not occur.

8 ~~((+11+))~~ (13) "Institution" means a private or public hospital or
9 any other facility providing medical diagnosis, treatment, or care.

10 ~~((+12+))~~ (14) "Law enforcement agency" means the police department,
11 the prosecuting attorney, the state patrol, the director of public
12 safety, or the office of the sheriff.

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

18 ~~((+14+))~~ (16) "Negligent treatment or maltreatment" means an act or
19 a failure to act, or the cumulative effects of a pattern of conduct,
20 behavior, or inaction, that evidences a serious disregard of
21 consequences of such magnitude as to constitute a clear and present
22 danger to a child's health, welfare, or safety, including but not
23 limited to conduct prohibited under RCW 9A.42.100. When considering
24 whether a clear and present danger exists, evidence of a parent's
25 substance abuse as a contributing factor to negligent treatment or
26 maltreatment shall be given great weight. The fact that siblings share
27 a bedroom is not, in and of itself, negligent treatment or
28 maltreatment. Poverty, homelessness, or exposure to domestic violence
29 as defined in RCW 26.50.010 that is perpetrated against someone other
30 than the child does not constitute negligent treatment or maltreatment
31 in and of itself.

32 ~~((+15+))~~ (17) "Pharmacist" means any registered pharmacist under
33 chapter 18.64 RCW, whether acting in an individual capacity or as an
34 employee or agent of any public or private organization or institution.

35 ~~((+16+))~~ (18) "Practitioner of the healing arts" or "practitioner"
36 means a person licensed by this state to practice podiatric medicine
37 and surgery, optometry, chiropractic, nursing, dentistry, osteopathic
38 medicine and surgery, or medicine and surgery or to provide other

1 health services. The term "practitioner" includes a duly accredited
2 Christian Science practitioner. A person who is being furnished
3 Christian Science treatment by a duly accredited Christian Science
4 practitioner will not be considered, for that reason alone, a neglected
5 person for the purposes of this chapter.

6 ~~((+17))~~ (19) "Professional school personnel" include, but are not
7 limited to, teachers, counselors, administrators, child care facility
8 personnel, and school nurses.

9 ~~((+18))~~ (20) "Psychologist" means any person licensed to practice
10 psychology under chapter 18.83 RCW, whether acting in an individual
11 capacity or as an employee or agent of any public or private
12 organization or institution.

13 ~~((+19))~~ (21) "Screened-out report" means a report of alleged child
14 abuse or neglect that the department has determined does not rise to
15 the level of a credible report of abuse or neglect and is not referred
16 for investigation.

17 ~~((+20))~~ (22) "Sexual exploitation" includes: (a) Allowing,
18 permitting, or encouraging a child to engage in prostitution by any
19 person; or (b) allowing, permitting, encouraging, or engaging in the
20 obscene or pornographic photographing, filming, or depicting of a child
21 by any person.

22 ~~((+21))~~ (23) "Sexually aggressive youth" means a child who is
23 defined in RCW 74.13.075(1)(b) as being a sexually aggressive youth.

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

31 ~~((+23))~~ (25) "Supervising agency" means an agency licensed by the
32 state under RCW 74.15.090 or an Indian tribe under RCW 74.15.190 that
33 has entered into a performance-based contract with the department to
34 provide child welfare services.

35 ~~((+24))~~ (26) "Unfounded" means the determination following an
36 investigation by the department that available information indicates
37 that, more likely than not, child abuse or neglect did not occur, or

1 that there is insufficient evidence for the department to determine
2 whether the alleged child abuse did or did not occur.

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

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

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

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

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

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

22 (d) Delineation of staff training requirements;

23 (e) Development of strategies to reduce disproportionality;

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

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

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

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

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

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

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

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

17 **Sec. 3.** RCW 26.44.030 and 2009 c 480 s 1 are each amended to read
18 as follows:

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

31 (b) When any person, in his or her official supervisory capacity
32 with a nonprofit or for-profit organization, has reasonable cause to
33 believe that a child has suffered abuse or neglect caused by a person
34 over whom he or she regularly exercises supervisory authority, he or
35 she shall report such incident, or cause a report to be made, to the
36 proper law enforcement agency, provided that the person alleged to have
37 caused the abuse or neglect is employed by, contracted by, or

1 volunteers with the organization and coaches, trains, educates, or
2 counsels a child or children or regularly has unsupervised access to a
3 child or children as part of the employment, contract, or voluntary
4 service. No one shall be required to report under this section when he
5 or she obtains the information solely as a result of a privileged
6 communication as provided in RCW 5.60.060.

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

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

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

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

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

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

1 bruising, significant external or internal swelling, bone fracture, or
2 unconsciousness.

3 (e) The reporting requirement also applies to guardians ad litem,
4 including court-appointed special advocates, appointed under Titles 11,
5 13, and 26 RCW, who in the course of their representation of children
6 in these actions have reasonable cause to believe a child has been
7 abused or neglected.

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

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

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

22 (4) The department, upon 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 to the proper law
27 enforcement agency. In emergency cases, where the child's welfare is
28 endangered, the department shall notify the proper law enforcement
29 agency within twenty-four hours after a report is received by the
30 department. In all other cases, the department shall notify the law
31 enforcement agency within seventy-two hours after a report is received
32 by the department. If the department makes an oral report, a written
33 report must also be made to the proper law enforcement agency within
34 five days thereafter.

35 (5) Any law enforcement agency receiving a report of an incident of
36 alleged abuse or neglect pursuant to this chapter, involving a child
37 who has died or has had physical injury or injuries inflicted upon him
38 or her other than by accidental means, or who has been subjected to

1 alleged sexual abuse, shall report such incident in writing as provided
2 in RCW 26.44.040 to the proper county prosecutor or city attorney for
3 appropriate action whenever the law enforcement agency's investigation
4 reveals that a crime may have been committed. The law enforcement
5 agency shall also notify the department of all reports received and the
6 law enforcement agency's disposition of them. In emergency cases,
7 where the child's welfare is endangered, the law enforcement agency
8 shall notify the department within twenty-four hours. In all other
9 cases, the law enforcement agency shall notify the department within
10 seventy-two hours after a report is received by the law enforcement
11 agency.

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

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

28 (8) Any case referred to the department by a physician licensed
29 under chapter 18.57 or 18.71 RCW on the basis of an expert medical
30 opinion that child abuse, neglect, or sexual assault has occurred and
31 that the child's safety will be seriously endangered if returned home,
32 the department shall file a dependency petition unless a second
33 licensed physician of the parents' choice believes that such expert
34 medical opinion is incorrect. If the parents fail to designate a
35 second physician, the department may make the selection. If a
36 physician finds that a child has suffered abuse or neglect but that
37 such abuse or neglect does not constitute imminent danger to the
38 child's health or safety, and the department agrees with the

1 physician's assessment, the child may be left in the parents' home
2 while the department proceeds with reasonable efforts to remedy
3 parenting deficiencies.

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

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

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

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

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

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

27 (i) Investigation; or

28 (ii) Family assessment.

29 (b) In making the response in (a) of this subsection the department
30 shall:

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

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

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

5 (iv) Provide a full investigation if a family refuses the initial
6 family assessment;

7 (v) Provide voluntary services to families based on the results of
8 the initial family assessment. If a family refuses voluntary services,
9 and the department cannot identify specific facts related to risk or
10 safety that warrant assignment to investigation under this chapter, and
11 there is not a history of reports of child abuse or neglect related to
12 the family, then the department must close the family assessment
13 response case. However, if at any time the department identifies risk
14 or safety factors that warrant an investigation under this chapter,
15 then the family assessment response case must be reassigned to
16 investigation;

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

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

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

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

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

27 (E) The child is an adjudicated dependent child as defined in RCW
28 13.34.030, or the child is in a facility that is licensed, operated, or
29 certified for care of children by the department under chapter 74.15
30 RCW, or by the department of early learning.

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

35 (12)(a) For reports of alleged abuse or neglect that are accepted
36 for investigation by the department, the investigation shall be
37 conducted within time frames established by the department in rule. In
38 no case shall the investigation extend longer than ninety days from the

1 date the report is received, unless the investigation is being
2 conducted under a written protocol pursuant to RCW 26.44.180 and a law
3 enforcement agency or prosecuting attorney has determined that a longer
4 investigation period is necessary. At the completion of the
5 investigation, the department shall make a finding that the report of
6 child abuse or neglect is founded or unfounded.

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

13 ~~((+12+))~~ (13) For reports of alleged abuse or neglect that are
14 responded to through family assessment response, the department shall:

15 (a) Provide the family with a written explanation of the procedure
16 for assessment of the child and the family and its purposes;

17 (b) Collaborate with the family to identify family strengths,
18 resources, and service needs, and develop a service plan with the goal
19 of reducing risk of harm to the child and improving or restoring family
20 well-being;

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

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

26 (e) Implement the family assessment response in a consistent and
27 cooperative manner;

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

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

35 (a) May interview children. If the department determines that the
36 response to the allegation will be family assessment response, the
37 preferred practice is to request a parent's, guardian's, or custodian's
38 permission to interview the child before conducting the child interview

1 unless doing so would compromise the safety of the child or the
2 integrity of the assessment. The interviews may be conducted on school
3 premises, at day-care facilities, at the child's home, or at other
4 suitable locations outside of the presence of parents. If the
5 allegation is investigated, parental notification of the interview must
6 occur at the earliest possible point in the investigation that will not
7 jeopardize the safety or protection of the child or the course of the
8 investigation. Prior to commencing the interview the department or law
9 enforcement agency shall determine whether the child wishes a third
10 party to be present for the interview and, if so, shall make reasonable
11 efforts to accommodate the child's wishes. Unless the child objects,
12 the department or law enforcement agency shall make reasonable efforts
13 to include a third party in any interview so long as the presence of
14 the third party will not jeopardize the course of the investigation;
15 and

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

18 ~~((+13+))~~ (15) If a report of alleged abuse or neglect is founded
19 and constitutes the third founded report received by the department
20 within the last twelve months involving the same child or family, the
21 department shall promptly notify the office of the family and
22 children's ombudsman of the contents of the report. The department
23 shall also notify the ombudsman of the disposition of the report.

24 ~~((+14+))~~ (16) In investigating and responding to allegations of
25 child abuse and neglect, the department may conduct background checks
26 as authorized by state and federal law.

27 ~~((+15+))~~ (17)(a) The department shall maintain investigation
28 records and conduct timely and periodic reviews of all founded cases of
29 abuse and neglect. The department shall maintain a log of screened-out
30 nonabusive cases.

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

35 ~~((+16+))~~ (18) The department shall use a risk assessment process
36 when investigating alleged child abuse and neglect referrals. The
37 department shall present the risk factors at all hearings in which the
38 placement of a dependent child is an issue. Substance abuse must be a

1 risk factor. (~~The department shall, within funds appropriated for~~
2 ~~this purpose, offer enhanced community based services to persons who~~
3 ~~are determined not to require further state intervention.~~

4 ~~(17))~~ (19) Upon receipt of a report of alleged abuse or neglect
5 the law enforcement agency may arrange to interview the person making
6 the report and any collateral sources to determine if any malice is
7 involved in the reporting.

8 ~~((18))~~ (20) Upon receiving a report of alleged abuse or neglect
9 involving a child under the court's jurisdiction under chapter 13.34
10 RCW, the department shall promptly notify the child's guardian ad litem
11 of the report's contents. The department shall also notify the
12 guardian ad litem of the disposition of the report. For purposes of
13 this subsection, "guardian ad litem" has the meaning provided in RCW
14 13.34.030.

15 **Sec. 4.** RCW 26.44.031 and 2007 c 220 s 3 are each amended to read
16 as follows:

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

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

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

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

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

34 (4) ~~(An)~~ No unfounded, screened-out, or inconclusive report or
35 information about a family's participation or nonparticipation in the
36 family assessment response may ~~((not))~~ be disclosed to a child-placing

1 agency, private adoption agency, or any other provider licensed under
2 chapter 74.15 RCW without the consent of the individual who is the
3 subject of the report or family assessment, unless:

4 (a) The individual seeks to become a licensed foster parent or
5 adoptive parent; or

6 (b) The individual is the parent or legal custodian of a child
7 being served by one of the agencies referenced in this subsection.

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

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

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

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

26 **Sec. 5.** RCW 26.44.050 and 1999 c 176 s 33 are each amended to read
27 as follows:

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

34 A law enforcement officer may take, or cause to be taken, a child
35 into custody without a court order if there is probable cause to
36 believe that the child is abused or neglected and that the child would
37 be injured or could not be taken into custody if it were necessary to

1 first obtain a court order pursuant to RCW 13.34.050. The law
2 enforcement agency or the department of social and health services
3 investigating such a report is hereby authorized to photograph such a
4 child for the purpose of providing documentary evidence of the physical
5 condition of the child.

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

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

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

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

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

22 For purposes of this chapter:

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

33 (2) "Child" means:

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

35 (b) A person age eighteen to twenty-one years who is eligible to

1 receive the extended foster care services authorized under RCW
2 74.13.031.

3 (3) "Child protective services" has the same meaning as in RCW
4 26.44.020.

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

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

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

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

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

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

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

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

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

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

35 (8) "Family assessment" means a comprehensive assessment of child
36 safety, risk of subsequent child abuse or neglect, and family strengths
37 and needs that is applied to a child abuse or neglect report. Family
38 assessment does not include a determination as to whether child abuse

1 or neglect occurred, but does determine the need for services to
2 address the safety of the child and the risk of subsequent
3 maltreatment.

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

8 ~~((+9+))~~ (10) "Out-of-home care services" means services provided
9 after the shelter care hearing to or for children in out-of-home care,
10 as that term is defined in RCW 13.34.030, and their families, including
11 the recruitment, training, and management of foster parents, the
12 recruitment of adoptive families, and the facilitation of the adoption
13 process, family reunification, independent living, emergency shelter,
14 residential group care, and foster care, including relative placement.

15 ~~((+10+))~~ (11) "Performance-based contracting" means the structuring
16 of all aspects of the procurement of services around the purpose of the
17 work to be performed and the desired results with the contract
18 requirements set forth in clear, specific, and objective terms with
19 measurable outcomes. Contracts shall also include provisions that link
20 the performance of the contractor to the level and timing of
21 reimbursement.

22 ~~((+11+))~~ (12) "Permanency services" means long-term services
23 provided to secure a child's safety, permanency, and well-being,
24 including foster care services, family reunification services, adoption
25 services, and preparation for independent living services.

26 ~~((+12+))~~ (13) "Primary prevention services" means services which
27 are designed and delivered for the primary purpose of enhancing child
28 and family well-being and are shown, by analysis of outcomes, to reduce
29 the risk to the likelihood of the initial need for child welfare
30 services.

31 ~~((+13+))~~ (14) "Supervising agency" means an agency licensed by the
32 state under RCW 74.15.090, or licensed by a federally recognized Indian
33 tribe located in this state under RCW 74.15.190, that has entered into
34 a performance-based contract with the department to provide case
35 management for the delivery and documentation of child welfare
36 services, as defined in this section.

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

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

7 (2) Within available resources, the department and supervising
8 agencies shall recruit an adequate number of prospective adoptive and
9 foster homes, both regular and specialized, i.e. homes for children of
10 ethnic minority, including Indian homes for Indian children, sibling
11 groups, handicapped and emotionally disturbed, teens, pregnant and
12 parenting teens, and the department shall annually report to the
13 governor and the legislature concerning the department's and
14 supervising agency's success in: (a) Meeting the need for adoptive and
15 foster home placements; (b) reducing the foster parent turnover rate;
16 (c) completing home studies for legally free children; and (d)
17 implementing and operating the passport program required by RCW
18 74.13.285. The report shall include a section entitled "Foster Home
19 Turn-Over, Causes and Recommendations."

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

34 (4) As provided in RCW 26.44.030(11), the department may respond to
35 a report of child abuse or neglect by using the family assessment
36 response.

37 (5) The department or supervising agencies shall offer, on a

1 voluntary basis, family reconciliation services to families who are in
2 conflict.

3 ((+5)) (6) The department or supervising agencies shall monitor
4 placements of children in out-of-home care and in-home dependencies to
5 assure the safety, well-being, and quality of care being provided is
6 within the scope of the intent of the legislature as defined in RCW
7 74.13.010 and 74.15.010. Under this section children in out-of-home
8 care and in-home dependencies and their caregivers shall receive a
9 private and individual face-to-face visit each month. The department
10 and the supervising agencies shall randomly select no less than ten
11 percent of the caregivers currently providing care to receive one
12 unannounced face-to-face visit in the caregiver's home per year. No
13 caregiver will receive an unannounced visit through the random
14 selection process for two consecutive years. If the caseworker makes
15 a good faith effort to conduct the unannounced visit to a caregiver and
16 is unable to do so, that month's visit to that caregiver need not be
17 unannounced. The department and supervising agencies are encouraged to
18 group monthly visits to caregivers by geographic area so that in the
19 event an unannounced visit cannot be completed, the caseworker may
20 complete other required monthly visits. The department shall use a
21 method of random selection that does not cause a fiscal impact to the
22 department.

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

26 ((+6)) (7) The department and supervising agencies shall have
27 authority to accept custody of children from parents and to accept
28 custody of children from juvenile courts, where authorized to do so
29 under law, to provide child welfare services including placement for
30 adoption, to provide for the routine and necessary medical, dental, and
31 mental health care, or necessary emergency care of the children, and to
32 provide for the physical care of such children and make payment of
33 maintenance costs if needed. Except where required by Public Law 95-
34 608 (25 U.S.C. Sec. 1915), no private adoption agency which receives
35 children for adoption from the department shall discriminate on the
36 basis of race, creed, or color when considering applications in their
37 placement for adoption.

1 ~~((7))~~ (8) The department and supervising agency shall have
2 authority to provide temporary shelter to children who have run away
3 from home and who are admitted to crisis residential centers.

4 ~~((8))~~ (9) The department and supervising agency shall have
5 authority to purchase care for children.

6 ~~((9))~~ (10) The department shall establish a children's services
7 advisory committee with sufficient members representing supervising
8 agencies which shall assist the secretary in the development of a
9 partnership plan for utilizing resources of the public and private
10 sectors, and advise on all matters pertaining to child welfare,
11 licensing of child care agencies, adoption, and services related
12 thereto. At least one member shall represent the adoption community.

13 ~~((10))~~ (11) The department and supervising agencies shall have
14 authority to provide continued extended foster care services to youth
15 ages eighteen to twenty-one years to participate in or complete a
16 secondary education program or a secondary education equivalency
17 program.

18 ~~((11))~~ (12) The department ~~((, has))~~ shall have authority to
19 provide adoption support benefits, or relative guardianship subsidies
20 on behalf of youth ages eighteen to twenty-one years who achieved
21 permanency through adoption or a relative guardianship at age sixteen
22 or older and who meet the criteria described in subsection ~~((10))~~
23 (11) of this section.

24 ~~((12))~~ (13) The department shall refer cases to the division of
25 child support whenever state or federal funds are expended for the care
26 and maintenance of a child, including a child with a developmental
27 disability who is placed as a result of an action under chapter 13.34
28 RCW, unless the department finds that there is good cause not to pursue
29 collection of child support against the parent or parents of the child.
30 Cases involving individuals age eighteen through twenty shall not be
31 referred to the division of child support unless required by federal
32 law.

33 ~~((13))~~ (14) The department and supervising agencies shall have
34 authority within funds appropriated for foster care services to
35 purchase care for Indian children who are in the custody of a federally
36 recognized Indian tribe or tribally licensed child-placing agency
37 pursuant to parental consent, tribal court order, or state juvenile

1 court order; and the purchase of such care shall be subject to the same
2 eligibility standards and rates of support applicable to other children
3 for whom the department purchases care.

4 Notwithstanding any other provision of RCW 13.32A.170 through
5 13.32A.200 and 74.13.032 through 74.13.036, or of this section all
6 services to be provided by the department under subsections (4), (~~(6)~~
7 ~~and~~) (7), and (8) of this section, subject to the limitations of these
8 subsections, may be provided by any program offering such services
9 funded pursuant to Titles II and III of the federal juvenile justice
10 and delinquency prevention act of 1974.

11 (~~(14)~~) (15) Within amounts appropriated for this specific
12 purpose, the supervising agency or department shall provide preventive
13 services to families with children that prevent or shorten the duration
14 of an out-of-home placement.

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

19 (~~(16)~~) (17) The department and supervising agencies shall consult
20 at least quarterly with foster parents, including members of the foster
21 parent association of Washington state, for the purpose of receiving
22 information and comment regarding how the department and supervising
23 agencies are performing the duties and meeting the obligations
24 specified in this section and RCW 74.13.250 and 74.13.320 regarding the
25 recruitment of foster homes, reducing foster parent turnover rates,
26 providing effective training for foster parents, and administering a
27 coordinated and comprehensive plan that strengthens services for the
28 protection of children. Consultation shall occur at the regional and
29 statewide levels.

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

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

36 (ii) Sibling visits subject to the restrictions in RCW
37 13.34.136(2)(b)(ii);

38 (iii) Parent-child visits;

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

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

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

8 NEW SECTION. **Sec. 9.** The Washington state institute for public
9 policy shall conduct an evaluation of the implementation of the family
10 assessment response. The institute shall define the data to be
11 gathered and maintained. At a minimum, the evaluations must address
12 child safety measures, out-of-home placement rates, re-referral rates,
13 and caseload sizes and demographics. The institute shall deliver its
14 first report no later than December 1, 2014, and its final report by
15 December 1, 2016.

16 NEW SECTION. **Sec. 10.** The department of social and health
17 services shall conduct two client satisfaction surveys of families that
18 have been placed in the family assessment response. The first survey
19 results shall be reported no later than December 1, 2014. The second
20 survey results shall be reported no later than December 1, 2016.

21 **Sec. 11.** RCW 26.44.125 and 1998 c 314 s 9 are each amended to read
22 as follows:

23 (1) A person who is named as an alleged perpetrator after October
24 1, 1998, in a founded report of child abuse or neglect has the right to
25 seek review and amendment of the finding as provided in this section.

26 (2) Within ((twenty)) thirty calendar days after ((receiving
27 ~~written notice from the department~~)) the department has notified the
28 alleged perpetrator under RCW 26.44.100 that ((a)) the person is named
29 as an alleged perpetrator in a founded report of child abuse or
30 neglect, he or she may request that the department review the finding.
31 The request must be made in writing. The written notice provided by
32 the department must contain at least the following information in plain
33 language:

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

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

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

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

11 (e) That founded allegations of child abuse or neglect may be used
12 by the department in determining:

13 (i) If a perpetrator is qualified to be licensed or approved to
14 care for children or vulnerable adults; or

15 (ii) If a perpetrator is qualified to be employed by the department
16 in a position having unsupervised access to children or vulnerable
17 adults;

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

20 (3) If a request for review is not made as provided in this
21 subsection, the alleged perpetrator may not further challenge the
22 finding and shall have no right to agency review or to an adjudicative
23 hearing or judicial review of the finding, unless he or she can show
24 that the department did not comply with the notice requirements of RCW
25 26.44.100.

26 ((+3)) (4) Upon receipt of a written request for review, the
27 department shall review and, if appropriate, may amend the finding.
28 Management level staff within the children's administration designated
29 by the secretary shall be responsible for the review. The review must
30 be completed within thirty days after receiving the written request for
31 review. The review must be conducted in accordance with procedures the
32 department establishes by rule. Upon completion of the review, the
33 department shall notify the alleged perpetrator in writing of the
34 agency's determination. The notification must be sent by certified
35 mail, return receipt requested, to the person's last known address.

36 ((+4)) (5) If, following agency review, the report remains
37 founded, the person named as the alleged perpetrator in the report may
38 request an adjudicative hearing to contest the finding. The

1 adjudicative proceeding is governed by chapter 34.05 RCW and this
2 section. The request for an adjudicative proceeding must be filed
3 within thirty calendar days after receiving notice of the agency review
4 determination. If a request for an adjudicative proceeding is not made
5 as provided in this subsection, the alleged perpetrator may not further
6 challenge the finding and shall have no right to agency review or to an
7 adjudicative hearing or judicial review of the finding.

8 ((+5+)) (6) Reviews and hearings conducted under this section are
9 confidential and shall not be open to the public. Information about
10 reports, reviews, and hearings may be disclosed only in accordance with
11 federal and state laws pertaining to child welfare records and child
12 protective services reports.

13 ((+6+)) (7) The department may adopt rules to implement this
14 section.

15 NEW SECTION. **Sec. 12.** Sections 1 through 11 of this act take
16 effect December 1, 2013."

17 Correct the title.

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