
SENATE BILL 6470

State of Washington

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By Senators Cleveland, Keiser, Frockt, and Kohl-Welles

Read first time 01/28/14. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to child abuse investigations; amending RCW
2 26.44.020, 26.44.050, and 26.44.185; and adding a new section to
3 chapter 7.68 RCW.

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

5 **Sec. 1.** RCW 26.44.020 and 2012 c 259 s 1 are each amended to read
6 as follows:

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

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

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

18 (3) "Child abuse medical assessment" means an assessment by or
19 under the direction of a licensed physician or other licensed health

1 care professional trained in the evaluation, diagnosis, and treatment
2 of child abuse. "Child abuse medical assessment" includes the taking
3 of a thorough medical history, a complete physical examination, and an
4 interview for the purpose of making a medical diagnosis, determining
5 whether or not the child has been abused, and identifying the
6 appropriate treatment or referral for follow-up for the child.

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

21 ((+4)) (5) "Child protective services section" means the child
22 protective services section of the department.

23 ((+5)) (6) "Children's advocacy center" means a child-focused
24 facility in good standing with the state chapter for children's
25 advocacy centers and that coordinates a multidisciplinary process for
26 the investigation, prosecution, and treatment of sexual and other types
27 of child abuse. Children's advocacy centers provide a location for
28 forensic interviews and coordinate access to services such as, but not
29 limited to, medical evaluations, advocacy, therapy, and case review by
30 multidisciplinary teams within the context of county protocols as
31 defined in RCW 26.44.180 and 26.44.185.

32 ((+6)) (7) "Clergy" means any regularly licensed or ordained
33 minister, priest, or rabbi of any church or religious denomination,
34 whether acting in an individual capacity or as an employee or agent of
35 any public or private organization or institution.

36 ((+7)) (8) "Court" means the superior court of the state of
37 Washington, juvenile department.

1 ~~((+8))~~ (9) "Department" means the state department of social and
2 health services.

3 ~~((+9))~~ (10) "Designated medical professional" means a physician,
4 physician assistant, or nurse practitioner who has been trained to
5 conduct child abuse medical assessments and who is regularly available
6 to conduct child abuse medical assessments.

7 (11) "Family assessment" means a comprehensive assessment of child
8 safety, risk of subsequent child abuse or neglect, and family strengths
9 and needs that is applied to a child abuse or neglect report. Family
10 assessment does not include a determination as to whether child abuse
11 or neglect occurred, but does determine the need for services to
12 address the safety of the child and the risk of subsequent
13 maltreatment.

14 ~~((+10))~~ (12) "Family assessment response" means a way of
15 responding to certain reports of child abuse or neglect made under this
16 chapter using a differential response approach to child protective
17 services. The family assessment response shall focus on the safety of
18 the child, the integrity and preservation of the family, and shall
19 assess the status of the child and the family in terms of risk of abuse
20 and neglect including the parent's or guardian's or other caretaker's
21 capacity and willingness to protect the child and, if necessary, plan
22 and arrange the provision of services to reduce the risk and otherwise
23 support the family. No one is named as a perpetrator, and no
24 investigative finding is entered in the record as a result of a family
25 assessment.

26 ~~((+11))~~ (13) "Founded" means the determination following an
27 investigation by the department that, based on available information,
28 it is more likely than not that child abuse or neglect did occur.

29 ~~((+12))~~ (14) "Inconclusive" means the determination following an
30 investigation by the department, prior to October 1, 2008, that based
31 on available information a decision cannot be made that more likely
32 than not, child abuse or neglect did or did not occur.

33 ~~((+13))~~ (15) "Institution" means a private or public hospital or
34 any other facility providing medical diagnosis, treatment, or care.

35 ~~((+14))~~ (16) "Law enforcement agency" means the police department,
36 the prosecuting attorney, the state patrol, the director of public
37 safety, or the office of the sheriff.

1 (~~(15)~~) (17) "Malice" or "maliciously" means an intent, wish, or
2 design to intimidate, annoy, or injure another person. Such malice may
3 be inferred from an act done in willful disregard of the rights of
4 another, or an act wrongfully done without just cause or excuse, or an
5 act or omission of duty betraying a willful disregard of social duty.

6 (~~(16)~~) (18) "Negligent treatment or maltreatment" means an act or
7 a failure to act, or the cumulative effects of a pattern of conduct,
8 behavior, or inaction, that evidences a serious disregard of
9 consequences of such magnitude as to constitute a clear and present
10 danger to a child's health, welfare, or safety, including but not
11 limited to conduct prohibited under RCW 9A.42.100. When considering
12 whether a clear and present danger exists, evidence of a parent's
13 substance abuse as a contributing factor to negligent treatment or
14 maltreatment shall be given great weight. The fact that siblings share
15 a bedroom is not, in and of itself, negligent treatment or
16 maltreatment. Poverty, homelessness, or exposure to domestic violence
17 as defined in RCW 26.50.010 that is perpetrated against someone other
18 than the child does not constitute negligent treatment or maltreatment
19 in and of itself.

20 (~~(17)~~) (19) "Pharmacist" means any registered pharmacist under
21 chapter 18.64 RCW, whether acting in an individual capacity or as an
22 employee or agent of any public or private organization or institution.

23 (~~(18)~~) (20) "Practitioner of the healing arts" or "practitioner"
24 means a person licensed by this state to practice podiatric medicine
25 and surgery, optometry, chiropractic, nursing, dentistry, osteopathic
26 medicine and surgery, or medicine and surgery or to provide other
27 health services. The term "practitioner" includes a duly accredited
28 Christian Science practitioner. A person who is being furnished
29 Christian Science treatment by a duly accredited Christian Science
30 practitioner will not be considered, for that reason alone, a neglected
31 person for the purposes of this chapter.

32 (~~(19)~~) (21) "Professional school personnel" include, but are not
33 limited to, teachers, counselors, administrators, child care facility
34 personnel, and school nurses.

35 (~~(20)~~) (22) "Psychologist" means any person licensed to practice
36 psychology under chapter 18.83 RCW, whether acting in an individual
37 capacity or as an employee or agent of any public or private
38 organization or institution.

1 ~~((+21+))~~ (23) "Screened-out report" means a report of alleged child
2 abuse or neglect that the department has determined does not rise to
3 the level of a credible report of abuse or neglect and is not referred
4 for investigation.

5 ~~((+22+))~~ (24) "Sexual exploitation" includes: (a) Allowing,
6 permitting, or encouraging a child to engage in prostitution by any
7 person; or (b) allowing, permitting, encouraging, or engaging in the
8 obscene or pornographic photographing, filming, or depicting of a child
9 by any person.

10 ~~((+23+))~~ (25) "Sexually aggressive youth" means a child who is
11 defined in RCW 74.13.075(1)(b) as being a sexually aggressive youth.

12 ~~((+24+))~~ (26) "Social service counselor" means anyone engaged in a
13 professional capacity during the regular course of employment in
14 encouraging or promoting the health, welfare, support, or education of
15 children, or providing social services to adults or families, including
16 mental health, drug and alcohol treatment, and domestic violence
17 programs, whether in an individual capacity, or as an employee or agent
18 of any public or private organization or institution.

19 ~~((+25+))~~ (27) "Supervising agency" means an agency licensed by the
20 state under RCW 74.15.090 or an Indian tribe under RCW 74.15.190 that
21 has entered into a performance-based contract with the department to
22 provide child welfare services.

23 ~~((+26+))~~ (28) "Suspicious physical injury" includes, but is not
24 limited to, burns or scalds; extensive bruising or swelling on any part
25 of the body; bruising, swelling, or abrasions on the head, neck, or
26 face; fractures of any bone in a child under the age of three; multiple
27 fractures in a child of any age; dislocations, soft tissue swelling, or
28 moderate to severe cuts; loss of the ability to walk or move normally
29 according to the child's developmental ability; unconsciousness or
30 difficulty maintaining consciousness; multiple injuries of different
31 types or different age of injuries; injuries causing serious or
32 protracted disfigurement or loss of impairment of the function of any
33 bodily organ; or any other injury that threatens the well-being of the
34 child.

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

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

3 **Sec. 2.** RCW 26.44.050 and 2012 c 259 s 5 are each amended to read
4 as follows:

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

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

20 (a) The law enforcement agency or the department of social and
21 health services investigating such a report must:

22 (i) Immediately photograph or cause to be photographed any
23 suspicious physical injuries for the purposes of preserving evidence of
24 the child's condition at the time of the investigation; and

25 (ii) Ensure that a designated medical professional conducts a child
26 abuse medical assessment within forty-eight hours or as soon as
27 practically possible.

28 (b) The law enforcement agency or department must make a reasonable
29 effort to locate a designated medical professional. If one is not
30 available to conduct a child abuse medical assessment within forty-
31 eight hours, the child must be evaluated by an available physician or
32 nurse practitioner.

33 (c) If the child is evaluated by a medical provider other than a
34 designated medical professional, the evaluating medical provider must
35 make photographs, clinical notes, diagnostic and testing results, and
36 any other relevant materials available to the designated medical

1 professional within seventy-two hours following evaluation of the
2 child.

3 (d) The requirement in (a) of this subsection applies each time a
4 suspicious physical injury is observed by law enforcement personnel or
5 the department:

6 (i) During a new allegation of abuse; or

7 (ii) If the injury was not previously observed by a person
8 conducting an investigation under RCW 26.44.030(12); and

9 (iii) Regardless of whether the child has been previously
10 photographed or assessed during an investigation of an allegation of
11 abuse.

12 (3) Photographs of the anal or genital region may be taken only by
13 medical personnel.

14 (4) Nothing in this section prevents a person conducting a child
15 abuse investigation from seeking immediate medical treatment from a
16 hospital emergency room or other medical provider for a child who is
17 physically injured or otherwise in need of immediate medical care.

18 **Sec. 3.** RCW 26.44.185 and 2010 c 176 s 3 are each amended to read
19 as follows:

20 (1) Each county shall revise and expand its existing child sexual
21 abuse investigation protocol to address investigations of child
22 fatality, child physical abuse, and criminal child neglect cases and to
23 incorporate the statewide guidelines for first responders to child
24 fatalities developed by the criminal justice training commission. The
25 protocols shall address the coordination of child fatality, child
26 physical abuse, and criminal child neglect investigations between the
27 county and city prosecutor's offices, law enforcement, children's
28 protective services, children's advocacy centers, where available,
29 local advocacy groups, emergency medical services, and any other local
30 agency involved in the investigation of such cases. The protocol
31 revision and expansion shall be developed by the prosecuting attorney
32 in collaboration with the agencies referenced in this section.

33 (2) The prosecuting attorney of each county, in collaboration with
34 the agencies referenced in this section, must identify at least one
35 designated medical professional as defined in RCW 26.44.020 to conduct
36 child abuse medical assessments. If, after reasonable effort, a
37 designated medical professional cannot be identified, a written plan

1 must be developed that outlines the necessary steps, recruitment, and
2 training needed to make a designated medical professional available to
3 the children of the county.

4 (3) Revised and expanded protocols under this section shall be
5 adopted and in place by July 1, 2008. Thereafter, the protocols shall
6 be reviewed every two years to determine whether modifications are
7 needed.

8 NEW SECTION. **Sec. 4.** A new section is added to chapter 7.68 RCW
9 to read as follows:

10 Pursuant to this chapter, the state shall pay any costs incurred by
11 a hospital, child abuse clinic, or other emergency medical facility for
12 a child abuse medical assessment of a child with a suspicious physical
13 injury, when the assessment is performed for the purpose of gathering
14 evidence for a suspected criminal investigation.

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