

SSB 5890 - S AMD 250

By Senator O'Ban

ADOPTED 04/10/2017

1 On page 29, beginning on line 6 add the following:

2
3 "Sec. 23. RCW 26.44.030 and 2016 c 166 s 4 are each amended to
4 read as follows:

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

18 (b) When any person, in his or her official supervisory capacity
19 with a nonprofit or for-profit organization, has reasonable cause to
20 believe that a child has suffered abuse or neglect caused by a
21 person over whom he or she regularly exercises supervisory
22 authority, he or she shall report such incident, or cause a report
23 to be made, to the proper law enforcement agency, provided that the
24 person alleged to have caused the abuse or neglect is employed by,
25 contracted by, or volunteers with the organization and coaches,
26 trains, educates, or counsels a child or children or regularly has
27 unsupervised access to a child or children as part of the

1 employment, contract, or voluntary service. No one shall be required
2 to report under this section when he or she obtains the information
3 solely as a result of a privileged communication as provided in RCW
4 5.60.060.

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

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

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

15 (ii) "Organization" includes a sole proprietor, partnership,
16 corporation, limited liability company, trust, association,
17 financial institution, governmental entity, other than the federal
18 government, and any other individual or group engaged in a trade,
19 occupation, enterprise, governmental function, charitable function,
20 or similar activity in this state whether or not the entity is
21 operated as a nonprofit or for-profit entity.

22 (iii) "Reasonable cause" means a person witnesses or receives a
23 credible written or oral report alleging abuse, including sexual
24 contact, or neglect of a child.

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

28 (v) "Sexual contact" has the same meaning as in RCW 9A.44.010.

29 (c) The reporting requirement also applies to department of
30 corrections personnel who, in the course of their employment,
31 observe offenders or the children with whom the offenders are in
32 contact. If, as a result of observations or information received in
33 the course of his or her employment, any department of corrections
34 personnel has reasonable cause to believe that a child has suffered

1 abuse or neglect, he or she shall report the incident, or cause a
2 report to be made, to the proper law enforcement agency or to the
3 department as provided in RCW 26.44.040.

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

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

20 (f) The reporting requirement in (a) of this subsection also
21 applies to administrative and academic or athletic department
22 employees, including student employees, of institutions of higher
23 education, as defined in RCW 28B.10.016, and of private institutions
24 of higher education.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (i) Investigation; or

25 (ii) Family assessment.

26 (b) In making the response in (a) of this subsection the
27 department shall:

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

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

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

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

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

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

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

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

32 (c) The department may not be held civilly liable for the
33 decision to respond to an allegation of child abuse or neglect by
34 using the family assessment response under this section unless the

1 state or its officers, agents, or employees acted with reckless
2 disregard.

3 (12)(a) For reports of alleged abuse or neglect that are
4 accepted for investigation by the department, the investigation
5 shall be conducted within time frames established by the department
6 in rule. In no case shall the investigation extend longer than
7 ninety days from the date the report is received, unless the
8 investigation is being conducted under a written protocol pursuant
9 to RCW 26.44.180 and a law enforcement agency or prosecuting
10 attorney has determined that a longer investigation period is
11 necessary. At the completion of the investigation, the department
12 shall make a finding that the report of child abuse or neglect is
13 founded or unfounded.

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

20 (13) For reports of alleged abuse or neglect that are responded
21 to through family assessment response, the department shall:

22 (a) Provide the family with a written explanation of the
23 procedure for assessment of the child and the family and its
24 purposes;

25 (b) Collaborate with the family to identify family strengths,
26 resources, and service needs, and develop a service plan with the
27 goal of reducing risk of harm to the child and improving or
28 restoring family well-being;

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

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

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1 (e) Implement the family assessment response in a consistent and
2 cooperative manner;

3 (f) Have the parent or guardian (~~(sign an agreement)~~) agree to
4 participate in services before services are initiated (~~(that)~~). The
5 department shall inform(~~(s)~~) the parents of their rights under
6 family assessment response, all of their options, and the options
7 the department has if the parents do not (~~(sign the consent form)~~)
8 agree to participate in services.

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

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

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

33 (b) The Washington state school directors' association shall
34 adopt a model policy addressing protocols when an interview, as

1 authorized by this subsection, is conducted on school premises. In
2 formulating its policy, the association shall consult with the
3 department and the Washington association of sheriffs and police
4 chiefs.

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

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

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

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

22 (18) The department shall use a risk assessment process when
23 investigating alleged child abuse and neglect referrals. The
24 department shall present the risk factors at all hearings in which
25 the placement of a dependent child is an issue. Substance abuse must
26 be a risk factor.

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

31 (20) Upon receiving a report of alleged abuse or neglect
32 involving a child under the court's jurisdiction under chapter 13.34
33 RCW, the department shall promptly notify the child's guardian ad
34 litem of the report's contents. The department shall also notify the

1 guardian ad litem of the disposition of the report. For purposes of
2 this subsection, "guardian ad litem" has the meaning provided in RCW
3 13.34.030.

4 (21) The department shall make efforts as soon as practicable to
5 determine the military status of parents whose children are subject
6 to abuse or neglect allegations. If the department determines that a
7 parent or guardian is in the military, the department shall notify a
8 department of defense family advocacy program that there is an
9 allegation of abuse and neglect that is screened in and open for
10 investigation that relates to that military parent or guardian.

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15 By Senator O'Ban

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18 On page 1, line 1 of the title, after "Relating to" strike the
19 remainder of the title and insert "child welfare, foster care, and
20 adoption support; amending RCW 74.13.270, 74.15.125, 74.15.110,
21 13.34.136, 74.13A.025, 74.13A.030, 74.13A.047, 28B.118.010, and
22 26.44.030; reenacting and amending RCW 13.34.138 and 13.34.145;
23 adding a new section to chapter 41.04 RCW; adding a new section to
24 chapter 43.06 RCW; adding a new section to chapter 74.13 RCW;
25 creating new sections; repealing RCW 74.13.107, 74.12.037,
26 43.131.415, and 43.131.416; providing effective dates; providing an
27 expiration date; and declaring an emergency."

27

EFFECT: Regarding the Family Assessment Response (FAR), a family is not required to sign a written agreement in order to services, although a family must still agree to participate in FAR before services are initiated.

--- END ---