

**SENATE BILL 5087**

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**State of Washington**

**52nd Legislature**

**1991 Regular Session**

**By** Senators Roach and Stratton; by request of Dept. of Social and Health Services.

Read first time January 18, 1991. Referred to Committee on Children & Family Services.

1 AN ACT Relating to reports of abuse of children or adult dependent  
2 or developmentally disabled persons; amending RCW 26.44.030; and  
3 repealing RCW 26.44.070.

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

5 **Sec. 1.** RCW 26.44.030 and 1989 c 22 s 1 are each amended to read  
6 as follows:

7 (1) When any practitioner, professional school personnel,  
8 registered or licensed nurse, social service counselor, psychologist,  
9 pharmacist, licensed or certified child care providers or their  
10 employees, employee of the department, or juvenile probation officer  
11 has reasonable cause to believe that a person, who, at the time that  
12 reasonable cause is discovered, is defined by RCW 26.44.020 as a child  
13 or adult dependent or developmentally disabled person, has suffered  
14 abuse or neglect, he or she shall report such incident, or cause a  
15 report to be made, to the proper law enforcement agency or to the

1 department as provided in RCW 26.44.040. The report shall be made at  
2 the first opportunity, but in no case longer than forty-eight hours  
3 after there is reasonable cause to believe that the child or adult has  
4 suffered abuse or neglect.

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

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

24 (4) Any law enforcement agency receiving a report of an incident of  
25 abuse or neglect pursuant to this chapter, involving a child or adult  
26 dependent or developmentally disabled person who has died or has had  
27 physical injury or injuries inflicted upon him or her other than by  
28 accidental means, or who has been subjected to sexual abuse, shall  
29 report such incident in writing as provided in RCW 26.44.040 to the  
30 proper county prosecutor or city attorney for appropriate action

1 whenever the law enforcement agency's investigation reveals that a  
2 crime may have been committed. The law enforcement agency shall also  
3 notify the department of all reports received and the law enforcement  
4 agency's disposition of them. In emergency cases, where the child,  
5 adult dependent, or developmentally disabled person's welfare is  
6 endangered, the law enforcement agency shall notify the department  
7 within twenty-four hours. In all other cases, the law enforcement  
8 agency shall notify the department within seventy-two hours after a  
9 report is received by the law enforcement agency.

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

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

27 (7) Any case referred to the department by a physician licensed  
28 under chapter 18.57 or 18.71 RCW on the basis of an expert medical  
29 opinion that child abuse, neglect, or sexual assault has occurred and  
30 that the child's safety will be seriously endangered if returned home,

1 the department shall file a dependency petition unless a second  
2 licensed physician of the parents' choice believes that such expert  
3 medical opinion is incorrect. If the parents fail to designate a  
4 second physician, the department may make the selection. If a  
5 physician finds that a child has suffered abuse or neglect but that  
6 such abuse or neglect does not constitute imminent danger to the  
7 child's health or safety, and the department agrees with the  
8 physician's assessment, the child may be left in the parents' home  
9 while the department proceeds with reasonable efforts to remedy  
10 parenting deficiencies.

11 (8) Persons or agencies exchanging information under subsection (6)  
12 of this section shall not further disseminate or release the  
13 information except as authorized by state or federal statute.  
14 Violation of this subsection is a misdemeanor.

15 (9) Upon receiving reports of abuse or neglect, the department or  
16 law enforcement agency may interview children. 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. Parental notification of the interview shall occur at the  
20 earliest possible point in the investigation that will not jeopardize  
21 the safety or protection of the child or the course of the  
22 investigation. Prior to commencing the interview the department or law  
23 enforcement agency shall determine whether the child wishes a third  
24 party to be present for the interview and, if so, shall make reasonable  
25 efforts to accommodate the child's wishes. Unless the child objects,  
26 the department or law enforcement agency shall make reasonable efforts  
27 to include a third party in any interview so long as the presence of  
28 the third party will not jeopardize the course of the investigation.

29 (10) Upon receiving a report of incidents, conditions, or  
30 circumstances of child abuse and neglect, the department shall have

1 access to all relevant records of the child in the possession of  
2 mandated reporters and their employees.

3 (11) The department shall maintain investigation records and  
4 conduct timely and periodic reviews of all cases constituting abuse and  
5 neglect. The department shall maintain a log of screened-out  
6 nonabusive cases.

7 (12) The department of social and health services shall, within  
8 funds appropriated for this purpose, use a risk assessment tool when  
9 investigating child abuse and neglect referrals. The tool shall be  
10 used, on a pilot basis, in three local office service areas. The  
11 department shall, within funds appropriated for this purpose, offer  
12 enhanced community-based services to persons who are determined not to  
13 require further state intervention.

14 The department shall report to the ways and means committees of the  
15 senate and house of representatives on the use of the tool by December  
16 1, 1989. The report shall include recommendations on the continued use  
17 and possible expanded use of the tool.

18 (13) Upon receipt of such report the law enforcement agency may  
19 arrange to interview the person making the report and any collateral  
20 sources to determine if any malice is involved in the

21 NEW SECTION. **Sec. 2.** RCW 26.44.070 and 1987 c 524 s 12, 1987 c  
22 206 s 6, 1986 c 269 s 3, 1984 c 97 s 6, 1981 c 164 s 4, 1977 ex.s. c 80  
23 s 29, 1975 1st ex.s. c 217 s 7, 1972 ex.s. c 46 s 1, & 1969 ex.s. c 35  
24 s 6 are each repealed.