

2 **HB 2387** - S COMM AMD

3 By Committee on Human Services & Corrections

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5 Strike everything after the enacting clause and insert the  
6 following:

7 "NEW SECTION. **Sec. 1.** The legislature finds that including  
8 certain department of corrections personnel among the professionals who  
9 are mandated to report suspected abuse or neglect of children,  
10 dependent adults, or people with developmental disabilities is an  
11 important step toward improving the protection of these vulnerable  
12 populations. The legislature intends, however, to limit the  
13 circumstances under which department of corrections personnel are  
14 mandated reporters of suspected abuse or neglect to only those  
15 circumstances when the information is obtained during the course of  
16 their employment. This act is not to be construed to alter the  
17 circumstances under which other professionals are mandated to report  
18 suspected abuse or neglect, nor is it the legislature's intent to alter  
19 current practices and procedures utilized by other professional  
20 organizations who are mandated reporters under RCW 26.44.030(1)(a).

21 **Sec. 2.** RCW 26.44.030 and 1995 c 311 s 17 are each amended to read  
22 as follows:

23 (1)(a) When any practitioner, county coroner or medical examiner,  
24 law enforcement officer, professional school personnel, registered or  
25 licensed nurse, social service counselor, psychologist, pharmacist,  
26 licensed or certified child care providers or their employees, employee  
27 of the department, or juvenile probation officer has reasonable cause  
28 to believe that a child or adult dependent or developmentally disabled  
29 person, has suffered abuse or neglect, he or she shall report such  
30 incident, or cause a report to be made, to the proper law enforcement  
31 agency or to the department as provided in RCW 26.44.040.

32 (b) The reporting requirement shall also apply to department of  
33 corrections personnel who, in the course of their employment, observe  
34 offenders or the children with whom the offenders are in contact. If,  
35 as a result of observations or information received in the course of

1 his or her employment, any department of corrections personnel has  
2 reasonable cause to believe that a child or adult dependent or  
3 developmentally disabled person has suffered abuse or neglect, he or  
4 she shall report the incident, or cause a report to be made, to the  
5 proper law enforcement agency or to the department as provided in RCW  
6 26.44.040.

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

19 ((+e)) (d) The report shall be made at the first opportunity, but  
20 in no case longer than forty-eight hours after there is reasonable  
21 cause to believe that the child or adult has suffered abuse or neglect.  
22 The report shall include the identity of the accused if known.

23 (2) The reporting requirement of subsection (1) of this section  
24 does not apply to the discovery of abuse or neglect that occurred  
25 during childhood if it is discovered after the child has become an  
26 adult. However, if there is reasonable cause to believe other  
27 children, dependent adults, or developmentally disabled persons are or  
28 may be at risk of abuse or neglect by the accused, the reporting  
29 requirement of subsection (1) of this section shall apply.

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

35 (4) The department, upon receiving a report of an incident of abuse  
36 or neglect pursuant to this chapter, involving a child or adult  
37 dependent or developmentally disabled person who has died or has had  
38 physical injury or injuries inflicted upon him or her other than by  
39 accidental means or who has been subjected to sexual abuse, shall

1 report such incident to the proper law enforcement agency. In  
2 emergency cases, where the child, adult dependent, or developmentally  
3 disabled person's welfare is endangered, the department shall notify  
4 the proper law enforcement agency within twenty-four hours after a  
5 report is received by the department. In all other cases, the  
6 department shall notify the law enforcement agency within seventy-two  
7 hours after a report is received by the department. If the department  
8 makes an oral report, a written report shall also be made to the proper  
9 law enforcement agency within five days thereafter.

10 (5) Any law enforcement agency receiving a report of an incident of  
11 abuse 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 in writing as provided in RCW 26.44.040 to the  
16 proper county prosecutor or city attorney for appropriate action  
17 whenever the law enforcement agency's investigation reveals that a  
18 crime may have been committed. The law enforcement agency shall also  
19 notify the department of all reports received and the law enforcement  
20 agency's disposition of them. In emergency cases, where the child,  
21 adult dependent, or developmentally disabled person's welfare is  
22 endangered, the law enforcement agency shall notify the department  
23 within twenty-four hours. In all other cases, the law enforcement  
24 agency shall notify the department within seventy-two hours after a  
25 report is received by the law enforcement agency.

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

31 (7) The department may conduct ongoing case planning and  
32 consultation with those persons or agencies required to report under  
33 this section, with consultants designated by the department, and with  
34 designated representatives of Washington Indian tribes if the client  
35 information exchanged is pertinent to cases currently receiving child  
36 protective services or department case services for the developmentally  
37 disabled. Upon request, the department shall conduct such planning and  
38 consultation with those persons required to report under this section  
39 if the department determines it is in the best interests of the child

1 or developmentally disabled person. Information considered privileged  
2 by statute and not directly related to reports required by this section  
3 shall not be divulged without a valid written waiver of the privilege.

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

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

22 (10) Upon receiving reports of abuse or neglect, the department or  
23 law enforcement agency may interview children. The interviews may be  
24 conducted on school premises, at day-care facilities, at the child's  
25 home, or at other suitable locations outside of the presence of  
26 parents. Parental notification of the interview shall occur at the  
27 earliest possible point in the investigation that will not jeopardize  
28 the safety or protection of the child or the course of the  
29 investigation. Prior to commencing the interview the department or law  
30 enforcement agency shall determine whether the child wishes a third  
31 party to be present for the interview and, if so, shall make reasonable  
32 efforts to accommodate the child's wishes. Unless the child objects,  
33 the department or law enforcement agency shall make reasonable efforts  
34 to include a third party in any interview so long as the presence of  
35 the third party will not jeopardize the course of the investigation.

36 (11) Upon receiving a report of child abuse and neglect, the  
37 department or investigating law enforcement agency shall have access to  
38 all relevant records of the child in the possession of mandated  
39 reporters and their employees.

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

5 (13) The department shall use a risk assessment process when  
6 investigating child abuse and neglect referrals. The department shall  
7 present the risk factors at all hearings in which the placement of a  
8 dependent child is an issue. The department shall, within funds  
9 appropriated for this purpose, offer enhanced community-based services  
10 to persons who are determined not to require further state  
11 intervention.

12 The department shall provide annual reports to the legislature on  
13 the effectiveness of the risk assessment process.

14 (14) Upon receipt of a report of abuse or neglect the law  
15 enforcement agency may arrange to interview the person making the  
16 report and any collateral sources to determine if any malice is  
17 involved in the reporting."

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21 On page 1, line 2 of the title, after "persons;" strike the  
22 remainder of the title and insert "amending RCW 26.44.030; and creating  
23 a new section."

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