

CERTIFICATION OF ENROLLMENT

SENATE BILL 5127

Chapter 389, Laws of 1999

(partial veto)

56th Legislature
1999 Regular Session

CHILD ABUSE INVESTIGATIONS

EFFECTIVE DATE: 7/25/99

Passed by the Senate April 20, 1999
YEAS 41 NAYS 3

BRAD OWEN
President of the Senate

Passed by the House April 15, 1999
YEAS 97 NAYS 0

CLYDE BALLARD
**Speaker of the
House of Representatives**

FRANK CHOPP
**Speaker of the
House of Representatives**

Approved May 18, 1999, with the
exception of section 1, which is
vetoed.

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

I, Tony M. Cook, Secretary of the
Senate of the State of Washington, do
hereby certify that the attached is
SENATE BILL 5127 as passed by the
Senate and the House of
Representatives on the dates hereon
set forth.

TONY M. COOK
Secretary

FILED

May 18, 1999 - 3:21 p.m.

**Secretary of State
State of Washington**

SENATE BILL 5127

AS AMENDED BY THE HOUSE

Passed Legislature - 1999 Regular Session

State of Washington 56th Legislature 1999 Regular Session

By Senators Kohl-Welles, Hargrove, Long, Heavey, McCaslin, Stevens,
Zarelli, Prentice, Kline, Winsley and Costa

Read first time 01/13/1999. Referred to Committee on Judiciary.

1 AN ACT Relating to investigations of abuse or neglect; amending RCW
2 74.14B.010 and 26.44.035; adding a new section to chapter 43.101 RCW;
3 adding new sections to chapter 26.44 RCW; adding a new section to
4 chapter 43.20A RCW; and creating new sections.

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

6 **NEW SECTION. Sec. 1. The state of Washington affirms the*
7 *importance of ensuring that crimes involving child sexual abuse are*
8 *investigated thoroughly and objectively. Children who have been*
9 *victims of crime deserve to have those who committed the crimes against*
10 *them brought to justice. Those who may have been accused should expect*
11 *that investigative agencies will make every effort to conduct thorough*
12 *and impartial investigations.*

13 *The best approach to investigations of child sexual abuse crimes*
14 *involves a coordinated effort by investigative agencies that minimizes*
15 *repetitive investigative interviews and improves the quality of the*
16 *investigations. The legislature intends to improve the training and*
17 *resources available to individuals who conduct these interviews and to*
18 *increase the accuracy of risk assessments and determinations of fact*
19 *associated with interviews.*

1 *Sec. 1 was vetoed. See message at end of chapter.

2 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.101 RCW
3 to read as follows:

4 (1) On-going specialized training shall be provided for persons
5 responsible for investigating child sexual abuse. Training
6 participants shall have the opportunity to practice interview skills
7 and receive feedback from instructors.

8 (2) The commission, the department of social and health services,
9 the Washington association of sheriffs and police chiefs, and the
10 Washington association of prosecuting attorneys shall design and
11 implement state-wide training that contains consistent elements for
12 persons engaged in the interviewing of children for child sexual abuse
13 cases, including law enforcement, prosecution, and child protective
14 services.

15 (3) The training shall: (a) Be based on research-based practices
16 and standards; (b) minimize the trauma of all persons who are
17 interviewed during abuse investigations; (c) provide methods of
18 reducing the number of investigative interviews necessary whenever
19 possible; (d) assure, to the extent possible, that investigative
20 interviews are thorough, objective, and complete; (e) recognize needs
21 of special populations, such as persons with developmental
22 disabilities; (f) recognize the nature and consequences of
23 victimization; (g) require investigative interviews to be conducted in
24 a manner most likely to permit the interviewed persons the maximum
25 emotional comfort under the circumstances; (h) address record retention
26 and retrieval; and (i) documentation of investigative interviews.

27 NEW SECTION. **Sec. 3.** The Washington state institute for public
28 policy shall convene a work group to develop state guidelines for the
29 development of child sexual abuse investigations protocols. The work
30 group shall consist of representatives from the department of social
31 and health services, the Washington association of sheriffs and police
32 chiefs, and the Washington association of prosecuting attorneys.

33 The work group shall solicit input from a mental health
34 professional certified under chapter 18.19 RCW, a physician licensed
35 under chapter 18.71 RCW with substantial experience in child sexual
36 abuse examinations, a member of the Washington state bar whose practice
37 is primarily defense-oriented, the attorney general, a superior court

1 judge, a child development specialist, a representative from an agency
2 serving the developmentally disabled, an advanced registered nurse
3 practitioner licensed under chapter 18.79 RCW, a representative from a
4 child serving agency, and a victim's advocate.

5 The work group guidelines shall include issues to be addressed
6 within local protocols adopted pursuant to this act. Those issues
7 shall include multivictim cases, cases involving multiple suspects,
8 information sharing between the department and law enforcement, methods
9 to reduce the number of investigative interviews, and documentation of
10 investigations.

11 The work group guidelines shall be provided as a resource to local
12 agencies in developing local protocols mandated under this act.

13 The guidelines developed by the work group shall be presented to
14 the legislature not later than December 1, 1999.

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

17 (1) Each agency involved in investigating child sexual abuse shall
18 document its role in handling cases and how it will coordinate with
19 other local agencies or systems and shall adopt a local protocol based
20 on the state guidelines. The department and local law enforcement
21 agencies may include other agencies and systems that are involved with
22 child sexual abuse victims in the multidisciplinary coordination.

23 (2) Each county shall develop a written protocol for handling
24 criminal child sexual abuse investigations. The protocol shall address
25 the coordination of child sexual abuse investigations between the
26 prosecutor's office, law enforcement, the department, local advocacy
27 groups, and any other local agency involved in the criminal
28 investigation of child sexual abuse, including those investigations
29 involving multiple victims and multiple offenders. The protocol shall
30 be developed by the prosecuting attorney with the assistance of the
31 agencies referenced in this subsection.

32 (3) Local protocols under this section shall be adopted and in
33 place by July 1, 2000, and shall be submitted to the legislature prior
34 to that date.

35 **Sec. 5.** RCW 74.14B.010 and 1987 c 503 s 8 are each amended to read
36 as follows:

1 (1) Caseworkers employed in children services shall meet minimum
2 standards established by the department of social and health services.
3 Comprehensive training for caseworkers shall be completed before such
4 caseworkers are assigned to case-carrying responsibilities without
5 direct supervision. Intermittent, part-time, and standby workers shall
6 be subject to the same minimum standards and training.

7 (2) On-going specialized training shall be provided for persons
8 responsible for investigating child sexual abuse. Training
9 participants shall have the opportunity to practice interview skills
10 and receive feedback from instructors.

11 (3) The department, the criminal justice training commission, the
12 Washington association of sheriffs and police chiefs, and the
13 Washington association of prosecuting attorneys shall design and
14 implement state-wide training that contains consistent elements for
15 persons engaged in the interviewing of children, including law
16 enforcement, prosecution, and child protective services.

17 (4) The training shall: (a) Be based on research-based practices
18 and standards; (b) minimize the trauma of all persons who are
19 interviewed during abuse investigations; (c) provide methods of
20 reducing the number of investigative interviews necessary whenever
21 possible; (d) assure, to the extent possible, that investigative
22 interviews are thorough, objective, and complete; (e) recognize needs
23 of special populations, such as persons with developmental
24 disabilities; (f) recognize the nature and consequences of
25 victimization; (g) require investigative interviews to be conducted in
26 a manner most likely to permit the interviewed persons the maximum
27 emotional comfort under the circumstances; (h) address record retention
28 and retrieval; and (i) documentation of investigative interviews.

29 NEW SECTION. Sec. 6. A new section is added to chapter 43.20A RCW
30 to read as follows:

31 The department shall establish three pilot projects involving child
32 sexual abuse investigations. The projects shall follow written
33 protocols and use different methods and techniques to conduct and
34 preserve interviews with alleged child victims of sexual abuse. The
35 department shall provide the appropriate committees of the senate and
36 house of representatives an interim report by December 15, 1999, and a
37 final report by December 15, 2000. The Washington state institute for

1 public policy shall evaluate the pilot projects and report to the
2 legislature by December 1, 2000.

3 **Sec. 7.** RCW 26.44.035 and 1997 c 386 s 26 are each amended to read
4 as follows:

5 (1) If the department or a law enforcement agency responds to a
6 complaint of alleged child abuse or neglect and discovers that another
7 agency has also responded to the complaint, the agency shall notify the
8 other agency of their presence, and the agencies shall coordinate the
9 investigation and keep each other apprised of progress.

10 (2) The department, each law enforcement agency, each county
11 prosecuting attorney, each city attorney, and each court shall make as
12 soon as practicable a written record and shall maintain records of all
13 incidents of suspected child abuse reported to that person or agency.

14 (3) Every employee of the department who conducts an interview of
15 any person involved in an allegation of abuse or neglect shall retain
16 his or her original written records or notes setting forth the content
17 of the interview unless the notes were entered into the electronic
18 system operated by the department which is designed for storage,
19 retrieval, and preservation of such records.

20 (4) Written records involving child sexual abuse shall, at a
21 minimum, be a near verbatim record for the disclosure interview. The
22 near verbatim record shall be produced within fifteen calendar days of
23 the disclosure interview, unless waived by management on a case-by-case
24 basis.

25 (5) Records kept under this section shall be identifiable by means
26 of an agency code for child abuse.

27 NEW SECTION. **Sec. 8.** The legislature finds that the parent,
28 guardian, or foster parent of a child who may be the victim of abuse or
29 neglect may become involved in the investigation of the abuse or
30 neglect. The parent, guardian, or foster parent may also be made a
31 party to later court proceedings and be subject to a court-ordered
32 examination by a physician, psychologist, or psychiatrist. It is the
33 intent of the legislature by enacting section 9 of this act to avoid
34 actual or perceived conflicts of interest that may occur when the
35 parent, guardian, or foster parent is also a law enforcement officer
36 and is assigned to conduct the investigation of alleged abuse or
37 neglect concerning the child.

1 NEW SECTION. **Sec. 9.** A new section is added to chapter 26.44 RCW
2 to read as follows:

3 A law enforcement agency shall not allow a law enforcement officer
4 to participate as an investigator in the investigation of alleged abuse
5 or neglect concerning a child for whom the law enforcement officer is,
6 or has been, a parent, guardian, or foster parent. This section is not
7 intended to limit the authority or duty of a law enforcement officer to
8 report, testify, or be examined as authorized or required by this
9 chapter, or to perform other official duties as a law enforcement
10 officer.

11 NEW SECTION. **Sec. 10.** If specific funding for the purposes of
12 sections 1 through 7 this act, referencing sections 1 through 7 of this
13 act by bill or chapter number, is not provided by June 30, 1999, in the
14 omnibus appropriations act, sections 1 through 7 this act are null and
15 void.

 Passed the Senate April 20, 1999.

 Passed the House April 15, 1999.

 Approved by the Governor May 18, 1999, with the exception of
 certain items that were vetoed.

 Filed in Office of Secretary of State May 18, 1999.

1 Note: Governor's explanation of partial veto is as follows:

2 "I am returning herewith, without my approval as to section 1,
3 Senate Bill No. 5127 entitled:

4 "AN ACT Relating to investigations of abuse or neglect;"

5 Senate Bill No. 5127 requires specialized training for law
6 enforcement officers and caseworkers who investigate allegations of
7 child sexual abuse. It also prohibits a law enforcement officer from
8 participating in an investigation of alleged abuse concerning a child
9 for whom the officer is a parent, guardian or foster parent.

10 The training required by SB 5127 is not adequately funded by the
11 operating budget for the 1999-2001 biennium that I signed on May 14,
12 1999. To fully implement the required training, the legislature must
13 appropriate at least \$537,000 in supplemental funds next year.

14 The process of investigating child abuse allegations and
15 prosecuting alleged perpetrators is complex and must adhere to many
16 laws and procedures. Section 1 of SB 5127 is sufficiently vague that
17 it could be misconstrued to alter existing law. Vetoing it does not
18 weaken the substance of this bill.

19 For these reasons, I have vetoed section 1 of Senate Bill No. 5127.

20 With the exception of section 1, Senate Bill No. 5127 is approved."