

1 **SHB 1054 - H AMD 0030 FAILED 3-7-03**

2 By Representative Boldt

3 Strike everything after the enacting clause and insert the  
4 following:

5 "Sec. 1. RCW 26.44.020 and 2000 c 162 s 19 are each amended to  
6 read as follows:

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

9 (1) "Court" means the superior court of the state of Washington,  
10 juvenile department.

11 (2) "Law enforcement agency" means the police department, the  
12 prosecuting attorney, the state patrol, the director of public safety,  
13 or the office of the sheriff.

14 (3) "Practitioner of the healing arts" or "practitioner" means a  
15 person licensed by this state to practice podiatric medicine and  
16 surgery, optometry, chiropractic, nursing, dentistry, osteopathic  
17 medicine and surgery, or medicine and surgery or to provide other  
18 health services. The term "practitioner" includes a duly accredited  
19 Christian Science practitioner: PROVIDED, HOWEVER, That a person who  
20 is being furnished Christian Science treatment by a duly accredited  
21 Christian Science practitioner will not be considered, for that reason  
22 alone, a neglected person for the purposes of this chapter.

23 (4) "Institution" means a private or public hospital or any other  
24 facility providing medical diagnosis, treatment or care.

25 (5) "Department" means the state department of social and health  
26 services.

27 (6) "Child" or "children" means any person under the age of  
28 eighteen years of age.

29 (7) "Professional school personnel" include, but are not limited  
30 to, teachers, counselors, administrators, child care facility  
31 personnel, and school nurses.

1 (8) "Social service counselor" means anyone engaged in a  
2 professional capacity during the regular course of employment in  
3 encouraging or promoting the health, welfare, support or education of  
4 children, or providing social services to adults or families, including  
5 mental health, drug and alcohol treatment, and domestic violence  
6 programs, whether in an individual capacity, or as an employee or agent  
7 of any public or private organization or institution.

8 (9) "Psychologist" means any person licensed to practice  
9 psychology under chapter 18.83 RCW, whether acting in an individual  
10 capacity or as an employee or agent of any public or private  
11 organization or institution.

12 (10) "Pharmacist" means any registered pharmacist under chapter  
13 18.64 RCW, whether acting in an individual capacity or as an employee  
14 or agent of any public or private organization or institution.

15 (11) "Member of the clergy" means any regularly licensed,  
16 accredited, certified, or ordained minister, priest, ((or)) rabbi,  
17 imam, or similarly qualified religious or spiritual leader of any  
18 church or religious or spiritual denomination, sect, community, or  
19 body, or any person performing official duties that are recognized as  
20 the duties of a member of the clergy under the discipline, tenets,  
21 doctrines, practices, customs, or traditions of the person's church or  
22 religious or spiritual denomination, sect, community, or body, whether  
23 acting in an individual capacity or as an employee, official, or agent  
24 of any public or private organization or institution.

25 (12) "Abuse or neglect" means the injury, sexual abuse, sexual  
26 exploitation, negligent treatment, or maltreatment of a child by any  
27 person under circumstances which indicate that the child's health,  
28 welfare, and safety is harmed, excluding conduct permitted under RCW  
29 9A.16.100. An abused child is a child who has been subjected to child  
30 abuse or neglect as defined in this section.

31 (13) "Child protective services section" means the child  
32 protective services section of the department.

33 (14) "Sexual exploitation" includes: (a) Allowing, permitting, or  
34 encouraging a child to engage in prostitution by any person; or (b)  
35 allowing, permitting, encouraging, or engaging in the obscene or  
36 pornographic photographing, filming, or depicting of a child by any  
37 person.

1 (15) "Negligent treatment or maltreatment" means an act or  
2 omission that evidences a serious disregard of consequences of such  
3 magnitude as to constitute a clear and present danger to the child's  
4 health, welfare, and safety. The fact that siblings share a bedroom is  
5 not, in and of itself, negligent treatment or maltreatment.

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

20 (17) "Malice" or "maliciously" means an evil intent, wish, or  
21 design to vex, annoy, or injure another person. Such malice may be  
22 inferred from an act done in willful disregard of the rights of  
23 another, or an act wrongfully done without just cause or excuse, or an  
24 act or omission of duty betraying a willful disregard of social duty.

25 (18) "Sexually aggressive youth" means a child who is defined in  
26 RCW 74.13.075(1)(b) as being a sexually aggressive youth.

27 (19) "Unfounded" means available information indicates that, more  
28 likely than not, child abuse or neglect did not occur. No unfounded  
29 allegation of child abuse or neglect may be disclosed to a child-  
30 placing agency, private adoption agency, or any other provider licensed  
31 under chapter 74.15 RCW.

32 **Sec. 2.** RCW 26.44.030 and 1999 c 267 s 20 and 1999 c 176 s 30 are  
33 each reenacted and amended to read as follows:

34 (1)(a) When any practitioner, county coroner or medical examiner,  
35 law enforcement officer, professional school personnel, registered or

1 licensed nurse, social service counselor, psychologist, pharmacist,  
2 member of the clergy, licensed or certified child care providers or  
3 their employees, employee of the department, juvenile probation  
4 officer, placement and liaison specialist, responsible living skills  
5 program staff, HOPE center staff, or state family and children's  
6 ombudsman or any volunteer in the ombudsman's office has reasonable  
7 cause to believe that a child has suffered abuse or neglect, he or she  
8 shall report such incident, or cause a report to be made, to the proper  
9 law enforcement agency or to the department as provided in RCW  
10 26.44.040.

11 (b) The reporting requirement also applies to department of  
12 corrections personnel who, in the course of their employment, observe  
13 offenders or the children with whom the offenders are in contact. If,  
14 as a result of observations or information received in the course of  
15 his or her employment, any department of corrections personnel has  
16 reasonable cause to believe that a child has suffered abuse or neglect,  
17 he or she shall report the incident, or cause a report to be made, to  
18 the proper law enforcement agency or to the department as provided in  
19 RCW 26.44.040.

20 (c) The reporting requirement shall also apply to any adult who  
21 has reasonable cause to believe that a child who resides with them, has  
22 suffered severe abuse, and is able or capable of making a report. For  
23 the purposes of this subsection, "severe abuse" means any of the  
24 following: Any single act of abuse that causes physical trauma of  
25 sufficient severity that, if left untreated, could cause death; any  
26 single act of sexual abuse that causes significant bleeding, deep  
27 bruising, or significant external or internal swelling; or more than  
28 one act of physical abuse, each of which causes bleeding, deep  
29 bruising, significant external or internal swelling, bone fracture, or  
30 unconsciousness.

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

35 (2)(a) The reporting requirement of subsection (1) of this section  
36 does not apply to a member of the clergy with regard to information  
37 obtained by the member of the clergy acting in his or her professional

1 capacity as a religious or spiritual counselor or advisor when (i) the  
2 information is obtained as a result of any confession, admission,  
3 discussion, or conversation, (ii) the member of the clergy is  
4 authorized to hear or participate in such confession, admission,  
5 discussion, or conversation, and (iii) the member of the clergy may,  
6 under the discipline, tenets, doctrines, practices, customs, or  
7 traditions of the person's church or religious or spiritual  
8 denomination, sect, community, or body, keep the confession, admission,  
9 discussion, or conversation secret, private, or confidential.

10 (b) Nothing in this subsection shall exempt a member of the clergy  
11 from making a report of child abuse or neglect as required in  
12 subsection (1) of this section when the member of the clergy is acting  
13 exclusively in some other capacity that would otherwise require a  
14 member of the clergy to make a report.

15 (3) The reporting requirement of subsection (1) of this section  
16 does not apply to the discovery of abuse or neglect that occurred  
17 during childhood if it is discovered after the child has become an  
18 adult. However, if there is reasonable cause to believe other children  
19 are or may be at risk of abuse or neglect by the accused, the reporting  
20 requirement of subsection (1) of this section does apply.

21 ~~((+3))~~ (4) Any other person who has reasonable cause to believe  
22 that a child has suffered abuse or neglect may report such incident to  
23 the proper law enforcement agency or to the department of social and  
24 health services as provided in RCW 26.44.040.

25 ~~((+4))~~ (5) The department, upon receiving a report of an incident  
26 of alleged abuse or neglect pursuant to this chapter, involving a child  
27 who has died or has had physical injury or injuries inflicted upon him  
28 or her other than by accidental means or who has been subjected to  
29 alleged sexual abuse, shall report such incident to the proper law  
30 enforcement agency. In emergency cases, where the child's welfare is  
31 endangered, the department shall notify the proper law enforcement  
32 agency within twenty-four hours after a report is received by the  
33 department. In all other cases, the department shall notify the law  
34 enforcement agency within seventy-two hours after a report is received  
35 by the department. If the department makes an oral report, a written  
36 report must also be made to the proper law enforcement agency within  
37 five days thereafter.

1           (~~(+5)~~) (6) Any law enforcement agency receiving a report of an  
2 incident of alleged abuse or neglect pursuant to this chapter,  
3 involving a child who has died or has had physical injury or injuries  
4 inflicted upon him or her other than by accidental means, or who has  
5 been subjected to alleged sexual abuse, shall report such incident in  
6 writing as provided in RCW 26.44.040 to the proper county prosecutor or  
7 city attorney for appropriate action whenever the law enforcement  
8 agency's investigation reveals that a crime may have been committed.  
9 The law enforcement agency shall also notify the department of all  
10 reports received and the law enforcement agency's disposition of them.  
11 In emergency cases, where the child's welfare is endangered, the law  
12 enforcement agency shall notify the department within twenty-four  
13 hours. In all other cases, the law enforcement agency shall notify the  
14 department within seventy-two hours after a report is received by the  
15 law enforcement agency.

16           (~~(+6)~~) (7) Any county prosecutor or city attorney receiving a  
17 report under subsection (~~(+5)~~) (6) of this section shall notify the  
18 victim, any persons the victim requests, and the local office of the  
19 department, of the decision to charge or decline to charge a crime,  
20 within five days of making the decision.

21           (~~(+7)~~) (8) The department may conduct ongoing case planning and  
22 consultation with those persons or agencies required to report under  
23 this section, with consultants designated by the department, and with  
24 designated representatives of Washington Indian tribes if the client  
25 information exchanged is pertinent to cases currently receiving child  
26 protective services. Upon request, the department shall conduct such  
27 planning and consultation with those persons required to report under  
28 this section if the department determines it is in the best interests  
29 of the child. Information considered privileged by statute and not  
30 directly related to reports required by this section must not be  
31 divulged without a valid written waiver of the privilege.

32           (~~(+8)~~) (9) Any case referred to the department by a physician  
33 licensed under chapter 18.57 or 18.71 RCW on the basis of an expert  
34 medical opinion that child abuse, neglect, or sexual assault has  
35 occurred and that the child's safety will be seriously endangered if  
36 returned home, the department shall file a dependency petition unless  
37 a second licensed physician of the parents' choice believes that such

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

9 ~~((+9))~~ (10) Persons or agencies exchanging information under  
10 subsection ~~((+7))~~ (8) of this section shall not further disseminate or  
11 release the information except as authorized by state or federal  
12 statute. Violation of this subsection is a misdemeanor.

13 ~~((+10))~~ (11) Upon receiving reports of alleged abuse or neglect,  
14 the department or law enforcement agency may interview children. The  
15 interviews may be conducted on school premises, at day-care facilities,  
16 at the child's home, or at other suitable locations outside of the  
17 presence of parents. Parental notification of the interview must occur  
18 at the earliest possible point in the investigation that will not  
19 jeopardize the safety or protection of the child or the course of the  
20 investigation. Prior to commencing the interview the department or law  
21 enforcement agency shall determine whether the child wishes a third  
22 party to be present for the interview and, if so, shall make reasonable  
23 efforts to accommodate the child's wishes. Unless the child objects,  
24 the department or law enforcement agency shall make reasonable efforts  
25 to include a third party in any interview so long as the presence of  
26 the third party will not jeopardize the course of the investigation.

27 ~~((+11))~~ (12) Upon receiving a report of alleged child abuse and  
28 neglect, the department or investigating law enforcement agency shall  
29 have access to all relevant records of the child in the possession of  
30 mandated reporters and their employees.

31 ~~((+12))~~ (13) The department shall maintain investigation records  
32 and conduct timely and periodic reviews of all cases constituting abuse  
33 and neglect. The department shall maintain a log of screened-out  
34 nonabusive cases.

35 ~~((+13))~~ (14) The department shall use a risk assessment process  
36 when investigating alleged child abuse and neglect referrals. The  
37 department shall present the risk factors at all hearings in which the

1 placement of a dependent child is an issue. Substance abuse must be a  
2 risk factor. The department shall, within funds appropriated for this  
3 purpose, offer enhanced community-based services to persons who are  
4 determined not to require further state intervention.

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

7 ~~((+14+))~~ (15) Upon receipt of a report of alleged abuse or neglect  
8 the law enforcement agency may arrange to interview the person making  
9 the report and any collateral sources to determine if any malice is  
10 involved in the reporting.

11 ~~((+15+))~~ (16) The department shall make reasonable efforts to  
12 learn the name, address, and telephone number of each person making a  
13 report of abuse or neglect under this section. The department shall  
14 provide assurances of appropriate confidentiality of the identification  
15 of persons reporting under this section. If the department is unable  
16 to learn the information required under this subsection, the department  
17 shall only investigate cases in which: (a) The department believes  
18 there is a serious threat of substantial harm to the child; (b) the  
19 report indicates conduct involving a criminal offense that has, or is  
20 about to occur, in which the child is the victim; or (c) the department  
21 has, after investigation, a report of abuse or neglect that has been  
22 founded with regard to a member of the household within three years of  
23 receipt of the referral.

24 **Sec. 3.** RCW 9A.04.080 and 1998 c 221 s 2 are each amended to read  
25 as follows:

26 (1) Prosecutions for criminal offenses shall not be commenced  
27 after the periods prescribed in this section.

28 (a) The following offenses may be prosecuted at any time after  
29 their commission:

30 (i) Murder;

31 (ii) Homicide by abuse;

32 (iii) Arson if a death results;

33 (iv) Vehicular homicide;

34 (v) Vehicular assault if a death results;



1 (vi) Hit-and-run injury-accident if a death results (RCW  
2 46.52.020(4)).

3 (b) The following offenses shall not be prosecuted more than ten  
4 years after their commission:

5 (i) Any felony committed by a public officer if the commission is  
6 in connection with the duties of his or her office or constitutes a  
7 breach of his or her public duty or a violation of the oath of office;

8 (ii) Arson if no death results; or

9 (iii) Violations of RCW 9A.44.040 or 9A.44.050 if the rape is  
10 reported to a law enforcement agency within one year of its commission;  
11 except that if the victim is under fourteen years of age when the rape  
12 is committed and the rape is reported to a law enforcement agency  
13 within one year of its commission, the violation may be prosecuted up  
14 to three years after the victim's eighteenth birthday or up to ten  
15 years after the rape's commission, whichever is later. If a violation  
16 of RCW 9A.44.040 or 9A.44.050 is not reported within one year, the rape  
17 may not be prosecuted: (A) More than three years after its commission  
18 if the violation was committed against a victim fourteen years of age  
19 or older; or (B) more than three years after the victim's eighteenth  
20 birthday or more than seven years after the rape's commission,  
21 whichever is later, if the violation was committed against a victim  
22 under fourteen years of age.

23 (c) Violations of the following statutes shall not be prosecuted  
24 more than three years after the victim's eighteenth birthday or more  
25 than seven years after their commission, whichever is later: RCW  
26 9A.44.073, 9A.44.076, 9A.44.083, 9A.44.086, 9A.44.070, 9A.44.080,  
27 9A.44.100(1)(b), ~~((or))~~ 9A.64.020, or 26.44.080.

28 (d) The following offenses shall not be prosecuted more than six  
29 years after their commission: Violations of RCW 9A.82.060 or  
30 9A.82.080.

31 (e) The following offenses shall not be prosecuted more than five  
32 years after their commission: Any class C felony under chapter 74.09,  
33 82.36, or 82.38 RCW.

34 (f) Bigamy shall not be prosecuted more than three years after the  
35 time specified in RCW 9A.64.010.

1 (g) A violation of RCW 9A.56.030 must not be prosecuted more than  
2 three years after the discovery of the offense when the victim is a tax  
3 exempt corporation under 26 U.S.C. Sec. 501(c)(3).

4 (h) No other felony may be prosecuted more than three years after  
5 its commission; except that in a prosecution under RCW 9A.44.115, if  
6 the person who was viewed, photographed, or filmed did not realize at  
7 the time that he or she was being viewed, photographed, or filmed, the  
8 prosecution must be commenced within two years of the time the person  
9 who was viewed or in the photograph or film first learns that he or she  
10 was viewed, photographed, or filmed.

11 (i) No gross misdemeanor may be prosecuted more than two years  
12 after its commission.

13 (j) No misdemeanor may be prosecuted more than one year after its  
14 commission.

15 (2) The periods of limitation prescribed in subsection (1) of this  
16 section do not run during any time when the person charged is not  
17 usually and publicly resident within this state.

18 (3) If, before the end of a period of limitation prescribed in  
19 subsection (1) of this section, an indictment has been found or a  
20 complaint or an information has been filed, and the indictment,  
21 complaint, or information is set aside, then the period of limitation  
22 is extended by a period equal to the length of time from the finding or  
23 filing to the setting aside."

**EFFECT:** Changes the reference to clergy to "member of the clergy"  
and the definition is changed to include a broad range of  
individuals in a broad range of situations. A member of the  
clergy is included in the list of people who must report  
information of abuse and neglect under the mandatory reporter  
statute.

Adds an exception to the mandatory reporter requirement to exclude  
a member of the clergy from having to report information obtained  
by the member of the clergy acting in his or her professional  
capacity as a religious or spiritual counselor or advisor if the  
following conditions are met:

1. The information is obtained as a result of any confession,  
admission, discussion, or conversation;

2. The member of the clergy is authorized to hear or participate in such confession, admission, discussion, or conversation; and

3. The member of the clergy may, under the discipline, tenets, doctrines, practices, customs, or traditions of the person's church or religious or spiritual denomination, sect, community, or body, keep the confession, admission, discussion, or conversation secret, private, or confidential.

Changes the statute of limitations for the prosecution of violations of the mandatory reporter requirements to state that a violation of the mandatory reporting statute can not be prosecuted more than three years after the victim's eighteenth birthday, or more than seven years after the commission of the offense, whichever is later.