

SSB 5308 - S AMD 138

By Senators Kohl-Welles, Hargrove, Stevens

ADOPTED 03/09/2005

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 26.44.030 and 2003 c 207 s 4 are each amended to read
4 as follows:

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

16 (b) When any person, in his or her official supervisory capacity
17 with a nonprofit or for-profit organization, has reasonable cause to
18 believe that a child has suffered abuse or neglect caused by a person
19 over whom he or she regularly exercises supervisory authority, he or
20 she shall report such incident, or cause a report to be made, to the
21 proper law enforcement agency, provided that the person alleged to have
22 caused the abuse or neglect is employed by, contracted by, or
23 volunteers with the organization and coaches, trains, educates, or
24 counsels a child or children or regularly has unsupervised access to a
25 child or children as part of the employment, contract, or voluntary
26 service. No one shall be required to report under this section when he
27 or she obtains the information solely as a result of a privileged
28 communication as provided in RCW 5.60.060.

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

1 For the purposes of this subsection, the following definitions
2 apply:

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

9 (ii) "Regularly exercises supervisory authority" means to act in
10 his or her official supervisory capacity on an ongoing or continuing
11 basis with regards to a particular person.

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

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

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

36 (2) The reporting requirement of subsection (1) of this section
37 does not apply to the discovery of abuse or neglect that occurred
38 during childhood if it is discovered after the child has become an

1 adult. However, if there is reasonable cause to believe other children
2 are or may be at risk of abuse or neglect by the accused, the reporting
3 requirement of subsection (1) of this section does apply.

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

8 (4) The department, upon receiving a report of an incident of
9 alleged abuse or neglect pursuant to this chapter, involving a child
10 who has died or has had physical injury or injuries inflicted upon him
11 or her other than by accidental means or who has been subjected to
12 alleged sexual abuse, shall report such incident to the proper law
13 enforcement agency. 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 received
18 by the department. If the department makes an oral report, a written
19 report must also be made to the proper law enforcement agency within
20 five days thereafter.

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

36 (6) Any county prosecutor or city attorney receiving a report under
37 subsection (5) of this section shall notify the victim, any persons the

1 victim requests, and the local office of the department, of the
2 decision to charge or decline to charge a crime, within five days of
3 making the decision.

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

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

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

33 (10) Upon receiving reports of alleged abuse or neglect, the
34 department or law enforcement agency may interview children. The
35 interviews may be conducted on school premises, at day-care facilities,
36 at the child's home, or at other suitable locations outside of the
37 presence of parents. Parental notification of the interview must occur
38 at the earliest possible point in the investigation that will not

1 jeopardize the safety or protection of the child or the course of the
2 investigation. Prior to commencing the interview the department or law
3 enforcement agency shall determine whether the child wishes a third
4 party to be present for the interview and, if so, shall make reasonable
5 efforts to accommodate the child's wishes. Unless the child objects,
6 the department or law enforcement agency shall make reasonable efforts
7 to include a third party in any interview so long as the presence of
8 the third party will not jeopardize the course of the investigation.

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

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

17 (13) The department shall use a risk assessment process when
18 investigating alleged child abuse and neglect referrals. The
19 department shall present the risk factors at all hearings in which the
20 placement of a dependent child is an issue. Substance abuse must be a
21 risk factor. The department shall, within funds appropriated for this
22 purpose, offer enhanced community-based services to persons who are
23 determined not to require further state intervention.

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

28 (15) The department shall make reasonable efforts to learn the
29 name, address, and telephone number of each person making a report of
30 abuse or neglect under this section. The department shall provide
31 assurances of appropriate confidentiality of the identification of
32 persons reporting under this section. If the department is unable to
33 learn the information required under this subsection, the department
34 shall only investigate cases in which: (a) The department believes
35 there is a serious threat of substantial harm to the child; (b) the
36 report indicates conduct involving a criminal offense that has, or is
37 about to occur, in which the child is the victim; or (c) the department

1 has, after investigation, a report of abuse or neglect that has been
2 founded with regard to a member of the household within three years of
3 receipt of the referral.

4 NEW SECTION. **Sec. 2.** If any provision of this act or its
5 application to any person or circumstance is held invalid, the
6 remainder of the act or the application of the provision to other
7 persons or circumstances is not affected."

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8 On page 1, line 1 of the title, after "neglect;" strike the
9 remainder of the title and insert "and amending RCW 26.44.030."

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