
HOUSE BILL 1482

State of Washington 59th Legislature 2005 Regular Session

By Representatives Dickerson, Kagi, Simpson, Appleton, Morrell, Ormsby, Moeller, Kenney, McDermott, O'Brien, McIntire and Chase

Read first time 01/25/2005. Referred to Committee on Children & Family Services.

1 AN ACT Relating to child abuse and neglect; amending RCW 26.44.015,
2 26.44.020, and 74.13.031; and adding a new section to chapter 26.44
3 RCW.

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

5 **Sec. 1.** RCW 26.44.015 and 1999 c 176 s 28 are each amended to read
6 as follows:

7 (1) This chapter shall not be construed to authorize interference
8 with child-raising practices, including reasonable parental discipline,
9 which are not injurious to the child's health, welfare, ~~((and))~~ or
10 safety.

11 (2) Nothing in this chapter may be used to prohibit the reasonable
12 use of corporal punishment as a means of discipline.

13 (3) No parent or guardian may be deemed abusive or neglectful
14 solely by reason of the parent's or child's blindness, deafness,
15 developmental disability, or other handicap.

16 **Sec. 2.** RCW 26.44.020 and 2000 c 162 s 19 are each amended to read
17 as follows:

1 The definitions in this section apply throughout this chapter
2 unless the context clearly requires otherwise.

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

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

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

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

19 (5) "Department" means the state department of social and health
20 services.

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

23 (7) "Professional school personnel" include, but are not limited
24 to, teachers, counselors, administrators, child care facility
25 personnel, and school nurses.

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

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

37 (10) "Pharmacist" means any registered pharmacist under chapter

1 18.64 RCW, whether acting in an individual capacity or as an employee
2 or agent of any public or private organization or institution.

3 (11) "Clergy" means any regularly licensed or ordained minister,
4 priest, or rabbi of any church or religious denomination, whether
5 acting in an individual capacity or as an employee or agent of any
6 public or private organization or institution.

7 (12) "Abuse or neglect" means ~~((the injury,))~~ sexual abuse, sexual
8 exploitation, ~~((negligent treatment, or maltreatment))~~ or nonaccidental
9 injury of a child by any person under circumstances which ~~((indicate~~
10 ~~that))~~ cause harm to the child's health, welfare, ~~((and))~~ or safety
11 ~~((is harmed))~~, excluding conduct permitted under RCW 9A.16.100; or the
12 negligent treatment or maltreatment of a child by a person responsible
13 for or providing care to the child under circumstances which cause harm
14 to or present a substantial threat of harm to the child's health,
15 welfare, or safety. An abused child is a child who has been subjected
16 to child abuse or neglect as defined in this section.

17 (13) "Child protective services section" means the child protective
18 services section of the department.

19 (14) "Sexual exploitation" includes: (a) Allowing, permitting, or
20 encouraging a child to engage in prostitution by any person; or (b)
21 allowing, permitting, encouraging, or engaging in the obscene or
22 pornographic photographing, filming, or depicting of a child by any
23 person.

24 (15) "Negligent treatment or maltreatment" means an act or
25 ~~((omission))~~ a failure to act, or the cumulative effects of a pattern
26 of conduct, behavior, or inaction, that ~~((evidences))~~ clearly
27 demonstrates a serious disregard of consequences of such magnitude as
28 to ~~((constitute a clear and present danger))~~ cause harm to or present
29 a substantial threat of harm to ~~((the))~~ a child's ~~((health, welfare,~~
30 ~~and safety. The fact that siblings share a bedroom is not, in and of~~
31 ~~itself, negligent treatment or maltreatment))~~ physical, mental, or
32 cognitive condition or development. Poverty or homelessness do not
33 constitute negligent treatment or maltreatment in and of themselves.

34 (16) "Child protective services" means those services provided by
35 the department designed to protect children from child abuse and
36 neglect and safeguard such children from future abuse and neglect, and
37 conduct investigations of child abuse and neglect reports.
38 Investigations may be conducted regardless of the location of the

1 alleged abuse or neglect. Child protective services includes referral
2 to services to ameliorate conditions that endanger the welfare of
3 children, the coordination of necessary programs and services relevant
4 to the prevention, intervention, and treatment of child abuse and
5 neglect, and services to children to ensure that each child has a
6 permanent home. In determining whether protective services should be
7 provided, the department shall not decline to provide such services
8 solely because of the child's unwillingness or developmental inability
9 to describe the nature and severity of the abuse or neglect.

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

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

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

22 **Sec. 3.** RCW 74.13.031 and 2004 c 183 s 3 are each amended to read
23 as follows:

24 The department shall have the duty to provide child welfare
25 services and shall:

26 (1) Develop, administer, supervise, and monitor a coordinated and
27 comprehensive plan that establishes, aids, and strengthens services for
28 the protection and care of runaway, dependent, or neglected children.

29 (2) Within available resources, recruit an adequate number of
30 prospective adoptive and foster homes, both regular and specialized,
31 i.e. homes for children of ethnic minority, including Indian homes for
32 Indian children, sibling groups, handicapped and emotionally disturbed,
33 teens, pregnant and parenting teens, and annually report to the
34 governor and the legislature concerning the department's success in:
35 (a) Meeting the need for adoptive and foster home placements; (b)
36 reducing the foster parent turnover rate; (c) completing home studies

1 for legally free children; and (d) implementing and operating the
2 passport program required by RCW 74.13.285. The report shall include
3 a section entitled "Foster Home Turn-Over, Causes and Recommendations."

4 (3) Investigate (~~(complaints of any recent act or failure to act)~~)
5 reports of child abuse or neglect as defined in chapter 26.44 RCW on
6 the part of a parent, guardian, or legal custodian of the child, member
7 of the household of such persons, agency as defined in chapter 74.15
8 RCW providing care to the child, or other caretaker (~~((that results in~~
9 ~~death, serious physical or emotional harm, or sexual abuse or~~
10 ~~exploitation, or that presents an imminent risk of serious harm))~~) of
11 the child who is serving in place of the parent, and on the basis of
12 the findings of such investigation, offer child welfare services in
13 relation to the problem to such (~~(parents, legal custodians, or)~~)
14 persons (~~((serving in loco parentis))~~), and/or bring the situation to the
15 attention of an appropriate court, or another community agency:
16 PROVIDED, That an investigation is not required of nonaccidental
17 injuries which are clearly not the result of a lack of care or
18 supervision by the child's parents, guardians, legal custodians, or
19 persons serving in (~~(loco parentis))~~) place of a parent. If the
20 investigation reveals that a crime against a child may have been
21 committed, the department shall notify the appropriate law enforcement
22 agency.

23 (4) Offer, on a voluntary basis, family reconciliation services to
24 families who are in conflict.

25 (5) Monitor out-of-home placements, on a timely and routine basis,
26 to assure the safety, well-being, and quality of care being provided is
27 within the scope of the intent of the legislature as defined in RCW
28 74.13.010 and 74.15.010, and annually submit a report measuring the
29 extent to which the department achieved the specified goals to the
30 governor and the legislature.

31 (6) Have authority to accept custody of children from parents and
32 to accept custody of children from juvenile courts, where authorized to
33 do so under law, to provide child welfare services including placement
34 for adoption, and to provide for the physical care of such children and
35 make payment of maintenance costs if needed. Except where required by
36 Public Law 95-608 (25 U.S.C. Sec. 1915), no private adoption agency
37 which receives children for adoption from the department shall

1 discriminate on the basis of race, creed, or color when considering
2 applications in their placement for adoption.

3 (7) Have authority to provide temporary shelter to children who
4 have run away from home and who are admitted to crisis residential
5 centers.

6 (8) Have authority to purchase care for children; and shall follow
7 in general the policy of using properly approved private agency
8 services for the actual care and supervision of such children insofar
9 as they are available, paying for care of such children as are accepted
10 by the department as eligible for support at reasonable rates
11 established by the department.

12 (9) Establish a children's services advisory committee which shall
13 assist the secretary in the development of a partnership plan for
14 utilizing resources of the public and private sectors, and advise on
15 all matters pertaining to child welfare, licensing of child care
16 agencies, adoption, and services related thereto. At least one member
17 shall represent the adoption community.

18 (10) Have authority to provide continued foster care or group care
19 for individuals from eighteen through twenty years of age to enable
20 them to complete their high school or vocational school program.

21 (11) Refer cases to the division of child support whenever state or
22 federal funds are expended for the care and maintenance of a child,
23 including a child with a developmental disability who is placed as a
24 result of an action under chapter 13.34 RCW, unless the department
25 finds that there is good cause not to pursue collection of child
26 support against the parent or parents of the child.

27 (12) Have authority within funds appropriated for foster care
28 services to purchase care for Indian children who are in the custody of
29 a federally recognized Indian tribe or tribally licensed child-placing
30 agency pursuant to parental consent, tribal court order, or state
31 juvenile court order; and the purchase of such care shall be subject to
32 the same eligibility standards and rates of support applicable to other
33 children for whom the department purchases care.

34 Notwithstanding any other provision of RCW 13.32A.170 through
35 13.32A.200 and 74.13.032 through 74.13.036, or of this section all
36 services to be provided by the department of social and health services
37 under subsections (4), (6), and (7) of this section, subject to the

1 limitations of these subsections, may be provided by any program
2 offering such services funded pursuant to Titles II and III of the
3 federal juvenile justice and delinquency prevention act of 1974.

4 (13) Within amounts appropriated for this specific purpose, provide
5 preventive services to families with children that prevent or shorten
6 the duration of an out-of-home placement.

7 (14) Have authority to provide independent living services to
8 youths, including individuals eighteen through twenty years of age, who
9 are or have been in foster care.

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

12 (1) Upon investigation of a report that a child has been abused or
13 neglected, or upon receiving custody of a child from a law enforcement
14 officer, a hospital administrator, or licensed physician pursuant to
15 this chapter, the department may file a dependency petition pursuant to
16 chapter 13.34 RCW if it determines that such action is necessary to
17 protect the child from abuse and neglect or safeguard the child from
18 future abuse and neglect.

19 If the department determines that the child's parents, guardians,
20 or legal custodians are available and willing to participate on a
21 voluntary basis in services and treatment as may be needed to
22 ameliorate the conditions that caused the abuse or neglect or that
23 place the child at risk of future abuse or neglect, the department may
24 agree that the child remain in the home pending the completion of such
25 services and treatment. The department may offer appropriate available
26 services and treatment to a child and his or her parents, guardians, or
27 legal guardians and may refer the child and his or her parents,
28 guardians, or legal guardians to appropriate treatment and services
29 available within the community. If the parents refuse to accept or
30 fail to obtain appropriate treatment or services, the department may
31 initiate a dependency proceeding as provided in chapter 13.34 RCW.

32 (2) Nothing in this section precludes the department from filing a
33 dependency petition and requesting that the child remain in the home if
34 the department determines that is necessary for the health, welfare, or
35 safety of the child.

36 (3) Nothing in this section shall be construed to create in any
37 person an entitlement to services or financial assistance in paying for

1 services or to create judicial authority to order the provision of
2 services to any person or family if the services are unavailable or
3 unsuitable or if the child or family is not eligible for such services.

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