

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 5308

59th Legislature
2005 Regular Session

Passed by the Senate March 9, 2005
YEAS 46 NAYS 0

President of the Senate

Passed by the House April 19, 2005
YEAS 98 NAYS 0

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5308** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 5308

Passed Legislature - 2005 Regular Session

State of Washington 59th Legislature 2005 Regular Session

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Kohl-Welles, Hargrove and Oke)

READ FIRST TIME 02/16/05.

1 AN ACT Relating to mandatory reporting of child abuse or neglect;
2 and amending RCW 26.44.030.

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

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

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

17 (b) When any person, in his or her official supervisory capacity
18 with a nonprofit or for-profit organization, has reasonable cause to
19 believe that a child has suffered abuse or neglect caused by a person

1 over whom he or she regularly exercises supervisory authority, he or
2 she shall report such incident, or cause a report to be made, to the
3 proper law enforcement agency, provided that the person alleged to have
4 caused the abuse or neglect is employed by, contracted by, or
5 volunteers with the organization and coaches, trains, educates, or
6 counsels a child or children or regularly has unsupervised access to a
7 child or children as part of the employment, contract, or voluntary
8 service. No one shall be required to report under this section when he
9 or she obtains the information solely as a result of a privileged
10 communication as provided in RCW 5.60.060.

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

13 For the purposes of this subsection, the following definitions
14 apply:

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

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

24 (c) The reporting requirement also applies to department of
25 corrections personnel who, in the course of their employment, observe
26 offenders or the children with whom the offenders are in contact. If,
27 as a result of observations or information received in the course of
28 his or her employment, any department of corrections personnel has
29 reasonable cause to believe that a child has suffered abuse or neglect,
30 he or she shall report the incident, or cause a report to be made, to
31 the proper law enforcement agency or to the department as provided in
32 RCW 26.44.040.

33 ((+e)) (d) The reporting requirement shall also apply to any adult
34 who has reasonable cause to believe that a child who resides with them,
35 has suffered severe abuse, and is able or capable of making a report.
36 For the purposes of this subsection, "severe abuse" means any of the
37 following: Any single act of abuse that causes physical trauma of
38 sufficient severity that, if left untreated, could cause death; any

1 single act of sexual abuse that causes significant bleeding, deep
2 bruising, or significant external or internal swelling; or more than
3 one act of physical abuse, each of which causes bleeding, deep
4 bruising, significant external or internal swelling, bone fracture, or
5 unconsciousness.

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

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

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

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

33 (5) Any law enforcement agency receiving a report of an incident of
34 alleged abuse or neglect pursuant to this chapter, involving a child
35 who has died or has had physical injury or injuries inflicted upon him
36 or her other than by accidental means, or who has been subjected to
37 alleged sexual abuse, shall report such incident in writing as provided
38 in RCW 26.44.040 to the proper county prosecutor or city attorney for

1 appropriate action whenever the law enforcement agency's investigation
2 reveals that a crime may have been committed. The law enforcement
3 agency shall also notify the department of all reports received and the
4 law enforcement agency's disposition of them. In emergency cases,
5 where the child's welfare is endangered, the law enforcement agency
6 shall notify the department within twenty-four hours. In all other
7 cases, the law enforcement agency shall notify the department within
8 seventy-two hours after a report is received by the law enforcement
9 agency.

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

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

26 (8) Any case referred to the department by a physician licensed
27 under chapter 18.57 or 18.71 RCW on the basis of an expert medical
28 opinion that child abuse, neglect, or sexual assault has occurred and
29 that the child's safety will be seriously endangered if returned home,
30 the department shall file a dependency petition unless a second
31 licensed physician of the parents' choice believes that such expert
32 medical opinion is incorrect. If the parents fail to designate a
33 second physician, the department may make the selection. If a
34 physician finds that a child has suffered abuse or neglect but that
35 such abuse or neglect does not constitute imminent danger to the
36 child's health or safety, and the department agrees with the
37 physician's assessment, the child may be left in the parents' home

1 while the department proceeds with reasonable efforts to remedy
2 parenting deficiencies.

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

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

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

25 (12) The department shall maintain investigation records and
26 conduct timely and periodic reviews of all cases constituting abuse and
27 neglect. The department shall maintain a log of screened-out
28 nonabusive cases.

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

36 (14) Upon receipt of a report of alleged abuse or neglect the law
37 enforcement agency may arrange to interview the person making the

1 report and any collateral sources to determine if any malice is
2 involved in the reporting.

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

16 NEW SECTION. **Sec. 2.** If any provision of this act or its
17 application to any person or circumstance is held invalid, the
18 remainder of the act or the application of the provision to other
19 persons or circumstances is not affected.

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