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**SUBSTITUTE SENATE BILL 5321**

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**State of Washington**

**60th Legislature**

**2007 Regular Session**

**By** Senate Committee on Human Services & Corrections (originally sponsored by Senators Carrell, Regala, Stevens, Schoesler, Clements and Rasmussen)

READ FIRST TIME 02/23/07.

1       AN ACT Relating to the sharing of child welfare information;  
2 amending RCW 26.44.020, 26.44.030, 26.44.031, 74.13.280, 74.15.130,  
3 74.13.650, and 74.13.660; adding a new section to chapter 74.13 RCW;  
4 creating a new section; and providing an effective date.

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

6       **Sec. 1.** RCW 26.44.020 and 2006 c 339 s 108 are each amended to  
7 read as follows:

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

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

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

15       ~~(3) "Practitioner of the healing arts" or "practitioner" means a~~  
16 ~~person licensed by this state to practice podiatric medicine and~~  
17 ~~surgery, optometry, chiropractic, nursing, dentistry, osteopathic~~  
18 ~~medicine and surgery, or medicine and surgery or to provide other~~  
19 ~~health services. The term "practitioner" includes a duly accredited~~

1 ~~Christian Science practitioner:— PROVIDED, HOWEVER, That a person who~~  
2 ~~is being furnished Christian Science treatment by a duly accredited~~  
3 ~~Christian Science practitioner will not be considered, for that reason~~  
4 ~~alone, a neglected person for the purposes of this chapter.~~

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

7 ~~(5) "Department" means the state department of social and health~~  
8 ~~services.~~

9 ~~(6) "Child" or "children" means any person under the age of~~  
10 ~~eighteen years of age.~~

11 ~~(7) "Professional school personnel" include, but are not limited~~  
12 ~~to, teachers, counselors, administrators, child care facility~~  
13 ~~personnel, and school nurses.~~

14 ~~(8) "Social service counselor" means anyone engaged in a~~  
15 ~~professional capacity during the regular course of employment in~~  
16 ~~encouraging or promoting the health, welfare, support or education of~~  
17 ~~children, or providing social services to adults or families, including~~  
18 ~~mental health, drug and alcohol treatment, and domestic violence~~  
19 ~~programs, whether in an individual capacity, or as an employee or agent~~  
20 ~~of any public or private organization or institution.~~

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

25 ~~(10) "Pharmacist" means any registered pharmacist under chapter~~  
26 ~~18.64 RCW, whether acting in an individual capacity or as an employee~~  
27 ~~or agent of any public or private organization or institution.~~

28 ~~(11) "Clergy" means any regularly licensed or ordained minister,~~  
29 ~~priest, or rabbi of any church or religious denomination, whether~~  
30 ~~acting in an individual capacity or as an employee or agent of any~~  
31 ~~public or private organization or institution.~~

32 ~~(12) "Abuse or neglect" means sexual abuse, sexual exploitation, or~~  
33 ~~injury of a child by any person under circumstances which cause harm to~~  
34 ~~the child's health, welfare, or safety, excluding conduct permitted~~  
35 ~~under RCW 9A.16.100; or the negligent treatment or maltreatment of a~~  
36 ~~child by a person responsible for or providing care to the child. An~~  
37 ~~abused child is a child who has been subjected to child abuse or~~  
38 ~~neglect as defined in this section.~~

1       ~~(13) "Child protective services section" means the child protective~~  
2 ~~services section of the department.~~

3       ~~(14) "Sexual exploitation" includes: (a) Allowing, permitting, or~~  
4 ~~encouraging a child to engage in prostitution by any person; or (b)~~  
5 ~~allowing, permitting, encouraging, or engaging in the obscene or~~  
6 ~~pornographic photographing, filming, or depicting of a child by any~~  
7 ~~person.~~

8       ~~(15) "Negligent treatment or maltreatment" means an act or a~~  
9 ~~failure to act, or the cumulative effects of a pattern of conduct,~~  
10 ~~behavior, or inaction, that evidences a serious disregard of~~  
11 ~~consequences of such magnitude as to constitute a clear and present~~  
12 ~~danger to a child's health, welfare, or safety, including but not~~  
13 ~~limited to conduct prohibited under RCW 9A.42.100. When considering~~  
14 ~~whether a clear and present danger exists, evidence of a parent's~~  
15 ~~substance abuse as a contributing factor to negligent treatment or~~  
16 ~~maltreatment shall be given great weight. The fact that siblings share~~  
17 ~~a bedroom is not, in and of itself, negligent treatment or~~  
18 ~~maltreatment. Poverty, homelessness, or exposure to domestic violence~~  
19 ~~as defined in RCW 26.50.010 that is perpetrated against someone other~~  
20 ~~than the child does not constitute negligent treatment or maltreatment~~  
21 ~~in and of itself.~~

22       ~~(16) "Child protective services" means those services provided by~~  
23 ~~the department designed to protect children from child abuse and~~  
24 ~~neglect and safeguard such children from future abuse and neglect, and~~  
25 ~~conduct investigations of child abuse and neglect reports.~~  
26 ~~Investigations may be conducted regardless of the location of the~~  
27 ~~alleged abuse or neglect. Child protective services includes referral~~  
28 ~~to services to ameliorate conditions that endanger the welfare of~~  
29 ~~children, the coordination of necessary programs and services relevant~~  
30 ~~to the prevention, intervention, and treatment of child abuse and~~  
31 ~~neglect, and services to children to ensure that each child has a~~  
32 ~~permanent home. In determining whether protective services should be~~  
33 ~~provided, the department shall not decline to provide such services~~  
34 ~~solely because of the child's unwillingness or developmental inability~~  
35 ~~to describe the nature and severity of the abuse or neglect.~~

36       ~~(17) "Malice" or "maliciously" means an evil intent, wish, or~~  
37 ~~design to vex, annoy, or injure another person. Such malice may be~~

1 ~~inferred from an act done in willful disregard of the rights of~~  
2 ~~another, or an act wrongfully done without just cause or excuse, or an~~  
3 ~~act or omission of duty betraying a willful disregard of social duty.~~

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

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

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

18 (2) "Child" or "children" means any person under the age of  
19 eighteen years of age.

20 (3) "Child protective services" means those services provided by  
21 the department designed to protect children from child abuse and  
22 neglect and safeguard such children from future abuse and neglect, and  
23 conduct investigations of child abuse and neglect reports.  
24 Investigations may be conducted regardless of the location of the  
25 alleged abuse or neglect. Child protective services includes referral  
26 to services to ameliorate conditions that endanger the welfare of  
27 children, the coordination of necessary programs and services relevant  
28 to the prevention, intervention, and treatment of child abuse and  
29 neglect, and services to children to ensure that each child has a  
30 permanent home. In determining whether protective services should be  
31 provided, the department shall not decline to provide such services  
32 solely because of the child's unwillingness or developmental inability  
33 to describe the nature and severity of the abuse or neglect.

34 (4) "Child protective services section" means the child protective  
35 services section of the department.

36 (5) "Clergy" means any regularly licensed or ordained minister,  
37 priest, or rabbi of any church or religious denomination, whether

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

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

5 (7) "Department" means the state department of social and health  
6 services.

7 (8) "Founded" means the determination following an investigation by  
8 the department that, based on available information, it is more likely  
9 than not that child abuse or neglect did occur.

10 (9) "Inconclusive" means the determination following an  
11 investigation by the department, prior to the effective date of this  
12 act, that based on available information a decision cannot be made that  
13 more likely than not, child abuse or neglect did or did not occur.

14 (10) "Institution" means a private or public hospital or any other  
15 facility providing medical diagnosis, treatment, or care.

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

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

24 (13) "Negligent treatment or maltreatment" means an act or a  
25 failure to act, or the cumulative effects of a pattern of conduct,  
26 behavior, or inaction, that evidences a serious disregard of  
27 consequences of such magnitude as to constitute a clear and present  
28 danger to a child's health, welfare, or safety, including but not  
29 limited to conduct prohibited under RCW 9A.42.100. When considering  
30 whether a clear and present danger exists, evidence of a parent's  
31 substance abuse as a contributing factor to negligent treatment or  
32 maltreatment shall be given great weight. The fact that siblings share  
33 a bedroom is not, in and of itself, negligent treatment or  
34 maltreatment. Poverty, homelessness, or exposure to domestic violence  
35 as defined in RCW 26.50.010 that is perpetrated against someone other  
36 than the child does not constitute negligent treatment or maltreatment  
37 in and of itself.

1       (14) "Pharmacist" means any registered pharmacist under chapter  
2 18.64 RCW, whether acting in an individual capacity or as an employee  
3 or agent of any public or private organization or institution.

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

13       (16) "Professional school personnel" include, but are not limited  
14 to, teachers, counselors, administrators, child care facility  
15 personnel, and school nurses.

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

20       (18) "Screened-out report" means a report of alleged child abuse or  
21 neglect that the department has determined does not rise to the level  
22 of a credible report of abuse or neglect and is not referred for  
23 investigation.

24       (19) "Sexual exploitation" includes: (a) Allowing, permitting, or  
25 encouraging a child to engage in prostitution by any person; or (b)  
26 allowing, permitting, encouraging, or engaging in the obscene or  
27 pornographic photographing, filming, or depicting of a child by any  
28 person.

29       (20) "Sexually aggressive youth" means a child who is defined in  
30 RCW 74.13.075(1)(b) as being a sexually aggressive youth.

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

1       (22) "Unfounded" means the determination following an investigation  
2 by the department that available information indicates that, more  
3 likely than not, child abuse or neglect did not occur, or that there is  
4 insufficient evidence for the department to determine whether the  
5 alleged child abuse did or did not occur.

6       **Sec. 2.** RCW 26.44.030 and 2005 c 417 s 1 are each amended to read  
7 as follows:

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

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

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

34       For the purposes of this subsection, the following definitions  
35 apply:

36       (i) "Official supervisory capacity" means a position, status, or  
37 role created, recognized, or designated by any nonprofit or for-profit

1 organization, either for financial gain or without financial gain,  
2 whose scope includes, but is not limited to, overseeing, directing, or  
3 managing another person who is employed by, contracted by, or  
4 volunteers with the nonprofit or for-profit organization.

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

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

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

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

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



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

5 (4) The department, upon receiving a report of an incident of  
6 alleged abuse or neglect pursuant to this chapter, involving a child  
7 who has died or has had physical injury or injuries inflicted upon him  
8 or her other than by accidental means or who has been subjected to  
9 alleged sexual abuse, shall report such incident to the proper law  
10 enforcement agency. In emergency cases, where the child's welfare is  
11 endangered, the department shall notify the proper law enforcement  
12 agency within twenty-four hours after a report is received by the  
13 department. In all other cases, the department shall notify the law  
14 enforcement agency within seventy-two hours after a report is received  
15 by the department. If the department makes an oral report, a written  
16 report must also be made to the proper law enforcement agency within  
17 five days thereafter.

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

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

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

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

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

30 (10) Upon receiving a report((s)) of alleged abuse or neglect, the  
31 department shall make reasonable efforts to learn the name, address,  
32 and telephone number of each person making a report of abuse or neglect  
33 under this section. The department shall provide assurances of  
34 appropriate confidentiality of the identification of persons reporting  
35 under this section. If the department is unable to learn the  
36 information required under this subsection, the department shall only  
37 investigate cases in which:

1       (a) The department believes there is a serious threat of  
2 substantial harm to the child;

3       (b) The report indicates conduct involving a criminal offense that  
4 has, or is about to occur, in which the child is the victim; or

5       (c) The department has a prior founded report of abuse or neglect  
6 with regard to a member of the household that is within three years of  
7 receipt of the referral.

8       (11)(a) For reports of alleged abuse or neglect that are accepted  
9 for investigation by the department, the investigation shall be  
10 conducted within time frames established by the department in rule. In  
11 no case shall the investigation extend longer than ninety days from the  
12 date the report is received, unless the investigation is being  
13 conducted under a written protocol pursuant to RCW 26.44.180 and a law  
14 enforcement agency or prosecuting attorney has determined that a longer  
15 investigation period is necessary. At the completion of the  
16 investigation, the department shall make a finding that the report of  
17 child abuse or neglect is founded or unfounded.

18       (b) If a court in a civil or criminal proceeding, considering the  
19 same facts or circumstances as are contained in the report being  
20 investigated by the department, makes a judicial finding by a  
21 preponderance of the evidence or higher that the subject of the pending  
22 investigation has abused or neglected the child, the department shall  
23 adopt the finding in its investigation.

24       (12) In conducting an investigation of alleged abuse or neglect,  
25 the department or law enforcement agency:

26       (a) May interview children. The interviews may be conducted on  
27 school premises, at day-care facilities, at the child's home, or at  
28 other suitable locations outside of the presence of parents. Parental  
29 notification of the interview must occur at the earliest possible point  
30 in the investigation that will not jeopardize the safety or protection  
31 of the child or the course of the investigation. Prior to commencing  
32 the interview the department or law enforcement agency shall determine  
33 whether the child wishes a third party to be present for the interview  
34 and, if so, shall make reasonable efforts to accommodate the child's  
35 wishes. Unless the child objects, the department or law enforcement  
36 agency shall make reasonable efforts to include a third party in any  
37 interview so long as the presence of the third party will not  
38 jeopardize the course of the investigation((-

1       ~~((11) Upon receiving a report of alleged child abuse and neglect,~~  
2 ~~the department or investigating law enforcement agency)); and~~

3       **(b)** Shall have access to all relevant records of the child in the  
4 possession of mandated reporters and their employees.

5       ~~((12))~~ (13) The department shall maintain investigation records  
6 and conduct timely and periodic reviews of all founded cases  
7 ~~((constituting))~~ of abuse and neglect. The department shall maintain  
8 a log of screened-out nonabusive cases.

9       ~~((13))~~ (14) The department shall use a risk assessment process  
10 when investigating alleged child abuse and neglect referrals. The  
11 department shall present the risk factors at all hearings in which the  
12 placement of a dependent child is an issue. Substance abuse must be a  
13 risk factor. The department shall, within funds appropriated for this  
14 purpose, offer enhanced community-based services to persons who are  
15 determined not to require further state intervention.

16       ~~((14))~~ (15) Upon receipt of a report of alleged abuse or neglect  
17 the law enforcement agency may arrange to interview the person making  
18 the report and any collateral sources to determine if any malice is  
19 involved in the reporting.

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

33       **Sec. 3.** RCW 26.44.031 and 1997 c 282 s 1 are each amended to read  
34 as follows:

35       (1) To protect the privacy in reporting and the maintenance of  
36 reports of nonaccidental injury, neglect, death, sexual abuse, and  
37 cruelty to children by their parents, and to safeguard against

1 arbitrary, malicious, or erroneous information or actions, the  
2 department shall not disclose or maintain information related to  
3 ~~((unfounded referrals in files or))~~ reports of child abuse or neglect  
4 ~~((for longer than six years))~~ except as provided in this section or as  
5 otherwise required by state and federal law.

6 ~~((At the end of six years from receipt of the unfounded report, the~~  
7 ~~information shall be purged unless an additional report has been~~  
8 ~~received in the intervening period.))~~

9 (2) The department shall destroy all of its records concerning:

10 (a) A screened-out report, within three years from the receipt of  
11 the report; and

12 (b) An unfounded or inconclusive report, within six years of  
13 completion of the investigation, unless a prior or subsequent founded  
14 report has been received before the records are destroyed.

15 (3) The department may keep records concerning founded reports of  
16 child abuse or neglect as the department determines by rule.

17 (4) An unfounded, screened-out, or inconclusive report may not be  
18 disclosed to a child-placing agency, private adoption agency, or any  
19 other provider licensed under chapter 74.15 RCW.

20 (5)(a) If the department fails to comply with this section, an  
21 individual who is the subject of a report may institute proceedings for  
22 injunctive or other appropriate relief for enforcement of the  
23 requirement to purge information. These proceedings may be instituted  
24 in the superior court for the county in which the person resides or, if  
25 the person is not then a resident of this state, in the superior court  
26 for Thurston county.

27 (b) If the department fails to comply with subsection (4) of this  
28 section and an individual who is the subject of the report is harmed by  
29 the disclosure of information, in addition to the relief provided in  
30 (a) of this subsection, the court may award a penalty of up to one  
31 thousand dollars and reasonable attorneys' fees and court costs to the  
32 petitioner.

33 (c) A proceeding under this subsection does not preclude other  
34 methods of enforcement provided for by law.

35 (6) Nothing in this section shall prevent the department from  
36 retaining general, nonidentifying information which is required for  
37 state and federal reporting and management purposes.

1       **Sec. 4.** RCW 74.13.280 and 2001 c 318 s 3 are each amended to read  
2 as follows:

3       (1) Except as provided in RCW 70.24.105, whenever a child is placed  
4 in out-of-home care by the department or a child-placing agency, the  
5 department or agency shall share information known to the department or  
6 agency about the child and the child's family with the care provider  
7 and shall consult with the care provider regarding the child's case  
8 plan. If the child is dependent pursuant to a proceeding under chapter  
9 13.34 RCW, the department or agency shall keep the care provider  
10 informed regarding the dates and location of dependency review and  
11 permanency planning hearings pertaining to the child.

12       (2) Information about the child and the child's family shall  
13 include information known to the department or agency as to whether the  
14 child is a sexually reactive child, has exhibited high-risk behaviors,  
15 or is physically assaultive or physically aggressive, as defined in  
16 this section.

17       (3) Information about the child shall also include information  
18 known to the department or agency that the child:

19       (a) Has received a medical diagnosis of fetal alcohol syndrome or  
20 fetal alcohol effect;

21       (b) Has been diagnosed by a qualified mental health professional as  
22 having a mental health disorder;

23       (c) Has witnessed a death or substantial physical violence in the  
24 past or recent past; or

25       (d) Was a victim of sexual or severe physical abuse in the recent  
26 past.

27       (4) Any person who receives information about a child or a child's  
28 family pursuant to this section shall keep the information confidential  
29 and shall not further disclose or disseminate the information except as  
30 authorized by law.

31       ~~((+3))~~ (5) Nothing in this section shall be construed to limit the  
32 authority of the department or child-placing agencies to disclose  
33 client information or to maintain client confidentiality as provided by  
34 law.

35       (6) As used in this section:

36       (a) "Sexually reactive child" means a child who exhibits sexual  
37 behavior problems including, but not limited to, sexual behaviors that

1 are developmentally inappropriate for their age or are harmful to the  
2 child or others.

3 (b) "High-risk behavior" means an observed or reported and  
4 documented history of one or more of the following:

- 5 (i) Suicide attempts or suicidal behavior or ideation;
- 6 (ii) Self-mutilation or similar self-destructive behavior;
- 7 (iii) Fire-setting or a developmentally inappropriate fascination  
8 with fire;
- 9 (iv) Animal torture;
- 10 (v) Property destruction; or
- 11 (vi) Substance or alcohol abuse.

12 (c) "Physically assaultive or physically aggressive" means a child  
13 who exhibits one or more of the following behaviors that are  
14 developmentally inappropriate and harmful to the child or to others:

- 15 (i) Observed assaultive behavior;
- 16 (ii) Reported and documented history of the child willfully  
17 assaulting or inflicting bodily harm; or
- 18 (iii) Attempting to assault or inflict bodily harm on other  
19 children or adults under circumstances where the child has the apparent  
20 ability or capability to carry out the attempted assaults including  
21 threats to use a weapon.

22 NEW SECTION. Sec. 5. A new section is added to chapter 74.13 RCW  
23 to read as follows:

24 (1) A care provider may not be found to have abused or neglected a  
25 child under chapter 26.44 RCW or be denied a license pursuant to  
26 chapter 74.15 RCW and RCW 74.13.031 for any allegations of failure to  
27 supervise wherein:

28 (a) The allegations arise from the child's conduct that is  
29 substantially similar to prior behavior of the child, and:

30 (i) The child is a sexually reactive youth, exhibits high-risk  
31 behaviors, or is physically assaultive or physically aggressive as  
32 defined in RCW 74.13.280, and this information and the child's prior  
33 behavior was not disclosed to the care provider as required by RCW  
34 74.13.280; and

35 (ii) The care provider did not know or have reason to know that the  
36 child needed supervision as a sexually reactive or physically  
37 assaultive or physically aggressive youth, or because of a documented

1 history of high-risk behaviors, as a result of the care provider's  
2 involvement with or independent knowledge of the child or training and  
3 experience; or

4 (b) The child was not within the reasonable control of the care  
5 provider at the time of the incident that is the subject of the  
6 allegation, and the care provider was acting in good faith and did not  
7 know or have reason to know that reasonable control or supervision of  
8 the child was necessary to prevent harm or risk of harm to the child or  
9 other persons.

10 (2) Allegations of child abuse or neglect that meet the provisions  
11 of this section shall be designated as "unfounded" as defined in RCW  
12 26.44.020.

13 **Sec. 6.** RCW 74.15.130 and 2006 c 265 s 404 are each amended to  
14 read as follows:

15 (1) An agency may be denied a license, or any license issued  
16 pursuant to chapter 74.15 RCW and RCW 74.13.031 may be suspended,  
17 revoked, modified, or not renewed by the secretary upon proof (a) that  
18 the agency has failed or refused to comply with the provisions of  
19 chapter 74.15 RCW and RCW 74.13.031 or the requirements promulgated  
20 pursuant to the provisions of chapter 74.15 RCW and RCW 74.13.031; or  
21 (b) that the conditions required for the issuance of a license under  
22 chapter 74.15 RCW and RCW 74.13.031 have ceased to exist with respect  
23 to such licenses. RCW 43.20A.205 governs notice of a license denial,  
24 revocation, suspension, or modification and provides the right to an  
25 adjudicative proceeding.

26 (2) In any adjudicative proceeding regarding the denial,  
27 modification, suspension, or revocation of a foster family home  
28 license, the department's decision shall be upheld if there is  
29 reasonable cause to believe that:

30 (a) The applicant or licensee lacks the character, suitability, or  
31 competence to care for children placed in out-of-home care, however, no  
32 unfounded, inconclusive, or screened-out report of child abuse or  
33 neglect may be used to deny employment or a license;

34 (b) The applicant or licensee has failed or refused to comply with  
35 any provision of chapter 74.15 RCW, RCW 74.13.031, or the requirements  
36 adopted pursuant to such provisions; or



1 (c) The conditions required for issuance of a license under chapter  
2 74.15 RCW and RCW 74.13.031 have ceased to exist with respect to such  
3 licenses.

4 (3) In any adjudicative proceeding regarding the denial,  
5 modification, suspension, or revocation of any license under this  
6 chapter, other than a foster family home license, the department's  
7 decision shall be upheld if it is supported by a preponderance of the  
8 evidence.

9 (4) The department may assess civil monetary penalties upon proof  
10 that an agency has failed or refused to comply with the rules adopted  
11 under the provisions of this chapter and RCW 74.13.031 or that an  
12 agency subject to licensing under this chapter and RCW 74.13.031 is  
13 operating without a license except that civil monetary penalties shall  
14 not be levied against a licensed foster home. Monetary penalties  
15 levied against unlicensed agencies that submit an application for  
16 licensure within thirty days of notification and subsequently become  
17 licensed will be forgiven. These penalties may be assessed in addition  
18 to or in lieu of other disciplinary actions. Civil monetary penalties,  
19 if imposed, may be assessed and collected, with interest, for each day  
20 an agency is or was out of compliance. Civil monetary penalties shall  
21 not exceed two hundred fifty dollars per violation for group homes and  
22 child-placing agencies. Each day upon which the same or substantially  
23 similar action occurs is a separate violation subject to the assessment  
24 of a separate penalty. The department shall provide a notification  
25 period before a monetary penalty is effective and may forgive the  
26 penalty levied if the agency comes into compliance during this period.  
27 The department may suspend, revoke, or not renew a license for failure  
28 to pay a civil monetary penalty it has assessed pursuant to this  
29 chapter within ten days after such assessment becomes final. Chapter  
30 43.20A RCW governs notice of a civil monetary penalty and provides the  
31 right of an adjudicative proceeding. The preponderance of evidence  
32 standard shall apply in adjudicative proceedings related to assessment  
33 of civil monetary penalties.

34 **Sec. 7.** RCW 74.13.650 and 2006 c 353 s 2 are each amended to read  
35 as follows:

36 A foster parent critical support and retention program is  
37 established to retain foster parents who care for sexually reactive

1 children, physically assaultive children, or children with other high-  
2 risk behaviors, as defined in RCW 74.13.280. Services shall consist of  
3 short-term therapeutic and educational interventions to support the  
4 stability of the placement. The foster parent critical support and  
5 retention program is to be implemented under the division of children  
6 and family services' contract and supervision. A contractor must  
7 demonstrate experience providing in-home case management, as well as  
8 experience working with caregivers of children with significant  
9 behavioral issues that pose a threat to others or themselves or the  
10 stability of the placement.

11 **Sec. 8.** RCW 74.13.660 and 2006 c 353 s 3 are each amended to read  
12 as follows:

13 Under the foster parent critical support and retention program,  
14 foster parents who care for sexually reactive children, physically  
15 assaultive children, or children with other high-risk behaviors, as  
16 defined in RCW 74.13.280, shall receive:

17 (1) Availability at any time of the day or night to address  
18 specific concerns related to the identified child;

19 (2) Assessment of risk and development of a safety and supervision  
20 plan;

21 (3) Home-based foster parent training utilizing evidence-based  
22 models; and

23 (4) Referral to relevant community services and training provided  
24 by the local children's administration office or community agencies.

25 NEW SECTION. **Sec. 9.** Sections 1 through 3 of this act take effect  
26 October 1, 2008.

27 NEW SECTION. **Sec. 10.** The secretary of the department of social  
28 and health services may take the necessary steps to ensure that  
29 sections 1 through 3 of this act are implemented on their effective  
30 date.

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