
HOUSE BILL 1171

State of Washington

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By Representatives Pollet and Goodman

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1 AN ACT Relating to exempting attorney higher education employees
2 from mandated reporting of child abuse and neglect as it relates to
3 information gained in the course of providing legal representation to
4 a client; amending RCW 26.44.030; and creating a new section.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that reporting of
7 abuse and neglect of children by employees, including student
8 employees, of academic, administrative, and athletic departments of
9 public and private institutions of higher education is vitally
10 important to prevent such abuse and neglect, and that such employees
11 in higher education may be in positions to observe and report abuse
12 that may not be readily observed by others.

13 The legislature also finds that the values underlying the duty of
14 lawyers to preserve the confidentiality of client information may be
15 inadvertently undermined and violated if attorney employees who
16 supervise law students in clinical practices where such students are
17 inadvertently required to disclose information obtained in the course
18 of providing legal representation. If such information is not clearly
19 exempted from mandated reporting, clients will be denied adequate
20 representation by students and the attorney faculty or academic
21 employees supervising them in clinical programs.

1 Therefore, the legislature finds it is necessary to clarify that
2 the mandated reporting requirement for child abuse and neglect should
3 not override the obligation of attorneys to maintain confidentiality
4 of information relating to the representation of a client.

5 **Sec. 2.** RCW 26.44.030 and 2024 c 298 s 6 are each amended to
6 read as follows:

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

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

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

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

37 (i) "Official supervisory capacity" means a position, status, or
38 role created, recognized, or designated by any nonprofit or for-
39 profit organization, either for financial gain or without financial

1 gain, whose scope includes, but is not limited to, overseeing,
2 directing, or managing another person who is employed by, contracted
3 by, or volunteers with the nonprofit or for-profit organization.

4 (ii) "Organization" includes a sole proprietor, partnership,
5 corporation, limited liability company, trust, association, financial
6 institution, governmental entity, other than the federal government,
7 and any other individual or group engaged in a trade, occupation,
8 enterprise, governmental function, charitable function, or similar
9 activity in this state whether or not the entity is operated as a
10 nonprofit or for-profit entity.

11 (iii) "Reasonable cause" means a person witnesses or receives a
12 credible written or oral report alleging abuse, including sexual
13 contact, or neglect of a child.

14 (iv) "Regularly exercises supervisory authority" means to act in
15 his or her official supervisory capacity on an ongoing or continuing
16 basis with regards to a particular person.

17 (v) "Sexual contact" has the same meaning as in RCW 9A.44.010.

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

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

38 (e) The reporting requirement also applies to guardians ad litem,
39 including court-appointed special advocates, appointed under Titles
40 11 and 13 RCW and this title, who in the course of their

1 representation of children in these actions have reasonable cause to
2 believe a child has been abused or neglected.

3 (f) ~~((The))~~ (i) Except as provided in (f)(ii) of this subsection,
4 the reporting requirement in (a) of this subsection also applies to
5 administrative and academic or athletic department employees,
6 including student employees, of institutions of higher education, as
7 defined in RCW 28B.10.016, and of private institutions of higher
8 education.

9 (ii) The reporting requirement in (a) of this subsection does not
10 apply to an attorney who is employed by an institution of higher
11 education, as defined in RCW 28B.10.016, or private institution of
12 higher education as it relates to information gained in the course of
13 providing legal representation to a client.

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

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

25 (3) Any other person who has reasonable cause to believe that a
26 child has suffered abuse or neglect may report such incident to the
27 proper law enforcement agency or to the department as provided in RCW
28 26.44.040.

29 (4) The department, upon receiving a report of an incident of
30 alleged abuse or neglect pursuant to this chapter, involving a child
31 who has died or has had physical injury or injuries inflicted upon
32 him or her other than by accidental means or who has been subjected
33 to alleged sexual abuse, shall report such incident to the proper law
34 enforcement agency, including military law enforcement, if
35 appropriate. In emergency cases, where the child's welfare is
36 endangered, the department shall notify the proper law enforcement
37 agency within twenty-four hours after a report is received by the
38 department. In all other cases, the department shall notify the law
39 enforcement agency within seventy-two hours after a report is
40 received by the department. If the department makes an oral report, a

1 written report must also be made to the proper law enforcement agency
2 within five days thereafter.

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

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

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

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

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

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

12 (10) Upon receiving a report that a child is a candidate for
13 foster care as defined in RCW 26.44.020, the department may provide
14 prevention and family services and programs to the child's parents,
15 guardian, or caregiver. The department may not be held civilly liable
16 for the decision regarding whether to provide prevention and family
17 services and programs, or for the provision of those services and
18 programs, for a child determined to be a candidate for foster care.

19 (11) Upon receiving a report of alleged abuse or neglect, the
20 department shall make reasonable efforts to learn the name, address,
21 and telephone number of each person making a report of abuse or
22 neglect under this section. The department shall provide assurances
23 of appropriate confidentiality of the identification of persons
24 reporting under this section. If the department is unable to learn
25 the information required under this subsection, the department shall
26 only investigate cases in which:

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

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

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

34 (12)(a) Upon receiving a report of alleged abuse or neglect, the
35 department shall use one of the following discrete responses to
36 reports of child abuse or neglect that are screened in and accepted
37 for departmental response:

38 (i) Investigation; or

39 (ii) Family assessment.

1 (b) In making the response in (a) of this subsection the
2 department shall:

3 (i) Use a method by which to assign cases to investigation or
4 family assessment which are based on an array of factors that may
5 include the presence of: Imminent danger, level of risk, number of
6 previous child abuse or neglect reports, or other presenting case
7 characteristics, such as the type of alleged maltreatment and the age
8 of the alleged victim. Age of the alleged victim shall not be used as
9 the sole criterion for determining case assignment;

10 (ii) Allow for a change in response assignment based on new
11 information that alters risk or safety level;

12 (iii) Allow families assigned to family assessment to choose to
13 receive an investigation rather than a family assessment;

14 (iv) Provide a full investigation if a family refuses the initial
15 family assessment;

16 (v) Provide voluntary services to families based on the results
17 of the initial family assessment. If a family refuses voluntary
18 services, and the department cannot identify specific facts related
19 to risk or safety that warrant assignment to investigation under this
20 chapter, and there is not a history of reports of child abuse or
21 neglect related to the family, then the department must close the
22 family assessment response case. However, if at any time the
23 department identifies risk or safety factors that warrant an
24 investigation under this chapter, then the family assessment response
25 case must be reassigned to investigation;

26 (vi) Conduct an investigation, and not a family assessment, in
27 response to an allegation that, the department determines based on
28 the intake assessment:

29 (A) Indicates a child's health, safety, and welfare will be
30 seriously endangered if not taken into custody for reasons including,
31 but not limited to, sexual abuse and sexual exploitation of the child
32 as defined in this chapter;

33 (B) Poses a serious threat of substantial harm to a child;

34 (C) Constitutes conduct involving a criminal offense that has, or
35 is about to occur, in which the child is the victim;

36 (D) The child is an abandoned child as defined in RCW 13.34.030;

37 (E) The child is an adjudicated dependent child as defined in RCW
38 13.34.030, or the child is in a facility that is licensed, operated,
39 or certified for care of children by the department under chapter
40 74.15 RCW.

1 (c) In addition, the department may use a family assessment
2 response to assess for and provide prevention and family services and
3 programs, as defined in RCW 26.44.020, for the following children and
4 their families, consistent with requirements under the federal family
5 first prevention services act and this section:

6 (i) A child who is a candidate for foster care, as defined in RCW
7 26.44.020; and

8 (ii) A child who is in foster care and who is pregnant,
9 parenting, or both.

10 (d) The department may not be held civilly liable for the
11 decision to respond to an allegation of child abuse or neglect by
12 using the family assessment response under this section unless the
13 state or its officers, agents, or employees acted with reckless
14 disregard.

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

25 (b) If a court in a civil or criminal proceeding, considering the
26 same facts or circumstances as are contained in the report being
27 investigated by the department, makes a judicial finding by a
28 preponderance of the evidence or higher that the subject of the
29 pending investigation has abused or neglected the child, the
30 department shall adopt the finding in its investigation.

31 (14) For reports of alleged abuse or neglect that are responded
32 to through family assessment response, the department shall:

33 (a) Provide the family with a written explanation of the
34 procedure for assessment of the child and the family and its
35 purposes;

36 (b) Collaborate with the family to identify family strengths,
37 resources, and service needs, and develop a service plan with the
38 goal of reducing risk of harm to the child and improving or restoring
39 family well-being;

1 (c) Complete the family assessment response within forty-five
2 days of receiving the report except as follows:

3 (i) Upon parental agreement, the family assessment response
4 period may be extended up to one hundred twenty days. The
5 department's extension of the family assessment response period must
6 be operated within the department's appropriations;

7 (ii) For cases in which the department elects to use a family
8 assessment response as authorized under subsection (12)(c) of this
9 section, and upon agreement of the child's parent, legal guardian,
10 legal custodian, or relative placement, the family assessment
11 response period may be extended up to one year. The department's
12 extension of the family assessment response must be operated within
13 the department's appropriations.

14 (d) Offer services to the family in a manner that makes it clear
15 that acceptance of the services is voluntary;

16 (e) Implement the family assessment response in a consistent and
17 cooperative manner;

18 (f) Have the parent or guardian agree to participate in services
19 before services are initiated. The department shall inform the
20 parents of their rights under family assessment response, all of
21 their options, and the options the department has if the parents do
22 not agree to participate in services.

23 (15)(a) In conducting an investigation or family assessment of
24 alleged abuse or neglect, the department or law enforcement agency:

25 (i) May interview children. If the department determines that the
26 response to the allegation will be family assessment response, the
27 preferred practice is to request a parent's, guardian's, or
28 custodian's permission to interview the child before conducting the
29 child interview unless doing so would compromise the safety of the
30 child or the integrity of the assessment. The interviews may be
31 conducted on school premises, at day-care facilities, at the child's
32 home, or at other suitable locations outside of the presence of
33 parents. If the allegation is investigated, parental notification of
34 the interview must occur at the earliest possible point in the
35 investigation that will not jeopardize the safety or protection of
36 the child or the course of the investigation. Prior to commencing the
37 interview the department or law enforcement agency shall determine
38 whether the child wishes a third party to be present for the
39 interview and, if so, shall make reasonable efforts to accommodate
40 the child's wishes. Unless the child objects, the department or law

1 enforcement agency shall make reasonable efforts to include a third
2 party in any interview so long as the presence of the third party
3 will not jeopardize the course of the investigation; and

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

6 (b) The Washington state school directors' association shall
7 adopt a model policy addressing protocols when an interview, as
8 authorized by this subsection, is conducted on school premises. In
9 formulating its policy, the association shall consult with the
10 department and the Washington association of sheriffs and police
11 chiefs.

12 (16) If a report of alleged abuse or neglect is founded and
13 constitutes the third founded report received by the department
14 within the last twelve months involving the same child or family, the
15 department shall promptly notify the office of the family and
16 children's ombuds of the contents of the report. The department shall
17 also notify the ombuds of the disposition of the report.

18 (17) In investigating and responding to allegations of child
19 abuse and neglect, the department may conduct background checks as
20 authorized by state and federal law.

21 (18)(a) The department shall maintain investigation records and
22 conduct timely and periodic reviews of all founded cases of abuse and
23 neglect. The department shall maintain a log of screened-out
24 nonabusive cases.

25 (b) In the family assessment response, the department shall not
26 make a finding as to whether child abuse or neglect occurred. No one
27 shall be named as a perpetrator and no investigative finding shall be
28 entered in the department's child abuse or neglect database.

29 (19) 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
32 the placement of a dependent child is an issue. Substance abuse must
33 be a risk factor.

34 (20) Upon receipt of a report of alleged abuse or neglect the law
35 enforcement agency may arrange to interview the person making the
36 report and any collateral sources to determine if any malice is
37 involved in the reporting.

38 (21) Upon receiving a report of alleged abuse or neglect
39 involving a child under the court's jurisdiction under chapter 13.34
40 RCW, the department shall promptly notify the child's guardian ad

1 litem of the report's contents. The department shall also notify the
2 guardian ad litem of the disposition of the report. For purposes of
3 this subsection, "guardian ad litem" has the meaning provided in RCW
4 13.34.030.

5 (22) The department shall make efforts as soon as practicable to
6 determine the military status of parents whose children are subject
7 to abuse or neglect allegations. If the department determines that a
8 parent or guardian is in the military, the department shall notify a
9 department of defense family advocacy program that there is an
10 allegation of abuse and neglect that is screened in and open for
11 investigation that relates to that military parent or guardian.

12 (23) The department shall make available on its public website a
13 downloadable and printable poster that includes the reporting
14 requirements included in this section. The poster must be no smaller
15 than eight and one-half by eleven inches with all information on one
16 side. The poster must be made available in both the English and
17 Spanish languages. Organizations that include employees or volunteers
18 subject to the reporting requirements of this section must clearly
19 display this poster in a common area. At a minimum, this poster must
20 include the following:

- 21 (a) Who is required to report child abuse and neglect;
- 22 (b) The standard of knowledge to justify a report;
- 23 (c) The definition of reportable crimes;
- 24 (d) Where to report suspected child abuse and neglect; and
- 25 (e) What should be included in a report and the appropriate
26 timing.

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