
SENATE BILL 5079

State of Washington

64th Legislature

2015 Regular Session

By Senators O'Ban, Conway, and Dammeier

Read first time 01/13/15. Referred to Committee on Human Services,
Mental Health & Housing.

1 AN ACT Relating to notifying the military regarding child abuse
2 and neglect allegations of families with an active military status;
3 and reenacting and amending RCW 26.44.030.

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

5 **Sec. 1.** RCW 26.44.030 and 2013 c 273 s 2, 2013 c 48 s 2, and
6 2013 c 23 s 43 are each reenacted and amended to 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 early learning, licensed or certified
11 child care providers or their employees, employee of the department,
12 juvenile probation officer, placement and liaison specialist,
13 responsible living skills program staff, HOPE center staff, or state
14 family and children's ombuds or any volunteer in the ombuds's office
15 has reasonable cause to believe that a child has suffered abuse or
16 neglect, he or she shall report such incident, or cause a report to
17 be made, to the proper law enforcement agency or to the department as
18 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

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
4 have 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
7 a child or children as part of the employment, contract, or voluntary
8 service. No one shall be required to report under this section when
9 he 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-
17 profit organization, either for financial gain or without financial
18 gain, whose scope includes, but is not limited to, overseeing,
19 directing, or managing another person who is employed by, contracted
20 by, or volunteers with the nonprofit or for-profit organization.

21 (ii) "Organization" includes a sole proprietor, partnership,
22 corporation, limited liability company, trust, association, financial
23 institution, governmental entity, other than the federal government,
24 and any other individual or group engaged in a trade, occupation,
25 enterprise, governmental function, charitable function, or similar
26 activity in this state whether or not the entity is operated as a
27 nonprofit or for-profit entity.

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

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

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

35 (c) The reporting requirement also applies to department of
36 corrections personnel who, in the course of their employment, observe
37 offenders or the children with whom the offenders are in contact. If,
38 as a result of observations or information received in the course of
39 his or her employment, any department of corrections personnel has
40 reasonable cause to believe that a child has suffered abuse or

1 neglect, he or she shall report the incident, or cause a report to be
2 made, to the proper law enforcement agency or to the department as
3 provided in RCW 26.44.040.

4 (d) The reporting requirement shall also apply to any adult who
5 has reasonable cause to believe that a child who resides with them,
6 has suffered severe abuse, and is able or capable of making a report.
7 For the purposes of this subsection, "severe abuse" means any of the
8 following: Any single act of abuse that causes physical trauma of
9 sufficient severity that, if left untreated, could cause death; any
10 single act of sexual abuse that causes significant bleeding, deep
11 bruising, or significant external or internal swelling; or more than
12 one act of physical abuse, each of which causes bleeding, deep
13 bruising, significant external or internal swelling, bone fracture,
14 or unconsciousness.

15 (e) The reporting requirement also applies to guardians ad litem,
16 including court-appointed special advocates, appointed under Titles
17 11, 13, and 26 RCW, who in the course of their representation of
18 children in these actions have reasonable cause to believe a child
19 has been abused or neglected.

20 (f) The reporting requirement in (a) of this subsection also
21 applies to administrative and academic or athletic department
22 employees, including student employees, of institutions of higher
23 education, as defined in RCW 28B.10.016, and of private institutions
24 of higher education.

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

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

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

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

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

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

35 (7) The department may conduct ongoing case planning and
36 consultation with those persons or agencies required to report under
37 this section, with consultants designated by the department, and with
38 designated representatives of Washington Indian tribes if the client
39 information exchanged is pertinent to cases currently receiving child
40 protective services. Upon request, the department shall conduct such

1 planning and consultation with those persons required to report under
2 this section if the department determines it is in the best interests
3 of the child. Information considered privileged by statute and not
4 directly related to reports required by this section must not be
5 divulged without a valid written waiver of the privilege.

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

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

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

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

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

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

39 (11)(a) Upon receiving a report of alleged abuse or neglect, the
40 department shall use one of the following discrete responses to

1 reports of child abuse or neglect that are screened in and accepted
2 for departmental response:

- 3 (i) Investigation; or
- 4 (ii) Family assessment.

5 (b) In making the response in (a) of this subsection the
6 department shall:

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

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

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

18 (iv) Provide a full investigation if a family refuses the initial
19 family assessment;

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

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

33 (A) Poses a risk of "imminent harm" consistent with the
34 definition provided in RCW 13.34.050, which includes, but is not
35 limited to, sexual abuse and sexual exploitation as defined in this
36 chapter;

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

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

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

1 (E) The child is an adjudicated dependent child as defined in RCW
2 13.34.030, or the child is in a facility that is licensed, operated,
3 or certified for care of children by the department under chapter
4 74.15 RCW, or by the department of early learning.

5 (c) The department may not be held civilly liable for the
6 decision to respond to an allegation of child abuse or neglect by
7 using the family assessment response under this section unless the
8 state or its officers, agents, or employees acted with reckless
9 disregard.

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

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

26 (13) For reports of alleged abuse or neglect that are responded
27 to through family assessment response, the department shall:

28 (a) Provide the family with a written explanation of the
29 procedure for assessment of the child and the family and its
30 purposes;

31 (b) Collaborate with the family to identify family strengths,
32 resources, and service needs, and develop a service plan with the
33 goal of reducing risk of harm to the child and improving or restoring
34 family well-being;

35 (c) Complete the family assessment response within forty-five
36 days of receiving the report; however, upon parental agreement, the
37 family assessment response period may be extended up to ninety days;

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

1 (e) Implement the family assessment response in a consistent and
2 cooperative manner;

3 (f) Have the parent or guardian sign an agreement to participate
4 in services before services are initiated that informs the parents of
5 their rights under family assessment response, all of their options,
6 and the options the department has if the parents do not sign the
7 consent form.

8 (14)(a) In conducting an investigation or family assessment of
9 alleged abuse or neglect, the department or law enforcement agency:

10 (i) May interview children. If the department determines that the
11 response to the allegation will be family assessment response, the
12 preferred practice is to request a parent's, guardian's, or
13 custodian's permission to interview the child before conducting the
14 child interview unless doing so would compromise the safety of the
15 child or the integrity of the assessment. The interviews may be
16 conducted on school premises, at day-care facilities, at the child's
17 home, or at other suitable locations outside of the presence of
18 parents. If the allegation is investigated, parental notification of
19 the interview must occur at the earliest possible point in the
20 investigation that will not jeopardize the safety or protection of
21 the child or the course of the investigation. Prior to commencing the
22 interview the department or law enforcement agency shall determine
23 whether the child wishes a third party to be present for the
24 interview and, if so, shall make reasonable efforts to accommodate
25 the child's wishes. Unless the child objects, the department or law
26 enforcement agency shall make reasonable efforts to include a third
27 party in any interview so long as the presence of the third party
28 will not jeopardize the course of the investigation; and

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

31 (b) The Washington state school directors' association shall
32 adopt a model policy addressing protocols when an interview, as
33 authorized by this subsection, is conducted on school premises. In
34 formulating its policy, the association shall consult with the
35 department and the Washington association of sheriffs and police
36 chiefs.

37 (15) If a report of alleged abuse or neglect is founded and
38 constitutes the third founded report received by the department
39 within the last twelve months involving the same child or family, the
40 department shall promptly notify the office of the family and

1 children's ombuds of the contents of the report. The department shall
2 also notify the ombuds of the disposition of the report.

3 (16) In investigating and responding to allegations of child
4 abuse and neglect, the department may conduct background checks as
5 authorized by state and federal law.

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

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

14 (18) The department shall use a risk assessment process when
15 investigating alleged child abuse and neglect referrals. The
16 department shall present the risk factors at all hearings in which
17 the placement of a dependent child is an issue. Substance abuse must
18 be a risk factor.

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

23 (20) Upon receiving a report of alleged abuse or neglect
24 involving a child under the court's jurisdiction under chapter 13.34
25 RCW, the department shall promptly notify the child's guardian ad
26 litem of the report's contents. The department shall also notify the
27 guardian ad litem of the disposition of the report. For purposes of
28 this subsection, "guardian ad litem" has the meaning provided in RCW
29 13.34.030.

30 (21) The department shall make efforts as soon as practicable to
31 determine the military status of parents whose children are subject
32 to abuse or neglect allegations. If the department determines that a
33 parent or guardian is in the military, the department shall notify a
34 department of defense family advocacy program that there is an
35 allegation of abuse and neglect that is screened in and open for
36 investigation that relates to that military parent or guardian.

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