
HOUSE BILL 2233

State of Washington

68th Legislature

2024 Regular Session

By Representatives Couture and Griffey

1 AN ACT Relating to providing an appropriate response to the use
2 and presence of controlled substances by parents to protect children;
3 amending RCW 13.34.050, 26.44.050, 26.44.056, and 26.44.030; and
4 reenacting and amending RCW 13.34.065.

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

6 **Sec. 1.** RCW 13.34.050 and 2021 c 211 s 6 are each amended to
7 read as follows:

8 (1) (a) The court may enter an order directing a law enforcement
9 officer, probation counselor, or child protective services official
10 to take a child into custody if: ~~((a))~~ (i) A petition is filed with
11 the juvenile court with sufficient corroborating evidence to
12 establish that the child is dependent; ~~((b))~~ (ii) the allegations
13 contained in the petition, if true, establish that there are
14 reasonable grounds to believe that removal is necessary to prevent
15 imminent physical harm to the child due to child abuse or neglect,
16 including that which results from sexual abuse, sexual exploitation,
17 or a pattern of severe neglect; and ~~((c))~~ (iii) an affidavit or
18 declaration is filed by the department in support of the petition
19 setting forth specific factual information evidencing insufficient
20 time to serve a parent with a dependency petition and hold a hearing
21 prior to removal.

1 (b) Use of a controlled substance or substances, as defined in
2 chapter 69.50 RCW, not obtained directly from, or pursuant to, a
3 valid prescription or order of a medical practitioner while caring
4 for a child constitutes reasonable grounds to believe that removal is
5 necessary to prevent imminent physical harm to the child due to child
6 abuse or neglect under (a) of this subsection.

7 (2) Any petition that does not have the necessary affidavit or
8 declaration demonstrating a risk of imminent harm requires that the
9 parents are provided notice and an opportunity to be heard before the
10 order may be entered.

11 (3) The petition and supporting documentation must be served on
12 the parent, and if the child is in custody at the time the child is
13 removed, on the entity with custody other than the parent. If the
14 court orders that a child be taken into custody under subsection (1)
15 of this section, the petition and supporting documentation must be
16 served on the parent at the time of the child's removal unless, after
17 diligent efforts, the parents cannot be located at the time of
18 removal. If the parent is not served at the time of removal, the
19 department shall make diligent efforts to personally serve the
20 parent. Failure to effect service does not invalidate the petition if
21 service was attempted and the parent could not be found.

22 **Sec. 2.** RCW 26.44.050 and 2021 c 211 s 5 are each amended to
23 read as follows:

24 (1) Except as provided in RCW 26.44.030(12), upon the receipt of
25 a report alleging that abuse or neglect has occurred, the law
26 enforcement agency or the department must investigate and provide the
27 protective services section with a report in accordance with chapter
28 74.13 RCW, and where necessary to refer such report to the court.

29 (2) A law enforcement officer may take, or cause to be taken, a
30 child into custody without a court order if there is probable cause
31 to believe that taking the child into custody is necessary to prevent
32 imminent physical harm to the child due to child abuse or neglect,
33 including that which results from sexual abuse, sexual exploitation,
34 or a pattern of severe neglect, and the child would be seriously
35 injured or could not be taken into custody if it were necessary to
36 first obtain a court order pursuant to RCW 13.34.050. The law
37 enforcement agency or the department investigating such a report is
38 hereby authorized to photograph such a child for the purpose of

1 providing documentary evidence of the physical condition of the
2 child.

3 (3) Use of a controlled substance or substances, as defined in
4 chapter 69.50 RCW, not obtained directly from, or pursuant to, a
5 valid prescription or order of a medical practitioner while caring
6 for a child constitutes reasonable grounds to believe that removal is
7 necessary to prevent imminent physical harm to the child due to child
8 abuse or neglect under subsection (2) of this section.

9 **Sec. 3.** RCW 26.44.056 and 2021 c 211 s 4 are each amended to
10 read as follows:

11 (1)(a) An administrator of a hospital or similar institution or
12 any physician, licensed pursuant to chapters 18.71 or 18.57 RCW, may
13 detain a child without consent of a person legally responsible for
14 the child whether or not medical treatment is required, if there is
15 probable cause to believe that detaining the child is necessary to
16 prevent imminent physical harm to the child due to child abuse or
17 neglect, including that which results from sexual abuse, sexual
18 exploitation, or a pattern of severe neglect, and the child would be
19 seriously injured or could not be taken into custody if it were
20 necessary to first obtain a court order under RCW 13.34.050:
21 PROVIDED, That such administrator or physician shall notify or cause
22 to be notified the appropriate law enforcement agency or child
23 protective services pursuant to RCW 26.44.040. Such notification
24 shall be made as soon as possible and in no case longer than seventy-
25 two hours. Such temporary protective custody by an administrator or
26 doctor shall not be deemed an arrest. Child protective services may
27 detain the child until the court assumes custody, but in no case
28 longer than seventy-two hours, excluding Saturdays, Sundays, and
29 holidays.

30 (b) Use of a controlled substance or substances, as defined in
31 chapter 69.50 RCW, not obtained directly from, or pursuant to, a
32 valid prescription or order of a medical practitioner while caring
33 for a child constitutes reasonable grounds to believe that removal is
34 necessary to prevent imminent physical harm to the child due to child
35 abuse or neglect under (a) of this subsection.

36 (2) A child protective services employee, an administrator,
37 doctor, or law enforcement officer shall not be held liable in any
38 civil action for the decision for taking the child into custody, if
39 done in good faith under this section.

1 **Sec. 4.** RCW 13.34.065 and 2021 c 211 s 9, 2021 c 208 s 1, and
2 2021 c 67 s 4 are each reenacted and amended to read as follows:

3 (1)(a) When a child is removed or when the petitioner is seeking
4 the removal of a child from the child's parent, guardian, or legal
5 custodian, the court shall hold a shelter care hearing within 72
6 hours, excluding Saturdays, Sundays, and holidays. The primary
7 purpose of the shelter care hearing is to determine whether the child
8 can be immediately and safely returned home while the adjudication of
9 the dependency is pending. The court shall hold an additional shelter
10 care hearing within 72 hours, excluding Saturdays, Sundays, and
11 holidays if the child is removed from the care of a parent, guardian,
12 or legal custodian at any time after an initial shelter care hearing
13 under this section.

14 (b) Any child's attorney, parent, guardian, or legal custodian
15 who for good cause is unable to attend or adequately prepare for the
16 shelter care hearing may request that the initial shelter care
17 hearing be continued or that a subsequent shelter care hearing be
18 scheduled. The request shall be made to the clerk of the court where
19 the petition is filed prior to the initial shelter care hearing. Upon
20 the request of the child's attorney, parent, guardian, or legal
21 custodian, the court shall schedule the hearing within 72 hours of
22 the request, excluding Saturdays, Sundays, and holidays. The clerk
23 shall notify all other parties of the hearing by any reasonable
24 means. If the parent, guardian, or legal custodian is not represented
25 by counsel, the clerk shall provide information to the parent,
26 guardian, or legal custodian regarding how to obtain counsel.

27 (2)(a) If it is likely that the child will remain in shelter care
28 longer than 72 hours, the department shall submit a recommendation to
29 the court as to the further need for shelter care in all cases in
30 which the child will remain in shelter care longer than the 72 hour
31 period. In all other cases, the recommendation shall be submitted by
32 the juvenile court probation counselor.

33 (b) All parties have the right to present testimony to the court
34 regarding the need or lack of need for shelter care.

35 (c) Hearsay evidence before the court regarding the need or lack
36 of need for shelter care must be supported by sworn testimony,
37 affidavit, or declaration of the person offering such evidence.

38 (3)(a) At the commencement of the hearing, the court shall notify
39 the parent, guardian, or custodian of the following:

1 (i) The parent, guardian, or custodian has the right to a shelter
2 care hearing;

3 (ii) The nature of the shelter care hearing, the rights of the
4 parents, and the proceedings that will follow; and

5 (iii) If the parent, guardian, or custodian is not represented by
6 counsel, the right to be represented. If the parent, guardian, or
7 custodian is indigent, the court shall appoint counsel as provided in
8 RCW 13.34.090; and

9 (b) If a parent, guardian, or legal custodian desires to waive
10 the shelter care hearing, the court shall determine, on the record
11 and with the parties present, whether such waiver is knowing and
12 voluntary. A parent may not waive his or her right to the shelter
13 care hearing unless he or she appears in court, in person, or by
14 remote means, and the court determines that the waiver is knowing and
15 voluntary. Regardless of whether the court accepts the parental
16 waiver of the shelter care hearing, the court must provide notice to
17 the parents of their rights required under (a) of this subsection and
18 make the finding required under subsection (4) of this section.

19 (4) At the shelter care hearing the court shall examine the need
20 for shelter care and inquire into the status of the case. The
21 paramount consideration for the court shall be the health, welfare,
22 and safety of the child. At a minimum, the court shall inquire into
23 the following:

24 (a) Whether the notice required under RCW 13.34.062 was given to
25 all known parents, guardians, or legal custodians of the child. The
26 court shall make an express finding as to whether the notice required
27 under RCW 13.34.062 was given to the parent, guardian, or legal
28 custodian. If actual notice was not given to the parent, guardian, or
29 legal custodian and the whereabouts of such person is known or can be
30 ascertained, the court shall order the department to make diligent
31 efforts to advise the parent, guardian, or legal custodian of the
32 status of the case, including the date and time of any subsequent
33 hearings, and their rights under RCW 13.34.090;

34 (b) Whether the child can be safely returned home while the
35 adjudication of the dependency is pending;

36 (c) What efforts have been made to place the child with a
37 relative. The court shall ask the parents whether the department
38 discussed with them the placement of the child with a relative or
39 other suitable person described in RCW 13.34.130(1)(b) and shall
40 determine what efforts have been made toward such a placement;

1 (d) What services were provided to the family to prevent or
2 eliminate the need for removal of the child from the child's home. If
3 the dependency petition or other information before the court alleges
4 that experiencing homelessness or the lack of suitable housing was a
5 significant factor contributing to the removal of the child, the
6 court shall inquire as to whether housing assistance was provided to
7 the family to prevent or eliminate the need for removal of the child
8 or children;

9 (e) Is the placement proposed by the department the least
10 disruptive and most family-like setting that meets the needs of the
11 child;

12 (f) Whether it is in the best interest of the child to remain
13 enrolled in the school, developmental program, or child care the
14 child was in prior to placement and what efforts have been made to
15 maintain the child in the school, program, or child care if it would
16 be in the best interest of the child to remain in the same school,
17 program, or child care;

18 (g) Appointment of a guardian ad litem or attorney;

19 (h) Whether the child is or may be an Indian child as defined in
20 RCW 13.38.040, whether the provisions of the federal Indian child
21 welfare act or chapter 13.38 RCW apply, and whether there is
22 compliance with the federal Indian child welfare act and chapter
23 13.38 RCW, including notice to the child's tribe;

24 (i) Whether, as provided in RCW 26.44.063, restraining orders, or
25 orders expelling an allegedly abusive household member from the home
26 of a nonabusive parent, guardian, or legal custodian, will allow the
27 child to safely remain in the home;

28 (j) Whether any orders for examinations, evaluations, or
29 immediate services are needed. The court may not order a parent to
30 undergo examinations, evaluation, or services at the shelter care
31 hearing unless the parent agrees to the examination, evaluation, or
32 service;

33 (k) The terms and conditions for parental, sibling, and family
34 visitation.

35 (5) (a) The court shall release a child alleged to be dependent to
36 the care, custody, and control of the child's parent, guardian, or
37 legal custodian unless the court finds there is reasonable cause to
38 believe that:

39 (i) After consideration of the specific services that have been
40 provided, reasonable efforts have been made to prevent or eliminate

1 the need for removal of the child from the child's home and to make
2 it possible for the child to return home; and

3 (ii) (A) The child has no parent, guardian, or legal custodian to
4 provide supervision and care for such child; or

5 (B) (I) Removal of the child is necessary to prevent imminent
6 physical harm due to child abuse or neglect, including that which
7 results from sexual abuse, sexual exploitation, or a pattern of
8 severe neglect, notwithstanding an order entered pursuant to RCW
9 26.44.063. The evidence must show a causal relationship between the
10 particular conditions in the home and imminent physical harm to the
11 child. The existence of community or family poverty, isolation,
12 single parenthood, age of the parent, crowded or inadequate housing,
13 substance abuse, prenatal drug or alcohol exposure, mental illness,
14 disability or special needs of the parent or child, or nonconforming
15 social behavior does not by itself constitute imminent physical harm,
16 except that use of a controlled substance or substances, as defined
17 in chapter 69.50 RCW, not obtained directly from, or pursuant to, a
18 valid prescription or order of a medical practitioner while caring
19 for a child is a condition that places the child in imminent physical
20 harm;

21 (II) It is contrary to the welfare of the child to be returned
22 home; and

23 (III) After considering the particular circumstances of the
24 child, any imminent physical harm to the child outweighs the harm the
25 child will experience as a result of removal; or

26 (C) The parent, guardian, or custodian to whom the child could be
27 released has been charged with violating RCW 9A.40.060 or 9A.40.070.

28 (b) If the court finds that the elements of (a) (ii) (B) of this
29 subsection require removal of the child, the court shall further
30 consider:

31 (i) Whether participation by the parents, guardians, or legal
32 custodians in any prevention services would prevent or eliminate the
33 need for removal and, if so, shall inquire of the parent whether they
34 are willing to participate in such services. If the parent agrees to
35 participate in the prevention services identified by the court that
36 would prevent or eliminate the need for removal, the court shall
37 place the child with the parent. The court shall not order a parent
38 to participate in prevention services over the objection of the
39 parent, however, parents shall have the opportunity to consult with
40 counsel prior to deciding whether to agree to proposed prevention

1 services as a condition of having the child return to or remain in
2 the care of the parent; and

3 (ii) Whether the issuance of a temporary order of protection
4 directing the removal of a person or persons from the child's
5 residence would prevent the need for removal of the child.

6 (c)(i) If the court does not release the child to his or her
7 parent, guardian, or legal custodian, the court shall order placement
8 with a relative or other suitable person as described in RCW
9 13.34.130(1)(b), unless the petitioner establishes that there is
10 reasonable cause to believe that:

11 (A) Placement in licensed foster care is necessary to prevent
12 imminent physical harm to the child due to child abuse or neglect,
13 including that which results from sexual abuse, sexual exploitation,
14 or a pattern of severe neglect, because no relative or other suitable
15 person is capable of ensuring the basic safety of the child; or

16 (B) The efforts to reunite the parent and child will be hindered.

17 (ii) In making the determination in (c)(i) of this subsection,
18 the court shall:

19 (A) Inquire of the petitioner and any other person present at the
20 hearing for the child whether there are any relatives or other
21 suitable persons who are willing to care for the child. This inquiry
22 must include whether any relative or other suitable person:

23 (I) Has expressed an interest in becoming a caregiver for the
24 child;

25 (II) Is able to meet any special needs of the child;

26 (III) Is willing to facilitate the child's sibling and parent
27 visitation if such visitation is ordered by the court; and

28 (IV) Supports reunification of the parent and child once
29 reunification can safely occur; and

30 (B) Give great weight to the stated preference of the parent,
31 guardian, or legal custodian, and the child.

32 (iii) If a relative or other suitable person expressed an
33 interest in caring for the child, can meet the child's special needs,
34 can support parent-child reunification, and will facilitate court-
35 ordered sibling or parent visitation, the following must not prevent
36 the child's placement with such relative or other suitable person:

37 (A) An incomplete department or fingerprint-based background
38 check, if such relative or other suitable person appears otherwise
39 suitable and competent to provide care and treatment, but the

1 background checks must be completed as soon as possible after
2 placement;

3 (B) Uncertainty on the part of the relative or other suitable
4 person regarding potential adoption of the child;

5 (C) Disbelief on the part of the relative or other suitable
6 person that the parent, guardian, or legal custodian presents a
7 danger to the child, provided the caregiver will protect the safety
8 of the child and comply with court orders regarding contact with a
9 parent, guardian, or legal custodian; or

10 (D) The conditions of the relative or other suitable person's
11 home are not sufficient to satisfy the requirements of a licensed
12 foster home. The court may order the department to provide financial
13 or other support to the relative or other suitable person necessary
14 to ensure safe conditions in the home.

15 (d) If the child was not initially placed with a relative or
16 other suitable person, and the court does not release the child to
17 his or her parent, guardian, or legal custodian, the department shall
18 make reasonable efforts to locate a relative or other suitable person
19 pursuant to RCW 13.34.060(1).

20 (e) If the court does not order placement with a relative or
21 other suitable person, the court shall place the child in licensed
22 foster care and shall set forth its reasons for the order. If the
23 court orders placement of the child with a person not related to the
24 child and not licensed to provide foster care, the placement is
25 subject to all terms and conditions of this section that apply to
26 relative placements.

27 (f) Any placement with a relative, or other suitable person
28 approved by the court pursuant to this section, shall be contingent
29 upon cooperation with the department's or agency's case plan and
30 compliance with court orders related to the care and supervision of
31 the child including, but not limited to, court orders regarding
32 parent-child contacts, sibling contacts, and any other conditions
33 imposed by the court. Noncompliance with the case plan or court order
34 is grounds for removal of the child from the home of the relative or
35 other suitable person, subject to review by the court.

36 (g) If the child is placed in a qualified residential treatment
37 program as defined in this chapter, the court shall, within 60 days
38 of placement, hold a hearing to:

1 (i) Consider the assessment required under RCW 13.34.420 and
2 submitted as part of the department's social study, and any related
3 documentation;

4 (ii) Determine whether placement in foster care can meet the
5 child's needs or if placement in another available placement setting
6 best meets the child's needs in the least restrictive environment;
7 and

8 (iii) Approve or disapprove the child's placement in the
9 qualified residential treatment program.

10 (h) Uncertainty by a parent, guardian, legal custodian, relative,
11 or other suitable person that the alleged abuser has in fact abused
12 the child shall not, alone, be the basis upon which a child is
13 removed from the care of a parent, guardian, or legal custodian under
14 (a) of this subsection, nor shall it be a basis, alone, to preclude
15 placement with a relative or other suitable person under (c) of this
16 subsection.

17 (i) If the court places with a relative or other suitable person,
18 and that person has indicated a desire to become a licensed foster
19 parent, the court shall order the department to commence an
20 assessment of the home of such relative or other suitable person
21 within 10 days and thereafter issue an initial license as provided
22 under RCW 74.15.120 for such relative or other suitable person, if
23 qualified, as a foster parent. The relative or other suitable person
24 shall receive a foster care maintenance payment, starting on the date
25 the department approves the initial license. If such home is found to
26 be unqualified for licensure, the department shall report such fact
27 to the court within one week of that determination. The department
28 shall report on the status of the licensure process during the entry
29 of any dispositional orders in the case.

30 (j) If the court places the child in licensed foster care:

31 (i) The petitioner shall report to the court, at the shelter care
32 hearing, the location of the licensed foster placement the petitioner
33 has identified for the child and the court shall inquire as to
34 whether:

35 (A) The identified placement is the least restrictive placement
36 necessary to meet the needs of the child;

37 (B) The child will be able to remain in the same school and
38 whether any orders of the court are necessary to ensure educational
39 stability for the child;

1 (C) The child will be placed with a sibling or siblings, and
2 whether court-ordered sibling contact would promote the well-being of
3 the child;

4 (D) The licensed foster placement is able to meet the special
5 needs of the child;

6 (E) The location of the proposed foster placement will impede
7 visitation with the child's parent or parents;

8 (ii) The court may order the department to:

9 (A) Place the child in a less restrictive placement;

10 (B) Place the child in a location in closer proximity to the
11 child's parent, home, or school;

12 (C) Place the child with the child's sibling or siblings;

13 (D) Take any other necessary steps to ensure the child's health,
14 safety, and well-being;

15 (iii) The court shall advise the petitioner that:

16 (A) Failure to comply with court orders while a child is in
17 shelter care will be considered when determining whether reasonable
18 efforts have been made by the department during a hearing under RCW
19 13.34.110; and

20 (B) Placement moves while a child is in shelter care will be
21 considered when determining whether reasonable efforts have been made
22 by the department during a hearing under RCW 13.34.110.

23 (6) (a) A shelter care order issued pursuant to this section shall
24 include the requirement for a case conference as provided in RCW
25 13.34.067. However, if the parent is not present at the shelter care
26 hearing, or does not agree to the case conference, the court shall
27 not include the requirement for the case conference in the shelter
28 care order.

29 (b) If the court orders a case conference, the shelter care order
30 shall include notice to all parties and establish the date, time, and
31 location of the case conference which shall be no later than 30 days
32 before the fact-finding hearing.

33 (c) The court may order another conference, case staffing, or
34 hearing as an alternative to the case conference required under RCW
35 13.34.067 so long as the conference, case staffing, or hearing
36 ordered by the court meets all requirements under RCW 13.34.067,
37 including the requirement of a written agreement specifying the
38 services to be provided to the parent.

39 (7) (a) (i) A shelter care order issued pursuant to this section
40 may be amended at any time with notice and hearing thereon. The

1 shelter care decision of placement shall be modified only upon a
2 showing of change in circumstances. No child may be placed in shelter
3 care for longer than thirty days without an order, signed by the
4 judge, authorizing continued shelter care.

5 (ii) If the court previously ordered that visitation between a
6 parent and child be supervised or monitored, there shall be a
7 presumption that such supervision or monitoring will no longer be
8 necessary following a continued shelter care order under (a)(i) of
9 this subsection. To overcome this presumption, a party must provide a
10 report to the court including evidence establishing that removing
11 visit supervision or monitoring would create a risk to the child's
12 safety, and the court shall make a determination as to whether visit
13 supervision or monitoring must continue.

14 (b)(i) An order releasing the child on any conditions specified
15 in this section may at any time be amended, with notice and hearing
16 thereon, so as to return the child to shelter care for failure of the
17 parties to conform to the conditions originally imposed.

18 (ii) The court shall consider whether nonconformance with any
19 conditions resulted from circumstances beyond the control of the
20 parent, guardian, or legal custodian and give weight to that fact
21 before ordering return of the child to shelter care.

22 (8) The department and its employees shall not be held liable in
23 any civil action for complying with an order issued under this
24 section for placement: With a parent who has agreed to accept
25 services, a relative, or a suitable person.

26 (9)(a) If a child is placed out of the home of a parent,
27 guardian, or legal custodian following a shelter care hearing, the
28 court shall order the petitioner to provide regular visitation with
29 the parent, guardian, or legal custodian, and siblings. Early,
30 consistent, and frequent visitation is crucial for maintaining
31 parent-child relationships and allowing family reunification. The
32 court shall order a visitation plan individualized to the needs of
33 the family with a goal of providing the maximum parent, child, and
34 sibling contact possible.

35 (b) Visitation under this subsection shall not be limited as a
36 sanction for a parent's failure to comply with recommended services
37 during shelter care.

38 (c) Visitation under this subsection may only be limited where
39 necessary to ensure the health, safety, or welfare of the child.

1 (d) The first visit must take place within 72 hours of the child
2 being delivered into the custody of the department, unless the court
3 finds that extraordinary circumstances require delay.

4 (e) If the first visit under (d) of this subsection occurs in an
5 in-person format, this first visit must be supervised unless the
6 department determines that visit supervision is not necessary.

7 **Sec. 5.** RCW 26.44.030 and 2019 c 172 s 6 are each amended to
8 read as follows:

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

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

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

37 For the purposes of this subsection, the following definitions
38 apply:

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

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

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

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

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

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

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

1 (e) The reporting requirement also applies to guardians ad litem,
2 including court-appointed special advocates, appointed under Titles
3 11 and 13 RCW and this title, who in the course of their
4 representation of children in these actions have reasonable cause to
5 believe a child has been abused or neglected.

6 (f) The reporting requirement in (a) of this subsection also
7 applies to administrative and academic or athletic department
8 employees, including student employees, of institutions of higher
9 education, as defined in RCW 28B.10.016, and of private institutions
10 of higher education.

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

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

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

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

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

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

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

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

1 such abuse or neglect does not constitute imminent danger to the
2 child's health or safety, and the department agrees with the
3 physician's assessment, the child may be left in the parents' home
4 while the department proceeds with reasonable efforts to remedy
5 parenting deficiencies.

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

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

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

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

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

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

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

36 (i) Investigation; or

37 (ii) Family assessment.

38 (b) In making the response in (a) of this subsection the
39 department shall:

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

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

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

12 (iv) Provide a full investigation if a family refuses the initial
13 family assessment;

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

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

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

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

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

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

35 (E) The child is an adjudicated dependent child as defined in RCW
36 13.34.030, or the child is in a facility that is licensed, operated,
37 or certified for care of children by the department under chapter
38 74.15 RCW.

39 (c) In addition, the department may use a family assessment
40 response to assess for and provide prevention and family services and

1 programs, as defined in RCW 26.44.020, for the following children and
2 their families, consistent with requirements under the federal family
3 first prevention services act and this section:

4 (i) A child who is a candidate for foster care, as defined in RCW
5 26.44.020; and

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

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

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

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

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

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

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

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

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

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

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

14 (e) Implement the family assessment response in a consistent and
15 cooperative manner;

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

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

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

1 party in any interview so long as the presence of the third party
2 will not jeopardize the course of the investigation; and

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

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

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

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

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

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

28 (19)(a) The department shall use a risk assessment process when
29 investigating alleged child abuse and neglect referrals. The
30 department shall present the risk factors at all hearings in which
31 the placement of a dependent child is an issue. Substance abuse must
32 be a risk factor.

33 (b) The department shall develop and make available to department
34 staff a fentanyl-specific risk assessment tool to be used by
35 department staff to determine the appropriate safety measures to take
36 when investigating alleged child abuse and neglect referrals when
37 fentanyl use or the presence of fentanyl is suspected or confirmed.
38 The department shall also make available to department staff fentanyl
39 testing strips that can detect the presence of fentanyl that may be

1 used when investigating alleged child abuse and neglect referrals and
2 otherwise as appropriate.

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

7 (21) Upon receiving a report of alleged abuse or neglect
8 involving a child under the court's jurisdiction under chapter 13.34
9 RCW, the department shall promptly notify the child's guardian ad
10 litem of the report's contents. The department shall also notify the
11 guardian ad litem of the disposition of the report. For purposes of
12 this subsection, "guardian ad litem" has the meaning provided in RCW
13 13.34.030.

14 (22) The department shall make efforts as soon as practicable to
15 determine the military status of parents whose children are subject
16 to abuse or neglect allegations. If the department determines that a
17 parent or guardian is in the military, the department shall notify a
18 department of defense family advocacy program that there is an
19 allegation of abuse and neglect that is screened in and open for
20 investigation that relates to that military parent or guardian.

21 (23) The department shall make available on its public website a
22 downloadable and printable poster that includes the reporting
23 requirements included in this section. The poster must be no smaller
24 than eight and one-half by eleven inches with all information on one
25 side. The poster must be made available in both the English and
26 Spanish languages. Organizations that include employees or volunteers
27 subject to the reporting requirements of this section must clearly
28 display this poster in a common area. At a minimum, this poster must
29 include the following:

- 30 (a) Who is required to report child abuse and neglect;
- 31 (b) The standard of knowledge to justify a report;
- 32 (c) The definition of reportable crimes;
- 33 (d) Where to report suspected child abuse and neglect; and
- 34 (e) What should be included in a report and the appropriate
35 timing.

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