

West's RCWA 26.44.030



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West's Revised Code of Washington Annotated [Currentness](#)

Title 26. Domestic Relations ([Refs & Annos](#))

[Chapter 26.44](#). Abuse of Children ([Refs & Annos](#))

→ **26.44.030. Reports--Duty and authority to make--Duty of receiving agency-- Duty to notify--Case planning and consultation--Penalty for unauthorized exchange of information--Filing dependency petitions--Interviews of children-- Records--Risk assessment process**

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

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

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

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

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

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

(4) The department, upon receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means or who has been subjected to alleged sexual abuse, shall report such incident to the proper law enforcement agency. In emergency cases, where the child's welfare is endangered, the department shall notify the proper law enforcement agency within twenty-four hours after a report is received by the department. In all other

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cases, the department shall notify the law enforcement agency within seventy-two hours after a report is received by the department. If the department makes an oral report, a written report must also be made to the proper law enforcement agency within five days thereafter.

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

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

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

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

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

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

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

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

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

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

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

#### CREDIT(S)

[2003 c 207 § 4, eff. July 27, 2003. Prior: [1999 c 267 § 20](#); [1999 c 176 § 30](#); [1998 c 328 § 5](#); [1997 c 386 § 25](#); [1996 c 278 § 2](#); [1995 c 311 § 17](#); prior: [1993 c 412 § 13](#); [1993 c 237 § 1](#); [1991 c 111 § 1](#); [1989 c 22 § 1](#); prior: [1988 c 142 § 2](#); [1988 c 39 § 1](#); prior: 1987 c 524 § 10; 1987 c 512 § 23; 1987 c 206 § 3; 1986 c 145 § 1; 1985 c 259 § 2; 1984 c 97 § 3; 1982 c 129 § 7; 1981 c 164 § 2; 1977 ex.s. c 80 § 26; 1975 1st ex.s. c 217 § 3; 1971 ex.s. c 167 § 1; 1969 ex.s. c 35 § 3; 1965 c 13 § 3.]

#### <<CHAPTER 26.44. ABUSE OF CHILDREN>>

<(Formerly: Abuse of Children and Adult Dependent Persons)>

#### HISTORICAL AND STATUTORY NOTES

**Findings--Intent--Severability--1999 c 267:** See notes following [RCW 43.20A.790](#).

**Short title--Purpose--Entitlement not granted--Federal waivers--1999 c 267 § § 10-26:** See [RCW 74.15.900](#) and [74.15.901](#).

**Findings--Purpose--Severability--Conflict with federal requirements--1999 c 176:** See notes following [RCW 74.34.005](#).

**Application--Effective date--1997 c 386:** See notes following [RCW 74.14D.010](#).

**Finding--Intent--1996 c 278:** "The legislature finds that including certain department of corrections personnel among the professionals who are mandated to report suspected abuse or neglect of children, dependent adults, or people with developmental disabilities is an important step toward improving the protection of these vulnerable populations. The legislature intends, however, to limit the circumstances under which department of corrections personnel are mandated reporters of suspected abuse or neglect to only those circumstances when the information is obtained during the course of their employment. This act is not to be construed to alter the circumstances under which other professionals are mandated to report suspected abuse or neglect, nor is it the legislature's intent to alter current practices and procedures utilized by other professional organizations who are mandated reporters under RCW 26.44.030(1)(a)." [1996 c 278 § 1.]

**Severability--1987 c 512:** See [RCW 18.19.901](#).

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**Legislative findings--1985 c 259:** "The Washington state legislature finds and declares:

The children of the state of Washington are the state's greatest resource and the greatest source of wealth to the state of Washington. Children of all ages must be protected from child abuse. Governmental authorities must give the prevention, treatment, and punishment of child abuse the highest priority, and all instances of child abuse must be reported to the proper authorities who should diligently and expeditiously take appropriate action, and child abusers must be held accountable to the people of the state for their actions.

The legislature recognizes the current heavy caseload of governmental authorities responsible for the prevention, treatment, and punishment of child abuse. The information obtained by child abuse reporting requirements, in addition to its use as a law enforcement tool, will be used to determine the need for additional funding to ensure that resources for appropriate governmental response to child abuse are available." [1985 c 259 § 1.]

**Severability--1984 c 97:** See [RCW 74.34.900](#).

**Severability--1982 c 129:** See note following [RCW 9A.04.080](#).

**Purpose--Intent--Severability--1977 ex.s. c 80:** See notes following [RCW 4.16.190](#).

As enacted, this section read:

"(1) When any practitioner has cause to believe that a child under the age of eighteen years brought before him or coming to him for examination, care, or treatment has had physical injury or injuries inflicted upon him, other than by accidental means, or who is found to be suffering from physical neglect, or sexual abuse, he may report such incident or cause a report to be made to the proper law enforcement agency as provided in [RCW 26.44.040](#).

"(2) When a practitioner is attending a child under the age of eighteen years as part of his regular duties as a staff member of an institution and has cause to believe that such child has had physical injury or injuries inflicted upon him other than by accidental means or who is found to be suffering from physical neglect, or sexual abuse, he may notify the person in charge of the institution or his designated representative, who may report the incident or cause such reporting to be made as provided in [RCW 26.44.040](#)."

Laws 1969, Ex.Sess., ch. 35, § 3, rewrote the section to read:

"(1) When any practitioner, professional school personnel, registered nurse, social worker, psychologist, pharmacist, clergyman or employee of the department of public assistance has reasonable cause to believe that a child has died or has had physical injury or injuries inflicted upon him, other than by accidental means, or is found to be suffering from physical neglect, or sexual abuse, he may report such incident or cause a report to be made to the proper law enforcement agency or to the department of public assistance as provided in [RCW 26.44.040](#).

"(2) When a practitioner, professional school personnel, registered nurse, social worker, psychologist, pharmacist, clergyman or employee of the department of public assistance is attending a child as part of his regular duties and has cause to believe that such child has died or has had physical injury or injuries inflicted upon him other than by accidental means or who is found to be suffering from physical neglect, or sexual abuse, he may notify the person in charge of the institution, organization, school or the department or his designated representative, who may report the incident or cause such reporting to be made as provided in [RCW 26.44.040](#)."

Laws 1971, Ex.Sess., ch. 167, § 1, throughout the section (then consisting of subsecs. (1) and (2)), substituted "the department of social and health services" for "the department of public assistance"; and, in subsec. (1), substituted "shall report" for "may report"; and, in subsec. (2), substituted "shall notify" for "may notify" and "shall report" for "may report".

Laws 1975, 1st Ex.Sess., ch. 217, § 3, rewrote the section, which previously read:

"(1) When any practitioner, professional school personnel, registered nurse, social worker, psychologist, pharmacist,

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clergyman, or employee of the department of social and health services has reasonable cause to believe that a child has died or has had physical injury or injuries inflicted upon him, other than by accidental means, or is found to be suffering from physical neglect, or sexual abuse, he shall report such incident, or cause a report to be made, to the proper law enforcement agency or to the department of social and health services as provided in [RCW 26.44.040](#).

"(2) When a practitioner, professional school personnel, registered nurse, social worker, psychologist, pharmacist, clergyman, or employee of the department of social and health services is attending a child as part of his regular duties and has cause to believe that such child has died or has had physical injury or injuries inflicted upon him other than by accidental means, or who is found to be suffering from physical neglect, or sexual abuse, he shall notify the person in charge of the institution, organization, school, or the department or his designated representative, who shall report the incident or cause such reporting to be made as provided in [RCW 26.44.040](#)."

Laws 1977, Ex.Sess., ch. 80, § 26, throughout subsections (1) to (3), following "child" inserted "or adult developmentally disabled person" and preceding "abuse or neglect" deleted "child".

Laws 1981, ch. 164, § 2, at the beginning of subsection (3), substituted "The department upon receiving a report" for "The department or any law enforcement agency receiving a report"; at the end of subsection (3), substituted "law enforcement agency" for "county prosecutor for appropriate action"; and added subsection (4).

Laws 1982, ch. 129, § 7, in subsection (1), in the first sentence, substituted "the department" for "the department of social and health services" in two places, and added the second sentence.

Laws 1984, ch. 97, § 3, throughout the section, substituted "dependent person" for "developmentally disabled person".

Laws 1985, ch. 259, § 2, in the last sentence of subsection (1), substituted "forty-eight hours" for "seven days"; at the end of subsection (2), deleted "as now or hereafter amended"; near the end of subsection (3), inserted "in writing"; in the next-to-last sentence of subsection (4), following "shall report such incident" inserted "in writing as provided in [RCW 26.44.040](#)" and, near the end of the subsection, substituted "may have" for "has"; and added the last sentence of subsection (4); and added subsection (5).

Laws 1986, ch. 145, § 1, added subsections (6) and (7).

Laws 1987, ch. 206, § 3, throughout the section, inserted references to "developmentally disabled persons".

Laws 1987, ch. 512, § 23, in subsections (3) and (4), inserted gender references.

Laws 1987, ch. 524, § 10, in subsection (1), substituted "social service counselor" for "social worker"; inserted "licensed or certified child care providers or their employees"; inserted "juvenile probation officer"; in subsection (6), in the second sentence, inserted "with consultants designated by the department"; inserted subsection (7); redesignated former subsection (7) as subsection (8); and added subsections (9) to (12).

Laws 1988, ch. 39, § 1, in subsection (6), in the first sentence, inserted "with consultants designated by the department"; and, deleted the same phrase from the second sentence.

Laws 1988, ch. 142, § 2, added subsection (13).

Laws 1989, ch. 22, § 1, in subsection (3), in the first sentence, following "such incident", deleted "in writing"; added the second to fourth sentences; in subsection (4), added the third and fourth sentences; and, in subsection (12), in the second paragraph, substituted "1989" for "1988".

Laws 1991, ch. 111, § 1, in subsection (1), added the last sentence; inserted subsection (2); and renumbered former subsections (3) to (13) as (4) to (14).

Laws 1993, ch. 237, § 1, rewrote subsections (11) and (13), which previously read:

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"(11) Upon receiving a report of incidents, conditions, or circumstances of child abuse and neglect, the department shall have access to all relevant records of the child in the possession of mandated reporters and their employees."

"(13) The department of social and health services shall, within funds appropriated for this purpose, use a risk assessment tool when investigating child abuse and neglect referrals. The tool shall be used, on a pilot basis, in three local office service areas. The department shall, within funds appropriated for this purpose, offer enhanced community-based services to persons who are determined not to require further state intervention.

"The department shall report to the ways and means committees of the senate and house of representatives on the use of the tool by December 1, 1989. The report shall include recommendations on the continued use and possible expanded use of the tool."

Laws 1993, ch. 412, § 13, in subsec. (1), designated subd. (a); added subd. (b); relettered former subd. (b) as (c); and rewrote subsec. (13). For former text of subsec. (13), see amendment note, ante.

Laws 1995, ch. 311, § 17, in subsec. (1)(a), inserted "county coroner or medical examiner, law enforcement officer"; in subsec. (1)(c), deleted "; and" following "opportunity, but"; in subsec. (13), in the second paragraph substituted "legislature" for "appropriate committees of the senate and house of representatives".

Laws 1996, ch. 278, § 2, in subsec. (1), inserted subd. (b); and redesignated former subds. (b) and (c) as subds. (c) and (d).

Laws 1997, ch. 386, § 25, in subsec. (1)(a), preceding "has reasonable cause to believe" inserted ", or state family and children's ombudsman or any volunteer in the ombudsman's office"; in the first sentence of subsec. (4) and in the first sentence of subsec. (5), preceding "abuse or neglect" and preceding "sexual abuse" inserted "alleged"; in the first sentence of subsec. (10), preceding "abuse or neglect" inserted "alleged"; in subsec. (11) and in the first sentence of subsec. (13), preceding "child abuse and neglect" inserted "alleged"; in subsec. (14), preceding "abuse or neglect" inserted "alleged"; and added subsec. (15), relating to the department's obligation to learn the name, address, and telephone number of each person making a report of abuse.

Laws 1998, ch. 328, § 5, in the first paragraph of subsec. (13), inserted the third sentence.

Laws 1999, ch. 176, § 30, throughout the section, deleted references to "adult dependent or developmentally disabled persons"; in subsec. (7), at the end of the first sentence, deleted "or department case services for the developmentally disabled"; and made nonsubstantive and stylistic changes throughout.

Laws 1999, ch. 267, § 20, in subsec. (1)(a), inserted "placement and liaison specialist, responsible living skills program staff, HOPE center staff,".

Laws 1999, ch. 267, § 20, in subsec. (1)(a), inserted "placement and liaison specialist, responsible living skills program staff, HOPE center staff,".

Laws 2003, ch. 207, § 4, in subsec. (13), deleted a former last sentence, which related to annual reports to the legislature.

#### LAW REVIEW AND JOURNAL COMMENTARIES

Termination of parental rights of the mentally ill: an analysis of Washington law. Arturo Ricardo Garcia, 37 Gonz.L.Re. 489 (2001/02).

#### LIBRARY REFERENCES

2005 Main Volume

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Asylums  1.

Infants  13.

Mental Health  51.

Westlaw Topic Nos. 211, 257A, 43.

[C.J.S. Asylums and Institutional Care Facilities § § 2 to 3.](#)

[C.J.S. Infants § § 5, 92 to 93.](#)

[C.J.S. Mental Health § § 86 to 87.](#)

## RESEARCH REFERENCES

2005 Main Volume

### ALR Library

[73 ALR 4th 782](#), Validity, Construction, and Application of State Statute Requiring Doctor or Other Person to Report Child Abuse.

[44 ALR 4th 649](#), Validity, Construction, and Application of Statute Limiting Physician-Patient Privilege in Judicial Proceedings Relating to Child Abuse or Neglect.

### Encyclopedias

[2 Am. Jur. Proof of Facts 2d 365](#), Child Abuse-The Battered Child Syndrome.

[2 Am. Jur. Proof of Facts 3d 327](#), Psychotherapist's Liability for Failure to Protect Third Person.

[24 Am. Jur. Proof of Facts 3d 123](#), Proof of Unauthorized Disclosure of Confidential Patient Information by a Psychotherapist.

[32 Am. Jur. Trials 105](#), Unauthorized Disclosure of Confidential Patient Information.

[38 Am. Jur. Trials 1](#), Professional Liability for Failure to Report Child Abuse.

### Treatises and Practice Aids

5D Wash. Prac. Series 43.06A.080, Inapplicability of Privilege in [RCW 43.06A.060](#).

5D Wash. Prac. Series 43.06A.900, Construction.

[22 Wash. Prac. Series 26.44.032](#), Legal Defense of Public Employee.

[22 Wash. Prac. Series 26.44.080](#), Violation-Penalty.

[22 Wash. Prac. Series 26.44.160](#), Allegations that Child Under Twelve Committed Sex Offense-Investigation-Referral to Prosecuting Attorney-Referral to Department-Referral for Treatment.

26 Wash. Prac. Series § 5.51, Remedies for Elder Abuse.

## NOTES OF DECISIONS

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### [1.](#) Validity

Requiring religious counselors to comply with child abuse reporting requirements did not infringe upon counselors' First Amendment free exercise rights. [State v. Motherwell \(1990\) 114 Wash.2d 353, 788 P.2d 1066](#). Constitutional Law  84.5(10); Infants  12(9)

Even if requiring religious counselors to comply with child abuse reporting requirements burdened their First Amendment free exercise rights, State sufficiently met its countervailing burden of justifying mandatory reporting requirements for religious counselors; no manner less inhibitory to religious interests which allowed State to satisfy its interest in protecting children was apparent. [State v. Motherwell \(1990\) 114 Wash.2d 353, 788 P.2d 1066](#). Constitutional Law  84.5(10); Infants  12(9)

Person is "social worker" under child abuse reporting requirements if he provides social services to adults or families, regardless of whether services are religiously or secularly motivated; therefore, requiring religious counselors to comply with reporting requirements did not violate establishment clause by requiring courts to distinguish between religious and secular activities. [State v. Motherwell \(1990\) 114 Wash.2d 353, 788 P.2d 1066](#). Constitutional Law  84.5(10); Infants  12(9); Infants  13.5(1)

Even if ordinary citizens would not interpret term "social worker" to include religious counselor, application of child abuse reporting requirements to religious counselors as social workers was not unconstitutional on vagueness grounds, where legislature had furnished specific definition of social worker as person engaged in professional capacity during regular course of employment in encouraging or promoting the health, welfare, support or education of children, or providing social services to adults or families. [State v. Motherwell \(1990\) 114 Wash.2d 353, 788 P.2d 1066](#). Infants  12(9)

Application of child abuse reporting requirements to religious counselors was not unconstitutional on overbreadth grounds. [State v. Motherwell \(1990\) 114 Wash.2d 353, 788 P.2d 1066](#). Infants  12(9)

### [2.](#) In general

Admission of annual report of the Office of the Family and Child Ombudsman in class action against the Department of Social and Health Services (DSHS) seeking to force DSHS to reduce the number of times foster children were moved while in the State's care violated ombudsman statutes; exceptions to rule precluding testimony or evidence from ombudsman did not allow report to be admitted into evidence. [Braam ex rel. Braam v. State \(2003\) 150 Wash.2d 689, 81 P.3d 851](#). Infants  17

Mandatory child abuse and neglect reporting requirements trumped statutory counselor-patient privilege in dependency proceeding involving child who had been neglected, whether or not counselor actually reported the neglect or abuse that was a basis for dependency petition. [In re J.F. \(2001\) 109 Wash.App. 718, 37 P.3d 1227](#).

The mandatory reporting requirements of statute governing reporting based on reasonable cause to believe a child has suffered abuse or neglect trumps the statutory counselor-patient privilege. [In re J.F. \(2001\) 109 Wash.App. 718, 37 P.3d 1227](#).

Statute containing mandatory reporting provision for cases of child abuse takes precedence over counselor-patient

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privilege. [State v. Ackerman \(1998\) 90 Wash.App. 477, 953 P.2d 816](#). Witnesses  214.5

### 3. Ordinances

City ordinance under which failure to report child abuse constitutes contributing to the delinquency of a minor does not conflict with this section which imposes a duty on health care and social service professionals to report suspected child abuse and which provides that persons, including parents, making reports of child abuse are immune from civil or criminal liability. [City of Seattle v. Eun Yong Shin \(1988\) 50 Wash.App. 218, 748 P.2d 643](#), reconsideration denied, review denied. Infants  13

### 4. Health care provider

Defendant had no reasonable expectation of confidentiality in his communications to his sex offender treatment provider, and thus, she was allowed to testify at his trial for second degree child molestation; defendant signed three releases, counselor advised him that once he was in treatment, there would be only very limited confidentiality and she would discuss any and all information with anyone involved in case, from child's therapist to child's case manager. [State v. Ackerman \(1998\) 90 Wash.App. 477, 953 P.2d 816](#). Witnesses  214.5

### 5. Clergy

Although legislature intended to exempt clergy from child abuse reporting requirement, simply establishing one's status as "clergy" is not enough to trigger exemption; rather, one must also be functioning in that capacity for exemption to apply. [State v. Motherwell \(1990\) 114 Wash.2d 353, 788 P.2d 1066](#). Infants  13.5(2)

### 6. Liability

Social worker was entitled to qualified immunity in truthfully reporting children's statements as required by Washington state law. [Safouane v. King County, C.A.9 \(Wash.\)2001, 27 Fed.Appx. 780, 2001 WL 1382049](#), Unreported, certiorari denied [122 S.Ct. 1795, 535 U.S. 1036, 152 L.Ed.2d 653](#). Infants  17

Public duty doctrine did not shield Department of Social and Health Services and three of its employees from liability for causing names of employees of group home for emotionally disturbed children to be placed on state's central registry as child abusers; special relationship existed between social workers and plaintiffs which created a duty to perform mandated act for benefit of particular persons. [Dunning v. Pacerelli \(1991\) 63 Wash.App. 232, 818 P.2d 34](#), review denied [118 Wash.2d 1024, 827 P.2d 1392](#). Infants  17

Caseworkers employed by the Department of Social and Health Services did not have absolute immunity from liability for their actions leading up to and including the placing of names of employees of group home for emotionally disturbed children on state's central registry as reported child abusers; to the extent caseworkers' conduct consisted of reporting child abuse, they could claim statutory qualified immunity, and to extent their conduct consisted of investigating reported child abuse, they could claim common law qualified immunity. [Dunning v. Pacerelli \(1991\) 63 Wash.App. 232, 818 P.2d 34](#), review denied [118 Wash.2d 1024, 827 P.2d 1392](#). Infants  13.5(2); Infants  17

### 7. Good faith

Reporter of suspected child abuse made prima facie showing of good faith, as basis for statutory immunity for making the report; reporter declared that she had no reason to believe the allegations were untrue, that she did not intend to cause the child to be separated from his mother, and that the report was made because the reporter was concerned with the child's health and because the law required the reporting of the suspicions. [Whaley v. State, Dept. of Social and Health Services \(1998\) 90 Wash.App. 658, 956 P.2d 1100](#), reconsideration denied. Infants  13.5(2)

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Evidence sustained finding that report of child abuse was made in good faith by director of licensed provider of specialized day care for children with developmental disabilities, and thus, director was entitled to statutory immunity for making the report; nothing suggested that director was dishonest or acted with unlawful purpose, director was subject to criminal penalties if she failed to report reasonable suspicions of child abuse, and director tried to validate the child's allegations, which were made through "typing" method of facilitated communication (FC) with the child. [Whaley v. State, Dept. of Social and Health Services \(1998\) 90 Wash.App. 658, 956 P.2d 1100](#), reconsideration denied. Infants  13.5(2)

8. Negligent investigations

Child Protective Services (CPS) social worker was not required to obtain a second opinion from a physician of parents' choice before removing children from parents' home, and thus social worker's failure to do so did not support parents' negligent investigation claim; all of the numerous health care providers who saw children, none of whom was selected by the state, suspected or believed that children were currently being abused through significant overtreatment, and it could not be inferred that one more doctor would have thought children were not being abused. [Miles v. State, Child Protective Services Dept. \(2000\) 102 Wash.App. 142, 6 P.3d 112](#), review denied [142 Wash.2d 1021, 16 P.3d 1266](#). Infants  17

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