

**WASHINGTON STATE CHILD ABUSE  
REPORTING LAWS:  
Summary of Legislative Changes  
1965 - 1996**

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with  
Roxanne Lieb**

**October 1996**

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# ***Washington State Institute for Public Policy***

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The Washington Legislature created the Washington State Institute for Public Policy in 1983. A Board of Directors—representing the legislature, the governor, and public universities—governs the Institute, hires the director, and guides the development of all activities.

The Institute's mission is to carry out practical research, at legislative direction, on issues of importance to Washington State. The Institute conducts research activities using its own policy analysts, academic specialists from universities, and consultants. New activities grow out of requests from the Washington Legislature and executive branch agencies, often directed through legislation. Institute staff work closely with legislators, as well as legislative, executive, and state agency staff to define and conduct research on appropriate state public policy topics.

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# WASHINGTON STATE CHILD ABUSE REPORTING LAWS: *Summary of Legislative Changes, 1965 - 1996*

## ***Introduction***

The Department of Social and Health Services administers Washington's Child Protective Services (CPS). CPS provides services which include 24-hour intake, assessment, emergency intervention, and emergency medical services for accepted referrals. If children are found to be at risk of abuse, services could include direct treatment, coordination, and development of community services, legal intervention, and case monitoring.<sup>1</sup>

The Institute previously published an issue brief describing the rates of child abuse and neglect in Washington. That report assessed Washington's historical and current rates, also comparing the state to national trends.<sup>2</sup>

## ***Reporting Laws***

This paper describes how Washington State laws regarding child abuse have been amended since 1965. Each legislative change is summarized, allowing the reader to grasp the changes in state policy regarding abuse definitions and protected classes of individuals, as well as the amended categories of mandatory reporters.

Mandatory reporting was first enacted in 1971 and directed toward medical professionals, teachers, social workers, clergy, pharmacists, and DSHS employees. Since then, the group of mandatory reporters has been expanded several times.

When people consider the reported rates of child abuse and neglect, and their changes over time, it is helpful to pay some attention also to the expanded pool of mandatory reporters. We have estimated the proportion of the state's adults who had jobs subject to the mandatory reporting law for three time periods. Figure 1 illustrates these findings.

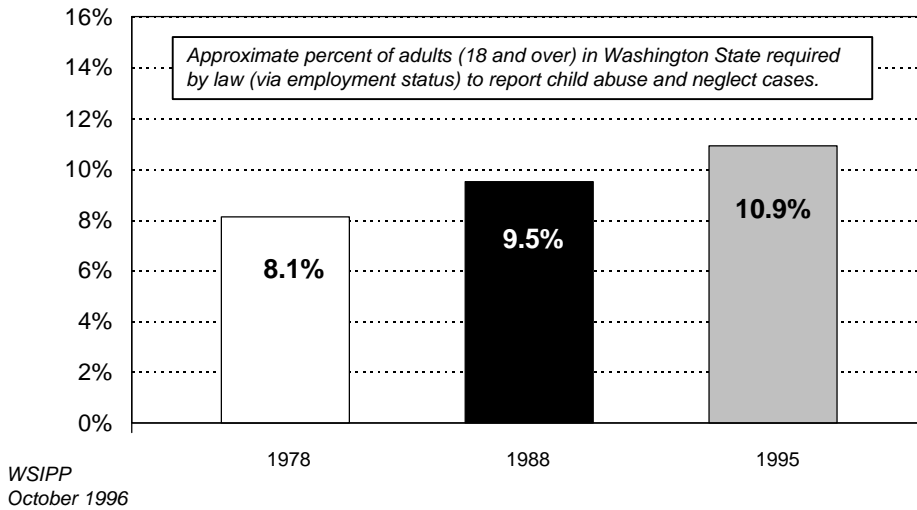
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<sup>1</sup> See, for example, Department of Social and Health Services Internet Page: <http://www.wa.gov/dshs/>.

<sup>2</sup> Washington State Institute for Public Policy, *Child Abuse or Neglect Trends in Washington State*, Olympia, WA, July 1996.

Figure 1

## A Greater Percentage of Adults in Washington are Required to Report to CPS



In 1978, the first year for which comparable data are available, about 8 out of 100 adults were required by law to report child abuse and neglect. By 1995, approximately 11 out of 100 adults in Washington State were employed in occupations subject to mandatory reporting laws.

The influence of this higher mandatory reporting ratio on reported incidents of child abuse and neglect is unknown.

## WASHINGTON STATE CHILD ABUSE REPORTING LAWS: Summary of Legislative Changes

YEAR	DEFINED IN STATUTE	WHO REPORTS ABUSE	MAY OR SHALL REPORT	TO WHOM THEY REPORT	TIMING AND PROCEDURES	MISCELLANEOUS
1965 Chapter 13	<ul style="list-style-type: none"> <li>• <u>Court</u> means Superior Court of WA, Juvenile Department.</li> <li>• <u>Practitioner</u> means a person licensed in the state to practice chiropody, chiropractic, dentistry, osteopathy, and surgery, or medicine and surgery.</li> <li>• <u>Institution</u> means a private or public hospital or any other facility providing medical diagnosis, treatment or care.</li> </ul>	Practitioner <b>Report when:</b> cause to believe physical injury inflicted upon person (other than accidental) physical neglect, sexual abuse.	MAY	<ul style="list-style-type: none"> <li>• Proper law enforcement person.</li> <li>• Person in charge of the institution where they are working.</li> </ul>	An immediate oral report may be made by telephone or otherwise and may be followed by a written report.	
1969 RCW 26.44.010 through 26.44.050	<ul style="list-style-type: none"> <li>• <u>Practitioner</u> expanded to include Christian Science Practitioner.</li> <li>• <u>Department</u> means State Department of Public Assistance.</li> <li>• <u>Child</u> means anyone under the age of 18, also any mentally retarded person regardless of age.</li> <li>• <u>Professional School Personnel</u> includes, but is not limited to: teachers, counselors, administrators and school nurses.</li> <li>• <u>Social Worker</u> shall mean anyone engaged in encouraging or promoting the health or welfare or support or education of children under the age of 18, whether in an individual capacity, or as an employee or agent of any public or private organization or institution.</li> <li>• <u>Psychologist</u> includes any person licensed to practice psychology, whether acting as an individual capacity or as an employee or agent of any public or private organization or institution.</li> <li>• <u>Pharmacist</u> is any registered pharmacist.</li> <li>• <u>Clergyman</u> shall mean any regularly licensed or ordained minister or any priest of any church or religion.</li> <li>• <u>Death</u> of a child, other than accidental, is included in the definition of reasonable cause to report abuse.</li> </ul>	Practitioner, professional school personnel, registered nurse, social worker, psychologist, pharmacist, clergyman, or an employee of the department. <b>Report when:</b> reasonable cause to believe a child has died, physical injury (other than accidental) or suffering physical, sexual abuse or neglect.	MAY	<ul style="list-style-type: none"> <li>• Proper law enforcement or department.</li> <li>• Person in charge of the institution, organization, school or department.</li> </ul>		<p><b>INVESTIGATION:</b> It is the duty of law enforcement agency or department to investigate and provide child welfare services and when necessary to refer such report to court.</p> <p><b>RECORDS:</b> Department shall maintain a central registry of reported cases of child abuse. Records are confidential and privileged and not available to any person or agency except law enforcement agencies.</p>

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<b>1971</b> RCW 26.44.030 and 26.44.040	<ul style="list-style-type: none"> <li>Department of Public Assistance is now called the <u>Department of Social and Health Services (DSHS)</u>.</li> </ul>	<ul style="list-style-type: none"> <li>Practitioner, professional school personnel, registered nurse, social worker, psychologist, pharmacist, clergyman or employee of DSHS.</li> </ul>	SHALL	<ul style="list-style-type: none"> <li>Proper law enforcement or DSHS.</li> <li>Person in charge of the institution, organization, school or DSHS.</li> </ul>	An immediate oral report shall by telephone shall be followed by a written report.	Everyone required to make a report and fails to do so shall be guilty of a misdemeanor.
<b>1975</b> RCW 26.44.010 through 26.44.070	<ul style="list-style-type: none"> <li><u>Child Abuse or Neglect</u> is defined as: injury, sexual abuse or negligent treatment or maltreatment of child by a person who is legally responsible for the child's welfare under circumstances which indicate that the child is a child who has been subjected to child abuse or neglect as defined herein.</li> <li><u>Negligent Treatment or Maltreatment</u> shall mean an act or omission which evinces a serious disregard of consequences of such magnitude as to constitute a clear and present danger to the child's health, welfare and safety.</li> <li><u>Law Enforcement</u> is expanded to include the state patrol and the director of public safety.</li> <li><u>Podiatry</u> replaces chiropody.</li> <li><u>Nursing</u> and <u>Optometry</u> is added to the definition of Practitioner.</li> <li><u>Child Care Facility Personnel</u> is added to professional school personnel.</li> <li><u>Social Worker</u> shall mean anyone engaged in professional capacity during the regular course of employment in encouraging or promoting the health and welfare support of education of children or providing social service to adults or families.</li> <li><u>Child Protective Services</u> section shall mean the child protective services section of DSHS.</li> </ul>	<ul style="list-style-type: none"> <li>Licensed nurse</li> <li>Any other person who has a reasonable cause to believe that a child has suffered child abuse or neglect may report such incident to the proper law enforcement agency or to DSHS.</li> </ul> <p><b>Report when:</b> child has suffered child abuse and neglect.</p>	Practitioner, professional school personnel, registered or licensed nurse, social worker, psychologist, pharmacist, or employee of DSHS <u>SHALL</u> report. Any other person <u>MAY</u> report.	<ul style="list-style-type: none"> <li>DSHS or any law enforcement agency receiving a report of child abuse or neglect shall report the incident to the proper county prosecutor.</li> </ul>	An immediate report shall be made by telephone or otherwise...and upon request, shall be followed by report in writing.	<ul style="list-style-type: none"> <li>Any person who participates in making a report or testifying in a judicial proceeding shall be immune from liability.</li> <li>An administrator of a hospital or similar institution or any physician licensed taking a child into custody shall not be subject to criminal or civil liability for such taking into custody.</li> <li>Legislative intent expanded to reference the paramount importance of bond between child and parent/guardian. The law shall not be construed to authorize intervention with reasonable parental discipline.</li> </ul>
<b>1977</b> RCW 26.44.101 through 26.44.050 and 26.44.070	<ul style="list-style-type: none"> <li>The group protected is amended to include <u>Adult Developmentally Disabled persons</u>.</li> <li><u>Adult Developmentally Disabled persons</u> means those persons over the age of 18 years with developmental disabilities who have been found legally incompetent.</li> </ul>					

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<b>1981</b> RCW 26.44.020 and 26.44.030 and 26.44.050 and 26.44.070	<ul style="list-style-type: none"> <li>• <u>Sexual Exploitation</u> is added to the definition of child abuse or neglect, and means:                a) Allowing, permitting, or encouraging a child to engage in prostitution by a person responsible for the child's welfare; (b) allowing, permitting, encouraging, or engaging in the obscene or pornographic photographing, filming, or depicting of a child for commercial purposes as those acts are defined by state law by a person responsible for the child's welfare.</li> <li>• <u>Negligent treatment or maltreatment</u> is defined as an act or omission which evidences a serious disregard of consequences of such magnitude as to constitute a clear and present danger to the child's health, welfare, and safety.</li> </ul>			<ul style="list-style-type: none"> <li>• DSHS upon receiving a report of an incident of abuse or neglect shall report such incident to the proper law enforcement agency.</li> <li>• The law enforcement agency shall report such incident to the proper county prosecutor or city attorney.</li> </ul>		<p><b>ACCESS TO RECORDS</b> is expanded to include:</p> <ul style="list-style-type: none"> <li>• Law enforcement agencies, protective services workers or juvenile court personnel who are investigating reported incidents of abuse or neglect.</li> <li>• DSHS services personnel who are investigating the character and/or suitability of an agency, applicants for employment with such an agency, other persons under contract employed by an agency or persons directly responsible for the care and treatment of children, expectant mothers or adult developmentally disabled persons.</li> <li>• DSHS personnel who are investigating the character or suitability of any person with whom children may be placed under the interstate compact on the placement of children.</li> </ul>
<b>1982</b> RCW 26.44.020 and 26.44.030 and 26.44.060 and 26.44.080	<ul style="list-style-type: none"> <li>• <u>Clergy</u> replaces the term clergyman and is expanded to include Rabbi.</li> <li>• <u>Sexual Exploitation</u> is revised to "any person" allowing, permitting, or encouraging a child to engage in prostitution.</li> </ul>				<p>The report shall be made at the first opportunity, but in no case longer than 7 days after there is reasonable cause to believe that the child or adult has suffered abuse or neglect.</p>	<p><b>HOSPITAL REPORTING:</b>            Administrators of a hospital or similar institution or any physician may detain a child without consent of a person legally responsible for the child whether or not medical treatment is required.</p> <ul style="list-style-type: none"> <li>• Such administrator or physician shall notify or cause to be notified the appropriate law enforcement agency or protective services.</li> <li>• Such notification shall be made as soon as possible and in no case longer than seventy-two hours.</li> <li>• Child protective services may detain the child until the court assumes custody, but in no case longer than seventy-two hours, excluding Saturdays, Sundays, and holidays.</li> </ul>



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<b>1984</b> RCW 26.44.010	Adult Developmentally Disabled is revised to <u>Adult Dependent Persons</u> .					
<b>1985</b> RCW 26.44.030					<ul style="list-style-type: none"> <li>• The report should be made at the first opportunity, but in no case longer than 48 hours after there is reasonable cause to believe that the child or adult has suffered abuse or neglect.</li> <li>• DSHS, upon receiving a report of an incident of abuse or neglect shall report such incident in writing to the proper law enforcement.</li> <li>• The law enforcement in turn shall report such incident to the county prosecutor or city attorney.</li> <li>• Law enforcement shall notify DSHS of all reports received and their disposition.</li> <li>• Prosecutor or city attorney shall notify victim of decision to charge, or not to charge within 5 days of decision.</li> </ul>	<p><b>AGENCY NOTIFICATION:</b> The law enforcement agency shall also notify DSHS of all reports received and the law enforcement agency's disposition of them.</p> <ul style="list-style-type: none"> <li>• Any county prosecutor or city attorney receiving a report shall notify the victim, any persons the victim requests and the local office of DSHS, of the decision to charge or decline to charge a crime, within five days of making the decision.</li> <li>• If DSHS or law enforcement agency responds to a complaint of child abuse or neglect and discovers that another agency has also responded to the complaint, the agency shall notify the other agency of their presence, the agencies shall coordinate the investigation and keep each other apprised of progress.</li> <li>• DSHS, each law enforcement agency, each county prosecuting attorney, each city attorney and each court shall make as soon as practicable a written record and shall maintain records of all incidents of suspected child abuse reported to that person or agency.</li> <li>• The prosecuting attorney shall include in the annual report a section stating the number of child abuse reports received by the office and the number of cases where charges were filed.</li> <li>• Intent section amended: Children are the state's greatest resource, governmental authorities must give child abuse prevention, treatment, and punishment the highest priority. The heavy case load of authorities working in this area is recognized and information from reporting requirements will also be used to determine staffing levels.</li> </ul>

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<b>1986</b> RCW 26.44.030						<p><b>CASE PLANNING/CONSULTATION:</b>            DSHS may conduct ongoing case planning and consultation with those persons or agencies required to report under this section and with designated representatives of Washington Indian Tribes if the client information exchanged is pertinent to cases currently receiving child protection services or DSHS case services for the developmentally disabled.</p> <ul style="list-style-type: none"> <li>• Upon request, DSHS shall conduct such planning and consultation with those persons required to report under this section if DSHS determines it is in the best interests of the child or developmentally disabled person.</li> <li>• Information considered privileged by statute and not directly related to reports required by this section shall not be divulged without a valid written waiver of the privilege.</li> <li>• Persons or agencies exchanging information shall not further disseminate or release the information except as authorized by state or federal statute</li> </ul>

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<b>1987</b> RCW 26.44.030	<ul style="list-style-type: none"> <li>• <u>Practitioner</u> is expanded include a person licensed in the state to provide "<u>other health services</u>."</li> <li>• <u>Social Worker</u> is revised to <u>Social Service Counselor</u> and is expanded to include anyone engaged in a professional capacity during the regular course of employment including mental health, drug and alcohol treatment, and domestic violence programs.</li> <li>• <u>Developmentally Disabled Person</u> means a person who has a disability.</li> <li>• Developmentally Disabled Persons is added to the group protected by this law.</li> </ul>	Add social service counselor, licensed or certified child care providers or their employees, juvenile probation officer.	SHALL	<ul style="list-style-type: none"> <li>• Any case referred by a physician on the basis of expert medical opinion that abuse has occurred and that the child's safety will be seriously endangered, DSHS shall file a dependency petition unless a 2nd licensed physician of the parents' choice believes that such expert opinion is incorrect. If the parents do not select a 2nd physician DSHS may.</li> <li>• If the child is not in eminent danger and DSHS agrees with the physicians assessment the child may be left in the parents' home while DSHS proceeds to remedy parenting deficiencies.</li> </ul>	Upon receiving reports DSHS or law enforcement may interview children.	<ul style="list-style-type: none"> <li>• <b>RECORDS:</b> The law requiring DSHS to maintain a central registry of reported cases of child abuse is repealed.</li> <li>• DSHS shall have access to all relevant records of the child.</li> <li>• DSHS shall maintain investigation records, conduct timely and periodic reviews of cases, and keep a log of screened-out non-abusive cases.</li> <li>• DSHS shall use a risk assessment tool when investigating.</li> <li>• DSHS shall not decline child protective services solely because of the child's unwillingness or developmental inability to describe abuse or neglect.</li> <li>• Reasonable use of corporal punishment as a means of discipline is allowed.</li> <li>• No parent or guardian shall be deemed abusive or neglectful solely by reason of parents or child's blindness, deafness, developmental disability or other handicap.</li> </ul>
<b>1988</b> RCW 26.44.030 and 26.44.020					<ul style="list-style-type: none"> <li>• DSHS may conduct ongoing case planning and consultation with those persons or agencies required to report under this section with consultants designated by DSHS.</li> <li>• Upon receipt the law enforcement agency may arrange an interview with the person making the report and any collateral sources.</li> </ul>	A person who, intentionally and in bad faith or maliciously, knowingly makes a false report of abuse or neglect shall be guilty of a misdemeanor.

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<b>1989</b> RCW 26.44.030					<ul style="list-style-type: none"> <li>• In emergency cases DSHS shall notify the proper law enforcement agency within 24 hours after a report is received. In all other cases , DSHS shall notify the agency in 72 hours. If an oral report is made, a written report shall also be made within 5 days.</li> <li>• In an emergency the law enforcement agency shall notify DSHS within 24 hours. In all other cases the law enforcement agency will notify DSHS within 72 hours after a report is received.</li> </ul>	
<b>1991</b> RCW 26.44.030					The report shall include the identity of the accused if known.	The identity does not have to be included if the discovery of abuse and neglect that occurred during childhood is discovered after the child has become an adult, but if it is reasonable to believe other children may be at risk, then the identity requirement applies.

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<p><b>1993</b> RCW 26.44.030 and 26.44.020</p>	<ul style="list-style-type: none"> <li>• <u>Podiatry</u> is replaced with podiatric medicine and surgery.</li> <li>• <u>Sexually Aggressive Youth</u> means a child who is defined as being a "sexually aggressive youth."</li> <li>• <u>Severe Abuse</u> 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, significant external or internal swelling, bone fracture, or unconsciousness.</li> </ul>	<p>A reporting requirement shall apply to any adult who has cause to believe that a child or adult dependent or developmentally disabled person, who resides with them has suffered severe abuse, and is able or capable of making a report.</p>	<p>SHALL</p>	<ul style="list-style-type: none"> <li>• If a law enforcement agency receives a complaint that alleges a child under the age of 12 has committed a sex offense, the agency shall investigate the complaint.</li> <li>• If the investigation shows probable cause exists that the youth may have committed a sex offense and the child is at least 8 years of age, the agency shall refer the case to the proper county prosecuting attorney for appropriate action.</li> <li>• If the child is less than 8 years old, the law enforcement agency shall refer the case to DSHS.</li> <li>• Nothing in this section shall affect the responsibility of a law enforcement agency to report incidents of abuse or neglect.</li> </ul>		<p><b>SEXUALLY AGGRESSIVE YOUTH:</b> If the prosecutor or judge determines the child cannot be prosecuted for the alleged sex offense because the child is incapable of committing a crime, and the prosecutor believes that there is probable cause that the child has committed acts that could be prosecuted as a sex offense, the prosecutor shall refer the child as a sexually aggressive youth to DSHS.</p> <ul style="list-style-type: none"> <li>• The prosecutor shall provide DSHS with an affidavit stating the juvenile has committed acts that could be prosecuted as a sex offense, but the case is not being prosecuted because the juvenile is incapable of committing a crime.</li> <li>• DSHS shall investigate any referrals that allege that a child is a sexually aggressive youth. DSHS may offer appropriate available services and treatment for sexually aggressive youth and his or her parents or legal guardians.</li> <li>• If the parents refuse to accept or fail to obtain appropriate treatment or services under circumstances that indicate that the refusal or failure is child abuse or neglect, DSHS may pursue dependency action.</li> </ul> <p><b>RISK ASSESSMENT:</b> DSHS shall present the risk factors from the risk assessment process at all hearings in which placement of a dependent child is an issue.</p> <ul style="list-style-type: none"> <li>• DSHS shall provide annual reports to the appropriate committees of the senate and house of representatives on the effectiveness of the risk assessment process.</li> </ul>

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<b>1995</b> RCW 26.44.030		<ul style="list-style-type: none"> <li>• County Coroner or Medical Examiner</li> <li>• Law Enforcement Officer</li> </ul>	SHALL			
<b>1996</b> RCW 26.44.030		Department of Corrections Personnel	SHALL			