

Chief Judge David G. Estudillo

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

PAUL D. ETIENNE, JOSEPH J. TYSON,
THOMAS A. DALY, FRANK R.
SCHUSTER, EUSEBIO L. ELIZONDO,
GARY F. LAZZERONI, GARY M.
ZENDER, ROBERT PEARSON,
LUTAKOMA NSUBUGA, JESUS
MARISCAL, and MICHAEL KELLY,

Plaintiffs,

vs.

ROBERT FERGUSON, in his official
capacity as Governor of the State of
Washington, *et al.*,

Defendants.

UNITED STATES OF AMERICA,

Plaintiff-Intervenor,

vs.

STATE OF WASHINGTON,

Defendant.

Case No. 3:25-cv-5461-DGE

**UNITED STATES OF AMERICA'S
COMPLAINT IN INTERVENTION**

The United States of America, by and through its undersigned counsel, brings this complaint in intervention for declaratory and injunctive relief, and alleges as follows:

I.

PRELIMINARY STATEMENT

1. This action challenges the constitutionality of a new Washington state law, known as “Senate Bill 5375” (“SB 5375”), which takes effect July 27, 2025. (*See* Exhibit 1.) This legislation, signed on May 2, 2025, by Washington State Governor Bob Ferguson, unlawfully targets clergy and, specifically, Catholic priests,¹ in violation of their fundamental right to freely exercise their religious beliefs guaranteed by the First and Fourteenth Amendments of the U.S. Constitution.

2. The Sacrament of Penance and Reconciliation, also known as Confession, is one of the seven Holy Sacraments of the Catholic Church. It is a sacred rite with roots that can be traced back to the origins of Catholicism.

3. During Confession, penitent Catholics confess aloud their sins to a Catholic priest, asking God for forgiveness, and as he performs his apostolic duties in hearing the Confession, the Catholic priest provides absolution to the penitent.

4. The seal of confidentiality is, therefore, the lifeblood of Confession. Without it, the free exercise of the Catholic religion, *i.e.*, the apostolic duties performed by the Catholic priest to the benefit of Catholic parishioners, cannot take place.

¹ SB 5375 has been widely criticized for attacking the sacred rite of Confession. *See* “Washington State Attacks the Seal of Confession,” *National Catholic Register*, May 7, 2025, <https://www.ncregister.com/commentaries/washington-state-attacks-the-seal-of-confession>. It has also been reported that SB 5375 is “forcing priests to choose between ecclesial and secular authority, as Washington’s bishops say that priests who violate the seal of confession will incur an automatic (*latae sententiae*) excommunication.” *See* Connor Hartigan, “State laws require priests to disclose abuse revealed in confession,” *America Magazine: The Jesuit Review of Law and Culture*, May 12, 2025, <https://www.americamagazine.org/faith/2025/05/12/seal-confession-law-washington-separation-church-state-250618>.

5. By design, SB 5375 directly interferes with and substantially burdens this sacred rite. It adds “any member of the clergy,” which expressly includes Catholic priests, as individuals who must report information relating to suspected child abuse or neglect to state officials or law enforcement. The failure to do so subjects priests to criminal penalties and civil liability. Although Washington, like every other state, recognizes a privilege for Confession and other confidential religious communications, SB 5375 strips Catholic priests of their ability to rely on this or any other legal privilege as a defense to reporting suspected abuse or neglect. Thus, to comply with SB 5375, Catholic priests must disclose information even when it has been obtained solely through the sacred rite of Confession.

6. Yet complying with SB 5375 under these circumstances would place Catholic priests fundamentally at odds with the core tenets and beliefs of their religion, and even prohibit them from continuing to serve as priests in the Catholic church. Under Catholic canon law, priests are “prohibited completely from using knowledge acquired from confession to the detriment of the penitent even when any danger of revelation is excluded.” *Codex Iuris Canonici* c.984 § 1 (1983).² Thus, “every priest who hears confessions is bound under very severe penalties to keep absolute secrecy regarding the sins that his penitents have confessed to him. He can make no use of knowledge that confession gives him about penitents’ lives.” *Catechism of the Catholic Church* § 1467.³ The punishment for directly violating the sacramental seal of Confession is excommunication. *Codes Iuris Canonici* c.1386, § 1. A more direct burden on the exercise of religion would be difficult to imagine.

7. SB 5375 directly interferes with the fundamental right of Catholic priests to freely exercise their religion by forcing them to violate the sanctity and confidentiality of confessional communications. No other mandatory reporter is required to forego his or her fundamental rights under the Constitution in this manner. Furthermore, a second provision of this bill expressly strips “clergy,” and no one else, from relying on *any* legal privileges, including the confessional privilege, as a defense

² Available at: https://www.vatican.va/archive/cod-iuris-canonici/cic_index_en.html.

³ Available at: https://www.vatican.va/archive/ENG0015/_INDEX.HTM.

1 to reporting child abuse and neglect. All non-religious “supervisors” may continue to rely on applicable
2 state law privileges.

3 8. In addition, at about the same time SB 5375 was enacted to deprive Catholic priests of
4 their privileges under state law, Governor Ferguson signed another bill into law, Substitute House Bill
5 1171 (“SHB 1171”) (attached as Exhibit 2), which *restored* legal privileges to attorneys who are
6 mandatory reporters because they happen to work for colleges and universities, including at law school
7 clinics.

8 9. The United States does not challenge the inclusion of priests as mandatory reporters *per*
9 *se*. Outside of Confession, Catholic priests are trained to be mandatory reporters and frequently report
10 child abuse and neglect, including in their capacities as teachers, counselors, colleagues, and friends.
11 For example, in testimony on SB 5375 before the Senate Human Services Committee, Bishop Frank
12 Schuster of the Seattle Archdiocese testified that he was, in fact, a mandatory reporter for a minor who
13 came to him for counseling regarding a relationship with an adult. Bishop Schuster testified that, after
14 hearing the boy’s story, he immediately called the police and the boy’s parents. Bishop Schuster also
15 referred to the Charter for the Protection of Children and Young People, otherwise known as the Dallas
16 Charter, which was passed in response to the allegations of sexual abuse of minors by Catholic clergy.
17 The Dallas Charter sets forth comprehensive measures to protect children from sexual abuse, including a
18 requirement that priests report allegations of abuse to law enforcement, except when obtained through
19 Confession.⁴

20 10. Preserving the sacramental seal of Confession does not inhibit a priest from promoting
21 justice and safety. Confession is an opportunity for priests to encourage perpetrators to turn themselves

22 ⁴ See U.S. Conf. of Catholic Bishops, *Promise to Protect/Pledge to Heal: Charter for the*
23 *Protection of Children and Young People* 10 (June 2018) (“Dioceses/eparchies are to report an
24 allegation of sexual abuse of a person who is a minor to the public authorities with due regard for the
25 Sacrament of Penance. Diocesan/eparchial personnel are to comply with all applicable civil laws with
26 respect to the reporting of allegations of sexual abuse of minors to civil authorities and cooperate in their
investigation in accord with the law of the jurisdiction in question.”), *available at*:
[https://www.usccb.org/resources/Charter-for-the-Protection-of-Children-and-Young-People-2018-
final%281%29.pdf](https://www.usccb.org/resources/Charter-for-the-Protection-of-Children-and-Young-People-2018-final%281%29.pdf).

in, and to counsel victims on finding a safe adult to whom to report. Confession may also allow priests to provide referrals or assistance to parents or caregivers who confess to circumstances amounting to “neglect” that arise from, for example, the lack of adequate child care, food, or medical assistance in the home. SB 5375 will therefore have a chilling effect on thousands of Catholic priests and parishioners alike, who may be uncertain as to whether administering and adhering to the mandatory Sacrament of Penance will subject them to criminal penalties, child welfare investigations, civil liability, or excommunication. Given these new risks, penitents will be less likely to express themselves during Confession, preventing them from securing assistance for their families.

11. As described in more detail herein, SB 5375 violates the Equal Protection Clause of the Fourteenth Amendment, as follows:

- a. *First*, SB 5375 deprives Catholic priests of their fundamental right to freely exercise their religious beliefs, as guaranteed under the First Amendment. It does so by conditioning compliance on forcing priests to betray their sacred duty to maintain the confidentiality of confessional communications and thereby face excommunication from the Catholic Church. SB 5375 is not neutral or generally applicable because it expressly targets religious actors and, by design, compels Catholic priests to reveal information obtained through Confession. Although other mandatory reporters must also reveal privileged communications, they do not face this significant violation of their fundamental rights and liberties protected under the Constitution.
- b. *Second*, SB 5375 treats members of the clergy, including Catholic priests, less favorably than other individuals. It does so by revoking state legal privileges for “members of the clergy,” and no one else, with respect to reporting abuse committed by individuals they supervise. At the same time, SHB 1171 *restores* legal privileges to secular mandatory reporters, *i.e.*, attorneys who work for colleges and universities.

12. Because SB 5375 violates fundamental rights and discriminates based on a suspect class, *i.e.*, religion, it is subject to strict scrutiny, which it cannot survive because it is not narrowly tailored to achieve a compelling governmental interest.

13. The United States accordingly files this Complaint in Intervention to vindicate its sovereign and other interests in enforcing the Constitution's guarantee of equal protection of the laws with respect to religion.

II.

JURISDICTION AND VENUE

14. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331 and 1345.

15. This case seeks relief from the denial of equal protection of the laws under the Fourteenth Amendment on account of religion. *See* Compl. ¶¶ 151-153, ECF No. 1. The Attorney General of the United States has certified that this case is of general public importance. *See* U.S. Mot. Intervene Ex. 2. Accordingly, the United States may intervene as of right in this action under 42 U.S.C. § 2000h-2 and Federal Rule of Civil Procedure 24(a)(1). The United States may also intervene as of right under Federal Rule of Civil Procedure 24(a)(2).

16. Venue is proper under 28 U.S.C. § 1391(b) because a substantial part of the acts or omissions giving rise to this action occurred within this district.

17. The Court may issue declaratory relief under 28 U.S.C. § 2201 and Federal Rule of Civil Procedure 57, and injunctive relief under 28 U.S.C. § 2202 and Federal Rule of Civil Procedure 65.

III.

PARTIES

18. Plaintiff-Intervenor is the United States of America.

19. Defendant, the State of Washington, is a State of the United States of America. The State of Washington includes all of its officers, employees, and agents responsible for enforcing SB 5375, including the state's Governor, Bob Ferguson.

IV.

FACTUAL BACKGROUND**THE CATHOLIC SACRAMENT OF PENANCE AND RECONCILIATION**

20. The Sacrament of Penance and Reconciliation, commonly referred to as Confession, is one of the seven Holy Sacraments of the Catholic religion and, therefore, a critical practice of religious exercise. Under this sacrament, “the faithful ... confess their sins to a legitimate minister,” which “constitute the only ordinary means by which a member of the faithful ... is reconciled with God and the Church.” Codex Iuris Canonici c.959-60.

21. According to Catechism, “[t]he Sacrament of Penance involves a conversion of our hearts to God, a confession of sins to a priest, the forgiveness of our sins, a penance to make some amends for sin, and reconciliation with God and the Church.” U.S. Conf. of Catholic Bishops, *U.S. Catholic Catechism for Adults* 264 (2006).

22. The sacrament of Confession can be traced back to the origins of the Catholic Church and is rooted in scripture. *See e.g., 1 John* 1:9 (New American Bible) (“But if we acknowledge our sins, he who is just can be trusted to forgive our sins and cleanse us from every wrong.”); *see also John* 20:21–23 (New American Bible, St. Joseph Ed.) (“As the Father has sent me, so I send you. . . . Receive the Holy Spirit. If you forgive men’s sins, they are forgiven them; *if you hold them bound, they are held bound.*”) (emphasis added).

23. Catholics are required to go to Confession “at least once a year.” Codex Iuris Canonici c.989. Priests must allow parishioners to confess anonymously by either using “confessionals with a fixed grate between the penitent and the confessor,” or hearing them “outside of a confessional with a just cause.” *Id.* c.964 §§ 2-3.

24. Strict confidentiality between the Catholic priest and the penitent during Confession is essential for the full expression of this rite, during which the priest may impose a penance and offer the absolution of sin.

25. “The sacramental seal is inviolable; therefore, it is absolutely forbidden for a confessor [priest] to betray in any way a penitent in words or in any manner and for any reason.” *Id.* c.983, § 1. Priests are “prohibited completely from using knowledge acquired from confession to the detriment of the penitent even when any danger of revelation is excluded.” *Id.* c.984 § 1. Thus, “every priest who hears confessions is bound under very severe penalties to keep absolute secrecy regarding the sins that his penitents have confessed to him. He can make no use of knowledge that confession gives him about penitents’ lives.” *Catechism of the Catholic Church* § 1467.

26. The *automatic* penalty for violating confidentiality of Confession is excommunication from the Catholic Church. “A confessor who directly violates the seal of confession incurs an automatic (*latae sententiae*) excommunication reserved to the Apostolic See.” Codes Iuris Canonici c.1386, § 1.

27. Accordingly, if a Catholic priest reveals information he learns during Confession, he is no longer a Catholic priest, he is removed from the Catholic Church, and he is excluded from participating in the sacraments of the Catholic Church.

WASHINGTON STATE SENATE BILL 5375

28. SB 5375 is an amendment to Washington’s mandatory reporting law for suspected child abuse and neglect. *See* Wash. Rev. Code § 26.44.030. Section 1 of SB 5375 adds a definition of “member of the clergy” that expressly includes “any ... priest” who “perform[s] official duties that are recognized ... under the discipline, tenets, doctrine, or custom of the person’s church, religious denomination, [or] religious body[.]” Section 2 adds “members of the clergy” to the law’s existing list of mandatory reporters. *See* Wash. Rev. Code § 26.44.030(1)(a).

29. Adding Catholic priests as mandatory reporters imposes significant legal obligations and consequences on them. They must report any suspected child abuse and neglect, regardless of the source, “at the first opportunity, but in no case longer than” 48 hours after learning the information and include “the identity of the accused if known.” *Id.* § 26.44.030(1)(g). A priest who fails to report suspected abuse or neglect within this time frame is guilty of a “gross misdemeanor,” *id.* § 26.44.080,

1 which is punishable by up to 364 days in jail and/or a \$5,000 fine. *Id.* § 9.92.020. Catholic priests who
 2 fail to comply with their mandatory reporting duties may also be exposed to civil liability.

3 30. Washington, like every other state, recognizes a privilege for confidential religious
 4 communications, including communications made during Confession. *Id.* § 5.60.060(3). However, as
 5 mandatory reporters under Section § 26.44.030(1)(a), Catholic priests may not rely on this privilege as a
 6 defense to failure to report. They must therefore disclose any information they receive in Confession
 7 that provides “reasonable cause” of abuse or neglect.

8 31. This was not inadvertent but was, in fact, SB 5375’s express design and intent. Senator
 9 Noel Frame, who introduced the bill, stated, “The Legislature has a duty to act and end the cycles of
 10 abuse that can repeat generation after generation. When kids ask for help, we need to be sure that they
 11 get help. It’s time to pass this bill once and for all.”⁵

12 32. Senator Leonard Christian introduced an amendment to SB 5375 that would have
 13 exempted statements made during Confession. Under this amendment, “[a] member of the clergy, to the
 14 extent the member of the clergy believes necessary, shall reveal information relating to a privileged
 15 communication from a penitent to prevent reasonably certain death or substantial bodily harm.” *See* S.
 16 Amend. 71 to SB 5375 (attached as Exhibit 3).

17 33. Senator Christian’s amendment mirrored the language of SHB 1171, which the Governor
 18 signed into law only three days before signing SB 5375. Unlike SB 5375, which stripped clergy of their
 19 legal privileges, SHB 1171 *restored* legal privileges for attorneys who were mandatory reporters of child
 20 abuse and neglect because of their employment with colleges and universities. Although attorneys are
 21 not mandatory reporters *per se*, law professors, clinical law instructors or students, or in-house counsel
 22 at colleges and universities were covered as mandatory reporters as “employees” of “institutions of
 23

24 ⁵ *See* Mitchell Roland, “Bill to Designate Clergy as Mandatory Reporters of Abuse Clears
 25 Washington Senate,” *The Spokesman-Review* (Mar. 21, 2025),
 26 <https://www.spokesman.com/stories/2025/mar/04/bill-to-designate-clergy-as-mandatory-reporters-of>.

higher education.” *See* Wash. Rev. Code § 26.44.030(1)(f). They were therefore required to report child abuse and neglect even when learned through privileged attorney-client communications. SHB 1171 corrected this problem by exempting attorneys from having to report any “information related to the representation of a client,” except when necessary to “prevent reasonably certain death or substantial bodily harm.”

34. The Legislature enacted SHB 1171’s reporting exemption for attorneys based on legal privileges, but voted down Senator Christian’s substantially identical exception for Catholic priests and other clergy.

35. Another provision of SB 5375 strips “members of the clergy,” and no one else, of the ability to rely on state-law privileges as a defense to reporting suspected abuse and neglect “caused by a person over whom he or she regularly exercises supervisory authority[.]” *See* Wash. Rev. Code § 26.44.030(1)(b). It does so by adding the clause, “Except for members of the clergy” before the phrase “no one shall be required to report under this section when he or she obtains the information solely as a result of a privileged communication” under state law. *See id.*

36. These privileges include not only the confessional privilege in Wash. Rev. Code § 5.60.060(3), but also any other state-law privileges that might apply to priests in their roles as supervisors. Thus, for example, if a priest learned of possible abuse or neglect of a child through an investigation conducted by the church’s legal counsel, this information would trigger the priest’s mandatory reporting obligations even though the information would otherwise be protected by attorney-client privilege. By contrast, a supervisor who is not a “member of the clergy” may continue to rely on such privileges as a defense to mandatory reporting.

37. Accordingly, SB 5375 by its terms treats individuals differently based on their religion by removing applicable legal protections only for “clergy.”

38. Requiring Catholic priests to break the confidentiality of Confession creates a chilling effect on both priests and adherents in their willingness to adhere to the sacred rite of Confession.

Although much of the debate over SB 5375 centered on preventing physical or sexual abuse of children, its scope is much broader. Under Washington’s mandatory reporting law, “abuse and neglect” includes “negligent treatment or maltreatment of a child” by a parent or caregiver. Wash. Rev. Code § 26.44.020(1). “Negligent treatment or maltreatment,” in turn, “means an act or a failure to act, or the cumulative effects of a pattern of conduct, behavior, or inaction, that evidences a serious disregard of consequences of such magnitude as to constitute a clear and present danger to a child’s health, welfare, or safety[.]” *Id.* § 26.44.020(19). SB 5375’s chilling effect may therefore extend to all Catholics based on their fear and uncertainty that any confession that revealed, for example, a lack of adequate child care or medical care could, in practice, be interpreted by priests to constitute “neglect” and result in a child welfare investigation and potential dependency action.

V.

CAUSE OF ACTION

Violation of the Equal Protection Clause of the U.S. Constitution, Amendment XIV

39. The United States re-pleads the preceding paragraphs and incorporates them herein by reference.

40. Section 1 of the Fourteenth Amendment provides, *inter alia*, that States shall not “deny to any person within its jurisdiction the equal protection of the laws.”

41. The Equal Protection Clause prohibits States from making or enacting classifications that “invade or restrain” the fundamental rights and liberties of its citizens, including the free exercise of religion under the First Amendment, unless such classifications are narrowly tailored to achieving a compelling governmental interest. *See Harper v. Va. State Bd. of Elections*, 383 U.S. 663, 670 (1966); *Plyler v. Doe*, 457 U.S. 202, 216-17 (1982) (under Equal Protection Clause, classifications “that impinge upon the exercise of a fundamental right” are “presumptively invidious”); *Nunez v. City of San Diego*, 114 F.3d 935, 944 (9th Cir. 1997) (same). “Unquestionably, the free exercise of religion is a fundamental constitutional right.” *Johnson v. Robison*, 415 U.S. 361, 375 n.14 (1974); *accord Ashaheed*

1 *v. Currington*, 7 F.4th 1236, 1250 (10th Cir. 2021) (finding “equal protection claim trigger[ed] strict
2 scrutiny because it alleged . . . a deprivation of free exercise, a fundamental right”).

3 42. SB 5375 targets, invades, restrains, and substantially burdens the fundamental rights of
4 Catholic priests to freely exercise their religion, as protected by the First Amendment’s Free Exercise
5 Clause, by forcing them to violate their sacred vow of confidentiality for information learned through
6 Confession.

7 43. SB 5375 specifically targets members of the clergy and is not a neutral, generally
8 applicable law that incidentally burdens religion.

9 44. The Equal Protection Clause also prohibits States from enacting classifications that are
10 based on a suspect class, including religious classifications, unless they are narrowly tailored to
11 achieving a compelling governmental interest. *See Ball v. Massanari*, 254 F.3d 817, 823 (9th Cir.
12 2001); *Al Saud v. Days*, 50 F.4th 705, 709–10 (9th Cir. 2022).

13 45. SB 5375 treats religious actors, including, in particular, Catholic priests, less favorably
14 than non-religious actors.

15 46. Because SB 5375 both infringes upon fundamental rights and is based on a suspect
16 classification, it is subject to strict scrutiny.

17 47. SB 5375 cannot survive strict scrutiny because it is not narrowly tailored or substantially
18 related to achieving a compelling governmental interest.

19 48. SB 5375 accordingly violates the Equal Protection Clause.

20 49. Legal remedies are inadequate to protect the United States’ interests in preventing the
21 constitutional violations described above, thereby rendering equitable relief appropriate.

VI.

PRAYER FOR RELIEF

WHEREFORE, the United States respectfully requests the following relief:

- a. A declaration that SB 5375 violates the rights of Catholic priests who are bound by the Sacramental Seal of Confession under the Equal Protection Clause of the Fourteenth Amendment as stated above;
- b. Preliminary and permanently enjoin the State of Washington, including all of its officers, employees, agents, and anyone working on their behalf, from enforcing SB 5375 against Catholic priests, who, consistent with their religious exercise and beliefs, refuse to disclose information obtained during the Sacramental Seal of Confession that would otherwise be required to be reported under SB 5375; and
- c. All other relief as the needs of justice may require.

1 Dated: July 15, 2025

2 Respectfully submitted,

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Exhibit 1

S-0471.1

SENATE BILL 5375

State of Washington

69th Legislature

2025 Regular Session

By Senators Frame, C. Wilson, Bateman, Dhingra, Nobles, and Valdez

Read first time 01/20/25. Referred to Committee on Human Services.

1 AN ACT Relating to the duty of clergy to report child abuse and
2 neglect; and amending RCW 26.44.020 and 26.44.030.

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

4 **Sec. 1.** RCW 26.44.020 and 2024 c 298 s 5 are each amended to
5 read as follows:

6 The definitions in this section apply throughout this chapter
7 unless the context clearly requires otherwise.

8 (1) "Abuse or neglect" means sexual abuse, sexual exploitation,
9 female genital mutilation as defined in RCW 18.130.460, trafficking
10 as described in RCW 9A.40.100, sex trafficking or severe forms of
11 trafficking in persons under the trafficking victims protection act
12 of 2000, 22 U.S.C. Sec. 7101 et seq., or injury of a child by any
13 person under circumstances which cause harm to the child's health,
14 welfare, or safety, excluding conduct permitted under RCW 9A.16.100;
15 or the negligent treatment or maltreatment of a child by a person
16 responsible for or providing care to the child. An abused child is a
17 child who has been subjected to child abuse or neglect as defined in
18 this section.

19 (2) "Child" or "children" means any person under the age of
20 ((eighteen)) 18 years of age.

1 (3) "Child forensic interview" means a developmentally sensitive
2 and legally sound method of gathering factual information regarding
3 allegations of child abuse, child neglect, or exposure to violence.
4 This interview is conducted by a competently trained, neutral
5 professional utilizing techniques informed by research and best
6 practice as part of a larger investigative process.

7 (4) "Child protective services" means those services provided by
8 the department designed to protect children from child abuse and
9 neglect and safeguard such children from future abuse and neglect,
10 and conduct investigations of child abuse and neglect reports.
11 Investigations may be conducted regardless of the location of the
12 alleged abuse or neglect. Child protective services includes referral
13 to services to ameliorate conditions that endanger the welfare of
14 children, the coordination of necessary programs and services
15 relevant to the prevention, intervention, and treatment of child
16 abuse and neglect, and services to children to ensure that each child
17 has a permanent home. In determining whether protective services
18 should be provided, the department shall not decline to provide such
19 services solely because of the child's unwillingness or developmental
20 inability to describe the nature and severity of the abuse or
21 neglect.

22 (5) "Child protective services section" means the child
23 protective services section of the department.

24 (6) "Child who is a candidate for foster care" means a child who
25 the department identifies as being at imminent risk of entering
26 foster care but who can remain safely in the child's home or in a
27 kinship placement as long as services or programs that are necessary
28 to prevent entry of the child into foster care are provided, and
29 includes but is not limited to a child whose adoption or guardianship
30 arrangement is at risk of a disruption or dissolution that would
31 result in a foster care placement. The term includes a child for whom
32 there is reasonable cause to believe that any of the following
33 circumstances exist:

34 (a) The child has been abandoned by the parent as defined in RCW
35 13.34.030 and the child's health, safety, and welfare is seriously
36 endangered as a result;

37 (b) The child has been abused or neglected as defined in this
38 chapter and the child's health, safety, and welfare is seriously
39 endangered as a result;

(c) There is no parent capable of meeting the child's needs such that the child is in circumstances that constitute a serious danger to the child's development;

(d) The child is otherwise at imminent risk of harm.

(7) "Children's advocacy center" means a child-focused facility in good standing with the state chapter for children's advocacy centers and that coordinates a multidisciplinary process for the investigation, prosecution, and treatment of sexual and other types of child abuse. Children's advocacy centers provide a location for forensic interviews and coordinate access to services such as, but not limited to, medical evaluations, advocacy, therapy, and case review by multidisciplinary teams within the context of county protocols as defined in RCW 26.44.180 and 26.44.185.

~~(8) ("Clergy" means any regularly licensed or ordained minister, priest, or rabbi of any church or religious denomination, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.~~

~~(9))~~ "Court" means the superior court of the state of Washington, juvenile department.

~~((10))~~ (9) "Department" means the department of children, youth, and families.

~~((11))~~ (10) "Experiencing homelessness" means lacking a fixed, regular, and adequate nighttime residence, including circumstances such as sharing the housing of other persons due to loss of housing, economic hardship, fleeing domestic violence, or a similar reason as described in the federal McKinney-Vento homeless assistance act (Title 42 U.S.C., chapter 119, subchapter I) as it existed on January 1, 2021.

~~((12))~~ (11) "Family assessment" means a comprehensive assessment of child safety, risk of subsequent child abuse or neglect, and family strengths and needs that is applied to a child abuse or neglect report. Family assessment does not include a determination as to whether child abuse or neglect occurred, but does determine the need for services to address the safety of the child and the risk of subsequent maltreatment.

~~((13))~~ (12) "Family assessment response" means a way of responding to certain reports of child abuse or neglect made under this chapter using a differential response approach to child protective services. The family assessment response shall focus on the safety of the child, the integrity and preservation of the

1 family, and shall assess the status of the child and the family in
2 terms of risk of abuse and neglect including the parent's or
3 guardian's or other caretaker's capacity and willingness to protect
4 the child and, if necessary, plan and arrange the provision of
5 services to reduce the risk and otherwise support the family. No one
6 is named as a perpetrator, and no investigative finding is entered in
7 the record as a result of a family assessment.

8 ~~((14))~~ (13) "Founded" means the determination following an
9 investigation by the department that, based on available information,
10 it is more likely than not that child abuse or neglect did occur.

11 ~~((15))~~ (14) "Inconclusive" means the determination following an
12 investigation by the department of social and health services, prior
13 to October 1, 2008, that based on available information a decision
14 cannot be made that more likely than not, child abuse or neglect did
15 or did not occur.

16 ~~((16))~~ (15) "Institution" means a private or public hospital or
17 any other facility providing medical diagnosis, treatment, or care.

18 ~~((17))~~ (16) "Law enforcement agency" means the police
19 department, the prosecuting attorney, the state patrol, the director
20 of public safety, or the office of the sheriff.

21 ~~((18))~~ (17) "Malice" or "maliciously" means an intent, wish, or
22 design to intimidate, annoy, or injure another person. Such malice
23 may be inferred from an act done in willful disregard of the rights
24 of another, or an act wrongfully done without just cause or excuse,
25 or an act or omission of duty betraying a willful disregard of social
26 duty.

27 (18) "Member of the clergy" means any regularly licensed,
28 accredited, or ordained minister, priest, rabbi, imam, elder, or
29 similarly situated religious or spiritual leader of any church,
30 religious denomination, religious body, spiritual community, or sect,
31 or person performing official duties that are recognized as the
32 duties of a member of the clergy under the discipline, tenets,
33 doctrine, or custom of the person's church, religious denomination,
34 religious body, spiritual community, or sect, whether acting in an
35 individual capacity or as an employee, agent, or official of any
36 public or private organization or institution.

37 (19) "Negligent treatment or maltreatment" means an act or a
38 failure to act, or the cumulative effects of a pattern of conduct,
39 behavior, or inaction, that evidences a serious disregard of
40 consequences of such magnitude as to constitute a clear and present

1 danger to a child's health, welfare, or safety, including but not
2 limited to conduct prohibited under RCW 9A.42.100. When considering
3 whether a clear and present danger exists, evidence of a parent's
4 substance abuse as a contributing factor to negligent treatment or
5 maltreatment shall be given great weight. The fact that siblings
6 share a bedroom is not, in and of itself, negligent treatment or
7 maltreatment. Poverty, experiencing homelessness, or exposure to
8 domestic violence as defined in RCW 7.105.010 that is perpetrated
9 against someone other than the child does not constitute negligent
10 treatment or maltreatment in and of itself.

11 (20) "Pharmacist" means any registered pharmacist under chapter
12 18.64 RCW, whether acting in an individual capacity or as an employee
13 or agent of any public or private organization or institution.

14 (21) "Practitioner of the healing arts" or "practitioner" means a
15 person licensed by this state to practice podiatric medicine and
16 surgery, optometry, chiropractic, nursing, dentistry, osteopathic
17 medicine and surgery, or medicine and surgery or to provide other
18 health services. The term "practitioner" includes a duly accredited
19 Christian Science practitioner. A person who is being furnished
20 Christian Science treatment by a duly accredited Christian Science
21 practitioner will not be considered, for that reason alone, a
22 neglected person for the purposes of this chapter.

23 (22) "Prevention and family services and programs" means specific
24 mental health prevention and treatment services, substance abuse
25 prevention and treatment services, and in-home parent skill-based
26 programs that qualify for federal funding under the federal family
27 first prevention services act, P.L. 115-123. For purposes of this
28 chapter, prevention and family services and programs are not remedial
29 services or family reunification services as described in RCW
30 13.34.025(2).

31 (23) "Professional school personnel" include, but are not limited
32 to, teachers, counselors, administrators, child care facility
33 personnel, and school nurses.

34 (24) "Psychologist" means any person licensed to practice
35 psychology under chapter 18.83 RCW, whether acting in an individual
36 capacity or as an employee or agent of any public or private
37 organization or institution.

38 (25) "Screened-out report" means a report of alleged child abuse
39 or neglect that the department has determined does not rise to the

1 level of a credible report of abuse or neglect and is not referred
2 for investigation.

3 (26) "Sexual exploitation" includes: (a) Allowing, permitting, or
4 encouraging a child to engage in prostitution by any person; or (b)
5 allowing, permitting, encouraging, or engaging in the obscene or
6 pornographic photographing, filming, or depicting of a child by any
7 person.

8 (27) "Sexually aggressive youth" means a child who is defined in
9 RCW 74.13.075(1)(b) as being a sexually aggressive youth.

10 (28) "Social service counselor" means anyone engaged in a
11 professional capacity during the regular course of employment in
12 encouraging or promoting the health, welfare, support, or education
13 of children, or providing social services to adults or families,
14 including mental health, drug and alcohol treatment, and domestic
15 violence programs, whether in an individual capacity, or as an
16 employee or agent of any public or private organization or
17 institution.

18 (29) "Unfounded" means the determination following an
19 investigation by the department that available information indicates
20 that, more likely than not, child abuse or neglect did not occur, or
21 that there is insufficient evidence for the department to determine
22 whether the alleged child abuse did or did not occur.

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

25 (1)(a) When any member of the clergy, practitioner, county
26 coroner or medical examiner, law enforcement officer, professional
27 school personnel, registered or licensed nurse, social service
28 counselor, psychologist, pharmacist, employee of the department of
29 children, youth, and families, licensed or certified child care
30 providers or their employees, employee of the department of social
31 and health services, juvenile probation officer, diversion unit
32 staff, placement and liaison specialist, responsible living skills
33 program staff, HOPE center staff, state family and children's ombuds
34 or any volunteer in the ombuds' office, or host home program has
35 reasonable cause to believe that a child has suffered abuse or
36 neglect, he or she shall report such incident, or cause a report to
37 be made, to the proper law enforcement agency or to the department as
38 provided in RCW 26.44.040.

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

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

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

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

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

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

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

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

(c) The reporting requirement also applies to department of corrections personnel who, in the course of their employment, observe

1 offenders or the children with whom the offenders are in contact. If,
2 as a result of observations or information received in the course of
3 his or her employment, any department of corrections personnel has
4 reasonable cause to believe that a child has suffered abuse or
5 neglect, he or she shall report the incident, or cause a report to be
6 made, to the proper law enforcement agency or to the department as
7 provided in RCW 26.44.040.

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

19 (e) The reporting requirement also applies to guardians ad litem,
20 including court-appointed special advocates, appointed under Titles
21 11 and 13 RCW and this title, who in the course of their
22 representation of children in these actions have reasonable cause to
23 believe a child has been abused or neglected.

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

29 (g) The report must be made at the first opportunity, but in no
30 case longer than ~~((forty-eight))~~ 48 hours after there is reasonable
31 cause to believe that the child has suffered abuse or neglect. The
32 report must include the identity of the accused if known.

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

1 (3) Any other person who has reasonable cause to believe that a
2 child has suffered abuse or neglect may report such incident to the
3 proper law enforcement agency or to the department as provided in RCW
4 26.44.040.

5 (4) The department, upon receiving a report of an incident of
6 alleged abuse or neglect pursuant to this chapter, involving a child
7 who has died or has had physical injury or injuries inflicted upon
8 him or her other than by accidental means or who has been subjected
9 to alleged sexual abuse, shall report such incident to the proper law
10 enforcement agency, including military law enforcement, if
11 appropriate. In emergency cases, where the child's welfare is
12 endangered, the department shall notify the proper law enforcement
13 agency within (~~((twenty-four))~~) 24 hours after a report is received by
14 the department. In all other cases, the department shall notify the
15 law enforcement agency within (~~((seventy-two))~~) 72 hours after a report
16 is received by the department. If the department makes an oral
17 report, a written report must also be made to the proper law
18 enforcement agency within five days thereafter.

19 (5) Any law enforcement agency receiving a report of an incident
20 of alleged abuse or neglect pursuant to this chapter, involving a
21 child who has died or has had physical injury or injuries inflicted
22 upon him or her other than by accidental means, or who has been
23 subjected to alleged sexual abuse, shall report such incident in
24 writing as provided in RCW 26.44.040 to the proper county prosecutor
25 or city attorney for appropriate action whenever the law enforcement
26 agency's investigation reveals that a crime may have been committed.
27 The law enforcement agency shall also notify the department of all
28 reports received and the law enforcement agency's disposition of
29 them. In emergency cases, where the child's welfare is endangered,
30 the law enforcement agency shall notify the department within
31 (~~((twenty-four))~~) 24 hours. In all other cases, the law enforcement
32 agency shall notify the department within (~~((seventy-two))~~) 72 hours
33 after a report is received by the law enforcement agency.

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

39 (7) The department may conduct ongoing case planning and
40 consultation with those persons or agencies required to report under

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

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

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

28 (10) Upon receiving a report that a child is a candidate for
29 foster care as defined in RCW 26.44.020, the department may provide
30 prevention and family services and programs to the child's parents,
31 guardian, or caregiver. The department may not be held civilly liable
32 for the decision regarding whether to provide prevention and family
33 services and programs, or for the provision of those services and
34 programs, for a child determined to be a candidate for foster care.

35 (11) Upon receiving a report of alleged abuse or neglect, the
36 department shall make reasonable efforts to learn the name, address,
37 and telephone number of each person making a report of abuse or
38 neglect under this section. The department shall provide assurances
39 of appropriate confidentiality of the identification of persons
40 reporting under this section. If the department is unable to learn

1 the information required under this subsection, the department shall
2 only investigate cases in which:

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

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

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

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

14 (i) Investigation; or

15 (ii) Family assessment.

16 (b) In making the response in (a) of this subsection the
17 department shall:

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

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

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

29 (iv) Provide a full investigation if a family refuses the initial
30 family assessment;

31 (v) Provide voluntary services to families based on the results
32 of the initial family assessment. If a family refuses voluntary
33 services, and the department cannot identify specific facts related
34 to risk or safety that warrant assignment to investigation under this
35 chapter, and there is not a history of reports of child abuse or
36 neglect related to the family, then the department must close the
37 family assessment response case. However, if at any time the
38 department identifies risk or safety factors that warrant an
39 investigation under this chapter, then the family assessment response
40 case must be reassigned to investigation;

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

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

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

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

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

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

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

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

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

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

(13)(a) For reports of alleged abuse or neglect that are accepted for investigation by the department, the investigation shall be conducted within time frames established by the department in rule. In no case shall the investigation extend longer than (~~ninety~~) 90 days from the date the report is received, unless the investigation is being conducted under a written protocol pursuant to RCW 26.44.180 and a law enforcement agency or prosecuting attorney has determined that a longer investigation period is necessary. At the completion of the investigation, the department shall make a finding that the report of child abuse or neglect is founded or unfounded.

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

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

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

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

(c) Complete the family assessment response within ~~((forty-five))~~ 45 days of receiving the report except as follows:

(i) Upon parental agreement, the family assessment response period may be extended up to ~~((one hundred twenty))~~ 120 days. The department's extension of the family assessment response period must be operated within the department's appropriations;

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

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

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

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

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

(i) May interview children. If the department determines that the response to the allegation will be family assessment response, the preferred practice is to request a parent's, guardian's, or custodian's permission to interview the child before conducting the child interview unless doing so would compromise the safety of the child or the integrity of the assessment. 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. If the allegation is investigated, 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; and

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

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

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

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

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

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

5 (19) The department shall use a risk assessment process when
6 investigating alleged child abuse and neglect referrals. The
7 department shall present the risk factors at all hearings in which
8 the placement of a dependent child is an issue. Substance abuse must
9 be a risk factor.

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

14 (21) Upon receiving a report of alleged abuse or neglect
15 involving a child under the court's jurisdiction under chapter 13.34
16 RCW, the department shall promptly notify the child's guardian ad
17 litem of the report's contents. The department shall also notify the
18 guardian ad litem of the disposition of the report. For purposes of
19 this subsection, "guardian ad litem" has the meaning provided in RCW
20 13.34.030.

21 (22) The department shall make efforts as soon as practicable to
22 determine the military status of parents whose children are subject
23 to abuse or neglect allegations. If the department determines that a
24 parent or guardian is in the military, the department shall notify a
25 department of defense family advocacy program that there is an
26 allegation of abuse and neglect that is screened in and open for
27 investigation that relates to that military parent or guardian.

28 (23) The department shall make available on its public website a
29 downloadable and printable poster that includes the reporting
30 requirements included in this section. The poster must be no smaller
31 than (~~eight and one-half by eleven~~) 8.5 by 11 inches with all
32 information on one side. The poster must be made available in both
33 the English and Spanish languages. Organizations that include
34 employees or volunteers subject to the reporting requirements of this
35 section must clearly display this poster in a common area. At a
36 minimum, this poster must include the following:

- 37 (a) Who is required to report child abuse and neglect;
- 38 (b) The standard of knowledge to justify a report;
- 39 (c) The definition of reportable crimes;
- 40 (d) Where to report suspected child abuse and neglect; and

1 (e) What should be included in a report and the appropriate
2 timing.

--- END ---

Exhibit 2

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1171

69th Legislature
2025 Regular Session

Passed by the House April 17, 2025
Yeas 95 Nays 1

**Speaker of the House of
Representatives**

Passed by the Senate April 14, 2025
Yeas 39 Nays 10

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1171** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1171

AS AMENDED BY THE SENATE

Passed Legislature - 2025 Regular Session

State of Washington

69th Legislature

2025 Regular Session

By House Early Learning & Human Services (originally sponsored by Representatives Pollet and Goodman)

READ FIRST TIME 02/18/25.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) 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.

(d) 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.

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

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

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

9 (i) An attorney who is employed by an institution of higher
10 education, as defined in RCW 28B.10.016, or private institution of
11 higher education, unless it relates to information related to the
12 representation of a client; and

13 (ii) An employee working under the supervision or direction of an
14 attorney described in (f)(i) of this subsection, unless it relates to
15 information related to the representation of a client.

16 (g) Nothing in this subsection shall be interpreted to suspend or
17 supersede otherwise applicable disclosure standards as provided for
18 in the Washington rules of professional conduct regarding
19 confidentiality of information including but not limited to
20 disclosure to prevent reasonably certain death or substantial bodily
21 harm.

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

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

33 (3) Any other person who has reasonable cause to believe that a
34 child has suffered abuse or neglect may report such incident to the
35 proper law enforcement agency or to the department as provided in RCW
36 26.44.040.

37 (4) The department, upon receiving a report of an incident of
38 alleged abuse or neglect pursuant to this chapter, involving a child
39 who has died or has had physical injury or injuries inflicted upon
40 him or her other than by accidental means or who has been subjected

1 to alleged sexual abuse, shall report such incident to the proper law
2 enforcement agency, including military law enforcement, if
3 appropriate. In emergency cases, where the child's welfare is
4 endangered, the department shall notify the proper law enforcement
5 agency within twenty-four hours after a report is received by the
6 department. In all other cases, the department shall notify the law
7 enforcement agency within seventy-two hours after a report is
8 received by the department. If the department makes an oral report, a
9 written report must also be made to the proper law enforcement agency
10 within five days thereafter.

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

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

31 (7) The department may conduct ongoing case planning and
32 consultation with those persons or agencies required to report under
33 this section, with consultants designated by the department, and with
34 designated representatives of Washington Indian tribes if the client
35 information exchanged is pertinent to cases currently receiving child
36 protective services. Upon request, the department shall conduct such
37 planning and consultation with those persons required to report under
38 this section if the department determines it is in the best interests
39 of the child. Information considered privileged by statute and not

1 directly related to reports required by this section must not be
2 divulged without a valid written waiver of the privilege.

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

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

21 (10) Upon receiving a report that a child is a candidate for
22 foster care as defined in RCW 26.44.020, the department may provide
23 prevention and family services and programs to the child's parents,
24 guardian, or caregiver. The department may not be held civilly liable
25 for the decision regarding whether to provide prevention and family
26 services and programs, or for the provision of those services and
27 programs, for a child determined to be a candidate for foster care.

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

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

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

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

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

8 (i) Investigation; or

9 (ii) Family assessment.

10 (b) In making the response in (a) of this subsection the
11 department shall:

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

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

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

23 (iv) Provide a full investigation if a family refuses the initial
24 family assessment;

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

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

38 (A) Indicates a child's health, safety, and welfare will be
39 seriously endangered if not taken into custody for reasons including,

1 but not limited to, sexual abuse and sexual exploitation of the child
2 as defined in this chapter;

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

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

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

7 (E) The child is an adjudicated dependent child as defined in RCW
8 13.34.030, or the child is in a facility that is licensed, operated,
9 or certified for care of children by the department under chapter
10 74.15 RCW.

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

16 (i) A child who is a candidate for foster care, as defined in RCW
17 26.44.020; and

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

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

25 (13)(a) For reports of alleged abuse or neglect that are accepted
26 for investigation by the department, the investigation shall be
27 conducted within time frames established by the department in rule.
28 In no case shall the investigation extend longer than ninety days
29 from the date the report is received, unless the investigation is
30 being conducted under a written protocol pursuant to RCW 26.44.180
31 and a law enforcement agency or prosecuting attorney has determined
32 that a longer investigation period is necessary. At the completion of
33 the investigation, the department shall make a finding that the
34 report of child abuse or neglect is founded or unfounded.

35 (b) If a court in a civil or criminal proceeding, considering the
36 same facts or circumstances as are contained in the report being
37 investigated by the department, makes a judicial finding by a
38 preponderance of the evidence or higher that the subject of the
39 pending investigation has abused or neglected the child, the
40 department shall adopt the finding in its investigation.

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

3 (a) Provide the family with a written explanation of the
4 procedure for assessment of the child and the family and its
5 purposes;

6 (b) Collaborate with the family to identify family strengths,
7 resources, and service needs, and develop a service plan with the
8 goal of reducing risk of harm to the child and improving or restoring
9 family well-being;

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

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

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

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

25 (e) Implement the family assessment response in a consistent and
26 cooperative manner;

27 (f) Have the parent or guardian agree to participate in services
28 before services are initiated. The department shall inform the
29 parents of their rights under family assessment response, all of
30 their options, and the options the department has if the parents do
31 not agree to participate in services.

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

34 (i) May interview children. If the department determines that the
35 response to the allegation will be family assessment response, the
36 preferred practice is to request a parent's, guardian's, or
37 custodian's permission to interview the child before conducting the
38 child interview unless doing so would compromise the safety of the
39 child or the integrity of the assessment. The interviews may be
40 conducted on school premises, at day-care facilities, at the child's

1 home, or at other suitable locations outside of the presence of
2 parents. If the allegation is investigated, parental notification of
3 the interview must occur at the earliest possible point in the
4 investigation that will not jeopardize the safety or protection of
5 the child or the course of the investigation. Prior to commencing the
6 interview the department or law enforcement agency shall determine
7 whether the child wishes a third party to be present for the
8 interview and, if so, shall make reasonable efforts to accommodate
9 the child's wishes. Unless the child objects, the department or law
10 enforcement agency shall make reasonable efforts to include a third
11 party in any interview so long as the presence of the third party
12 will not jeopardize the course of the investigation; and

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

15 (b) The Washington state school directors' association shall
16 adopt a model policy addressing protocols when an interview, as
17 authorized by this subsection, is conducted on school premises. In
18 formulating its policy, the association shall consult with the
19 department and the Washington association of sheriffs and police
20 chiefs.

21 (16) If a report of alleged abuse or neglect is founded and
22 constitutes the third founded report received by the department
23 within the last twelve months involving the same child or family, the
24 department shall promptly notify the office of the family and
25 children's ombuds of the contents of the report. The department shall
26 also notify the ombuds of the disposition of the report.

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

30 (18)(a) The department shall maintain investigation records and
31 conduct timely and periodic reviews of all founded cases of abuse and
32 neglect. The department shall maintain a log of screened-out
33 nonabusive cases.

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

38 (19) The department shall use a risk assessment process when
39 investigating alleged child abuse and neglect referrals. The
40 department shall present the risk factors at all hearings in which

1 the placement of a dependent child is an issue. Substance abuse must
2 be a risk factor.

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.

--- END ---

Exhibit 3

5375 AMS CHRI S1972.3

SB 5375 - S AMD 71

By Senator Christian

NOT ADOPTED 02/28/2025

1 On page 7, line 11, after "service." strike "~~((No))~~ Except for
2 members of the clergy, no" and insert "No"

3 On page 7, line 14, after "RCW 5.60.060." insert "A member of the
4 clergy, to the extent the member of the clergy believes necessary,
5 shall reveal information relating to a privileged communication under
6 RCW 5.60.060 from a penitent to prevent reasonably certain death or
7 substantial bodily harm."

EFFECT: Strikes the privileged communication exception for members of the clergy and restores current law. A member of the clergy, to the extent the member of the clergy believes necessary, shall reveal information relating to a privileged communication from a penitent to prevent reasonably certain death or substantial bodily harm.

--- END ---