

Chapter 13: Dependency Pre-Filing Requirements

Written in 2011 and update in 2014 by Carrie Hoon Wayno^[1]

§ 13.1 Referral

When any one of the following people has reasonable cause to believe that a child has suffered abuse or neglect, he or she is required to make sure that a report is made to the proper law enforcement agency or to the Department of Social and Health Services (DSHS):^[3]

- Guardians ad litem and CASAs appointed under Titles 11, 13, and 26 RCW
- Health services practitioners
- County coroners or medical examiners
- Professional school personnel
- Social service counselors
- Psychologists
- Pharmacists
- Responsible living skills program staff
- Persons with supervisory capacity over a person with unsupervised access to a child as part of their employment, contract, or voluntary service
- Law enforcement officers
- Juvenile probation officers
- Placement and liaison specialists
- DSHS employees
- Registered or licensed nurses
- Employees of the Department of Early Learning
- Licensed or certified child care providers or their employees
- State family and children's ombudsmen and any volunteers in the ombudsman's office
- HOPE center staff^[4]

Administrative and academic or athletic department employees of institutions of higher education

Courts have found that the mandatory reporting requirements of this statute trump statutory privileges such as the counselor-patient privilege.^[5]

§ 13.1b When a Report Must be Made

The report of abuse or neglect must be made at the first opportunity, but in no case longer than 48 hours after there is reasonable cause to believe that the child has suffered abuse or neglect. Identity of the accused, if known, must also be reported.^[6]

§ 13.1c Other Reporters

Anyone, not just those listed above, with reasonable cause to believe that a child has suffered abuse or neglect may report such an incident to the proper law enforcement agency or to DSHS.[\[7\]](#)

13.1d Protections and Prohibitions Regarding Reporters

Any person who in good faith reports abuse or neglect or testifies concerning alleged child abuse or neglect in a judicial proceeding is immune from any liability arising out of such reporting or testifying.[\[8\]](#) A person who, intentionally and in bad faith, knowingly makes a false report of alleged abuse or neglect shall be guilty of a misdemeanor.[\[9\]](#)

§ 13.2 DSHS Response to Referral

§ 13.2a DSHS's Obligations Upon Receiving a Report of Abuse

Upon receiving a report of child abuse or neglect, DSHS is required to either investigate the complaint or provide a family assessment.[\[10\]](#) DSHS is also required to offer, on a voluntary basis, family reconciliation services to families that are in conflict.[\[11\]](#)

§ 13.2b Offer Voluntary Services

When DSHS determines that a child has been subject to negligent treatment or maltreatment, it may offer services to the child's parents, guardians, or legal custodians to ameliorate the conditions that endangered the welfare of the child, or address or treat the effects of mistreatment or neglect on the child.[\[12\]](#)

§ 13.2c Report to Law Enforcement

When DSHS receives a report of alleged abuse or neglect involving a child who has died, has had nonaccidental physical injury inflicted upon him or her, or has been subjected to alleged sexual abuse, it must report such incident to the proper law enforcement agency.[\[13\]](#)

§ 13.2d When DSHS Receives a Report from a Physician

When a physician refers a case to DSHS on the basis of an expert medical opinion that child abuse, neglect, or sexual assault has occurred and that the child's safety will be seriously endangered if he or she is returned home, DSHS is required to file a dependency petition unless a second licensed physician of the parents' choice believes that such expert medical opinion is incorrect.[\[14\]](#)

§ 13.2e Information Sharing

DSHS may exchange client information when it conducts ongoing case planning with mandatory reporters, DSHS consultants, and tribal representatives when doing so is pertinent to cases currently receiving child protection services.[\[15\]](#)

§ 13.2f Interview of a Child

If DSHS receives reports of alleged abuse or neglect, it is permitted to interview children outside the presence of their parents. 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. [\[16\]](#)

§ 13.2g Access to Records

If DSHS receives reports of alleged abuse or neglect, it shall have access to all relevant records of the child in the possession of mandated reporters and their employees. [\[17\]](#)

§ 13.2h Background Checks

In investigating and responding to allegations of child abuse and neglect, DSHS may conduct background checks as authorized by state and federal law. [\[18\]](#)

§ 13.2i Photographing the Child

DSHS is authorized to photograph a child for the purpose of providing documentary evidence of the child's physical condition. [\[19\]](#)

§ 13.3 Jurisdiction

When a petition is filed alleging that a dependent child is located or resides within the county, the juvenile court of that county has exclusive original jurisdiction over the child. [\[20\]](#)

§ 13.3a Parties Defined

- “Child”, “juvenile” or “youth” means any individual under the age of 18, or any individual age 18 to 21 years old who is eligible to receive and chooses to receive extended foster care services. [\[21\]](#)
- “Parent” as used in chapter 13.34 RCW means biological and adoptive parents whose rights have not been terminated. [\[22\]](#)
- “Custodian” means that person who has the legal right to custody of the child. [\[23\]](#) Where a custodian has at least temporary legal custody of a child, he or she is a party to the dependency, and a properly entered dependency order must include a finding of dependency as to the custodian. [\[24\]](#)

13.3b Who May File

Any person can file a dependency petition with the clerk of the superior court. Counties are not permitted to charge a fee for filing such petitions. [\[25\]](#)

ENDNOTES

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[3] RCW 26.44.030(1).

[4] A "HOPE center" is an agency licensed by the secretary to provide temporary residential placement and other services to street youth.

RCW 74.15.020(1)(g).

[5] *See, e.g., In re J.F.*, 109 Wn.App. 718, 731–32, 37 P.3d 1227 (2001).

[6] RCW 26.44.030(1)(g).

[7] *Id.* at (3).

[8] RCW 26.44.060(1).

[9] *Id.* at (4).

[10] RCW 26.44.030(11); RCW 74.13.031(3), (4).

[11] *Id.* at (5). See Chapter 22 for more information concerning family reconciliation services.

[12] RCW 26.44.195(1).

[13] RCW 26.44.030(4).

[14] *Id.* at (8).

[15] *Id.* at (7).

[16] *Id.* at (14).

[17] *Id.*

[18] *Id.* at (16).

[19] RCW 26.44.050.

[20] *See* RCW 13.04.030; RCW 13.34.040. *See also In re Key*, 119 Wn.2d 600, 608, 836 P.2d 200 (1992); *In re Hansen*, 24 Wn. App. 27, 599 P.2d 1304 (1979).

[21] RCW 13.34.030(2).

[22] RCW 13.04.011(5).

[23] *Id.* at (6).

[24] *In re J.W.H.*, 147 Wn.2d 687, 57 P.3d 266 (2002).

[25] *See* RCW 13.34.040(1); JuCR 3.2(a).