
HOUSE BILL 2856

State of Washington

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By Representatives Cooke, D. Schmidt, Wolfe, Reams, Tokuda, Chopp, Stevens, Costa, Mulliken, Hymes, Hatfield, Silver, Scheuerman, Kessler, Conway and Cole; by request of Governor Lowry

Read first time 01/23/96. Referred to Committee on Children & Family Services.

1 AN ACT Relating to establishing the office of the child, youth, and
2 family ombudsman; amending RCW 13.50.010, 42.17.310, and 26.44.030;
3 adding a new section to chapter 41.06 RCW; adding a new chapter to
4 Title 43 RCW; providing an effective date; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** This chapter may be known and cited as the
7 child, youth, and family ombudsman act.

8 NEW SECTION. **Sec. 2.** Unless the context clearly requires
9 otherwise, the definitions in this section apply throughout this
10 chapter.

11 (1) "Administrative act" means:

12 (a) An action, omission, decision, recommendation, practice, or
13 other procedure of the department or a child-placing agency as defined
14 in RCW 74.15.020, with respect to a particular child, youth, or family
15 member relating to children, youth, and family services as defined in
16 subsection (3) of this section; or

17 (b) An action, omission, decision, recommendation, practice, or
18 other procedure of a state institution, or state-licensed facility or

1 residence that receives children or youth, with respect to a particular
2 child, youth, or family member that may adversely affect the health,
3 safety, welfare, and rights of the child, youth, or family member.

4 (2) "Child-placing agency" has the same meaning as in RCW
5 74.15.020.

6 (3) "Children, youth, and family services" means adoption, out-of-
7 home care, child day care, child protective services, child welfare
8 services, and juvenile rehabilitative services provided by the
9 department, and services provided by the department for sexually
10 aggressive youth, at-risk youth and families in conflict, children and
11 youth with mental health or substance abuse problems, and children and
12 youth with developmental disabilities.

13 (4) "Department" means the department of social and health
14 services.

15 (5) "Office" means the office of the child, youth, and family
16 ombudsman.

17 (6) "Ombudsman" means the child, youth, and family ombudsman.

18 (7) "State-licensed facility or residence" means those facilities
19 or residences that directly serve children or youth and are licensed by
20 the department or have programs that are certified by the department
21 pursuant to law, including chapter 74.15 RCW, or a facility where a
22 child or youth has been placed by superior court or the department.

23 NEW SECTION. **Sec. 3.** As a means of monitoring and ensuring
24 compliance with relevant statutes, rules, and policies pertaining to
25 children, youth, and family services and the placement, supervision,
26 and treatment of children in the state s care or in state-licensed
27 facilities or residences, the office of the child, youth, and family
28 ombudsman is established within the office of the governor. The
29 ombudsman shall report directly to the governor and shall exercise his
30 or her powers and duties independently of the secretary of the
31 department.

32 NEW SECTION. **Sec. 4.** (1) The governor shall appoint the child,
33 youth, and family ombudsman, subject to confirmation by the senate.
34 The ombudsman shall be a person of recognized judgment, independence,
35 objectivity, and integrity, and shall be qualified by training or
36 experience or both in children, youth, and family services policy and
37 law.

1 (2) A child, youth, and family ombudsman shall not have been
2 employed by the department within the past three years.

3 (3) No child, youth, and family ombudsman or any member of his or
4 her immediate family may have or have had within the past three years
5 any pecuniary interest in a child-placing agency or in providing
6 services to children or youth in state-licensed facilities or
7 residences.

8 NEW SECTION. **Sec. 5.** (1) The ombudsman may appoint such personnel
9 as necessary for the general administration of the office. The
10 ombudsman and personnel appointed by the ombudsman are exempt from
11 state civil service law, chapter 41.06 RCW.

12 (2) Any power or duty vested in or transferred to the ombudsman by
13 law or executive order may be delegated by the ombudsman to any other
14 assistant or subordinate, but the ombudsman shall be responsible for
15 the official acts of the officers and employees of the office.

16 NEW SECTION. **Sec. 6.** The person appointed child, youth, and family
17 ombudsman shall hold office for a term of three years and shall
18 continue to hold office until reappointed or until his or her successor
19 is appointed and qualified. The governor may remove the child, youth,
20 and family ombudsman only for neglect of duty, misconduct, or inability
21 to perform duties. Any vacancy shall be filled by similar appointment
22 for the remainder of the unexpired term.

23 NEW SECTION. **Sec. 7.** The child, youth, and family ombudsman shall
24 perform the following duties:

25 (1) Provide information as appropriate on the rights and
26 responsibilities of individuals receiving children, youth, and family
27 services, and on the procedures for providing these services;

28 (2) Upon his or her own initiative or upon receipt of a complaint,
29 investigate an administrative act by the department, child-placing
30 agency, or state-licensed facility or residence that is alleged to be
31 contrary to law or rule, or contrary to policy, imposed without an
32 adequate statement of reason, or based on irrelevant, immaterial, or
33 erroneous grounds, however, the ombudsman may decline to investigate
34 any complaint as provided by rules adopted under this section;

35 (3) Monitor the procedures as established, implemented, and
36 practiced by the department to carry out its responsibilities in

1 delivering children, youth, and family services with a view toward
2 ensuring children s health and safety;

3 (4) Periodically review the facilities and procedures of all state
4 institutions serving children and youth, and state-licensed group-care
5 facilities as defined in RCW 74.15.020, crisis residential centers as
6 defined in RCW 74.15.020, and overnight youth shelters. The ombudsman
7 may also periodically review other state-licensed facilities or
8 residences;

9 (5) Review reports relating to the unexpected deaths of minors
10 receiving children, youth, and family services and develop
11 recommendations as appropriate;

12 (6) Recommend changes in the procedures for addressing children,
13 youth, and family problems;

14 (7) Submit annually to the governor and the legislature by November
15 1st a detailed report analyzing the work of the office and any
16 recommendations resulting from the report;

17 (8) Provide for training volunteers and promoting the development
18 of citizen organizations to assist the office. A trained volunteer
19 shall be able to identify problems of individuals receiving children,
20 youth, and family services and children and youth who are in state-
21 licensed facilities or residences. Volunteers may assist the ombudsman
22 in carrying out the duties of the office;

23 (9) Establish procedures for receiving and processing complaints,
24 conducting investigations, and reporting findings resulting from
25 investigations; and

26 (10) Adopt rules necessary to implement this chapter.

27 NEW SECTION. **Sec. 8.** (1) Upon rendering a decision to investigate
28 a complaint, the ombudsman shall notify the complainant of the decision
29 to investigate and shall notify the department, child-placing agency,
30 or state-licensed facility or residence of the ombudsman's intention to
31 investigate. If the ombudsman declines to investigate a complaint or
32 continue an investigation, the ombudsman shall notify the complainant,
33 the department, child-placing agency, or state-licensed facility or
34 residence of the decision and of the reasons for the ombudsman s
35 action.

36 (2) The ombudsman may require a complainant to pursue all
37 administrative remedies or means of complaint open to the complainant
38 before pursuing a complaint with the ombudsman. Subsequent to the

1 administrative processing of a complaint, the ombudsman may conduct
2 further investigations of any complaint upon the request of the
3 complainant or upon the ombudsman's own initiative.

4 (3) If the ombudsman finds reasonable cause to believe in the
5 course of an investigation that an individual's action is in violation
6 of state or federal criminal law, the ombudsman shall immediately
7 report that fact to the county prosecutor and the department. If the
8 complaint is against a child-placing agency or state-licensed facility
9 or residence, the ombudsman shall also refer the matter to the
10 department for further action with respect to licensing.

11 (4) The ombudsman or any volunteer shall report suspected abuse or
12 neglect of any child or adult dependent, or developmentally disabled
13 person as required in chapter 26.44 RCW.

14 NEW SECTION. **Sec. 9.** The department and a child-placing agency
15 shall do all of the following:

16 (1) Upon the ombudsman's request, grant the ombudsman or the
17 ombudsman's designee access to all relevant information, records, and
18 documents in the possession of the department or child-placing agency
19 that the ombudsman considers necessary in an investigation;

20 (2) When deciding whether to initiate or continue an administrative
21 act, consider any findings or recommendations made by the ombudsman;

22 (3) Upon deciding not to act on a finding or recommendation made by
23 the ombudsman, provide the ombudsman with a written statement setting
24 forth the reason or reasons for the decision;

25 (4) Provide the ombudsman upon request with progress reports
26 concerning administrative processing of a complaint; and

27 (5) Provide information regarding this chapter.

28 **Sec. 10.** RCW 13.50.010 and 1994 sp.s. c 7 s 541 are each amended
29 to read as follows:

30 (1) For purposes of this chapter:

31 (a) "Juvenile justice or care agency" means any of the following:
32 Police, diversion units, court, prosecuting attorney, defense attorney,
33 detention center, attorney general, the office of the children, youth,
34 and family ombudsman, the department of social and health services and
35 its contracting agencies, schools; and, in addition, persons or public
36 or private agencies having children committed to their custody;

1 (b) "Official juvenile court file" means the legal file of the
2 juvenile court containing the petition or information, motions,
3 memorandums, briefs, findings of the court, and court orders;

4 (c) "Social file" means the juvenile court file containing the
5 records and reports of the probation counselor;

6 (d) "Records" means the official juvenile court file, the social
7 file, and records of any other juvenile justice or care agency in the
8 case.

9 (2) Each petition or information filed with the court may include
10 only one juvenile and each petition or information shall be filed under
11 a separate docket number. The social file shall be filed separately
12 from the official juvenile court file.

13 (3) It is the duty of any juvenile justice or care agency to
14 maintain accurate records. To this end:

15 (a) The agency may never knowingly record inaccurate information.
16 Any information in records maintained by the department of social and
17 health services relating to a petition filed pursuant to chapter 13.34
18 RCW that is found by the court, upon proof presented, to be false or
19 inaccurate shall be corrected or expunged from such records by the
20 agency;

21 (b) An agency shall take reasonable steps to assure the security of
22 its records and prevent tampering with them; and

23 (c) An agency shall make reasonable efforts to insure the
24 completeness of its records, including action taken by other agencies
25 with respect to matters in its files.

26 (4) Each juvenile justice or care agency shall implement procedures
27 consistent with the provisions of this chapter to facilitate inquiries
28 concerning records.

29 (5) Any person who has reasonable cause to believe information
30 concerning that person is included in the records of a juvenile justice
31 or care agency and who has been denied access to those records by the
32 agency may make a motion to the court for an order authorizing that
33 person to inspect the juvenile justice or care agency record concerning
34 that person. The court shall grant the motion to examine records
35 unless it finds that in the interests of justice or in the best
36 interests of the juvenile the records or parts of them should remain
37 confidential.

38 (6) A juvenile, or his or her parents, or any person who has
39 reasonable cause to believe information concerning that person is

1 included in the records of a juvenile justice or care agency may make
2 a motion to the court challenging the accuracy of any information
3 concerning the moving party in the record or challenging the continued
4 possession of the record by the agency. If the court grants the
5 motion, it shall order the record or information to be corrected or
6 destroyed.

7 (7) The person making a motion under subsection (5) or (6) of this
8 section shall give reasonable notice of the motion to all parties to
9 the original action and to any agency whose records will be affected by
10 the motion.

11 (8) The court may permit inspection of records by, or release of
12 information to, any clinic, hospital, or agency which has the subject
13 person under care or treatment. The court may also permit inspection
14 by or release to individuals or agencies, including juvenile justice
15 advisory committees of county law and justice councils, engaged in
16 legitimate research for educational, scientific, or public purposes.
17 The court may also permit inspection of, or release of information
18 from, records which have been sealed pursuant to RCW 13.50.050(11).
19 Access to records or information for research purposes shall be
20 permitted only if the anonymity of all persons mentioned in the records
21 or information will be preserved. Each person granted permission to
22 inspect juvenile justice or care agency records for research purposes
23 shall present a notarized statement to the court stating that the names
24 of juveniles and parents will remain confidential.

25 (9) Juvenile detention facilities shall release records to the
26 juvenile disposition standards commission under RCW 13.40.025 upon
27 request. The commission shall not disclose the names of any juveniles
28 or parents mentioned in the records without the named individual's
29 written permission.

30 NEW SECTION. **Sec. 11.** (1) The ombudsman shall prepare a report of
31 the findings of an investigation and make recommendations to the
32 department, child-placing agency, or state-licensed facility or
33 residence if the ombudsman finds one or more of the following:

34 (a) A matter should be further considered by the department, child-
35 placing agency, or state-licensed facility or residence;

36 (b) An administrative act should be modified or canceled;

37 (c) An explanation should be given for an administrative act; and

1 (d) Other action should be taken by the department, child-placing
2 agency, or state-licensed facility or residence.

3 (2) Before publicly announcing a conclusion or recommendation that
4 expressly or by implication criticizes an individual, the department,
5 child-placing agency, or state-licensed facility or residence, the
6 ombudsman shall consult with that individual, the department, child-
7 placing agency, or state-licensed facility or residence and give the
8 person or entity the opportunity to respond. When publishing an
9 opinion adverse to the department, child-placing agency, or state-
10 licensed facility or residence, the ombudsman shall include in the
11 publication any statement of reasonable length made to the ombudsman by
12 the department, child-placing agency, or state-licensed facility or
13 residence in defense or mitigation of the action. The ombudsman may
14 request to be notified by the department, child-placing agency, or
15 state-licensed facility or residence, within a specified time, of any
16 action taken on any recommendation presented.

17 (3) The ombudsman shall notify the complainant of the actions taken
18 by the ombudsman and by the department, child-placing agency, or state-
19 licensed facility or residence.

20 (4) The ombudsman shall provide the complainant with a copy of its
21 recommendations on a complaint.

22 NEW SECTION. **Sec. 12.** (1) The ombudsman shall have the following
23 rights and powers:

24 (a) To copy and subpoena records held by the department;

25 (b) To take whatever steps are appropriate to see that persons are
26 made aware of the services of the office, its purpose, and how it can
27 be contacted;

28 (c) To apply for and accept grants, gifts, and bequests of funds
29 from other states, federal and interstate agencies, independent
30 authorities, and private firms, individuals, and foundations, for the
31 purpose of carrying out his or her lawful responsibilities. The funds
32 shall be deposited in the child, youth, and family ombudsman account
33 created in section 13 of this act;

34 (d) To appoint advisory committees as appropriate to carry out the
35 duties of the office;

36 (e) To contract for independent legal counsel as appropriate;

37 (f) To mediate disputes between a complainant and the department
38 where appropriate; and

1 (g) To submit to the governor budgetary and legislative
2 recommendations relating to children, youth, and family services.

3 (2) Actions of the office shall be solely advisory to the governor
4 and the department. The office shall not be delegated any
5 administrative authority or responsibility, and its functions shall not
6 supplant existing avenues for recourse or appeals.

7 NEW SECTION. **Sec. 13.** The ombudsman may apply for and accept
8 contributions, grants, gifts in cash or otherwise, and bequests of
9 funds from other states, federal and interstate agencies, independent
10 authorities, and private firms, individuals, and foundations, for the
11 purpose of carrying out his or her lawful responsibilities. All moneys
12 received by the ombudsman or any employee thereof from contributions,
13 grants, or gifts and not through appropriation by the legislature shall
14 be deposited in an account in the custody of the state treasurer to be
15 known as the child, youth, and family ombudsman account. Disbursements
16 of such funds shall be on the authorization of the ombudsman or a duly
17 authorized representative of the ombudsman and only for the purposes
18 stated in this chapter. The account is subject to chapter 43.88 RCW,
19 but no appropriation is required to permit expenditure of the funds.

20 NEW SECTION. **Sec. 14.** The ombudsman shall treat all matters under
21 investigation, including the identities of service recipients,
22 complainants, and individuals from whom information is acquired, as
23 confidential, except as far as disclosures may be necessary to enable
24 the ombudsman to perform the duties of the office and to support any
25 recommendations resulting from an investigation. However, the
26 ombudsman shall honor the request of a service recipient, complainant,
27 or individual from whom information is acquired, or the legal
28 representative of any of these individuals, not to disclose his or her
29 identity. Upon receipt of information that by law is confidential or
30 privileged, the ombudsman shall maintain the confidentiality of such
31 information and shall not further disclose or disseminate the
32 information except as provided by applicable state or federal law. A
33 record of the office of the ombudsman is confidential, shall only be
34 used for purposes set forth in this chapter, and is not subject to
35 court subpoena. A record of the office of the ombudsman is exempt from
36 disclosure under chapter 42.17 RCW.

1 NEW SECTION. **Sec. 15.** (1) An ombudsman, including a volunteer
2 ombudsman, is not liable for good faith performance of responsibilities
3 under this chapter.

4 (2) No discriminatory, disciplinary, or retaliatory action may be
5 taken against any employee of the department, child-placing agency, or
6 state-licensed facility or residence, a recipient of children, youth,
7 and family services, or a volunteer, for any communication made, or
8 information given or disclosed, to aid the ombudsman in carrying out
9 his or her responsibilities, unless the communication or information is
10 made, given, or disclosed maliciously or without good faith. This
11 subsection is not intended to infringe on the rights of the employer to
12 supervise, discipline, or terminate an employee for other reasons.

13 (3) An individual, the department, a child-placing agency, or a
14 state-licensed facility or residence shall not hinder the lawful
15 actions of the ombudsman or members of the ombudsman's office.

16 (4) All communications by an ombudsman, if reasonably related to
17 the requirements of that individual s responsibilities under this
18 chapter and done in good faith, are privileged and that privilege shall
19 serve as a defense to any action in libel or slander.

20 (5) A representative of the office shall not be required to testify
21 in court as to any confidential matters except as the court may deem
22 necessary to enforce this chapter.

23 NEW SECTION. **Sec. 16.** The authority granted the ombudsman under
24 this chapter is in addition to the authority granted under the
25 provisions of any other act or rule under which the remedy or right of
26 appeal or objection is provided for a person, or any procedures
27 provided for the inquiry into or investigation of any matter. The
28 authority granted the ombudsman does not limit or affect the remedy or
29 right of appeal or objection and is not an exclusive remedy or
30 procedure.

31 NEW SECTION. **Sec. 17.** A new section is added to chapter 41.06 RCW
32 to read as follows:

33 In addition to the exemptions under RCW 41.06.070, the provisions
34 of this chapter shall not apply in the office of the child, youth, and
35 family ombudsman to the ombudsman and all personnel in the office.

1 **Sec. 18.** RCW 42.17.310 and 1995 c 267 s 6 are each amended to read
2 as follows:

3 (1) The following are exempt from public inspection and copying:

4 (a) Personal information in any files maintained for students in
5 public schools, patients or clients of public institutions or public
6 health agencies, or welfare recipients.

7 (b) Personal information in files maintained for employees,
8 appointees, or elected officials of any public agency to the extent
9 that disclosure would violate their right to privacy.

10 (c) Information required of any taxpayer in connection with the
11 assessment or collection of any tax if the disclosure of the
12 information to other persons would (i) be prohibited to such persons by
13 RCW 82.32.330 or (ii) violate the taxpayer's right to privacy or result
14 in unfair competitive disadvantage to the taxpayer.

15 (d) Specific intelligence information and specific investigative
16 records compiled by investigative, law enforcement, and penology
17 agencies, and state agencies vested with the responsibility to
18 discipline members of any profession, the nondisclosure of which is
19 essential to effective law enforcement or for the protection of any
20 person's right to privacy.

21 (e) Information revealing the identity of persons who are witnesses
22 to or victims of crime or who file complaints with investigative, law
23 enforcement, or penology agencies, other than the public disclosure
24 commission, if disclosure would endanger any person's life, physical
25 safety, or property. If at the time a complaint is filed the
26 complainant, victim or witness indicates a desire for disclosure or
27 nondisclosure, such desire shall govern. However, all complaints filed
28 with the public disclosure commission about any elected official or
29 candidate for public office must be made in writing and signed by the
30 complainant under oath.

31 (f) Test questions, scoring keys, and other examination data used
32 to administer a license, employment, or academic examination.

33 (g) Except as provided by chapter 8.26 RCW, the contents of real
34 estate appraisals, made for or by any agency relative to the
35 acquisition or sale of property, until the project or prospective sale
36 is abandoned or until such time as all of the property has been
37 acquired or the property to which the sale appraisal relates is sold,
38 but in no event shall disclosure be denied for more than three years
39 after the appraisal.

1 (h) Valuable formulae, designs, drawings, and research data
2 obtained by any agency within five years of the request for disclosure
3 when disclosure would produce private gain and public loss.

4 (i) Preliminary drafts, notes, recommendations, and intra-agency
5 memorandums in which opinions are expressed or policies formulated or
6 recommended except that a specific record shall not be exempt when
7 publicly cited by an agency in connection with any agency action.

8 (j) Records which are relevant to a controversy to which an agency
9 is a party but which records would not be available to another party
10 under the rules of pretrial discovery for causes pending in the
11 superior courts.

12 (k) Records, maps, or other information identifying the location of
13 archaeological sites in order to avoid the looting or depredation of
14 such sites.

15 (l) Any library record, the primary purpose of which is to maintain
16 control of library materials, or to gain access to information, which
17 discloses or could be used to disclose the identity of a library user.

18 (m) Financial information supplied by or on behalf of a person,
19 firm, or corporation for the purpose of qualifying to submit a bid or
20 proposal for (i) a ferry system construction or repair contract as
21 required by RCW 47.60.680 through 47.60.750 or (ii) highway
22 construction or improvement as required by RCW 47.28.070.

23 (n) Railroad company contracts filed prior to July 28, 1991, with
24 the utilities and transportation commission under RCW 81.34.070, except
25 that the summaries of the contracts are open to public inspection and
26 copying as otherwise provided by this chapter.

27 (o) Financial and commercial information and records supplied by
28 private persons pertaining to export services provided pursuant to
29 chapter 43.163 RCW and chapter 53.31 RCW.

30 (p) Financial disclosures filed by private vocational schools under
31 chapter 28C.10 RCW.

32 (q) Records filed with the utilities and transportation commission
33 or attorney general under RCW 80.04.095 that a court has determined are
34 confidential under RCW 80.04.095.

35 (r) Financial and commercial information and records supplied by
36 businesses or individuals during application for loans or program
37 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,
38 or during application for economic development loans or program
39 services provided by any local agency.

1 (s) Membership lists or lists of members or owners of interests of
2 units in timeshare projects, subdivisions, camping resorts,
3 condominiums, land developments, or common-interest communities
4 affiliated with such projects, regulated by the department of
5 licensing, in the files or possession of the department.

6 (t) All applications for public employment, including the names of
7 applicants, resumes, and other related materials submitted with respect
8 to an applicant.

9 (u) The residential addresses and residential telephone numbers of
10 employees or volunteers of a public agency which are held by the agency
11 in personnel records, employment or volunteer rosters, or mailing lists
12 of employees or volunteers.

13 (v) The residential addresses and residential telephone numbers of
14 the customers of a public utility contained in the records or lists
15 held by the public utility of which they are customers.

16 (w)(i) The federal social security number of individuals governed
17 under chapter 18.130 RCW maintained in the files of the department of
18 health, except this exemption does not apply to requests made directly
19 to the department from federal, state, and local agencies of
20 government, and national and state licensing, credentialing,
21 investigatory, disciplinary, and examination organizations; (ii) the
22 current residential address and current residential telephone number of
23 a health care provider governed under chapter 18.130 RCW maintained in
24 the files of the department, if the provider requests that this
25 information be withheld from public inspection and copying, and
26 provides to the department an accurate alternate or business address
27 and business telephone number. On or after January 1, 1995, the
28 current residential address and residential telephone number of a
29 health care provider governed under RCW 18.130.140 maintained in the
30 files of the department shall automatically be withheld from public
31 inspection and copying if the provider has provided the department with
32 an accurate alternative or business address and telephone number.

33 (x) Information obtained by the board of pharmacy as provided in
34 RCW 69.45.090.

35 (y) Information obtained by the board of pharmacy or the department
36 of health and its representatives as provided in RCW 69.41.044,
37 69.41.280, and 18.64.420.

38 (z) Financial information, business plans, examination reports, and
39 any information produced or obtained in evaluating or examining a

1 business and industrial development corporation organized or seeking
2 certification under chapter 31.24 RCW.

3 (aa) Financial and commercial information supplied to the state
4 investment board by any person when the information relates to the
5 investment of public trust or retirement funds and when disclosure
6 would result in loss to such funds or in private loss to the providers
7 of this information.

8 (bb) Financial and valuable trade information under RCW 51.36.120.

9 (cc) Client records maintained by an agency that is a domestic
10 violence program as defined in RCW 70.123.020 or 70.123.075 or a rape
11 crisis center as defined in RCW 70.125.030.

12 (dd) Information that identifies a person who, while an agency
13 employee: (i) Seeks advice, under an informal process established by
14 the employing agency, in order to ascertain his or her rights in
15 connection with a possible unfair practice under chapter 49.60 RCW
16 against the person; and (ii) requests his or her identity or any
17 identifying information not be disclosed.

18 (ee) Investigative records compiled by an employing agency
19 conducting a current investigation of a possible unfair practice under
20 chapter 49.60 RCW or of a possible violation of other federal, state,
21 or local laws prohibiting discrimination in employment.

22 (ff) Business related information protected from public inspection
23 and copying under RCW 15.86.110.

24 (gg) Financial, commercial, operations, and technical and research
25 information and data submitted to or obtained by the clean Washington
26 center in applications for, or delivery of, program services under
27 chapter 70.95H RCW.

28 (hh) Information and documents created specifically for, and
29 collected and maintained by a quality improvement committee pursuant to
30 RCW 43.70.510, regardless of which agency is in possession of the
31 information and documents.

32 (ii) Records of the office of the child, youth, and family
33 ombudsman under chapter 43.-- RCW (sections 1 through 9 and 11 through
34 16 of this act).

35 (2) Except for information described in subsection (1)(c)(i) of
36 this section and confidential income data exempted from public
37 inspection pursuant to RCW 84.40.020, the exemptions of this section
38 are inapplicable to the extent that information, the disclosure of
39 which would violate personal privacy or vital governmental interests,

1 can be deleted from the specific records sought. No exemption may be
2 construed to permit the nondisclosure of statistical information not
3 descriptive of any readily identifiable person or persons.

4 (3) Inspection or copying of any specific records exempt under the
5 provisions of this section may be permitted if the superior court in
6 the county in which the record is maintained finds, after a hearing
7 with notice thereof to every person in interest and the agency, that
8 the exemption of such records is clearly unnecessary to protect any
9 individual's right of privacy or any vital governmental function.

10 (4) Agency responses refusing, in whole or in part, inspection of
11 any public record shall include a statement of the specific exemption
12 authorizing the withholding of the record (or part) and a brief
13 explanation of how the exemption applies to the record withheld.

14 **Sec. 19.** RCW 26.44.030 and 1995 c 311 s 17 are each amended to
15 read as follows:

16 (1)(a) When any practitioner, county coroner or medical examiner,
17 law enforcement officer, professional school personnel, registered or
18 licensed nurse, social service counselor, psychologist, pharmacist,
19 licensed or certified child care providers or their employees, employee
20 of the department, or juvenile probation officer or state child, youth,
21 and family ombudsman or any volunteer in the ombudsman's office has
22 reasonable cause to believe that a child or adult dependent or
23 developmentally disabled person, has suffered abuse or neglect, he or
24 she shall report such incident, or cause a report to be made, to the
25 proper law enforcement agency or to the department as provided in RCW
26 26.44.040.

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

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

5 (2) The reporting requirement of subsection (1) of this section
6 does not apply to the discovery of abuse or neglect that occurred
7 during childhood if it is discovered after the child has become an
8 adult. However, if there is reasonable cause to believe other
9 children, dependent adults, or developmentally disabled persons are or
10 may be at risk of abuse or neglect by the accused, the reporting
11 requirement of subsection (1) of this section shall apply.

12 (3) Any other person who has reasonable cause to believe that a
13 child or adult dependent or developmentally disabled person has
14 suffered abuse or neglect may report such incident to the proper law
15 enforcement agency or to the department of social and health services
16 as provided in RCW 26.44.040.

17 (4) The department, upon receiving a report of an incident of abuse
18 or neglect pursuant to this chapter, involving a child or adult
19 dependent or developmentally disabled person who has died or has had
20 physical injury or injuries inflicted upon him or her other than by
21 accidental means or who has been subjected to sexual abuse, shall
22 report such incident to the proper law enforcement agency. In
23 emergency cases, where the child, adult dependent, or developmentally
24 disabled person's welfare is endangered, the department shall notify
25 the proper law enforcement agency within twenty-four hours after a
26 report is received by the department. In all other cases, the
27 department shall notify the law enforcement agency within seventy-two
28 hours after a report is received by the department. If the department
29 makes an oral report, a written report shall also be made to the proper
30 law enforcement agency within five days thereafter.

31 (5) Any law enforcement agency receiving a report of an incident of
32 abuse or neglect pursuant to this chapter, involving a child or adult
33 dependent or developmentally disabled person who has died or has had
34 physical injury or injuries inflicted upon him or her other than by
35 accidental means, or who has been subjected to sexual abuse, shall
36 report such incident in writing as provided in RCW 26.44.040 to the
37 proper county prosecutor or city attorney for appropriate action
38 whenever the law enforcement agency's investigation reveals that a
39 crime may have been committed. The law enforcement agency shall also

1 notify the department of all reports received and the law enforcement
2 agency's disposition of them. In emergency cases, where the child,
3 adult dependent, or developmentally disabled person's welfare is
4 endangered, the law enforcement agency shall notify the department
5 within twenty-four hours. In all other cases, the law enforcement
6 agency shall notify the department within seventy-two hours after a
7 report is received by the law enforcement agency.

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

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

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

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

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

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

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

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

34 The department shall provide annual reports to the legislature on
35 the effectiveness of the risk assessment process.

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

1 NEW SECTION. **Sec. 20.** Sections 1 through 9 and 11 through 16 of
2 this act shall constitute a new chapter in Title 43 RCW.

3 NEW SECTION. **Sec. 21.** Sections 3 through 6, 13, and 17 of this
4 act are necessary for the immediate preservation of the public peace,
5 health, or safety, or support of the state government and its existing
6 public institutions, and shall take effect immediately.

7 NEW SECTION. **Sec. 22.** Sections 1, 2, 7 through 12, 14 through 16,
8 18, and 19 of this act shall take effect January 1, 1997.

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