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**SUBSTITUTE HOUSE BILL 2823**

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**State of Washington**

**64th Legislature**

**2016 Regular Session**

**By** House Education (originally sponsored by Representatives Parker, Riccelli, Manweller, and Bergquist)

READ FIRST TIME 02/05/16.

1 AN ACT Relating to creating a program to provide students and the  
2 community with the means to report anonymously concerning unsafe or  
3 violent activities, or the threat of these activities; reenacting and  
4 amending RCW 42.56.240; adding a new section to chapter 28A.300 RCW;  
5 adding a new section to chapter 28A.320 RCW; creating a new section;  
6 and prescribing penalties.

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

8 NEW SECTION. **Sec. 1.** The legislature finds that violence in  
9 schools is a serious concern. The legislature intends to limit  
10 violence in schools by providing students and the community with a  
11 mechanism to report anonymously information about potentially  
12 dangerous situations.

13 NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.300  
14 RCW to read as follows:

15 (1) The students protecting students program is established  
16 within the office of the superintendent of public instruction. The  
17 primary purpose of the statewide program is to provide students and  
18 the community with the means to relay information anonymously  
19 concerning unsafe, potentially harmful, dangerous, violent, or  
20 criminal activities, or the threat of these activities, to school

1 officials or, if necessary, appropriate law enforcement or public  
2 safety agencies.

3 (2) The students protecting students program must:

4 (a) Establish and maintain methods of anonymous reporting  
5 concerning unsafe, potentially harmful, dangerous, violent, or  
6 criminal activities, or the threat of these activities, where  
7 reporting can be accomplished by, at a minimum, phone, text message,  
8 and email;

9 (b) Establish methods and procedures, consistent with the federal  
10 health insurance portability and accountability act and the federal  
11 educational rights and privacy act, to ensure that the identity of  
12 the reporting party remains unknown to persons and entities,  
13 including employees or persons operating the program, law enforcement  
14 officers, public safety officers, and school officials;

15 (c) Establish methods and procedures so that information obtained  
16 from a reporting party who voluntarily discloses his or her identity  
17 and verifies that he or she is willing to be identified may be shared  
18 with employees or persons operating the program, law enforcement  
19 officers, public safety officers, and school officials;

20 (d) Establish methods and procedures to ensure that the identity  
21 of a reporting party who becomes known through any means other than  
22 voluntary disclosure is not further disclosed; and

23 (e) Promptly forward information received by the program to the  
24 relevant building principal, or alternate school official. However,  
25 if the information received is deemed to be immediately actionable,  
26 then also forward the information to the appropriate local law  
27 enforcement officers and public safety officers.

28 (3)(a) The students protecting students program and employees or  
29 persons operating the program must not be compelled to produce any  
30 personally identifiable information except on the motion of a  
31 criminal defendant to the court in which the offense is being tried,  
32 supported by an affidavit establishing that the personally  
33 identifiable information contains impeachment evidence or evidence  
34 that is exculpatory to the defendant in the trial of that offense.

35 (b) If the defendant's motion is granted, the court shall conduct  
36 an ex parte in camera review of personally identifiable information  
37 produced under the defendant's subpoena.

38 (c) If the court determines that the produced personally  
39 identifiable information contains impeachment evidence or evidence  
40 that is exculpatory to the defendant, the court shall order the

1 personally identifiable information be produced to the defendant  
2 pursuant to a protective order that includes the redaction of the  
3 reporting party's identity and limitations on the use of the  
4 personally identifiable information, as needed, unless contrary to  
5 state or federal law. Personally identifiable information excised  
6 pursuant to a judicial order following the in camera review must be  
7 sealed and preserved in the records of the court, to be made  
8 available to the appellate court in the event of an appeal. After the  
9 time for appeal has expired, the court must return the personally  
10 identifiable information to the students protecting students program.

11 (4)(a) Personally identifiable information created or obtained  
12 through the implementation or operation of the students protecting  
13 students program is confidential and must not be disclosed. The  
14 students protecting students program and employees or persons  
15 operating the program may be compelled to produce personally  
16 identifiable information only before a court or other tribunal and  
17 only pursuant to court order for an in camera review. An in camera  
18 review must be limited to an inspection of personally identifiable  
19 information that is material to the specific case pending before the  
20 court. The attorney general acting on behalf of the students  
21 protecting students program has standing in an action to oppose the  
22 disclosure of personally identifiable information in the custody of  
23 the program.

24 (b) An employee or person operating the program who knowingly  
25 discloses personally identifiable information in violation of the  
26 provisions of this section commits a misdemeanor punishable under  
27 chapter 9A.20 RCW.

28 (5) The definitions in this subsection apply throughout this  
29 section unless the context clearly requires otherwise.

30 (a) "In camera" means a confidential review by the judge alone in  
31 his or her chambers.

32 (b) "Personally identifiable information" means the name of the  
33 reporting party; the address, phone number, or email address of the  
34 reporting party; personal indirect identifiers of the reporting  
35 party, such as social security number, student number, date of birth,  
36 mother's maiden name; or other information that, alone or in  
37 combination, with other information, could be used to determine the  
38 identity of the reporting party.

1        NEW SECTION.    **Sec. 3.**    A new section is added to chapter 28A.320  
2    RCW to read as follows:

3        (1) Every school year, beginning in the 2016-17 school year,  
4    there must be made available to all students in each common school as  
5    defined in RCW 28A.150.020 at least one age-appropriate educational  
6    program, class, or activity designed to teach students about the  
7    students protecting students program established in section 2 of this  
8    act. Such a program, class, or activity must include information  
9    about how to report anonymously concerning unsafe, potentially  
10   harmful, dangerous, violent, or criminal activities, or the threat of  
11   these activities, to appropriate law enforcement agencies, public  
12   safety agencies, and school officials.

13       (2) Beginning in the 2016-17 school year, schools and school  
14   districts must disseminate information about the students protecting  
15   students program established in section 2 of this act, including the  
16   contact information for anonymous reporting, through any normal means  
17   of existing communication to students and families.

18       **Sec. 4.**    RCW 42.56.240 and 2015 c 224 s 3 and 2015 c 91 s 1 are  
19   each reenacted and amended to read as follows:

20       The following investigative, law enforcement, and crime victim  
21   information is exempt from public inspection and copying under this  
22   chapter:

23       (1) Specific intelligence information and specific investigative  
24   records compiled by investigative, law enforcement, and penology  
25   agencies, and state agencies vested with the responsibility to  
26   discipline members of any profession, the nondisclosure of which is  
27   essential to effective law enforcement or for the protection of any  
28   person's right to privacy;

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

1 (3) Any records of investigative reports prepared by any state,  
2 county, municipal, or other law enforcement agency pertaining to sex  
3 offenses contained in chapter 9A.44 RCW or sexually violent offenses  
4 as defined in RCW 71.09.020, which have been transferred to the  
5 Washington association of sheriffs and police chiefs for permanent  
6 electronic retention and retrieval pursuant to RCW 40.14.070(2)(b);

7 (4) License applications under RCW 9.41.070; copies of license  
8 applications or information on the applications may be released to  
9 law enforcement or corrections agencies;

10 (5) Information revealing the identity of child victims of sexual  
11 assault who are under age eighteen. Identifying information means the  
12 child victim's name, address, location, photograph, and in cases in  
13 which the child victim is a relative or stepchild of the alleged  
14 perpetrator, identification of the relationship between the child and  
15 the alleged perpetrator;

16 (6) Information contained in a local or regionally maintained  
17 gang database as well as the statewide gang database referenced in  
18 RCW 43.43.762;

19 (7) Data from the electronic sales tracking system established in  
20 RCW 69.43.165;

21 (8) Information submitted to the statewide unified sex offender  
22 notification and registration program under RCW 36.28A.040(6) by a  
23 person for the purpose of receiving notification regarding a  
24 registered sex offender, including the person's name, residential  
25 address, and email address;

26 (9) Personally identifying information collected by law  
27 enforcement agencies pursuant to local security alarm system programs  
28 and vacation crime watch programs. Nothing in this subsection shall  
29 be interpreted so as to prohibit the legal owner of a residence or  
30 business from accessing information regarding his or her residence or  
31 business;

32 (10) The felony firearm offense conviction database of felony  
33 firearm offenders established in RCW 43.43.822;

34 (11) The identity of a state employee or officer who has in good  
35 faith filed a complaint with an ethics board, as provided in RCW  
36 42.52.410, or who has in good faith reported improper governmental  
37 action, as defined in RCW 42.40.020, to the auditor or other public  
38 official, as defined in RCW 42.40.020;

39 (12) The following security threat group information collected  
40 and maintained by the department of corrections pursuant to RCW

1 72.09.745: (a) Information that could lead to the identification of a  
2 person's security threat group status, affiliation, or activities;  
3 (b) information that reveals specific security threats associated  
4 with the operation and activities of security threat groups; and (c)  
5 information that identifies the number of security threat group  
6 members, affiliates, or associates; (~~and~~)

7 (13) The global positioning system data that would indicate the  
8 location of the residence of an employee or worker of a criminal  
9 justice agency as defined in RCW 10.97.030; and

10 (14) Personally identifiable information, as defined in section 2  
11 of this act, received, made, or kept by, or received from, the  
12 students protecting students program established in section 2 of this  
13 act, that is confidential under section 2(4) of this act.

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