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**SUBSTITUTE HOUSE BILL 2734**

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**State of Washington**

**52nd Legislature**

**1992 Regular Session**

**By** House Committee on State Government (originally sponsored by Representatives Appelwick, Padden, H. Myers, Brough, Basich, R. King, Jacobsen, Riley, Ludwig, Paris, Wineberry, Nelson, Franklin, Wang, Horn, Cooper, Jones, Pruitt, May, Wynne, Mitchell, Ogden, Roland, J. Kohl, Haugen, O'Brien, Spanel, Rasmussen and Anderson; by request of Department of Community Development and Dept. of Social and Health Services)

Read first time 02/07/92.

1 AN ACT Relating to the office of crime victims' advocacy; amending  
2 RCW 43.280.010, 43.280.020, 43.280.030, 43.280.050, and 43.280.060;  
3 reenacting and amending RCW 42.17.310; adding new sections to chapter  
4 43.280 RCW; and adding a new section to chapter 41.06 RCW.

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

6 **Sec. 1.** RCW 43.280.010 and 1990 c 3 s 1201 are each amended to  
7 read as follows:

8 The legislature recognizes the need to increase ((the)) services  
9 available to ((the)) victims of ((sex—offenders)) crime. The  
10 legislature also recognizes that these services are most effectively  
11 planned and provided at the local level through the combined efforts of  
12 concerned community and citizens groups, treatment providers, and local  
13 government officials. The legislature further recognizes that adequate

1 treatment for victims is not only a matter of justice for the victim,  
2 but also a method by which additional ((abuse)) crime can be prevented.

3 The legislature intends to enhance the community-based  
4 ((treatment)) services available to ((the)) victims of ((sex  
5 offenders)) crime by:

6 (1) Establishing the office of crime victims' advocacy to provide  
7 a focus within state government on the rights of, and services for,  
8 victims of crime;

9 (2) Providing funding support for local ((treatment)) programs  
10 ((which)) that provide services to victims of ((sex-offenders)) crime;

11 ((+2)) (3) Providing technical assistance and support to help  
12 communities plan for and provide ((treatment)) services to crime  
13 victims; and

14 ((+3)) (4) Providing communities and local ((treatment)) service  
15 providers with opportunities to share information about successful  
16 prevention and treatment programs.

17 NEW SECTION. Sec. 2. The office of crime victims' advocacy is  
18 established within the department of community development to provide  
19 a focus within state government on the rights of, and services for,  
20 victims of crime.

21 The office of crime victims' advocacy shall:

22 (1) Advocate for programs and policies that strengthen victim  
23 rights and improve the quality and accessibility of services for  
24 victims;

25 (2) Serve as an ombuds to assist victims in obtaining needed  
26 services, and to investigate situations in which victims believe their  
27 rights have been violated;

28 (3) Serve as a clearinghouse of information regarding services,  
29 statutes, and research related to crime victims;

1 (4) Work with crime victim service organizations to provide  
2 leadership in the development of public policy relative to crime victim  
3 issues;

4 (5) Facilitate the development of standards for the provision of  
5 services to crime victims upon the request of providers of such  
6 services and affected regulatory agencies;

7 (6) Facilitate the planning and provision of training for providers  
8 of crime victim services including, but not limited to, personnel in  
9 social service, criminal justice, medical, and education systems;

10 (7) Administer grant funds that are made available to enhance the  
11 capacity of communities to serve victims of crime and to prevent  
12 victimization; and

13 (8) Provide technical assistance to state and community  
14 organizations to help them serve victims of crime.

15 NEW SECTION. **Sec. 3.** The crime victims' ombuds is created  
16 within the office of crime victims' advocacy.

17 (1) The crime victims' ombuds may investigate complaints concerning  
18 possible violation of the rights of crime victims or witnesses provided  
19 for by law, the delivery of services to crime victims, the  
20 administration of the crime victims compensation act, chapter 7.68 RCW,  
21 and other complaints of mistreatment by elements of the criminal  
22 justice system or victim service providers. Clients or other affected  
23 individuals who have complaints regarding a policy or procedure, or the  
24 application of a policy or procedure, of the department of social and  
25 health services, shall be referred to the complaint resolution process  
26 established under RCW 74.13.045 if the complaint is related to programs  
27 administered under chapter 74.13 RCW. The ombuds shall act as a  
28 liaison, if requested, between agencies in the criminal justice system  
29 or victim service providers, and victims and witnesses. The ombuds

1 shall be available through the use of a toll-free telephone number and  
2 shall answer questions concerning the criminal justice system and  
3 victim services from victims and witnesses in accordance with the  
4 ombuds' knowledge of the facts or law, unless the information is  
5 otherwise restricted.

6 (2) The crime victim ombuds has those powers necessary to carry out  
7 the duties set out in subsection (1) of this section, including:

8 (a) The ombuds may investigate any action of an element of the  
9 criminal justice system or a victim assistance program.

10 (b) The ombuds may request and be given access to all information  
11 pertaining to a complaint, including any records pertaining to  
12 juveniles and juvenile offenders. Records obtained under this chapter  
13 shall not be released to any person by the office of crime victims'  
14 advocacy.

15 (c) After completing investigation of a complaint, the ombuds may  
16 inform in writing the complainant, the investigated person or entity,  
17 and other appropriate authorities of the action taken.

18 (3)(a) On finding a complaint valid after duly considering the  
19 complaint and whatever material the ombuds deems pertinent, the ombuds  
20 may recommend action to the appropriate authority.

21 (b) If the ombuds makes a recommendation to an appropriate  
22 authority for action, the authority shall, within a reasonable time  
23 period, inform the ombuds about the action taken or the reasons for not  
24 adopting the recommendation.

25 (4) The crime victims' ombuds shall not serve as legal counsel to  
26 any person in a civil or criminal proceeding.

27 (5) The executive administrator of the office of crime victims'  
28 advocacy shall establish procedures to ensure the impartiality of all  
29 ombuds actions including those that involve crime victim programs  
30 funded by the department of community development.

1        NEW SECTION.    **Sec. 4.**        The executive administrator of the  
2 office of crime victims' advocacy shall be appointed by and report to  
3 the director of the department of community development.

4        NEW SECTION.    **Sec. 5.**    A new section is added to chapter 41.06 RCW  
5 to read as follows:

6        In addition to the exemptions set forth in RCW 41.06.070, the  
7 provisions of this chapter do not apply to the executive administrator  
8 of the office of crime victims' advocacy.

9        **Sec. 6.**    RCW 43.280.020 and 1990 c 3 s 1203 are each amended to  
10 read as follows:

11        There is established in the department of community development a  
12 grant program to enhance the funding for treating the victims of sex  
13 offenders and prevention of sexual assault victimization. Activities  
14 that can be funded through this grant program are limited to those  
15 that:

16        (1) Provide effective treatment or prevention services to victims  
17 of sex offenders;

18        (2) Increase access to and availability of treatment or prevention  
19 services for victims of sex offenders, particularly if from underserved  
20 populations; and

21        (3) Create or build on efforts by existing community programs,  
22 coordinate those efforts, or develop cooperative efforts or other  
23 initiatives to make the most effective use of resources to provide  
24 treatment or prevention services to these victims.

25        Funding priority shall be given to those applicants that represent  
26 well-established existing programs and applicants that represent new  
27 programs that are being created in geographic areas where no programs  
28 presently exist.

1       **Sec. 7.** RCW 43.280.030 and 1990 c 3 s 1204 are each amended to  
2 read as follows:

3       Applications for funding under this chapter must:

4       (1) Present evidence demonstrating how the criteria in RCW  
5 (~~43.280.010~~) 43.280.020 will be met and demonstrating the  
6 effectiveness of the proposal.

7       (2) Contain evidence of active participation of the community and  
8 its commitment to providing ~~((an))~~ effective treatment or prevention  
9 services for victims of sex offenders through the participation of  
10 local governments, tribal governments, human service and health  
11 organizations, and treatment entities and through meaningful  
12 involvement from others, including citizen groups, as applicable.

13       **Sec. 8.** RCW 43.280.050 and 1990 c 3 s 1206 are each amended to  
14 read as follows:

15       At a minimum, grant applications must include the following:

16       (1) The geographic area from which the victims or persons at-risk  
17 of becoming victims to be served are expected to come;

18       (2) A description of the extent and effect of the needs of these  
19 victims and persons at-risk of becoming victims within the relevant  
20 geographic area;

21       (3) An explanation of how the funds will be used, their  
22 relationship to existing services available within the community, and  
23 the need that they will fulfill;

24       (4) An explanation of what organizations were involved in the  
25 development of the proposal; and

26       (5) An evaluation methodology.

27       **Sec. 9.** RCW 43.280.060 and 1990 c 3 s 1207 are each amended to  
28 read as follows:

1 (1) Subject to funds appropriated by the legislature, the  
2 department of community development shall make awards under the grant  
3 program established by RCW 43.280.020.

4 (2) Awards shall be made competitively based on the purposes of and  
5 criteria in this chapter.

6 (3) To aid the department of community development in making its  
7 determination, the department shall form a peer review committee  
8 comprised of the executive administrator or designee for the office of  
9 crime victims' advocacy (~~office~~) and individuals who have experience  
10 in (~~the treatment of victims of predatory violent sex offenders~~)  
11 providing sexual assault treatment or prevention services. The peer  
12 review committee shall advise the department on the extent to which  
13 each eligible applicant meets the purposes and criteria of this  
14 chapter. The department shall consider this advice in making awards.

15 (4) Activities funded under this section may be considered for  
16 funding in future years, but shall be considered under the same terms  
17 and criteria as new activities. Funding under this chapter shall not  
18 constitute an obligation by the state of Washington to provide ongoing  
19 funding.

20 NEW SECTION. Sec. 10. Records maintained by the office of  
21 crime victims' advocacy are not subject to discovery in any judicial  
22 proceeding unless:

23 (1) A written motion is made to a court stating that discovery is  
24 requested of such records;

25 (2) The written motion is accompanied by an affidavit or affidavits  
26 setting forth specifically the reasons why discovery is requested of  
27 office of crime victims' advocacy records;

28 (3) The court reviews the office of crime victims' advocacy records  
29 in camera to determine whether the records are relevant and whether the

1 probative value of the records are outweighed by the victim's privacy  
2 interest in the confidentiality of such records, taking into account  
3 the further trauma that may be inflicted upon the victim by the  
4 disclosure of the records; and

5 (4) The court enters an order stating whether the records or any  
6 part of the records are discoverable and setting forth a basis for the  
7 courts findings.

8 NEW SECTION. **Sec. 11.** No member of the office of crime  
9 victims' advocacy may be compelled to testify in any court with respect  
10 to matters involving the exercise of the ombuds functions of the  
11 office, except for the purpose of establishing the validity of records  
12 that may be entered into evidence pursuant to section 10 of this act.

13 **Sec. 12.** RCW 42.17.310 and 1991 c 301 s 13, 1991 c 87 s 13, and  
14 1991 c 23 s 10 are each reenacted and amended to read as follows:

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

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

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

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

27 (d) Specific intelligence information and specific investigative  
28 records compiled by investigative, law enforcement, and penology



1 agencies, and state agencies vested with the responsibility to  
2 discipline members of any profession, the nondisclosure of which is  
3 essential to effective law enforcement or for the protection of any  
4 person's right to privacy.

5 (e) Information revealing the identity of persons who file  
6 complaints with investigative, law enforcement, or penology agencies,  
7 other than the public disclosure commission, if disclosure would  
8 endanger any person's life, physical safety, or property. If at the  
9 time the complaint is filed the complainant indicates a desire for  
10 disclosure or nondisclosure, such desire shall govern. However, all  
11 complaints filed with the public disclosure commission about any  
12 elected official or candidate for public office must be made in writing  
13 and signed by the complainant under oath.

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

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

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

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

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

5 (k) Records, maps, or other information identifying the location of  
6 archaeological sites in order to avoid the looting or depredation of  
7 such sites.

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

11 (m) Financial information supplied by or on behalf of a person,  
12 firm, or corporation for the purpose of qualifying to submit a bid or  
13 proposal for ~~((a))~~ (i) a ferry system construction or repair contract  
14 as required by RCW 47.60.680 through 47.60.750 or ~~((b))~~ (ii) highway  
15 construction or improvement as required by RCW 47.28.070.

16 (n) Railroad company contracts filed with the utilities and  
17 transportation commission under RCW 81.34.070, except that the  
18 summaries of the contracts are open to public inspection and copying as  
19 otherwise provided by this chapter.

20 (o) Financial and commercial information and records supplied by  
21 private persons pertaining to export services provided pursuant to  
22 chapter 43.163 RCW and chapter 53.31 RCW.

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

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

28 (r) Financial and commercial information and records supplied by  
29 businesses during application for loans or program services provided by  
30 chapter 43.163 RCW and chapters 43.31, 43.63A, and 43.168 RCW.

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) Information obtained by the board of pharmacy as provided in  
17 RCW 69.45.090.

18 (x) Information obtained by the board of pharmacy or the department  
19 of health and its representatives as provided in RCW 69.41.044,  
20 69.41.280, and 18.64.420.

21 (y) Financial information, business plans, examination reports, and  
22 any information produced or obtained in evaluating or examining a  
23 business and industrial development corporation organized or seeking  
24 certification under chapter 31.24 RCW.

25 (z) Financial and commercial information supplied to the state  
26 investment board by any person when the information relates to the  
27 investment of public trust or retirement funds and when disclosure  
28 would result in loss to such funds or in private loss to the providers  
29 of this information.

30 (aa) Financial and valuable trade information under RCW 51.36.120.

1 (bb) Client records maintained by an agency that is a domestic  
2 violence program as defined in RCW 70.123.020 or a rape crisis center  
3 as defined in RCW 70.125.030.

4 (cc) Records maintained by the office of crime victims' advocacy  
5 related to the ombuds functions of the office that disclose or could be  
6 used to disclose the identity of a crime victim or complainant.

7 (2) Except for information described in subsection (1)(c)(i) of  
8 this section and confidential income data exempted from public  
9 inspection pursuant to RCW 84.40.020, the exemptions of this section  
10 are inapplicable to the extent that information, the disclosure of  
11 which would violate personal privacy or vital governmental interests,  
12 can be deleted from the specific records sought. No exemption may be  
13 construed to permit the nondisclosure of statistical information not  
14 descriptive of any readily identifiable person or persons.

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

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

25 NEW SECTION. Sec. 13. Sections 2 through 4, 10, and 11 of this  
26 act are each added to chapter 43.280 RCW.