

2 **SHB 2442 - H AMD 265 ADOPTED 2-13-96**
3 By Representatives Mulliken and others

4

5 Strike everything after the enacting clause and insert the
6 following:

7

"PART I

8

LEGISLATIVE INTENT

9

RESTORATION OF PARENTS' RIGHTS AND RESPONSIBILITIES

10 NEW SECTION. **Sec. 1.** The legislature finds that there has been a
11 gradual encroachment by the state into the fundamental rights of
12 parents to exercise legitimate care, responsibility, and control over
13 the upbringing of their children and the failure of government to
14 adequately support the reasonable attempts of parents to train,
15 discipline, and prepare their children to be productive, law-abiding
16 citizens is destructive to the family unit and harmful to society.

17 The result of such interference and neglect is a breakdown in the
18 traditional role of the family as the primary provider, protector, and
19 promoter of the health, safety, and well-being of children and of the
20 basic values and character traits essential for attaining individual
21 liberty, fulfillment, and happiness.

22 This act is intended to ensure the rights of parents to rightfully
23 manage and direct the affairs of their minor or dependent children, to
24 ensure that government appropriately respects and reinforces those
25 rights, and to ensure that parents meet the responsibilities inherent
26 in bearing and raising young children. The legislature recognizes that
27 upholding the rights of parents is in the best interest of families and
28 minor or dependent children of Washington state.

29 This act is also intended to assist parents in furthering the
30 following important values: (1) Honesty, integrity, and trust; (2)
31 respect for self and others; (3) responsibility for personal actions
32 and commitments; (4) self-discipline and moderation; (5) diligence and
33 a positive work ethic; (6) respect for law and authority; (7) healthy
34 and constructive behavior; and (8) family as the basis of society.

1 Neither the state of Washington, nor its political subdivisions,
2 should by any means, enact or enforce any policy that supersedes or
3 infringes upon the rights of parents as recognized and protected by
4 this act.

5 **PART II**

6 **FAMILY**

7 **A. PARENTS' RIGHT TO NOTIFICATION OF OUTPATIENT OR INPATIENT**
8 **DRUG OR ALCOHOL TREATMENT PROVIDED TO A MINOR**
9 **OR DEPENDENT CHILD**

10 NEW SECTION. **Sec. 2.** A new section is added to chapter 70.96A RCW
11 to read as follows:

12 (1) Any provider of treatment in an approved inpatient treatment
13 program who provides treatment beyond an initial assessment, to a minor
14 under RCW 70.96A.095(1) shall provide notice of the treatment to the
15 minor's parents. The notice shall be made within forty-eight hours of
16 the first date of treatment after the initial assessment, excluding
17 Saturdays, Sundays, and holidays, and shall contain the same
18 information as required under RCW 71.34.030(2)(b).

19 The provider shall provide notice only if (a) the minor signs a
20 written consent authorizing the disclosure in accordance with sections
21 523 and 527 of the public health services act, 42 U.S.C. Sec. 290dd-3,
22 290ee-3, as implemented by 42 C.F.R. Sec. 2.31 (1994) or (b) the
23 consent of the minor's parent, parents, custodian, or guardian is
24 unnecessary for the minor to receive treatment and the program or
25 facility director determines that the minor lacks capacity to make a
26 rational choice regarding consenting to disclosure.

27 (2) Any provider of outpatient treatment who provides outpatient
28 treatment to a minor shall provide notice of the minor's request for
29 treatment to the minor's parents if (a) the minor signs a written
30 consent authorizing the disclosure in accordance with sections 523 and
31 527 of the public health services act, 42 U.S.C. Sec. 290dd-3, 290ee-3,
32 as implemented by 42 C.F.R. Sec. 2.31 (1994) or (b) the program or
33 facility director determines that the minor lacks capacity to make a
34 rational choice regarding consenting to disclosure. The notice shall
35 be made within seven days of the request for treatment, excluding
36 Saturdays, Sundays, and holidays, and shall contain the same
37 information as required under RCW 71.34.030(2)(b).

1 **B. PARENTS' RIGHT TO NOTICE OF OUTPATIENT OR INPATIENT**
2 **MENTAL HEALTH TREATMENT PROVIDED TO A MINOR**
3 **OR DEPENDENT CHILD**

4 NEW SECTION. **Sec. 3.** A new section is added to chapter 71.34 RCW
5 to read as follows:

6 (1) Any provider of treatment at an inpatient evaluation and
7 treatment facility who provides treatment beyond an initial assessment
8 to a minor under RCW 71.34.030(1) shall provide notice of the request
9 for treatment to the minor's parents. The notice shall be made within
10 forty-eight hours of the request for treatment, excluding Saturdays,
11 Sundays, and holidays, and shall contain the same information as
12 required under RCW 71.34.030(2)(b).

13 (2) Any provider of outpatient treatment shall provide notice of
14 the request for treatment beyond an initial assessment to the minor's
15 parents. The notice shall be made within seven days of the request for
16 treatment, excluding Saturdays, Sundays, and holidays, and shall
17 contain the same information as required under RCW 71.34.030(2)(b).

18 **C. PARENTS' RIGHT TO BE NOTIFIED OF A RUNAWAY MINOR**
19 **OR DEPENDENT CHILD**

20 **Sec. 4.** RCW 13.32A.082 and 1995 c 312 s 34 are each amended to
21 read as follows:

22 (1) Any person who, without legal authorization, provides shelter
23 to a minor and who knows or should have known at the time of providing
24 the shelter that the minor is away from the parent's home, or other
25 lawfully prescribed residence, without the permission of the parent,
26 shall promptly report the location of the child to the parent(~~(,)~~) or
27 the law enforcement agency of the jurisdiction in which the person
28 lives(~~(, or the department)~~). The report may be made by telephone or
29 any other reasonable means.

30 (2) Unless the context clearly requires otherwise, the definitions
31 in this subsection apply throughout this section.

32 (a) "Shelter" means the person's home or any structure over which
33 the person has any control.

34 (b) "Promptly report" means to report within eight hours after the
35 person has knowledge that the minor is away from home without parental
36 permission.

1 (c) "Parent" means any parent having legal custody or legal
2 guardianship of the child, whether individually or jointly.

3 (3) If the department receives a report under subsection (1) of
4 this section, it must make a reasonable effort to notify the legal
5 guardian that a report has been received.

6 NEW SECTION. Sec. 5. A new section is added to chapter 13.32A RCW
7 to read as follows:

8 (1) A violation of RCW 13.32A.082 by a licensed child-serving
9 agency is a licensing violation under chapter 74.15 RCW.

10 (2) A violation of RCW 13.32A.082 is a misdemeanor.

11 **D. RIGHT TO NOTIFICATION OF DRIVER'S LICENSE SUSPENSION**

12 **Sec. 6.** RCW 46.20.292 and 1979 c 61 s 8 are each amended to read
13 as follows:

14 The department may suspend, revoke, restrict, or condition any
15 driver's license upon a showing of its records that the licensee has
16 been found by a juvenile court, chief probation officer, or any other
17 duly authorized officer of a juvenile court to have committed any
18 offense or offenses which under Title 46 RCW constitutes grounds for
19 said action. If the department takes any such action against the
20 driver's license of an unemancipated minor under age eighteen, the
21 department must make a reasonable effort to notify the juvenile's
22 parent, parents, or guardian.

23 **E. PARENTS' RIGHT TO BE NOTIFIED OF ANY JUVENILE OFFENDER**
24 **PROCEEDINGS INVOLVING A MINOR OR DEPENDENT CHILD**

25 NEW SECTION. Sec. 7. A new section is added to chapter 13.40 RCW
26 to read as follows:

27 If a parent would not otherwise be notified, the state and its
28 political subdivisions must notify a parent or legal guardian of a
29 minor or dependent child of any arrest, detention, or penalty imposed
30 under color of law upon the minor or dependent child by the state or
31 any of its political subdivisions.

32 **PART III**
33 **EDUCATION**

1 **A. PARENTS' RIGHT TO DETERMINE WHAT A MINOR OR DEPENDENT CHILD**
2 **IS LEARNING**

3 NEW SECTION. **Sec. 8.** A new section is added to chapter 28A.320
4 RCW to read as follows:

5 (1) Upon the written request or personal appearance of a parent or
6 legal guardian of a student, a public school shall make available for
7 inspection by the parent or legal guardian, during school hours, any
8 classroom instructional materials, including textbooks, teacher
9 manuals, library books, films, video tapes, audio tapes, computer
10 programs, supplementary materials, or any other materials, associated
11 with the education or instruction of the student by the school.
12 Materials physically located in the school must be made available
13 within five working days of the request. Materials within the school
14 district must be made available within fourteen working days of the
15 request.

16 (2) A public school shall give parents or legal guardians at least
17 thirty days' advance written notice prior to presenting in any school-
18 sponsored curriculum component, program, or activity, whether
19 curricular or extracurricular, information regarding: Sex education,
20 sexually transmitted diseases, contraception, sexual orientation, or
21 euthanasia. Districts may provide additional notice as they deem
22 necessary.

23 (3) No student may attend or participate in a public
24 school-sponsored class, program, or activity, whether curricular or
25 extra-curricular, involving any of the components in this section
26 without acquiring written affirmation that their parent or legal
27 guardian has been notified of the class, program, or activity.

28 (4) A school that offers any of the components in this section
29 shall develop a parental notification form that includes the following:

30 (i) A statement informing the parent that the school will be
31 offering to students a course or activity listed in subsection (2) of
32 this section and that the law requires parental notification of such
33 offering;

34 (ii) A conspicuous statement that the parent has a right to
35 prohibit their child's participation or attendance in any class that
36 involves a component listed in subsection (2) of this section; and

37 (iii) Shall provide the parent with a signature slot confirming the
38 parent has received notification that the component is being offered to

1 their child and an additional signature slot the parent may sign to
2 prohibit their child's participation or attendance in the class or
3 activity.

4 (5) All instructional materials, including teacher's manuals,
5 films, tapes, or other supplementary material a school uses in
6 presenting any of the components in subsection (2) of this section as
7 well as instructional materials that may be used by any guest speaker,
8 shall be available for inspection by the custodial parent or legal
9 guardian of a student during school hours, at least ten days prior to
10 their use at the school.

11 (6) Employees of a school district shall not direct, instruct, or
12 encourage a student to withhold instructional materials or other
13 information concerning classroom activities, tests, discussions, or
14 programs from their parent.

15 **B. PARENTS' AND STUDENTS' RIGHTS TO PRIVACY**

16 NEW SECTION. **Sec. 9.** A new section is added to chapter 28A.600
17 RCW to read as follows:

18 (1) A public school must give parents or legal guardians advance
19 written notice before the school, or before any person or organization
20 under contract with the school, conducts any student test,
21 questionnaire, survey, analysis, or evaluation that requests disclosure
22 by the student of information about either the student or the student's
23 parent or legal guardian's personal: Political or religious
24 affiliations, mental or psychological problems, sexual behavior or
25 attitudes, illegal, self-incriminating, or demeaning behavior, critical
26 appraisals of any other individual with whom the student has a family
27 relationship, legally privileged information arising out of
28 confidential relationships with persons such as lawyers, physicians, or
29 ministers, or religious issues. The notice must provide complete
30 disclosure to the student's parent or legal guardian regarding the
31 subject matter and nature of the test, questionnaire, survey, analysis,
32 or evaluation.

33 (2) No student may participate in any test, questionnaire, survey,
34 analysis, or evaluation listed in subsection (1) of this section
35 without prior written consent from the student's parent or legal
36 guardian.

37 (3) All materials which a school uses in conducting any student
38 test, questionnaire, survey, analysis, or evaluation that involves

1 disclosure of information described in subsection (1) of this section
2 must be readily available for inspection by the parent or legal
3 guardian of a student, at least ten days prior to their administration,
4 at the school during normal school hours. School personnel must also
5 be readily available to answer questions relative to the materials.

6 **C. PARENTS' RIGHT TO KNOW WHETHER THEIR CHILD**
7 **IS SEEKING COUNSELING SERVICES**

8 NEW SECTION. **Sec. 10.** A new section is added to chapter 28A.150
9 RCW to read as follows:

10 (1) All schools shall maintain a written register regarding
11 counseling services provided by a school counselor or other
12 paraprofessional employed by the district to provide counseling
13 services to students in the public schools. This register must
14 maintain the dates on which the student received counseling services.
15 This register must be available for parent review and may not be
16 maintained with student academic records. This register may not be
17 released to anyone other than the parent or student without the
18 parent's consent.

19 (2) Counseling records maintained from counseling sessions
20 involving social or emotional issues must be destroyed upon the
21 student's high school graduation or permanent transfer from the school.

22 (3) No school employee may knowingly use formal counseling
23 techniques that are beyond the scope of his or her certification.

24 **PART IV**
25 **HEALTH CARE**

26 **A. PARENTS' RIGHT TO BE PRESENT DURING MEDICAL PROCEDURES**
27 **INVOLVING A MINOR OR DEPENDENT CHILD**

28 NEW SECTION. **Sec. 11.** A new section is added to chapter 26.28 RCW
29 to read as follows:

30 A parent or legal guardian of an unemancipated minor or dependent
31 child has a right to be present when the minor or child is receiving
32 medical care if: (1) The parent is present at the time needed care is
33 provided; (2) the parent indicates his or her desire to be present; (3)
34 the child indicates his or her desire for the parent to be present; and

1 (4) the parent's presence will not interfere with or disrupt the
2 provider's ability to administer care.

3 This right does not extend to a parent or legal guardian if a
4 restraining order or other court order has been issued prohibiting the
5 parent or legal guardian from having contact with the child.

6 As used in this section, "medical care" means any medical
7 procedure, treatment, diagnosis, or examination that is performed by a
8 person licensed in this state to provide health care.

9 **B. PARENTS' RIGHT TO ACCESS HEALTH RELATED TEST RESULTS**

10 **Sec. 12.** RCW 70.24.105 and 1994 c 72 s 1 are each amended to read
11 as follows:

12 (1) No person may disclose or be compelled to disclose the identity
13 of any person who has investigated, considered, or requested a test or
14 treatment for a sexually transmitted disease, except as authorized by
15 this chapter.

16 (2) No person may disclose or be compelled to disclose the identity
17 of any person upon whom an HIV antibody test is performed, or the
18 results of such a test, nor may the result of a test for any other
19 sexually transmitted disease when it is positive be disclosed. This
20 protection against disclosure of test subject, diagnosis, or treatment
21 also applies to any information relating to diagnosis of or treatment
22 for HIV infection and for any other confirmed sexually transmitted
23 disease. The following persons, however, may receive such information:

24 (a) The subject of the test or the subject's legal representative
25 for health care decisions in accordance with RCW 7.70.065, with the
26 exception of such a representative of a minor child over fourteen years
27 of age and otherwise competent when the minor seeks testing without
28 parent involvement. Test results must be available to a parent or
29 legal guardian if the parent or legal guardian is present at the time
30 of testing;

31 (b) Any person who secures a specific release of test results or
32 information relating to HIV or confirmed diagnosis of or treatment for
33 any other sexually transmitted disease executed by the subject or the
34 subject's legal representative for health care decisions in accordance
35 with RCW 7.70.065, with the exception of such a representative of a
36 minor child over fourteen years of age and otherwise competent when the
37 minor seeks testing without parent involvement. Test results must be

1 available to a parent or legal guardian if the parent or legal guardian
2 is present at the time of testing;

3 (c) The state public health officer, a local public health officer,
4 or the centers for disease control of the United States public health
5 service in accordance with reporting requirements for a diagnosed case
6 of a sexually transmitted disease;

7 (d) A health facility or health care provider that procures,
8 processes, distributes, or uses: (i) A human body part, tissue, or
9 blood from a deceased person with respect to medical information
10 regarding that person; (ii) semen, including that provided prior to
11 March 23, 1988, for the purpose of artificial insemination; or (iii)
12 blood specimens;

13 (e) Any state or local public health officer conducting an
14 investigation pursuant to RCW 70.24.024, provided that such record was
15 obtained by means of court ordered HIV testing pursuant to RCW
16 70.24.340 or 70.24.024;

17 (f) A person allowed access to the record by a court order granted
18 after application showing good cause therefor. In assessing good
19 cause, the court shall weigh the public interest and the need for
20 disclosure against the injury to the patient, to the physician-patient
21 relationship, and to the treatment services. Upon the granting of the
22 order, the court, in determining the extent to which any disclosure of
23 all or any part of the record of any such test is necessary, shall
24 impose appropriate safeguards against unauthorized disclosure. An
25 order authorizing disclosure shall: (i) Limit disclosure to those
26 parts of the patient's record deemed essential to fulfill the objective
27 for which the order was granted; (ii) limit disclosure to those persons
28 whose need for information is the basis for the order; and (iii)
29 include any other appropriate measures to keep disclosure to a minimum
30 for the protection of the patient, the physician-patient relationship,
31 and the treatment services, including but not limited to the written
32 statement set forth in subsection (5) of this section;

33 (g) Persons who, because of their behavioral interaction with the
34 infected individual, have been placed at risk for acquisition of a
35 sexually transmitted disease, as provided in RCW 70.24.022, if the
36 health officer or authorized representative believes that the exposed
37 person was unaware that a risk of disease exposure existed and that the
38 disclosure of the identity of the infected person is necessary;

1 (h) A law enforcement officer, fire fighter, health care provider,
2 health care facility staff person, or other persons as defined by the
3 board in rule pursuant to RCW 70.24.340(4), who has requested a test of
4 a person whose bodily fluids he or she has been substantially exposed
5 to, pursuant to RCW 70.24.340(4), if a state or local public health
6 officer performs the test;

7 (i) Claims management personnel employed by or associated with an
8 insurer, health care service contractor, health maintenance
9 organization, self-funded health plan, state-administered health care
10 claims payer, or any other payer of health care claims where such
11 disclosure is to be used solely for the prompt and accurate evaluation
12 and payment of medical or related claims. Information released under
13 this subsection shall be confidential and shall not be released or
14 available to persons who are not involved in handling or determining
15 medical claims payment; and

16 (j) A department of social and health services worker, a child
17 placing agency worker, or a guardian ad litem who is responsible for
18 making or reviewing placement or case-planning decisions or
19 recommendations to the court regarding a child, who is less than
20 fourteen years of age, has a sexually transmitted disease, and is in
21 the custody of the department of social and health services or a
22 licensed child placing agency; this information may also be received by
23 a person responsible for providing residential care for such a child
24 when the department of social and health services or a licensed child
25 placing agency determines that it is necessary for the provision of
26 child care services.

27 (3) No person to whom the results of a test for a sexually
28 transmitted disease have been disclosed pursuant to subsection (2) of
29 this section may disclose the test results to another person except as
30 authorized by that subsection.

31 (4) The release of sexually transmitted disease information
32 regarding an offender, except as provided in subsection (2)(e) of this
33 section, shall be governed as follows:

34 (a) The sexually transmitted disease status of a department of
35 corrections offender shall be made available by department of
36 corrections health care providers to a department of corrections
37 superintendent or administrator as necessary for disease prevention or
38 control and for protection of the safety and security of the staff,
39 offenders, and the public. The information may be submitted to

1 transporting officers and receiving facilities, including facilities
2 that are not under the department of correction's jurisdiction.

3 (b) The sexually transmitted disease status of a person detained in
4 a jail shall be made available by the local public health officer to a
5 jail administrator as necessary for disease prevention or control and
6 for protection of the safety and security of the staff, offenders, and
7 the public. The information may be submitted to transporting officers
8 and receiving facilities.

9 (c) Information regarding a department of corrections offender's
10 sexually transmitted disease status is confidential and may be
11 disclosed by a correctional superintendent or administrator or local
12 jail administrator only as necessary for disease prevention or control
13 and for protection of the safety and security of the staff, offenders,
14 and the public. Unauthorized disclosure of this information to any
15 person may result in disciplinary action, in addition to any other
16 penalties as may be prescribed by law.

17 (5) Whenever disclosure is made pursuant to this section, except
18 for subsections (2)(a) and (6) of this section, it shall be accompanied
19 by a statement in writing which includes the following or substantially
20 similar language: "This information has been disclosed to you from
21 records whose confidentiality is protected by state law. State law
22 prohibits you from making any further disclosure of it without the
23 specific written consent of the person to whom it pertains, or as
24 otherwise permitted by state law. A general authorization for the
25 release of medical or other information is NOT sufficient for this
26 purpose." An oral disclosure shall be accompanied or followed by such
27 a notice within ten days.

28 (6) The requirements of this section shall not apply to the
29 customary methods utilized for the exchange of medical information
30 among health care providers in order to provide health care services to
31 the patient, nor shall they apply within health care facilities where
32 there is a need for access to confidential medical information to
33 fulfill professional duties.

34 (7) Upon request of the victim, disclosure of test results under
35 this section to victims of sexual offenses under chapter 9A.44 RCW
36 shall be made if the result is negative or positive. The county
37 prosecuting attorney shall notify the victim of the right to such
38 disclosure. Such disclosure shall be accompanied by appropriate
39 counseling, including information regarding follow-up testing.

1 **C. PARENTS' RIGHT TO NOTIFICATION OF HEALTH CARE TREATMENT**
2 **PROVIDED FOR SEXUALLY TRANSMITTED DISEASES**

3 **Sec. 13.** RCW 70.24.110 and 1988 c 206 s 912 are each amended to
4 read as follows:

5 A minor fourteen years of age or older who may have come in contact
6 with any sexually transmitted disease or suspected sexually transmitted
7 disease may give consent to the furnishing of hospital, medical and
8 surgical care related to the diagnosis or treatment of such disease.
9 Such consent shall not be subject to disaffirmance because of minority.
10 The consent of the parent, parents, or legal guardian of such minor
11 shall not be necessary to authorize hospital, medical and surgical care
12 related to such disease and such parent, parents, or legal guardian
13 shall not be liable for payment for any care rendered pursuant to this
14 section. However, a parent or legal guardian is entitled to receive
15 information regarding treatment provided and test results when the
16 parent or legal guardian accompanies the minor child for testing or
17 treatment services provided in this chapter.

18 NEW SECTION. **Sec. 14.** Part and subpart headings used in this act
19 do not constitute any part of the law.

20 NEW SECTION. **Sec. 15.** This act shall be known and cited as the
21 restoration of parents' rights and responsibilities act of 1996.

22 NEW SECTION. **Sec. 16.** This act is intended to be cumulative and
23 nonexclusive and is not intended to affect any rights granted to
24 parents by any other law or statute. This act shall be liberally
25 construed to effectuate the policies and purposes of this act. In the
26 event of conflict between this act and any other provision of law, the
27 provisions of this act shall govern.

28 NEW SECTION. **Sec. 17.** If any provision of this act or its
29 application to any person or circumstance is held invalid, the
30 remainder of the act or the application of the provision to other
31 persons or circumstances is not affected.

32 NEW SECTION. **Sec. 18.** This act is necessary for the immediate
33 preservation of the public peace, health, or safety, or support of the

1 state government and its existing public institutions, and shall take
2 effect immediately."

3 **SHB 2442** - H AMD
4 By Representative Mulliken

5

6 On page 1, line 1 of the title, after "parents;" strike the
7 remainder of the title and insert "amending RCW 13.32A.082, 46.20.292,
8 70.24.105, and 70.24.110; adding a new section to chapter 70.96A RCW;
9 adding a new section to chapter 71.34 RCW; adding a new section to
10 chapter 13.32A RCW; adding a new section to chapter 13.40 RCW; adding
11 a new section to chapter 28A.320 RCW; adding a new section to chapter
12 28A.600 RCW; adding a new section to chapter 28A.150 RCW; adding a new
13 section to chapter 26.28 RCW; creating new sections; prescribing
14 penalties; and declaring an emergency."

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