

2 **SSB 5770 - H COMM AMD ADOPTED 4-10-97**

3 By Committee on Children & Family Services

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

7 NEW SECTION. **Sec. 1.** The legislature finds unacceptable laws
8 that bar legitimate and appropriate inquiries about the activities of
9 public agencies in abuse and neglect cases, for they frustrate the
10 ability of the legislature to set informed policy and act in
11 appropriate oversight capacity; impair the ability of independent
12 government agencies to determine the effectiveness of services, staff,
13 and funding; corrode public trust; and undermine the right of the
14 public to determine whether abused and neglected children are being
15 adequately protected.

16 The legislature therefore finds a compelling need to reform the
17 confidentiality laws and declares its intent, by enactment of this act,
18 to increase the capacity for oversight and monitoring of the child
19 welfare system, to increase information available to the public, and to
20 increase accountability among the agencies involved in the system.

21 The legislature finds that the privacy of children and their
22 families in child abuse and neglect cases must be safeguarded, but that
23 the interests of children, their families, and the public are best
24 protected by increased knowledge and oversight concerning the system,
25 and by greater accountability; and therefore declares that this privacy
26 must be balanced with the appropriate release of information concerning
27 these cases. When the child has died, the legislature finds that
28 disclosure is strongly in the public interest.

29 NEW SECTION. **Sec. 2.** (1) Consistent with the provisions of chapter
30 42.17 RCW and applicable federal law, the secretary, or the secretary's
31 designee, shall disclose information regarding the abuse or neglect of
32 a child, the investigation of the abuse or neglect, and any services
33 related to the abuse or neglect of a child if any one of the following
34 factors is present:

1 (a) The subject of the report has been charged in an accusatory
2 instrument with committing a crime related to a report maintained by
3 the department in its case and management information system;

4 (b) The investigation of the abuse or neglect of the child by the
5 department or the provision of services by the department has been
6 publicly disclosed in a report required to be disclosed in the course
7 of their official duties, by a law enforcement agency or official, a
8 prosecuting attorney, any other state or local investigative agency or
9 official, or by a judge of the superior court;

10 (c) There has been a prior knowing, voluntary public disclosure by
11 an individual concerning a report of child abuse or neglect in which
12 such individual is named as the subject of the report; or

13 (d) The child named in the report has died and the child's death
14 resulted from abuse or neglect or the child was in the care of, or
15 receiving services from the department at the time of death or within
16 twelve months before death.

17 (2) The secretary is not required to disclose information if the
18 factors in subsection (1) of this section are present if he or she
19 specifically determines the disclosure is contrary to the best
20 interests of the child, the child's siblings, or other children in the
21 household.

22 (3) Except for cases in subsection (1)(d) of this section, requests
23 for information under this section shall specifically identify the case
24 about which information is sought and the facts that support a
25 determination that one of the factors specified in subsection (1) of
26 this section is present.

27 NEW SECTION. **Sec. 3.** For purposes of section 2 of this act, the
28 following information shall be disclosable:

29 (1) The name of the abused or neglected child;

30 (2) The determination made by the department of the referrals, if
31 any, for abuse or neglect;

32 (3) Identification of child protective or other services provided
33 or actions, if any, taken regarding the child named in the report and
34 his or her family as a result of any such report or reports. These
35 records include but are not limited to administrative reports of
36 fatality, fatality review reports, case files, inspection reports, and
37 reports relating to social work practice issues; and

1 (4) Any actions taken by the department in response to reports of
2 abuse or neglect of the child.

3 NEW SECTION. **Sec. 4.** In determining under section 2 of this act
4 whether disclosure will be contrary to the best interests of the child,
5 the secretary, or the secretary's designee, must consider the effects
6 which disclosure may have on efforts to reunite and provide services to
7 the family.

8 NEW SECTION. **Sec. 5.** For purposes of section 2(1)(d) of this act,
9 the secretary must make the fullest possible disclosure consistent with
10 chapter 42.17 RCW and applicable federal law in cases of all fatalities
11 of children who were in the care of, or receiving services from, the
12 department at the time of their death or within the twelve months
13 previous to their death.

14 If the secretary specifically determines that disclosure of the
15 name of the deceased child is contrary to the best interests of the
16 child's siblings or other children in the household, the secretary may
17 remove personally identifying information.

18 For the purposes of this section, "personally identifying
19 information" means the name, street address, social security number,
20 and day of birth of the child who died and of private persons who are
21 relatives of the child named in child welfare records. "Personally
22 identifying information" shall not include the month or year of birth
23 of the child who has died. Once this personally identifying
24 information is removed, the remainder of the records pertaining to a
25 child who has died must be released regardless of whether the remaining
26 facts in the records are embarrassing to the unidentifiable other
27 private parties or to identifiable public workers who handled the case.

28 NEW SECTION. **Sec. 6.** Except as it applies directly to the cause
29 of the abuse or neglect of the child and any actions taken by the
30 department in response to reports of abuse or neglect of the child,
31 nothing in sections 2 through 5 of this act is deemed to authorize the
32 release or disclosure of the substance or content of any psychological,
33 psychiatric, therapeutic, clinical, or medical reports, evaluations, or
34 like materials, or information pertaining to the child or the child's
35 family.

1 NEW SECTION. **Sec. 7.** The department, when acting in good faith,
2 is immune from any criminal or civil liability, except as provided
3 under RCW 42.17.340, for any action taken under sections 1 through 6 of
4 this act.

5 NEW SECTION. **Sec. 8.** If any part of this act is found to be in
6 conflict with federal requirements that are a prescribed condition to
7 the allocation of federal funds to the state, the conflicting part of
8 this act is inoperative solely to the extent of the conflict and with
9 respect to the agencies directly affected, and this finding does not
10 affect the operation of the remainder of this act in its application to
11 the agencies concerned. Rules adopted under this act must meet federal
12 requirements that are a necessary condition to the receipt of federal
13 funds by the state.

14 NEW SECTION. **Sec. 9.** Sections 1 through 7 of this act are each
15 added to chapter 74.13 RCW."

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