

SENATE BILL REPORT

SB 5770

As Reported By Senate Committee On:
Human Services & Corrections, March 4, 1997

Title: An act relating to the confidentiality of child welfare records.

Brief Description: Protecting child records.

Sponsors: Senators Stevens and Thibaudeau.

Brief History:

Committee Activity: Human Services & Corrections: 2/25/97, 3/4/97 [DPS].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 5770 be substituted therefor, and the substitute bill do pass.

Signed by Senators Long, Chair; Zarelli, Vice Chair; Franklin, Hargrove, Kohl, Schow and Stevens.

Staff: Richard Rodger (786-7461)

Background: Under current law most information concerning reports and investigations of child abuse and neglect is considered confidential. Recent changes to federal law have given the states greater authority to release such information to the public when the release is pursuant to a legitimate state purpose.

It has been suggested that the Washington laws be amended to allow the Department of Social and Health Services (DSHS) to disclose more information than currently allowed.

Summary of Substitute Bill: The confidentiality laws covering child welfare records are modified to allow greater disclosure of information.

When consistent with the Public Disclosure Act and federal law, the Secretary of DSHS, or his or her designee, must disclose information regarding: (1) the abuse or neglect of a child, (2) the investigation of the abuse or neglect, and (3) any services related to the abuse or neglect of a child, unless he or she determines that the disclosure is contrary to the best interests of the child, the child's siblings, or other children in the household.

The information, subject to the "best interest of the child" exception, must be released when: (1) the subject of the report has been charged with a crime related to a report maintained by the department; (2) the investigation of the abuse or neglect of the child by the department or the provision of services by the department has been publicly disclosed by law enforcement, a prosecuting attorney, or a judge in the course of their official duties; (3) there has been a prior knowing, voluntary public disclosure by an individual concerning a report

of child abuse or neglect in which the individual is named as the subject of the report; or (4) the child named in the report has died.

If the release of information is authorized, the following information is disclosed: (1) the name of the abused or neglected child; (2) the determination made by the department for abuse or neglect referrals; (3) identification of services provided or actions taken as a result of any reports; (4) any actions taken by the department in response to reports of abuse or neglect; or (5) any extraordinary or pertinent information when the secretary determines the disclosure is consistent with the public interest.

If a child death has occurred, DSHS must make the fullest disclosure of information possible. If the release is contrary to the best interest of the child or other sibling, the secretary may remove personally identifying information.

If any portion of this act violates federal law causing a loss of federal funds, the conflicting part is inoperative solely to the extent of the conflict. The department is given civil and criminal immunity for its good faith actions under this act, subject to the provisions of the Public Disclosure Act provisions.

Substitute Bill Compared to Original Bill: It is clarified that the release of information must be within the confines of the Public Disclosure Act and the federal confidentiality laws. A federal severability clause is added. The department is granted immunity for its good faith acts. Other technical and clarifying changes are made.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: This bill will allow for more disclosure of information, under specified circumstances, regarding incidents of abuse and neglect of minor children. This will allow greater public oversight and monitoring of the child welfare system.

Testimony Against: The new federal law on confidentiality of child abuse records is inconsistent with existing provisions of federal law for general child welfare information. The bill may jeopardize up to \$52 million of federal funding.

Testified: Senator Val Stevens, prime sponsor, (pro); Senator Pat Thibaudeau, sponsor, (pro); Jennifer Strus, DSHS, (concerns); Rowland Thompson, Allied Daily Newspapers, (pro).