
SUBSTITUTE SENATE BILL 5770

State of Washington

55th Legislature

1997 Regular Session

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Stevens and Thibaudeau)

Read first time 03/05/97.

1 AN ACT Relating to the confidentiality of child welfare records;
2 adding new sections to chapter 74.13 RCW; and creating a new section.

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

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

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

17 The legislature finds that the privacy of children and their
18 families in child abuse and neglect cases must be safeguarded, but that
19 the interests of children, their families, and the public are best

1 protected by increased knowledge and oversight concerning the system,
2 and by greater accountability; and therefore declares that this privacy
3 must be balanced with the appropriate release of information concerning
4 these cases. When the child has died, the legislature finds that
5 disclosure is strongly in the public interest.

6 NEW SECTION. **Sec. 2.** Consistent with the provisions of chapter
7 42.17 RCW and applicable federal law, the secretary, or the secretary's
8 designee, shall disclose information regarding the abuse or neglect of
9 a child, the investigation of the abuse or neglect, and any services
10 related to the abuse or neglect of a child unless he or she
11 specifically determines the disclosure is contrary to the best
12 interests of the child, the child's siblings, or other children in the
13 household, and any one of the following factors is present:

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

17 (2) The investigation of the abuse or neglect of the child by the
18 department or the provision of services by the department has been
19 publicly disclosed in a report required to be disclosed in the course
20 of their official duties, by a law enforcement agency or official, a
21 prosecuting attorney, any other state or local investigative agency or
22 official, or by a judge of the superior court;

23 (3) There has been a prior knowing, voluntary public disclosure by
24 an individual concerning a report of child abuse or neglect in which
25 such individual is named as the subject of the report; or

26 (4) The child named in the report has died.

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, the resulting notes, and case files,
37 inspections, services, and social work practice issues;

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

3 (5) Any extraordinary or pertinent information concerning the
4 circumstances of the abuse or neglect of the child and the resulting
5 investigation.

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

11 NEW SECTION. **Sec. 5.** For purposes of section 2(4) of this act,
12 the secretary must make the fullest possible disclosure consistent with
13 chapter 42.17 RCW and applicable federal law in cases of all fatalities
14 of children who were in the custody of the department at the time of
15 their death or within the twelve months previous to their death.

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

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

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

1 like materials, or information pertaining to the child or the child's
2 family.

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

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

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

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