

2 **SHB 2372** - S AMD TO S AMD (S-5095.1/00) - 227
3 By Senators Hargrove and Long

4 ADOPTED 3/2/00

5 On page 23, after line 5 of the amendment, insert the following:

6 **"Sec. 18.** RCW 13.50.100 and 1999 c 390 s 3 are each amended to
7 read as follows:

8 (1) This section governs records not covered by RCW 13.50.050.

9 (2) Records covered by this section shall be confidential and shall
10 be released only pursuant to this section and RCW 13.50.010.

11 (3) Records retained or produced by any juvenile justice or care
12 agency may be released to other participants in the juvenile justice or
13 care system only when an investigation or case involving the juvenile
14 in question is being pursued by the other participant or when that
15 other participant is assigned the responsibility of supervising the
16 juvenile. Records covered under this section and maintained by the
17 juvenile courts which relate to the official actions of the agency may
18 be entered in the state-wide juvenile court information system.

19 (4) A contracting agency or service provider of the department of
20 social and health services that provides counseling, psychological,
21 psychiatric, or medical services may release to the office of the
22 family and children's ombudsman information or records relating to
23 services provided to a juvenile who is dependent under chapter 13.34
24 RCW without the consent of the parent or guardian of the juvenile, or
25 of the juvenile if the juvenile is under the age of thirteen years,
26 unless such release is otherwise specifically prohibited by law.

27 (5) A juvenile, his or her parents, the juvenile's attorney and the
28 juvenile's parent's attorney, shall, upon request, be given access to
29 all records and information collected or retained by a juvenile justice
30 or care agency which pertain to the juvenile except:

31 (a) If it is determined by the agency that release of this
32 information is likely to cause severe psychological or physical harm to
33 the juvenile or his or her parents the agency may withhold the
34 information subject to other order of the court: PROVIDED, That if the
35 court determines that limited release of the information is

1 appropriate, the court may specify terms and conditions for the release
2 of the information; or

3 (b) If the information or record has been obtained by a juvenile
4 justice or care agency in connection with the provision of counseling,
5 psychological, psychiatric, or medical services to the juvenile, when
6 the services have been sought voluntarily by the juvenile, and the
7 juvenile has a legal right to receive those services without the
8 consent of any person or agency, then the information or record may not
9 be disclosed to the juvenile's parents without the informed consent of
10 the juvenile unless otherwise authorized by law; or

11 (c) That the department of social and health services may delete
12 the name and identifying information regarding persons or organizations
13 who have reported alleged child abuse or neglect.

14 (6) A juvenile or his or her parent denied access to any records
15 following an agency determination under subsection (5) of this section
16 may file a motion in juvenile court requesting access to the records.
17 The court shall grant the motion unless it finds access may not be
18 permitted according to the standards found in subsections (5)(a) and
19 (b) of this section.

20 (7) The person making a motion under subsection (6) of this section
21 shall give reasonable notice of the motion to all parties to the
22 original action and to any agency whose records will be affected by the
23 motion.

24 (8) Subject to the rules of discovery in civil cases, any party to
25 a proceeding seeking a declaration of dependency or a termination of
26 the parent-child relationship and any party's counsel and the guardian
27 ad litem of any party, shall have access to the records of any natural
28 or adoptive child of the parent, subject to the limitations in
29 subsection (5) of this section. A party denied access to records may
30 request judicial review of the denial. If the party prevails, he or
31 she shall be awarded attorneys' fees, costs, and an amount not less
32 than five dollars and not more than one hundred dollars for each day
33 the records were wrongfully denied.

34 (9) No unfounded allegation of child abuse or neglect as defined in
35 RCW 26.44.020(12) may be disclosed to a child-placing agency, private
36 adoption agency, or any other licensed provider.

37 **Sec. 19.** RCW 26.44.020 and 1999 c 176 s 29 are each amended to
38 read as follows:

1 The definitions in this section apply throughout this chapter
2 unless the context clearly requires otherwise.

3 (1) "Court" means the superior court of the state of Washington,
4 juvenile department.

5 (2) "Law enforcement agency" means the police department, the
6 prosecuting attorney, the state patrol, the director of public safety,
7 or the office of the sheriff.

8 (3) "Practitioner of the healing arts" or "practitioner" means a
9 person licensed by this state to practice podiatric medicine and
10 surgery, optometry, chiropractic, nursing, dentistry, osteopathic
11 medicine and surgery, or medicine and surgery or to provide other
12 health services. The term "practitioner" includes a duly accredited
13 Christian Science practitioner: PROVIDED, HOWEVER, That a person who
14 is being furnished Christian Science treatment by a duly accredited
15 Christian Science practitioner will not be considered, for that reason
16 alone, a neglected person for the purposes of this chapter.

17 (4) "Institution" means a private or public hospital or any other
18 facility providing medical diagnosis, treatment or care.

19 (5) "Department" means the state department of social and health
20 services.

21 (6) "Child" or "children" means any person under the age of
22 eighteen years of age.

23 (7) "Professional school personnel" include, but are not limited
24 to, teachers, counselors, administrators, child care facility
25 personnel, and school nurses.

26 (8) "Social service counselor" means anyone engaged in a
27 professional capacity during the regular course of employment in
28 encouraging or promoting the health, welfare, support or education of
29 children, or providing social services to adults or families, including
30 mental health, drug and alcohol treatment, and domestic violence
31 programs, whether in an individual capacity, or as an employee or agent
32 of any public or private organization or institution.

33 (9) "Psychologist" means any person licensed to practice psychology
34 under chapter 18.83 RCW, whether acting in an individual capacity or as
35 an employee or agent of any public or private organization or
36 institution.

37 (10) "Pharmacist" means any registered pharmacist under chapter
38 18.64 RCW, whether acting in an individual capacity or as an employee
39 or agent of any public or private organization or institution.

1 (11) "Clergy" means any regularly licensed or ordained minister,
2 priest, or rabbi of any church or religious denomination, whether
3 acting in an individual capacity or as an employee or agent of any
4 public or private organization or institution.

5 (12) "Abuse or neglect" means the injury, sexual abuse, sexual
6 exploitation, negligent treatment, or maltreatment of a child by any
7 person under circumstances which indicate that the child's health,
8 welfare, and safety is harmed, excluding conduct permitted under RCW
9 9A.16.100. An abused child is a child who has been subjected to child
10 abuse or neglect as defined in this section.

11 (13) "Child protective services section" means the child protective
12 services section of the department.

13 (14) "Sexual exploitation" includes: (a) Allowing, permitting, or
14 encouraging a child to engage in prostitution by any person; or (b)
15 allowing, permitting, encouraging, or engaging in the obscene or
16 pornographic photographing, filming, or depicting of a child by any
17 person.

18 (15) "Negligent treatment or maltreatment" means an act or omission
19 that evidences a serious disregard of consequences of such magnitude as
20 to constitute a clear and present danger to the child's health,
21 welfare, and safety. The fact that siblings share a bedroom is not, in
22 and of itself, negligent treatment or maltreatment.

23 (16) "Child protective services" means those services provided by
24 the department designed to protect children from child abuse and
25 neglect and safeguard such children from future abuse and neglect, and
26 conduct investigations of child abuse and neglect reports.
27 Investigations may be conducted regardless of the location of the
28 alleged abuse or neglect. Child protective services includes referral
29 to services to ameliorate conditions that endanger the welfare of
30 children, the coordination of necessary programs and services relevant
31 to the prevention, intervention, and treatment of child abuse and
32 neglect, and services to children to ensure that each child has a
33 permanent home. In determining whether protective services should be
34 provided, the department shall not decline to provide such services
35 solely because of the child's unwillingness or developmental inability
36 to describe the nature and severity of the abuse or neglect.

37 (17) "Malice" or "maliciously" means an evil intent, wish, or
38 design to vex, annoy, or injure another person. Such malice may be
39 inferred from an act done in willful disregard of the rights of

1 another, or an act wrongfully done without just cause or excuse, or an
2 act or omission of duty betraying a willful disregard of social duty.

3 (18) "Sexually aggressive youth" means a child who is defined in
4 RCW 74.13.075(1)(b) as being a sexually aggressive youth.

5 (19) "Unfounded" means available information indicates that, more
6 likely than not, child abuse or neglect did not occur. No unfounded
7 allegation of child abuse or neglect may be disclosed to a child-
8 placing agency, private adoption agency, or any other provider licensed
9 under chapter 74.15 RCW.

10 **Sec. 20.** RCW 74.15.030 and 1997 c 386 s 33 are each amended to
11 read as follows:

12 The secretary shall have the power and it shall be the secretary's
13 duty:

14 (1) In consultation with the children's services advisory
15 committee, and with the advice and assistance of persons representative
16 of the various type agencies to be licensed, to designate categories of
17 facilities for which separate or different requirements shall be
18 developed as may be appropriate whether because of variations in the
19 ages, sex and other characteristics of persons served, variations in
20 the purposes and services offered or size or structure of the agencies
21 to be licensed hereunder, or because of any other factor relevant
22 thereto;

23 (2) In consultation with the children's services advisory
24 committee, and with the advice and assistance of persons representative
25 of the various type agencies to be licensed, to adopt and publish
26 minimum requirements for licensing applicable to each of the various
27 categories of agencies to be licensed.

28 The minimum requirements shall be limited to:

29 (a) The size and suitability of a facility and the plan of
30 operation for carrying out the purpose for which an applicant seeks a
31 license;

32 (b) The character, suitability and competence of an agency and
33 other persons associated with an agency directly responsible for the
34 care and treatment of children, expectant mothers or developmentally
35 disabled persons. In consultation with law enforcement personnel, the
36 secretary shall investigate the conviction record or pending charges
37 and dependency record information under chapter 43.43 RCW of each
38 agency and its staff seeking licensure or relicensure. No unfounded

1 allegation of child abuse or neglect as defined in RCW 26.44.020 may be
2 disclosed to a child-placing agency, private adoption agency, or any
3 other provider licensed under this chapter. In order to determine the
4 suitability of applicants for an agency license, licensees, their
5 employees, and other persons who have unsupervised access to children
6 in care, and who have not resided in the state of Washington during the
7 three-year period before being authorized to care for children shall be
8 fingerprinted. The fingerprints shall be forwarded to the Washington
9 state patrol and federal bureau of investigation for a criminal history
10 records check. The fingerprint criminal history records checks will be
11 at the expense of the licensee except that in the case of a foster
12 family home, if this expense would work a hardship on the licensee, the
13 department shall pay the expense. The licensee may not pass this cost
14 on to the employee or prospective employee, unless the employee is
15 determined to be unsuitable due to his or her criminal history record.
16 The secretary shall use the information solely for the purpose of
17 determining eligibility for a license and for determining the
18 character, suitability, and competence of those persons or agencies,
19 excluding parents, not required to be licensed who are authorized to
20 care for children, expectant mothers, and developmentally disabled
21 persons. Criminal justice agencies shall provide the secretary such
22 information as they may have and that the secretary may require for
23 such purpose;

24 (c) The number of qualified persons required to render the type of
25 care and treatment for which an agency seeks a license;

26 (d) The safety, cleanliness, and general adequacy of the premises
27 to provide for the comfort, care and well-being of children, expectant
28 mothers or developmentally disabled persons;

29 (e) The provision of necessary care, including food, clothing,
30 supervision and discipline; physical, mental and social well-being; and
31 educational, recreational and spiritual opportunities for those served;

32 (f) The financial ability of an agency to comply with minimum
33 requirements established pursuant to chapter 74.15 RCW and RCW
34 74.13.031; and

35 (g) The maintenance of records pertaining to the admission,
36 progress, health and discharge of persons served;

37 (3) To investigate any person, including relatives by blood or
38 marriage except for parents, for character, suitability, and competence
39 in the care and treatment of children, expectant mothers, and

1 developmentally disabled persons prior to authorizing that person to
2 care for children, expectant mothers, and developmentally disabled
3 persons. However, if a child is placed with a relative under RCW
4 13.34.060 or 13.34.130, and if such relative appears otherwise suitable
5 and competent to provide care and treatment the criminal history
6 background check required by this section need not be completed before
7 placement, but shall be completed as soon as possible after placement;

8 (4) On reports of alleged child abuse and neglect, to investigate
9 agencies in accordance with chapter 26.44 RCW, including child day-care
10 centers and family day-care homes, to determine whether the alleged
11 abuse or neglect has occurred, and whether child protective services or
12 referral to a law enforcement agency is appropriate;

13 (5) To issue, revoke, or deny licenses to agencies pursuant to
14 chapter 74.15 RCW and RCW 74.13.031. Licenses shall specify the
15 category of care which an agency is authorized to render and the ages,
16 sex and number of persons to be served;

17 (6) To prescribe the procedures and the form and contents of
18 reports necessary for the administration of chapter 74.15 RCW and RCW
19 74.13.031 and to require regular reports from each licensee;

20 (7) To inspect agencies periodically to determine whether or not
21 there is compliance with chapter 74.15 RCW and RCW 74.13.031 and the
22 requirements adopted hereunder;

23 (8) To review requirements adopted hereunder at least every two
24 years and to adopt appropriate changes after consultation with the
25 child care coordinating committee and other affected groups for child
26 day-care requirements and with the children's services advisory
27 committee for requirements for other agencies; and

28 (9) To consult with public and private agencies in order to help
29 them improve their methods and facilities for the care of children,
30 expectant mothers and developmentally disabled persons."

31 Renumber the sections consecutively and correct any internal
32 references accordingly.

1 **SHB 2372** - S AMD TO S AMD (S-5095.1/00) - 227

2 By Senators Hargrove and Long

3 ADOPTED 3/2/00

4 On page 23, after line 12 of the amendment, strike the title
5 amendment and insert the following:

6 "On page 1, line 1 of the title, after "Relating to" strike the
7 remainder of the title and insert "children; amending RCW 13.32A.060,
8 13.32A.065, 13.32A.130, 13.32A.250, 28A.225.090, 74.13.033, 74.13.034,
9 13.32A.060, 13.32A.065, 13.32A.130, 13.32A.250, 28A.225.090, 74.13.033,
10 74.13.034, 13.50.100, 26.44.020, and 74.15.030; adding new sections to
11 chapter 13.32A RCW; providing an effective date; and providing an
12 expiration date."

--- END ---