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HOUSE BILL 1433

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State of Washington

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By Representatives Benson, Lambert, Schindler, Clements, Sheahan, McDonald, Fortunato, Gombosky, Mulliken, Tokuda, Mielke, D. Sommers, Doumit, Conway, Murray, Anderson, Hurst, Lovick and Wood

Read first time . Referred to Committee on .

1 AN ACT Relating to rape victim protection; and amending RCW  
2 26.26.060, 26.26.170, 26.23.120, 26.10.030, and 26.09.020.

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

4 **Sec. 1.** RCW 26.26.060 and 1983 1st ex.s. c 41 s 5 are each amended  
5 to read as follows:

6 (1)(a) A child, a child's natural mother, a man alleged or alleging  
7 himself to be the father, a child's guardian, a child's personal  
8 representative, the state of Washington, or any interested party may  
9 bring an action at any time for the purpose of declaring the existence  
10 or nonexistence of the father and child relationship.

11 (b) A man presumed to be a child's father under RCW 26.26.040 may  
12 bring an action for the purpose of declaring the nonexistence of the  
13 father and child relationship only if the action is brought within a  
14 reasonable time after obtaining knowledge of relevant facts. After the  
15 presumption has been rebutted, paternity of the child by another man  
16 may be determined in the same action, if he has been made a party.

17 (2) In an action brought by the state pursuant to this chapter, the  
18 state may be represented by either the prosecuting attorney for the  
19 county where the action is brought or by the attorney general.

1 (3) Regardless of its terms, no agreement between an alleged or  
2 presumed father and the mother or child, shall bar an action under this  
3 section.

4 (4) If an action under this section is brought before the birth of  
5 the child, all proceedings may be stayed until after the birth, except  
6 service of process and discovery, including the taking of depositions  
7 to perpetuate testimony.

8 (5) Actions under this chapter may be maintained as to any child,  
9 whether born before or after the enactment of this chapter.

10 (6) A person convicted of any sex offense under chapter 9A.44 RCW  
11 may not bring an action for the purposes of declaring the existence or  
12 nonexistence of a father and child relationship with a child who was  
13 conceived and born as a result of the offense.

14 **Sec. 2.** RCW 26.26.170 and 1975-'76 2nd ex.s. c 42 s 18 are each  
15 amended to read as follows:

16 Any interested party, except a person convicted of any sex offense  
17 under chapter 9A.44 RCW in regard to a child who was conceived and born  
18 as a result of the offense, may bring an action to determine the  
19 existence or nonexistence of a mother and child relationship. Insofar  
20 as practicable, the provisions of this chapter applicable to the father  
21 and child relationship apply.

22 **Sec. 3.** RCW 26.23.120 and 1998 c 160 s 4 are each amended to read  
23 as follows:

24 (1) Any information or records concerning individuals who owe a  
25 support obligation or for whom support enforcement services are being  
26 provided which are obtained or maintained by the Washington state  
27 support registry, the division of child support, or under chapter 74.20  
28 RCW shall be private and confidential and shall only be subject to  
29 public disclosure as provided in subsection (2) of this section.

30 (2) The secretary of the department of social and health services  
31 may adopt rules:

32 (a) That specify what information is confidential;

33 (b) That specify the individuals or agencies to whom this  
34 information and these records may be disclosed;

35 (c) Limiting the purposes for which the information may be  
36 disclosed;

1 (d) Establishing procedures to obtain the information or records;  
2 or

3 (e) Establishing safeguards necessary to comply with federal law  
4 requiring safeguarding of information.

5 (3) The rules adopted under subsection (2) of this section shall  
6 provide for disclosure of the information and records, under  
7 appropriate circumstances, which shall include, but not be limited to:

8 (a) When authorized or required by federal statute or regulation  
9 governing the support enforcement program;

10 (b) To the person the subject of the records or information, unless  
11 the information is exempt from disclosure under RCW 42.17.310;

12 (c) To government agencies, whether state, local, or federal, and  
13 including federally recognized tribes, law enforcement agencies,  
14 prosecuting agencies, and the executive branch, if the disclosure is  
15 necessary for child support enforcement purposes or required under  
16 Title IV-D of the federal social security act;

17 (d) To the parties in a judicial or adjudicative proceeding upon a  
18 specific written finding by the presiding officer that the need for the  
19 information outweighs any reason for maintaining the privacy and  
20 confidentiality of the information or records;

21 (e) To private persons, federally recognized tribes, or  
22 organizations if the disclosure is necessary to permit private  
23 contracting parties to assist in the management and operation of the  
24 department;

25 (f) Disclosure of address and employment information to the parties  
26 to an action for purposes relating to a child support order, subject to  
27 the limitations in subsections (4) and (5) of this section;

28 (g) Disclosure of information or records when necessary to the  
29 efficient administration of the support enforcement program or to the  
30 performance of functions and responsibilities of the support registry  
31 and the division of child support as set forth in state and federal  
32 statutes; or

33 (h) Disclosure of the information or records when authorized under  
34 RCW 74.04.060.

35 (4) Prior to disclosing the whereabouts of a physical custodian,  
36 custodial parent or a child to the other parent or party, a notice  
37 shall be mailed, if appropriate under the circumstances, to the parent  
38 or physical custodian whose whereabouts are to be disclosed, at that  
39 person's last known address. The notice shall advise the parent or

1 physical custodian that a request for disclosure has been made and will  
2 be complied with unless the department:

3 (a) Receives a copy of a court order within thirty days which  
4 enjoins the disclosure of the information or restricts or limits the  
5 requesting party's right to contact or visit the parent or party whose  
6 address is to be disclosed or the child;

7 (b) Receives a hearing request within thirty days under subsection  
8 (5) of this section; ~~((or))~~

9 (c) Has reason to believe that the release of the information may  
10 result in physical or emotional harm to the physical custodian whose  
11 whereabouts are to be released, or to the child; or

12 (d) Receives a statement from the custodial parent or physical  
13 custodian that the person seeking disclosure was convicted of a sex  
14 offense under chapter 9A.44 RCW and is alleged to be the parent of the  
15 child who was conceived and born as a result of the offense.

16 (5) A person receiving notice under subsection (4) of this section  
17 may request an adjudicative proceeding under chapter 34.05 RCW, at  
18 which the person may show that there is reason to believe that release  
19 of the information may result in physical or emotional harm to the  
20 person or the child. The administrative law judge shall determine  
21 whether the whereabouts of the person or child should be disclosed  
22 based on subsection (4)(c) of this section, however no hearing is  
23 necessary if the department has in its possession a protective order or  
24 an order limiting visitation or contact.

25 (6) The notice and hearing process in subsections (4) and (5) of  
26 this section do not apply to protect the whereabouts of a noncustodial  
27 parent, unless that parent has requested notice before whereabouts  
28 information is released. A noncustodial parent may request such notice  
29 by submitting a written request to the division of child support.

30 (7) Nothing in this section shall be construed as limiting or  
31 restricting the effect of RCW 42.17.260(9). Nothing in this section  
32 shall be construed to prevent the disclosure of information and records  
33 if all details identifying an individual are deleted or the individual  
34 consents to the disclosure.

35 (8) It shall be unlawful for any person or agency in violation of  
36 this section to solicit, publish, disclose, receive, make use of, or to  
37 authorize, knowingly permit, participate in or acquiesce in the use of  
38 any lists of names for commercial or political purposes or the use of  
39 any information for purposes other than those purposes specified in

1 this section. A violation of this section shall be a gross misdemeanor  
2 as provided in chapter 9A.20 RCW.

3 **Sec. 4.** RCW 26.10.030 and 1998 c 130 s 4 are each amended to read  
4 as follows:

5 (1) Except as authorized for proceedings brought under chapter  
6 26.50 RCW in district or municipal courts, a child custody proceeding  
7 is commenced in the superior court by a person other than a parent, by  
8 filing a petition seeking custody of the child in the county where the  
9 child is permanently resident or where the child is found, but only if  
10 the child is not in the physical custody of one of its parents or if  
11 the petitioner alleges that neither parent is a suitable custodian.  
12 Prior to a child custody hearing, the court shall determine if the  
13 child is the subject of a pending dependency action.

14 (2) Notice of a child custody proceeding shall be given to the  
15 child's parent, guardian and custodian, who may appear and be heard and  
16 may file a responsive pleading. The court may, upon a showing of good  
17 cause, permit the intervention of other interested parties.

18 (3) Notwithstanding subsection (1) of this section, persons who  
19 have been convicted of a sex offense under chapter 9A.44 RCW are  
20 precluded from initiating or participating in court action seeking  
21 custody or visitation of any child who was conceived and born as a  
22 result of the offense.

23 **Sec. 5.** RCW 26.09.020 and 1997 c 58 s 945 are each amended to read  
24 as follows:

25 (1) A petition in a proceeding for dissolution of marriage, legal  
26 separation, or for a declaration concerning the validity of a marriage,  
27 shall allege the following:

28 (a) The last known residence of each party;

29 (b) The social security number of each party;

30 (c) The date and place of the marriage;

31 (d) If the parties are separated the date on which the separation  
32 occurred;

33 (e) The names, ages, and addresses of any child dependent upon  
34 either or both spouses and whether the wife is pregnant;

35 (f) Any arrangements as to the residential schedule of, decision  
36 making for, dispute resolution for, and support of the children and the  
37 maintenance of a spouse;

1 (g) A statement specifying whether there is community or separate  
2 property owned by the parties to be disposed of;

3 (h) The relief sought.

4 (2) Either or both parties to the marriage may initiate the  
5 proceeding.

6 (3) Parties who have been convicted of a sex offense under chapter  
7 9A.44 RCW are precluded from seeking custody, decision making, or  
8 visitation of any child who was conceived and born as a result of the  
9 offense.

10 (4) The petitioner shall complete and file with the petition a  
11 certificate under RCW 70.58.200 on the form provided by the department  
12 of health.

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