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HOUSE BILL 2304

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State of Washington                      61st Legislature                      2009 Regular Session

By Representatives Jacks, Appleton, Goodman, and Williams

Read first time 03/04/09. Referred to Committee on Judiciary.

1            AN ACT Relating to child victims and witnesses; and amending RCW  
2            7.69A.030.

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

4            **Sec. 1.** RCW 7.69A.030 and 2004 c 120 s 9 are each amended to read  
5            as follows:

6            In addition to the rights of victims and witnesses provided for in  
7            RCW 7.69.030, there shall be every reasonable effort made by law  
8            enforcement agencies, prosecutors, and judges to assure that child  
9            victims and witnesses are afforded the rights enumerated in this  
10           section. Except as provided in RCW 7.69A.050 regarding child victims  
11           or child witnesses of violent crimes, sex crimes, or child abuse, the  
12           enumeration of rights shall not be construed to create substantive  
13           rights and duties, and the application of an enumerated right in an  
14           individual case is subject to the discretion of the law enforcement  
15           agency, prosecutor, or judge. However, in all cases, the exercise of  
16           discretion shall be informed by the rights enumerated in this section.  
17           Child victims and witnesses have the following rights, which apply to  
18           any criminal court and/or juvenile court proceeding:

1 (1) To have explained in language easily understood by the child,  
2 all legal proceedings and/or police investigations in which the child  
3 may be involved.

4 (2) Subject to constitutional limitations in criminal cases, to  
5 have prosecutorial and defense interviews conducted in a manner that is  
6 appropriate to the child's age and level of development, considering  
7 such factors as the duration of the interview and limitations on the  
8 number of interviewers and the number of repetitive questions. In all  
9 cases, a child witness must be treated with dignity and respect and  
10 shall not be subject to threatening or intimidating conduct. For  
11 purposes of pretrial defense interviews, a prosecutor may assert a  
12 child's statutory privacy interests.

13 (3) With respect to child victims of sex or violent crimes or child  
14 abuse, to have a crime victim advocate from a crime victim/witness  
15 program, or any other support person of the victim's choosing, present  
16 at any prosecutorial or defense interviews with the child victim. This  
17 subsection applies if practical and if the presence of the crime victim  
18 advocate or support person does not cause any unnecessary delay in the  
19 investigation or prosecution of the case. The role of the crime victim  
20 advocate is to provide emotional support to the child victim and to  
21 promote the child's feelings of security and safety.

22 ((+3)) (4) To be provided, whenever possible, a secure waiting  
23 area during court proceedings and to have an advocate or support person  
24 remain with the child prior to and during any court proceedings.

25 ((+4)) (5) To not have the names, addresses, nor photographs of  
26 the living child victim or witness disclosed by any law enforcement  
27 agency, prosecutor's office, or state agency without the permission of  
28 the child victim, child witness, parents, or legal guardians to anyone  
29 except another law enforcement agency, prosecutor, defense counsel, or  
30 private or governmental agency that provides services to the child  
31 victim or witness.

32 ((+5)) (6) To allow an advocate to make recommendations to the  
33 prosecuting attorney about the ability of the child to cooperate with  
34 prosecution and the potential effect of the proceedings on the child.

35 ((+6)) (7) To allow an advocate to provide information to the  
36 court concerning the child's ability to understand the nature of the  
37 proceedings.

1        ~~((+7))~~ (8) To be provided information or appropriate referrals to  
2 social service agencies to assist the child and/or the child's family  
3 with the emotional impact of the crime, the subsequent investigation,  
4 and judicial proceedings in which the child is involved.

5        ~~((+8))~~ (9) To allow an advocate to be present in court while the  
6 child testifies in order to provide emotional support to the child.

7        ~~((+9))~~ (10) To provide information to the court as to the need for  
8 the presence of other supportive persons at the court proceedings while  
9 the child testifies in order to promote the child's feelings of  
10 security and safety.

11       ~~((+10))~~ (11) To allow law enforcement agencies the opportunity to  
12 enlist the assistance of other professional personnel such as child  
13 protection services, victim advocates or prosecutorial staff trained in  
14 the interviewing of the child victim.

15       ~~((+11))~~ (12) With respect to child victims of violent or sex  
16 crimes or child abuse, to receive either directly or through the  
17 child's parent or guardian if appropriate, at the time of reporting the  
18 crime to law enforcement officials, a written statement of the rights  
19 of child victims as provided in this chapter. The written statement  
20 shall include the name, address, and telephone number of a county or  
21 local crime victim/witness program, if such a crime victim/witness  
22 program exists in the county.

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