
SECOND SUBSTITUTE HOUSE BILL 2823

State of Washington 64th Legislature 2016 Regular Session

By House Appropriations (originally sponsored by Representatives Parker, Riccelli, Manweller, and Bergquist)

READ FIRST TIME 02/09/16.

1 AN ACT Relating to creating a program to provide students and the
2 community with the means to report anonymously concerning unsafe or
3 violent activities, or the threat of these activities; reenacting and
4 amending RCW 42.56.240; adding a new section to chapter 28A.300 RCW;
5 adding a new section to chapter 28A.320 RCW; creating a new section;
6 and prescribing penalties.

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

8 NEW SECTION. **Sec. 1.** The legislature finds that violence in
9 schools is a serious concern. The legislature intends to limit
10 violence in schools by providing students and the community with a
11 mechanism to report anonymously information about potentially
12 dangerous situations.

13 NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.300
14 RCW to read as follows:

15 (1) The students protecting students program is established
16 within the office of the superintendent of public instruction. The
17 primary purpose of the statewide program is to provide students and
18 the community with the means to relay information anonymously
19 concerning unsafe, potentially harmful, dangerous, violent, or
20 criminal activities, or the threat of these activities, to school

1 officials or, if necessary, appropriate law enforcement or public
2 safety agencies.

3 (2) The students protecting students program must:

4 (a) Establish and maintain methods of anonymous reporting
5 concerning unsafe, potentially harmful, dangerous, violent, or
6 criminal activities, or the threat of these activities, where
7 reporting can be accomplished by, at a minimum, phone, text message,
8 and email;

9 (b) Establish methods and procedures, consistent with the federal
10 health insurance portability and accountability act and the federal
11 educational rights and privacy act, to ensure that the identity of
12 the reporting party remains unknown to persons and entities,
13 including employees or persons operating the program, law enforcement
14 officers, public safety officers, and school officials;

15 (c) Establish methods and procedures so that information obtained
16 from a reporting party who voluntarily discloses his or her identity
17 and verifies that he or she is willing to be identified may be shared
18 with employees or persons operating the program, law enforcement
19 officers, public safety officers, and school officials;

20 (d) Establish methods and procedures to ensure that the identity
21 of a reporting party who becomes known through any means other than
22 voluntary disclosure is not further disclosed; and

23 (e) Promptly forward information received by the program to the
24 appropriate law enforcement or public safety agency or school
25 officials.

26 (3) The identity of the reporting party or other personally
27 identifiable information may be released by the students protecting
28 students program to a school district or law enforcement officer when
29 that school district superintendent or law enforcement officer
30 declares in an affidavit that after a threat assessment or other
31 investigation of the report he or she has probable cause to believe
32 that the reporting party knowingly filed a fraudulent report. The
33 superintendent of public instruction must approve the release of the
34 identity or other personally identifiable information by the students
35 protecting students program under this subsection.

36 (4) The office of the superintendent of public instruction must
37 contract with an organization or call center to provide the program
38 described in this section. The organization or call center must have
39 the ability to receive anonymous reporting from students and the
40 community twenty-four hours per day, seven days per week, and the

1 ability to promptly forward the information as required in this
2 section.

3 (5)(a) The students protecting students program and employees or
4 persons operating the program must not be compelled to produce any
5 personally identifiable information except on the motion of a
6 criminal defendant to the court in which the offense is being tried,
7 supported by an affidavit establishing that the personally
8 identifiable information contains impeachment evidence or evidence
9 that is exculpatory to the defendant in the trial of that offense.

10 (b) If the defendant's motion is granted, the court shall conduct
11 an ex parte in camera review of personally identifiable information
12 produced under the defendant's subpoena.

13 (c) If the court determines that the produced personally
14 identifiable information contains impeachment evidence or evidence
15 that is exculpatory to the defendant, the court shall order the
16 personally identifiable information be produced to the defendant
17 pursuant to a protective order that includes the redaction of the
18 reporting party's identity and limitations on the use of the
19 personally identifiable information, as needed, unless contrary to
20 state or federal law. Personally identifiable information excised
21 pursuant to a judicial order following the in camera review must be
22 sealed and preserved in the records of the court, to be made
23 available to the appellate court in the event of an appeal. After the
24 time for appeal has expired, the court must return the personally
25 identifiable information to the students protecting students program.

26 (6)(a) Personally identifiable information created or obtained
27 through the implementation or operation of the students protecting
28 students program is confidential and must not be disclosed. The
29 students protecting students program and employees or persons
30 operating the program may be compelled to produce personally
31 identifiable information only before a court or other tribunal and
32 only pursuant to court order for an in camera review. An in camera
33 review must be limited to an inspection of personally identifiable
34 information that is material to the specific case pending before the
35 court. The attorney general acting on behalf of the students
36 protecting students program has standing in an action to oppose the
37 disclosure of personally identifiable information in the custody of
38 the program.

39 (b) An employee or person operating the program who knowingly
40 discloses personally identifiable information in violation of the

1 provisions of this section commits a misdemeanor punishable under
2 chapter 9A.20 RCW.

3 (7) The definitions in this subsection apply throughout this
4 section unless the context clearly requires otherwise.

5 (a) "In camera" means a confidential review by the judge alone in
6 his or her chambers.

7 (b) "Personally identifiable information" means the name of the
8 reporting party; the address, phone number, or email address of the
9 reporting party; personal indirect identifiers of the reporting
10 party, such as social security number, student number, date of birth,
11 mother's maiden name; or other information that, alone or in
12 combination, with other information, could be used to determine the
13 identity of the reporting party.

14 NEW SECTION. **Sec. 3.** A new section is added to chapter 28A.320
15 RCW to read as follows:

16 (1) Every school year, beginning in the 2016-17 school year,
17 there must be made available to all students in each common school as
18 defined in RCW 28A.150.020 at least one age-appropriate educational
19 program, class, or activity designed to teach students about the
20 students protecting students program established in section 2 of this
21 act. Such a program, class, or activity must include information
22 about how to report anonymously concerning unsafe, potentially
23 harmful, dangerous, violent, or criminal activities, or the threat of
24 these activities, to appropriate law enforcement agencies, public
25 safety agencies, and school officials.

26 (2) Beginning in the 2016-17 school year, schools and school
27 districts must disseminate information about the students protecting
28 students program established in section 2 of this act, including the
29 contact information for anonymous reporting, through any normal means
30 of existing communication to students and families.

31 **Sec. 4.** RCW 42.56.240 and 2015 c 224 s 3 and 2015 c 91 s 1 are
32 each reenacted and amended to read as follows:

33 The following investigative, law enforcement, and crime victim
34 information is exempt from public inspection and copying under this
35 chapter:

36 (1) Specific intelligence information and specific investigative
37 records compiled by investigative, law enforcement, and penology
38 agencies, and state agencies vested with the responsibility to

1 discipline members of any profession, the nondisclosure of which is
2 essential to effective law enforcement or for the protection of any
3 person's right to privacy;

4 (2) Information revealing the identity of persons who are
5 witnesses to or victims of crime or who file complaints with
6 investigative, law enforcement, or penology agencies, other than the
7 commission, if disclosure would endanger any person's life, physical
8 safety, or property. If at the time a complaint is filed the
9 complainant, victim, or witness indicates a desire for disclosure or
10 nondisclosure, such desire shall govern. However, all complaints
11 filed with the commission about any elected official or candidate for
12 public office must be made in writing and signed by the complainant
13 under oath;

14 (3) Any records of investigative reports prepared by any state,
15 county, municipal, or other law enforcement agency pertaining to sex
16 offenses contained in chapter 9A.44 RCW or sexually violent offenses
17 as defined in RCW 71.09.020, which have been transferred to the
18 Washington association of sheriffs and police chiefs for permanent
19 electronic retention and retrieval pursuant to RCW 40.14.070(2)(b);

20 (4) License applications under RCW 9.41.070; copies of license
21 applications or information on the applications may be released to
22 law enforcement or corrections agencies;

23 (5) Information revealing the identity of child victims of sexual
24 assault who are under age eighteen. Identifying information means the
25 child victim's name, address, location, photograph, and in cases in
26 which the child victim is a relative or stepchild of the alleged
27 perpetrator, identification of the relationship between the child and
28 the alleged perpetrator;

29 (6) Information contained in a local or regionally maintained
30 gang database as well as the statewide gang database referenced in
31 RCW 43.43.762;

32 (7) Data from the electronic sales tracking system established in
33 RCW 69.43.165;

34 (8) Information submitted to the statewide unified sex offender
35 notification and registration program under RCW 36.28A.040(6) by a
36 person for the purpose of receiving notification regarding a
37 registered sex offender, including the person's name, residential
38 address, and email address;

39 (9) Personally identifying information collected by law
40 enforcement agencies pursuant to local security alarm system programs

1 and vacation crime watch programs. Nothing in this subsection shall
2 be interpreted so as to prohibit the legal owner of a residence or
3 business from accessing information regarding his or her residence or
4 business;

5 (10) The felony firearm offense conviction database of felony
6 firearm offenders established in RCW 43.43.822;

7 (11) The identity of a state employee or officer who has in good
8 faith filed a complaint with an ethics board, as provided in RCW
9 42.52.410, or who has in good faith reported improper governmental
10 action, as defined in RCW 42.40.020, to the auditor or other public
11 official, as defined in RCW 42.40.020;

12 (12) The following security threat group information collected
13 and maintained by the department of corrections pursuant to RCW
14 72.09.745: (a) Information that could lead to the identification of a
15 person's security threat group status, affiliation, or activities;
16 (b) information that reveals specific security threats associated
17 with the operation and activities of security threat groups; and (c)
18 information that identifies the number of security threat group
19 members, affiliates, or associates; (~~and~~)

20 (13) The global positioning system data that would indicate the
21 location of the residence of an employee or worker of a criminal
22 justice agency as defined in RCW 10.97.030; and

23 (14) Personally identifiable information, as defined in section 2
24 of this act, received, made, or kept by, or received from, the
25 students protecting students program established in section 2 of this
26 act, that is confidential under section 2(6) of this act.

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