

# SENATE BILL REPORT

## SHB 2855

---

As Reported by Senate Committee On:  
Law & Justice, February 22, 2018

**Title:** An act relating to the sharing of information between participants in multidisciplinary coordination of child sexual abuse investigations.

**Brief Description:** Concerning the sharing of information between participants in multidisciplinary coordination of child sexual abuse investigations.

**Sponsors:** House Committee on Early Learning & Human Services (originally sponsored by Representatives Stonier, Appleton, Haler, Lovick, Orwall, Sells, Wylie, Eslick and Hayes).

**Brief History:** Passed House: 2/12/18, 98-0.

**Committee Activity:** Law & Justice: 2/19/18, 2/22/18 [DPA].

### Brief Summary of Amended Bill

- Authorizes participants in a coordinated multidisciplinary team (MDT) investigation of child sexual abuse to share information about the criminal child sexual abuse investigation and subsequent case planning with other participants.
- Provides immunity from liability for participants in a coordinated MDT child sexual abuse investigation arising out of good faith information sharing with other investigation participants.
- Clarifies that information sharing authorized does not override testamentary privileges or confidentiality requirements under professional ethics duties.
- Requires destruction of records containing shared information related to the criminal investigation five years after appeals—or appeal rights—end, whichever is longer, unless existing law requires a different retention period.

---

### SENATE COMMITTEE ON LAW & JUSTICE

**Majority Report:** Do pass as amended.

---

*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Signed by Senators Pedersen, Chair; Dhingra, Vice Chair; Padden, Ranking Member; Angel, Assistant Ranking Member; Darneille, Frock and Wilson.

**Staff:** Melissa Burke-Cain (786-7755)

**Background:** Child Sexual Abuse Investigation Protocols. Under current law, counties must develop written protocols for criminal child sexual abuse investigations. The protocols must address how the investigation participants coordinate their investigative work. Typically, the participants include the prosecutor's office, law enforcement, Child Protective Services, children's advocacy centers, local advocacy groups, community sexual assault programs, and any other local agency involved in the criminal investigation of child sexual abuse. Each county must submit its local investigation protocol to the Legislature.

Community Sexual Assault Programs. Community sexual assault programs are community-based social service agencies that are qualified to provide core services to sexual assault victims. These programs assist victims and their families with crisis response, medical and legal advocacy, trauma specific individual and group therapy, and family support services.

Children's Advocacy Centers. A children's advocacy center is a child-focused facility in good standing with the Children's Advocacy Centers of Washington. Child advocacy centers coordinate a multidisciplinary process for investigating, prosecuting, and treating child abuse including child sexual abuse. Children's advocacy centers provide a location for forensic interviews and coordinate access to services including, but not limited to, medical evaluations, advocacy, therapy, and case review by multidisciplinary teams.

Washington has approximately 16 children's advocacy centers that have met the national accreditation standards set forth by the National Children's Alliance; 6 other centers have not. The National Children's Alliance accreditation committee reviews its national accreditation standards every five years. A children's advocacy center's accreditation is valid for five years. The 2017 accreditation standards address information sharing within an MDT-coordinated child abuse investigation.

**Summary of Amended Bill:** Participants in coordinated MDT investigations of child sexual abuse are authorized to share information about the criminal child sexual abuse investigation and case planning following such investigation with the other investigation participants. Participants who share information in good faith about criminal child sexual abuse investigations and subsequent case planning with other investigation participants are immune from liability arising out their information sharing. The information sharing authorized by the bill does not override testamentary privileges or professional ethical duties to protect confidential information. The shared information in the multidisciplinary team's records must be destroyed five years after appeals, or appeal rights, end unless an existing law requires a different retention period.

#### **EFFECT OF LAW & JUSTICE COMMITTEE AMENDMENT(S):**

- Clarifies that information sharing authorized does not override testamentary privileges or confidentiality requirements under professional ethics duties.

- Requires destruction of records containing shared information related to the criminal investigation five years after appeals—or appeal rights—end, whichever is longer, unless existing law requires a different retention period.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony on Substitute House Bill:** *The committee recommended a different version of the bill than what was heard.* PRO: This bill will foster open communication among team members without piercing other testamentary privileges or professional ethical obligations to preserve confidential information. The good faith immunity addresses hesitancy among some multidisciplinary team participants. Information sharing will also expedite investigations, avoid role confusion among team participants, and lead to better investigation outcomes. The bill does not ask mental health providers to pierce privileged communications. Current law favors investigations of criminal sexual abuse of children that are coordinated among a multidisciplinary team. This bill clarifies the limits of shared communications. There are MDT participants across the state who are concerned about their obligations to share information during investigations, and their professional ethical duties of confidentiality and testimonial privilege. The bill's clarifications and good faith immunity will help resolve the uncertainty that information sharing may create liability for wrongful disclosure of private information.

CON: The concern is that the bill does not expressly state that it overrides professional privileges from disclosure of protected and private information or the ethical duty of some professions to protect confidentiality. The bill should overtly state it does not override professional testimonial privileges or professional ethics duties to protect confidentiality of private information.

**Persons Testifying:** PRO: Seth Dawson, Children's Advocacy Centers of Washington; Amy Russell, Arthur D. Curtis Children's Justice Center, CACs of Washington.

CON: Andrea Piper-Wentland, Washington Coalition of Sexual Assault Programs.

**Persons Signed In To Testify But Not Testifying:** No one.