

HOUSE BILL REPORT

SHB 1595

As Passed House:

March 4, 2019

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 Public Safety (originally sponsored by Representatives Stonier, Eslick, Wylie, Appleton, Doglio, Ormsby and Leavitt).

Brief History:

Committee Activity:

Public Safety: 2/15/19, 2/19/19 [DPS].

Floor Activity:

Passed House: 3/4/19, 96-0.

Brief Summary of Substitute Bill

- Modifies the requirements for county protocols used for multidisciplinary investigations of child abuse and neglect and other specified crimes.
- Establishes operating and confidentiality requirements for multidisciplinary child protection teams.
- Provides members of multidisciplinary child protection teams with immunity from civil liability in certain circumstances.

HOUSE COMMITTEE ON PUBLIC SAFETY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Goodman, Chair; Davis, Vice Chair; Klippert, Ranking Minority Member; Sutherland, Assistant Ranking Minority Member; Appleton, Graham, Griffey, Lovick, Orwall, Pellicciotti and Pettigrew.

Staff: Kelly Leonard (786-7147).

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.

Background:

Reports of Child Abuse and Neglect. If an individual suspects that a child has been abused or neglected, a report can be made to the Department of Children, Youth, and Families Child Protective Services Office (CPS) and/or to law enforcement. The CPS is responsible for investigating abuse or neglect for the purposes of assessing whether intervention is necessary for the safety and welfare of the child. In certain circumstances, the CPS may seek court intervention to approve out-of-home placement for children, request that parents engage in services to correct parental deficiencies, and/or to terminate parental rights in cases where parents do not correct their deficiencies. On the other hand, law enforcement and prosecutors can investigate cases of abuse or neglect for possible criminal prosecutions.

Protocols for Multidisciplinary Investigations of Child Abuse and Neglect Cases. State law requires counties to establish protocols for investigations involving child sexual abuse, child abuse and neglect, and child fatalities. Protocols are intended to coordinate a multidisciplinary investigation by the various entities responsible for responding to reports and incidents, including CPS, city and county law enforcement, county prosecutors, emergency medical personnel, community sexual assault programs, children's advocacy centers, and other local agencies and advocacy groups. County prosecutors are responsible for developing the protocols in collaboration with all other entities.

Confidentiality of Investigative Records. Certain investigative, law enforcement, and crime victim information is exempt from disclosure under the Public Records Act. This includes, for example, information regarding children who are victims of sexual assault as well as recordings of child forensic interviews. In addition, certain practitioners are obligated to keep information confidential based on a legally mandated privilege or other ethical standards.

Summary of Substitute Bill:

Protocols for Multidisciplinary Investigations of Child Abuse and Neglect Cases. The requirements for establishing county protocols are modified. Protocols must address circumstances pertaining to the investigation of online sexual exploitation and commercial sexual exploitation of children. In addition, protocols must address the coordination of licensed physical and mental health practitioners involved with child sexual abuse victims. Revised protocols are due July 1, 2021. Protocols must be reviewed every two years for possible modifications.

Multidisciplinary Child Protection Teams. Additional requirements are established for multidisciplinary child protection teams (MDTs or teams) governed by county protocols. Teams are established for following purposes: to ensure the protection and well-being of the child; to advance and coordinate the prompt investigation of suspected cases of child abuse or neglect; and to reduce the trauma to any child victim.

Prosecutors must convene regular MDT meetings, which should be at least monthly, unless the needs of the MDT dictate otherwise. A team may meet, review records, and conduct business in the absence of one or more team members. Meetings are closed to the public and are not subject to the requirements of the Open Public Meetings Act.

Confidentiality. Team members must execute a confidentiality agreement every year. When a case is referred to an MDT, related records must be made available to all team members. Records may be used or disclosed only as necessary.

Team members may share information with other team members, but no member is required to do so if sharing information would violate state law or professional ethical obligations or otherwise involve the disclosure of privileged information. The Department of Children, Youth, and Families may disclose child welfare records to an MDT for an investigation, and those records remain confidential.

Each team member who receives certain information or records regarding children and families in his or her capacity as a team member is subject to the same privacy and confidentiality obligations and confidentiality penalties as the person disclosing or providing the information or records. The information or records obtained by any team member must be maintained in a manner that ensures the maximum protection of privacy and confidentiality rights.

Information and records received by, communicated to, or created by team members are private and confidential and are protected from discovery and disclosure by all applicable statutory and common law protections. Existing civil and criminal penalties apply to the inappropriate disclosure of information.

A team member, or any person who presented information before the MDT, may testify as to matters within the person's knowledge. However, in a civil or criminal proceeding, he or she may not be questioned about opinions formed as a result of the case consultation meetings.

Immunity from Civil Liability. Under certain circumstances, a team member is immune from any civil liability arising out of any good faith act relevant to participation on the MDT. In a proceeding regarding immunity from liability, there is a rebuttable presumption of good faith.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) County prosecutors lead locally-based multidisciplinary investigative teams, commonly referred to as MDTs, to investigate and respond to incidents of child abuse and neglect. This bill comes as a request from MDTs to clarify the confidentiality requirements under which MDTs operate.

Current laws generate confusion among MDTs regarding what team members may and may not share with other team members, which results in hesitation to share critically important information. Team members should be encouraged to work together and share information

without violating confidentiality laws. Establishing clear expectations and providing immunity for members acting in good faith will go a long way to facilitate quick and effective responses in these cases. MDTs need to act swiftly to protect children and stop perpetrators.

By facilitating open sharing of information between disciplines, the MDT can paint a more complete picture regarding allegations, and the MDT can coordinate a more appropriate response. Information sharing also reduces the risk of inaccurate or false allegations. Nothing in this bill requires MDTs to violate any privileges or confidentiality. To the contrary, it facilitates information sharing through ensuring the confidentiality and privacy of the MDT as a whole.

This bill appropriately addresses the day-to-day operations pertaining to investigations. This bill also addresses previous legal oversights by providing an exemption from the Open Public Meetings Act and clarifying confidentiality provisions. This bill is a good step forward in the 30-year journey to address these issues.

The bill also calls for regular meetings and clarifies existing statutes. This bill will help promote meaningful communication and participation in MDTs.

(Opposed) None.

Persons Testifying: Representative Stonier, prime sponsor; Amy Russell, Arthur D. Curtis Children's Justice Center; Paula Reed, Children's Advocacy Centers of Washington; and Arthur West.

Persons Signed In To Testify But Not Testifying: None.