

SENATE BILL REPORT

SSB 5461

As Passed Senate, February 25, 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: Senate Committee on Human Services, Reentry & Rehabilitation (originally sponsored by Senators Cleveland, Darneille and Wilson, C.).

Brief History:

Committee Activity: Human Services, Reentry & Rehabilitation: 1/30/19, 2/07/19 [DPS].

Floor Activity:

Passed Senate: 2/25/19, 49-0.

Brief Summary of First Substitute Bill

- Provides the purpose of multidisciplinary child protection teams is to ensure the protection and treatment of the child and to advance and coordinate the prompt investigation of suspected cases of child abuse or neglect to reduce the trauma to any child victim.
- Adds licensed physical and mental health practitioners to the multidisciplinary child protection team, which is to meet at least monthly.
- Expands the crimes subject to reviewing multidisciplinary child protection teams, and county written protocol, to include online sexual exploitation and commercial sexual exploitation of minors, child fatality, child physical abuse, and criminal neglect cases.
- Clarifies who has access to records, confidentiality of the records shared, that the records are not subject to discovery, and other duties and responsibilities of team members.
- Provides any team member facilitating exchanging or sharing information in serving any child is presumed to have acted in good faith and is immune from civil liability.

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.

SENATE COMMITTEE ON HUMAN SERVICES, REENTRY & REHABILITATION

Majority Report: That Substitute Senate Bill No. 5461 be substituted therefor, and the substitute bill do pass.

Signed by Senators Darneille, Chair; Nguyen, Vice Chair; Walsh, Ranking Member; Cleveland, O'Ban, Wilson, C. and Zeiger.

Staff: Alison Mendiola (786-7488)

Background: Cases involving child sex abuse victims requires multidisciplinary coordination between the Department of Children, Youth and Families, local law enforcement, and other agencies and systems. Each agency involved in such investigations documents its role in handling cases and how it will coordinate with other local agencies or systems and adopt a local protocol based on state guidelines. Since 2007, county-based protocols have also been required for investigating child abuse, criminal child neglect, and child fatality. Protocols are intended to coordinate a multidisciplinary investigation by the various local entities responsible for responding to the abuse, neglect, or death of children, including city and county law enforcement; child protective services; county prosecutors; emergency medical personnel; and other local agencies and advocacy groups. County prosecutors are responsible for developing the protocols in collaboration with all other entities.

Summary of First Substitute Bill: The stated purpose of multidisciplinary child protection teams is to ensure protecting and the well-being of the child and to advance and coordinate the prompt investigation of suspected cases of child abuse or neglect to reduce the trauma of any child victim.

Crimes Investigated. The coordination of crimes investigated by agencies is expanded to include online sexual exploitation and commercial sexual exploitation of minors, as well as investigations of child fatality, child physical abuse, and criminal child neglect. Similarly, each county is to develop written protocol for these crimes. County protocols for online sexual exploitation and commercial sexual exploitation of minors must be implemented by July 1, 2021.

Multidisciplinary Child Protection Team. Those involved in coordinating criminal investigations is expanded to include licensed physical and mental health practitioners who have involvement with child sex abuse victims. The team may meet, review records, and conduct business in the absence of one or more team members. Team members must sign a confidentiality agreement every year. The county prosecutor is to convene the multidisciplinary team (MDT) meetings, who should meet regularly, at least monthly, unless the needs of the team dictate otherwise.

Records and Information Shared with the Multidisciplinary Child Protection Team. When a case is referred to the team, records pertaining to the case must be made available to the team. Records may only be disclosed by team members as necessary for the performance of the member's duties. The Department of Children, Youth and Families may disclose child welfare records to the MDT that related to an investigation. These records remain confidential.

Team members may share information about criminal child abuse investigations with other participants in the multidisciplinary coordination, but no member is required to do so if sharing such information would constitute a violation of that team member's professional ethical obligations or disclose privileged communication as defined by statute.

Every team members who receives information or records regarding children and families in their capacity as a team member is subject to the same privacy and confidentiality penalties as the person disclosing and providing the information or records.

Information and records communicated or provided to the team by all providers and agencies, as well as information and records created in the course of a a child abuse or neglect investigation, are deemed 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 held by team members.

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

Any team member who shares information to serve any child in the course of the member's profession, specialties, interests or occupation, for the purpose of ensuring the safety of the child and community, and providing early intervention to avert more serious problems, is immune from any civil liability arising out of any good faith act relevant to participating on the team. There is rebuttable presumption of good faith.

Local Protocols. Beginning on the effective date of this bill, the local protocols are to be reviewed every two years to determine whether modifications are necessary.

Appropriation: None.

Fiscal Note: Requested on January 26, 2019.

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

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

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: Multidisciplinary teams already exist. This bill is about open communication between team members. Effective information sharing is important and it helps to minimize trauma to children. We already have legislation about written protocols. This bill is about information sharing, clarifying privilege, and providing immunity for sharing between team members. No one is being asked to violate privileges or confidentiality. Everyone needs to be proactive about sharing in the best interest of children. From an advocacy and healing perspective, the term treatment should be changed to well-being of a child.

Persons Testifying: PRO: Senator Annette Cleveland, Prime Sponsor; Paula Reed, Children's Advocacy Centers of Washington; Andrea Piper-Wentland, Washington Coalition of Sexual Assault Programs.

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