

SENATE BILL REPORT

ESHB 1041

As Reported by Senate Committee On:
State Government & Elections, March 24, 2021

Title: An act relating to sunshine committee recommendations regarding juveniles.

Brief Description: Concerning sunshine committee recommendations regarding juveniles.

Sponsors: House Committee on State Government & Tribal Relations (originally sponsored by Representatives Springer, Cody, Ortiz-Self, Gregerson, Frame and Jacobsen).

Brief History: Passed House: 3/2/21, 97-0.

Committee Activity: State Government & Elections: 3/19/21, 3/24/21 [DP].

Brief Summary of Bill

- Exempts additional personal and contact information of living child victims and witnesses from public disclosure requirements.
- Modifies the requirements for disclosing incident reports related to offenses committed by juveniles to schools.
- Exempts records from an ongoing child protective service investigation in conjunction with an early learning licensing complaint inspection from public disclosure requirements.
- Permits the public disclosure of certain exempt personal information of children with consent of the child's parent or guardian.

SENATE COMMITTEE ON STATE GOVERNMENT & ELECTIONS

Majority Report: Do pass.

Signed by Senators Hunt, Chair; Kuderer, Vice Chair; Wilson, J., Ranking Member; Hasegawa and Hawkins.

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

Staff: Samuel Brown (786-7470)

Background: The Public Records Act. The Public Records Act (PRA), enacted in 1972 as part of Initiative 276, requires all state and local government agencies to make all public records available for public inspection and copying unless certain statutory exemptions apply. Over 500 specific references in the PRA or other statutes remove certain information from application of the PRA, provide exceptions to the public disclosure and copying of certain information, or designate certain information as confidential. The provisions requiring public records disclosure must be interpreted liberally, while the exemptions are interpreted narrowly to effectuate the general policy favoring disclosure.

Child Victim and Witness Records. The name, address, and photographs of a living child victim or witness to any crime may not be disclosed by any law enforcement agency, prosecutor's office, or state agency without permission. The location, contact information, and the relationship between the victim and the alleged perpetrator, if the alleged perpetrator is related to the child, of child victims of sexual assault may not be disclosed without permission.

Child Offender Records. Incident reports for offenses committed by juveniles may be released only after a decision to arrest is made, unless the release would jeopardize the case or endanger witnesses, in which case the information in the reports may be released to the maximum extent possible while still protecting other students, staff, and school property. The identity of a juvenile perpetrator and the perpetrator's parent, guardian, or custodian, and the circumstances of the crime must be released to a victim or victim's immediate family upon request.

Children's Personal Information. Personal information, in any files maintained for students in public school, by the Department of Children, Youth, and Families (DCYF) for children enrolled in licensed child care, and for children enrolled in early learning, parks and recreation, youth development, or similar programs is exempt from public disclosure requirements. The Washington Supreme Court has defined personal information as information peculiar or proper to private concerns, rather than any information about an individual.

Summary of Bill: Child Victim and Witness Records. The telephone number, email address, social media identifier, and image, as well as the surname of the child's parent if it is the same as the child's and the parent is not the alleged perpetrator of living child victims and witnesses are exempt from public disclosure requirements. The relationship between the child victim and a relative or step-relative who is the alleged perpetrator of a sexual assault is also exempt from public disclosure requirements.

Child Offender Records. Law enforcement and prosecuting attorneys may release unredacted incident reports of offenses committed by juveniles to schools unless redaction is necessary to avoid jeopardizing the case or endangering witnesses, other students, staff,

or school property. Full incident reports must be released to the victim or victim's immediate family of an offense alleged to have been committed by a juvenile.

Investigative Records. DCYF records in an ongoing child protective services (CPS) investigation in conjunction with an early learning licensing complaint inspection are exempt from disclosure during the course of the CPS investigation. At the conclusion of the CPS investigation, the records are disclosable.

Children's Personal Information. The personal information of children in public school, DCYF, or youth program records that is exempt from disclosure in RCW 42.56.230 may be disclosed with the written consent of the child's parent or guardian.

Appropriation: None.

Fiscal Note: Available.

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: PRO: We are grateful for the protections this provides to children, particularly child sexual abuse victims. When a child is assaulted, it can be traumatizing and devastating when information about the event is disclosed. We would encourage the Legislature to not add further exemptions to this measure.

OTHER: The Legislature should not amend this bill and stick with the changes that had the consensus of the Sunshine Committee.

Persons Testifying: PRO: Byron Manering, Brigid Collins House; Rowland Thompson, Sunshine Committee.

OTHER: Katherine George, Sunshine Committee.

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