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**SUBSTITUTE HOUSE BILL 2442**

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**State of Washington**

**54th Legislature**

**1996 Regular Session**

**By** House Committee on Law & Justice (originally sponsored by Representatives Mulliken, Sheahan, Sterk, Pelesky, McMahan, McMorris, Thompson, Smith, Honeyford, Goldsmith, Beeksma, Pennington, Sherstad, Koster, Hargrove, D. Sommers, D. Schmidt, Campbell, Benton, Johnson, Fuhrman, Stevens, Boldt and Backlund)

Read first time 02/02/96.

1 AN ACT Relating to protecting and promoting the rights of parents;  
2 amending RCW 13.32A.082, 46.20.292, 70.24.105, and 70.24.110; adding a  
3 new section to chapter 70.96A RCW; adding a new section to chapter  
4 71.34 RCW; adding a new section to chapter 13.32A RCW; adding a new  
5 section to chapter 13.40 RCW; adding a new section to chapter 28A.320  
6 RCW; adding a new section to chapter 28A.600 RCW; adding a new section  
7 to chapter 28A.150 RCW; adding a new section to chapter 26.28 RCW;  
8 creating new sections; prescribing penalties; and declaring an  
9 emergency.

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

11 **PART I**

12 **LEGISLATIVE INTENT**

13 **RESTORATION OF PARENTS' RIGHTS AND RESPONSIBILITIES**

14 NEW SECTION. **Sec. 1.** The legislature finds that wrongful intrusion  
15 by the state into the fundamental rights of parents to exercise  
16 legitimate care, responsibility, and control over the upbringing of  
17 their children and the failure of government to adequately support the  
18 reasonable attempts of parents to train, discipline, and prepare their

1 children to be productive, law-abiding citizens is destructive to the  
2 family unit and harmful to society.

3 The result of such interference and neglect is a breakdown in the  
4 traditional role of the family as the primary provider, protector, and  
5 promoter of the health, safety, and well-being of children and of the  
6 basic values and character traits essential for attaining individual  
7 liberty, fulfillment, and happiness.

8 This act is intended to ensure the rights of parents to rightfully  
9 manage and direct the affairs of their minor or dependent children, to  
10 ensure that government appropriately respects and reinforces those  
11 rights, and to ensure that parents meet the responsibilities inherent  
12 in bearing and raising young children. The legislature recognizes that  
13 upholding the rights of parents is in the best interest of families and  
14 minor or dependent children of Washington state.

15 This act is also intended to assist parents in furthering the  
16 following important values: (1) Honesty, integrity, and trust; (2)  
17 respect for self and others; (3) responsibility for personal actions  
18 and commitments; (4) self-discipline and moderation; (5) diligence and  
19 a positive work ethic; (6) respect for law and authority; (7) healthy  
20 and constructive behavior; and (8) family as the basis of society.

21 Neither the state of Washington, nor its political subdivisions,  
22 should by any means, enact or enforce any policy that supersedes or  
23 infringes upon the rights of parents as recognized and protected by  
24 this act.

25 **PART II**

26 **FAMILY**

27 **A. PARENTS' RIGHT TO NOTIFICATION OF OUTPATIENT OR INPATIENT**  
28 **DRUG OR ALCOHOL TREATMENT PROVIDED TO A MINOR**  
29 **OR DEPENDENT CHILD**

30 NEW SECTION. **Sec. 2.** A new section is added to chapter 70.96A RCW  
31 to read as follows:

32 (1) Any provider of treatment in an approved inpatient treatment  
33 program who provides treatment to a minor under RCW 70.906A.095(1)  
34 shall provide notice of the request for treatment to the minor's  
35 parents. The notice shall be made within forty-eight hours of the  
36 request for treatment, excluding Saturdays, Sundays, and holidays, and

1 shall contain the same information as required under RCW  
2 71.34.030(2)(b).

3 (2) Any provider of outpatient treatment shall provide notice of  
4 the request for treatment to the minor's parents within seven days of  
5 the request for treatment, excluding Saturdays, Sundays, and holidays,  
6 and shall contain the same information as required under RCW  
7 71.34.030(2)(b).

8 **B. PARENTS' RIGHT TO NOTICE OF OUTPATIENT OR INPATIENT**  
9 **MENTAL HEALTH TREATMENT PROVIDED TO A MINOR**  
10 **OR DEPENDENT CHILD**

11 NEW SECTION. **Sec. 3.** A new section is added to chapter 71.34 RCW  
12 to read as follows:

13 (1) Any provider of treatment at an inpatient evaluation and  
14 treatment facility who provides treatment to a minor under RCW  
15 71.34.030(1) shall provide notice of the request for treatment to the  
16 minor's parents. The notice shall be made within forty-eight hours of  
17 the request for treatment, excluding Saturdays, Sundays, and holidays,  
18 and shall contain the same information as required under RCW  
19 71.34.030(2)(b).

20 (2) Any provider of outpatient treatment shall provide notice of  
21 the request for treatment to the minor's parents. The notice shall be  
22 made within seven days of the request for treatment, excluding  
23 Saturdays, Sundays, and holidays, and shall contain the same  
24 information as required under RCW 71.34.030(2)(b).

25 **C. PARENT'S RIGHT TO BE NOTIFIED OF A RUNAWAY MINOR**  
26 **OR DEPENDENT CHILD**

27 **Sec. 4.** RCW 13.32A.082 and 1995 c 312 s 34 are each amended to  
28 read as follows:

29 (1) Any person who, without legal authorization, provides shelter  
30 to a minor and who knows or should have known at the time of providing  
31 the shelter that the minor is away from the parent's home, or other  
32 lawfully prescribed residence, without the permission of the parent,  
33 shall promptly report the location of the child to the parent, the law  
34 enforcement agency of the jurisdiction in which the person lives, or  
35 the department. The report may be made by telephone or any other  
36 reasonable means.

1 (2) Unless the context clearly requires otherwise, the definitions  
2 in this subsection apply throughout this section.

3 (a) "Shelter" means the person's home or any structure over which  
4 the person has any control.

5 (b) "Promptly report" means to report within eight hours after the  
6 person has knowledge that the minor is away from home without parental  
7 permission.

8 (c) "Parent" means any parent having legal custody of the child,  
9 whether individually or jointly.

10 (3) When the department receives a report under subsection (1) of  
11 this section, it must make a reasonable effort to notify the parent  
12 that a report has been received and may offer services designed to  
13 resolve the conflict and accomplish a reunification of the family  
14 between the parent and the child.

15 NEW SECTION. Sec. 5. A new section is added to chapter 13.32A RCW  
16 to read as follows:

17 (1) A violation of RCW 13.32A.082 by a licensed child-serving  
18 agency is a licensing violation under chapter 74.15 RCW.

19 (2) A violation of RCW 13.32A.082 is a misdemeanor.

20 **D. RIGHT TO NOTIFICATION OF DRIVER'S LICENSE SUSPENSION**

21 **Sec. 6.** RCW 46.20.292 and 1979 c 61 s 8 are each amended to read  
22 as follows:

23 The department may suspend, revoke, restrict, or condition any  
24 driver's license upon a showing of its records that the licensee has  
25 been found by a juvenile court, chief probation officer, or any other  
26 duly authorized officer of a juvenile court to have committed any  
27 offense or offenses which under Title 46 RCW constitutes grounds for  
28 said action. If the department takes any such action against the  
29 driver's license of an unemancipated minor under age eighteen, the  
30 department must notify the juvenile's parent, parents, or guardian.

31 **E. PARENT'S RIGHT TO BE NOTIFIED OF ANY JUVENILE OFFENDER**  
32 **PROCEEDINGS INVOLVING A MINOR OR DEPENDENT CHILD**

33 NEW SECTION. Sec. 7. A new section is added to chapter 13.40 RCW  
34 to read as follows:

1 If a parent would not otherwise be notified, the state and its  
2 political subdivisions must notify a parent or legal guardian of a  
3 minor or dependent child of any arrest, detention, or penalty imposed  
4 under color of law upon the minor or dependent child by the state or  
5 any of its political subdivisions.

6 **PART III**  
7 **EDUCATION**

8 **A. PARENT'S RIGHT TO DETERMINE WHAT A MINOR OR DEPENDENT CHILD**  
9 **IS LEARNING**

10 NEW SECTION. **Sec. 8.** A new section is added to chapter 28A.320  
11 RCW to read as follows:

12 (1) Upon written request or personal appearance of a parent or  
13 legal guardian of a student, a public school must make available for  
14 inspection by the parent or legal guardian, during school hours, any  
15 classroom instructional materials, including textbooks, teacher  
16 manuals, library books, films, video tapes, audio tapes, computer  
17 programs, supplementary materials, or any other materials, associated  
18 with the education or instruction of the student by the school.  
19 Materials physically located in the school must be made available  
20 within five working days of the request. Materials within the school  
21 district must be made available within fourteen working days of the  
22 request.

23 (2) A public school must give parents or legal guardians thirty  
24 days advance written notice prior to presenting in any school-sponsored  
25 curriculum component, program, or activity, whether curricular or  
26 extracurricular, information regarding: Human sexuality, sexually  
27 transmitted diseases, suicide, euthanasia, coping with or understanding  
28 death or other forms of personal loss or grief, religious practice or  
29 belief, or emotional or psychological health.

30 No student may attend or participate in a public school-sponsored  
31 class, program, or activity, whether curricular or extracurricular,  
32 involving any of the components in this subsection (2) without the  
33 prior written consent of the student's parent or legal guardian.

34 All instructional materials, including teacher's manuals, films,  
35 tapes, or other supplementary material that a school uses in presenting  
36 any of the components in this subsection (2) as well as such  
37 instructional materials which may be used by any guest speaker, must be

1 available for inspection by the custodial parent or legal guardian of  
2 a student during school hours, at least ten days prior to their use at  
3 the school.

4 (3) Employees of a school district may not direct, instruct, or  
5 encourage a student to withhold instructional materials or other  
6 information concerning classroom activities, tests, discussions, or  
7 programs from their parent.

8 **B. PARENTS' AND STUDENTS' RIGHTS TO PRIVACY**

9 NEW SECTION. **Sec. 9.** A new section is added to chapter 28A.600  
10 RCW to read as follows:

11 (1) A public school must give parents or legal guardians advance  
12 written notice before the school, or before any person or organization  
13 under contract with the school, conducts any student test,  
14 questionnaire, survey, analysis, or evaluation that requests disclosure  
15 by the student of information about either the student or the student's  
16 parents or legal guardians concerning: Political or religious  
17 affiliations, mental or psychological problems, sexual behavior or  
18 attitudes, illegal, self-incriminating, or demeaning behavior, critical  
19 appraisals of any other individual with whom the student has a family  
20 relationship, legally privileged information arising out of  
21 confidential relationships with persons such as lawyers, physicians, or  
22 ministers, or religious issues. The notice must provide complete  
23 disclosure to the student's parent or legal guardian regarding the  
24 subject matter and nature of the test, questionnaire, survey, analysis,  
25 or evaluation.

26 (2) No student may participate in any test, questionnaire, survey,  
27 analysis, or evaluation listed in subsection (1) of this section  
28 without prior written consent from the student's parent or legal  
29 guardian.

30 (3) All materials which a school uses in conducting any student  
31 test, questionnaire, survey, analysis, or evaluation that involves  
32 disclosure of information described in subsection (1) of this section  
33 must be readily available for inspection by the parent or legal  
34 guardian of a student, at least ten days prior to their administration,  
35 at the school during normal school hours. School personnel must also  
36 be readily available to answer questions relative to the materials.

1                   **C. PARENT'S RIGHT TO KNOW OF A MINOR OR DEPENDENT**  
2                                   **CHILD'S PERSONAL PROBLEMS**

3           NEW SECTION.   **Sec. 10.** A new section is added to chapter 28A.150  
4 RCW to read as follows:

5           All schools must maintain a written record regarding counseling  
6 services provided by a school counselor or other paraprofessional  
7 employed by the district to provide counseling services to students in  
8 the public schools. This record must contain the dates and subject  
9 matter for which the student received counseling services regarding  
10 guidance, career, academic, or social/emotional issues and must be  
11 maintained on a quarterly schedule. This record must be available for  
12 parent review and may not be maintained with student academic records.  
13 This record may not be released to anyone other than the parent or  
14 student over sixteen years of age, without the parent's consent. No  
15 school may transfer counseling records regarding social/emotional  
16 issues without the parent's prior consent. All records regarding  
17 social/emotional counseling must be destroyed upon the student's  
18 graduation or permanent transfer from the school.

19           No school may engage in the use of counseling techniques that are  
20 beyond the scope of certification or training of the counselor or  
21 teacher engaging in the use of the technique. No teacher may engage in  
22 classroom activities and no counselor may engage in counseling  
23 activities which involve hypnosis, psychoanalysis, or other  
24 psychotherapeutic technique, regardless of the teacher's or counselor's  
25 level of certification, without prior consent of the parent or parents  
26 of the student involved.

27                                   **PART IV**  
28                                   **HEALTH CARE**

29                   **A. PARENT'S RIGHT TO BE PRESENT DURING MEDICAL PROCEDURES**  
30                                   **INVOLVING A MINOR OR DEPENDENT CHILD**

31           NEW SECTION.   **Sec. 11.** A new section is added to chapter 26.28 RCW  
32 to read as follows:

33           A parent or legal guardian of an unemancipated minor or dependent  
34 child must be notified prior to and has a right to be present whenever  
35 the minor is receiving medical care in a medical treatment facility.

1 This right does not extend to a parent or legal guardian if a  
2 restraining order or other court order has been issued prohibiting the  
3 parent or legal guardian from having contact with the child.

4 As used in this section, "medical care" means any medical  
5 procedure, treatment, diagnosis, or examination that is performed by a  
6 person licensed in this state to provide health care. Medical  
7 procedures performed under chapters 9.02 and 70.24 RCW are exempt from  
8 this provision.

9 **B. PARENT'S RIGHT TO ACCESS HEALTH RELATED TEST RESULTS**

10 **Sec. 12.** RCW 70.24.105 and 1994 c 72 s 1 are each amended to read  
11 as follows:

12 (1) No person may disclose or be compelled to disclose the identity  
13 of any person who has investigated, considered, or requested a test or  
14 treatment for a sexually transmitted disease, except as authorized by  
15 this chapter.

16 (2) No person may disclose or be compelled to disclose the identity  
17 of any person upon whom an HIV antibody test is performed, or the  
18 results of such a test, nor may the result of a test for any other  
19 sexually transmitted disease when it is positive be disclosed. This  
20 protection against disclosure of test subject, diagnosis, or treatment  
21 also applies to any information relating to diagnosis of or treatment  
22 for HIV infection and for any other confirmed sexually transmitted  
23 disease. The following persons, however, may receive such information:

24 (a) The subject of the test or the subject's legal representative  
25 for health care decisions in accordance with RCW 7.70.065, (~~with the~~  
26 ~~exception of such a representative of a minor child over fourteen years~~  
27 ~~of age and otherwise competent~~) including the parent or legal guardian  
28 of a minor under age eighteen;

29 (b) Any person who secures a specific release of test results or  
30 information relating to HIV or confirmed diagnosis of or treatment for  
31 any other sexually transmitted disease executed by the subject or the  
32 subject's legal representative for health care decisions in accordance  
33 with RCW 7.70.065, (~~with the exception of such a representative of a~~  
34 ~~minor child over fourteen years of age and otherwise competent~~)  
35 including the parent or legal guardian of a minor under age eighteen;

36 (c) The state public health officer, a local public health officer,  
37 or the centers for disease control of the United States public health

1 service in accordance with reporting requirements for a diagnosed case  
2 of a sexually transmitted disease;

3 (d) A health facility or health care provider that procures,  
4 processes, distributes, or uses: (i) A human body part, tissue, or  
5 blood from a deceased person with respect to medical information  
6 regarding that person; (ii) semen, including that provided prior to  
7 March 23, 1988, for the purpose of artificial insemination; or (iii)  
8 blood specimens;

9 (e) Any state or local public health officer conducting an  
10 investigation pursuant to RCW 70.24.024, provided that such record was  
11 obtained by means of court ordered HIV testing pursuant to RCW  
12 70.24.340 or 70.24.024;

13 (f) A person allowed access to the record by a court order granted  
14 after application showing good cause therefor. In assessing good  
15 cause, the court shall weigh the public interest and the need for  
16 disclosure against the injury to the patient, to the physician-patient  
17 relationship, and to the treatment services. Upon the granting of the  
18 order, the court, in determining the extent to which any disclosure of  
19 all or any part of the record of any such test is necessary, shall  
20 impose appropriate safeguards against unauthorized disclosure. An  
21 order authorizing disclosure shall: (i) Limit disclosure to those  
22 parts of the patient's record deemed essential to fulfill the objective  
23 for which the order was granted; (ii) limit disclosure to those persons  
24 whose need for information is the basis for the order; and (iii)  
25 include any other appropriate measures to keep disclosure to a minimum  
26 for the protection of the patient, the physician-patient relationship,  
27 and the treatment services, including but not limited to the written  
28 statement set forth in subsection (5) of this section;

29 (g) Persons who, because of their behavioral interaction with the  
30 infected individual, have been placed at risk for acquisition of a  
31 sexually transmitted disease, as provided in RCW 70.24.022, if the  
32 health officer or authorized representative believes that the exposed  
33 person was unaware that a risk of disease exposure existed and that the  
34 disclosure of the identity of the infected person is necessary;

35 (h) A law enforcement officer, fire fighter, health care provider,  
36 health care facility staff person, or other persons as defined by the  
37 board in rule pursuant to RCW 70.24.340(4), who has requested a test of  
38 a person whose bodily fluids he or she has been substantially exposed

1 to, pursuant to RCW 70.24.340(4), if a state or local public health  
2 officer performs the test;

3 (i) Claims management personnel employed by or associated with an  
4 insurer, health care service contractor, health maintenance  
5 organization, self-funded health plan, state-administered health care  
6 claims payer, or any other payer of health care claims where such  
7 disclosure is to be used solely for the prompt and accurate evaluation  
8 and payment of medical or related claims. Information released under  
9 this subsection shall be confidential and shall not be released or  
10 available to persons who are not involved in handling or determining  
11 medical claims payment; and

12 (j) A department of social and health services worker, a child  
13 placing agency worker, or a guardian ad litem who is responsible for  
14 making or reviewing placement or case-planning decisions or  
15 recommendations to the court regarding a child, who is less than  
16 fourteen years of age, has a sexually transmitted disease, and is in  
17 the custody of the department of social and health services or a  
18 licensed child placing agency; this information may also be received by  
19 a person responsible for providing residential care for such a child  
20 when the department of social and health services or a licensed child  
21 placing agency determines that it is necessary for the provision of  
22 child care services.

23 (3) No person to whom the results of a test for a sexually  
24 transmitted disease have been disclosed pursuant to subsection (2) of  
25 this section may disclose the test results to another person except as  
26 authorized by that subsection.

27 (4) The release of sexually transmitted disease information  
28 regarding an offender, except as provided in subsection (2)(e) of this  
29 section, shall be governed as follows:

30 (a) The sexually transmitted disease status of a department of  
31 corrections offender shall be made available by department of  
32 corrections health care providers to a department of corrections  
33 superintendent or administrator as necessary for disease prevention or  
34 control and for protection of the safety and security of the staff,  
35 offenders, and the public. The information may be submitted to  
36 transporting officers and receiving facilities, including facilities  
37 that are not under the department of correction's jurisdiction.

38 (b) The sexually transmitted disease status of a person detained in  
39 a jail shall be made available by the local public health officer to a

1 jail administrator as necessary for disease prevention or control and  
2 for protection of the safety and security of the staff, offenders, and  
3 the public. The information may be submitted to transporting officers  
4 and receiving facilities.

5 (c) Information regarding a department of corrections offender's  
6 sexually transmitted disease status is confidential and may be  
7 disclosed by a correctional superintendent or administrator or local  
8 jail administrator only as necessary for disease prevention or control  
9 and for protection of the safety and security of the staff, offenders,  
10 and the public. Unauthorized disclosure of this information to any  
11 person may result in disciplinary action, in addition to any other  
12 penalties as may be prescribed by law.

13 (5) Whenever disclosure is made pursuant to this section, except  
14 for subsections (2)(a) and (6) of this section, it shall be accompanied  
15 by a statement in writing which includes the following or substantially  
16 similar language: "This information has been disclosed to you from  
17 records whose confidentiality is protected by state law. State law  
18 prohibits you from making any further disclosure of it without the  
19 specific written consent of the person to whom it pertains, or as  
20 otherwise permitted by state law. A general authorization for the  
21 release of medical or other information is NOT sufficient for this  
22 purpose." An oral disclosure shall be accompanied or followed by such  
23 a notice within ten days.

24 (6) The requirements of this section shall not apply to the  
25 customary methods utilized for the exchange of medical information  
26 among health care providers in order to provide health care services to  
27 the patient, nor shall they apply within health care facilities where  
28 there is a need for access to confidential medical information to  
29 fulfill professional duties.

30 (7) Upon request of the victim, disclosure of test results under  
31 this section to victims of sexual offenses under chapter 9A.44 RCW  
32 shall be made if the result is negative or positive. The county  
33 prosecuting attorney shall notify the victim of the right to such  
34 disclosure. Such disclosure shall be accompanied by appropriate  
35 counseling, including information regarding follow-up testing.

36 **C. PARENT'S RIGHT TO NOTIFICATION OF HEALTH CARE TREATMENT**  
37 **PROVIDED FOR SEXUALLY TRANSMITTED DISEASES**

1       **Sec. 13.** RCW 70.24.110 and 1988 c 206 s 912 are each amended to  
2 read as follows:

3       A minor ((~~fourteen~~)) sixteen years of age or older who may have  
4 come in contact with any sexually transmitted disease or suspected  
5 sexually transmitted disease may give consent to the furnishing of  
6 hospital, medical and surgical care related to the diagnosis or  
7 treatment of such disease. Such consent shall not be subject to  
8 disaffirmance because of minority. The consent of the parent, parents,  
9 or legal guardian of such minor shall not be necessary to authorize  
10 hospital, medical and surgical care related to such disease and such  
11 parent, parents, or legal guardian shall not be liable for payment for  
12 any care rendered pursuant to this section. The treatment provider  
13 must notify the minor's parent, parents, or legal guardian of the  
14 services provided within five days of the first day of treatment.

15       NEW SECTION. **Sec. 14.** Part and subpart headings used in this act  
16 do not constitute any part of the law.

17       NEW SECTION. **Sec. 15.** This act shall be known and cited as the  
18 restoration of parents' rights and responsibilities act of 1996.

19       NEW SECTION. **Sec. 16.** This act is intended to be cumulative and  
20 nonexclusive and is not intended to affect any rights granted to  
21 parents by any other law or statute. This act shall be liberally  
22 construed to effectuate the policies and purposes of this act. In the  
23 event of conflict between this act and any other provision of law, the  
24 provisions of this act shall govern.

25       NEW SECTION. **Sec. 17.** If any provision of this act or its  
26 application to any person or circumstance is held invalid, the  
27 remainder of the act or the application of the provision to other  
28 persons or circumstances is not affected.

29       NEW SECTION. **Sec. 18.** This act is necessary for the immediate  
30 preservation of the public peace, health, or safety, or support of the  
31 state government and its existing public institutions, and shall take  
32 effect immediately.

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