

2 **SHB 2348** - S AMD
3 By Senators Talmadge and Nelson

4
5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. **Sec. 1.** The legislature recognizes that the
8 cooperation of child victims of sexual offenses and their families is
9 integral to the successful prosecution of sexual offenses against
10 children. The legislature finds that disclosure of information
11 identifying child victims of sexual offenses may subject the child to
12 unwanted contacts by the media, public scrutiny, and embarrassment.
13 Disclosure of this information can also have a chilling effect on the
14 willingness of child victims and their families to report sexual
15 offenses and to cooperate with the investigation and prosecution of the
16 crime. The legislature further finds that disclosure of the child
17 victim's name and other identifying information is not essential to
18 accurate and necessary release of information to the public concerning
19 the operation of the criminal justice system."

20 "NEW SECTION. **Sec. 2.** A new section is added to chapter 10.04 RCW
21 to read as follows:

22 (1) When a defendant is charged with a crime that is a violation of
23 chapter 9A.44 or 9.68A RCW and the victim is less than eighteen years
24 old, the court, on its own motion, or the motion of either the
25 prosecuting attorney or defense attorney, may order that during any
26 court proceedings the victim shall be referred to only by initials or
27 such other designation as the court provides, and that the victim's

1 identity shall not be stated in open court. The court may also provide
2 that the identity and address of the victim in any investigative
3 records or other documents offered or admitted into evidence at any of
4 the court proceedings must first be deleted and replaced with initials
5 or such other designation as the court provides.

6 (2) The court may refuse to issue an order under subsection (1) of
7 this section only if the court makes a finding that the order would
8 impair the defendant in presenting a defense."

9 "NEW SECTION. **Sec. 3.** A new section is added to chapter 10.46 RCW
10 to read as follows:

11 (1) When a defendant is charged with a crime that is a violation of
12 chapter 9A.44 or 9.68A RCW and the victim is less than eighteen years
13 old, the court, on its own motion, or the motion of either the
14 prosecuting attorney or defense attorney, may order that during any
15 court proceedings the victim shall be referred to only by initials or
16 such other designation as the court provides, and that the victim's
17 identity shall not be stated in open court. The court may also provide
18 that the identity and address of the victim in any investigative
19 records or other documents offered or admitted into evidence at any of
20 the court proceedings must first be deleted and replaced with initials
21 or such other designation as the court provides.

22 (2) The court may refuse to issue an order under subsection (1) of
23 this section only if the court makes a finding that the order would
24 impair the defendant in presenting a defense."

25 "**Sec. 4.** RCW 13.40.140 and 1981 c 299 s 11 are each amended to
26 read as follows:

27 (1) A juvenile shall be advised of his or her rights when appearing
28 before the court.

1 (2) A juvenile and his or her parent, guardian, or custodian shall
2 be advised by the court or its representative that the juvenile has a
3 right to be represented by counsel at all critical stages of the
4 proceedings. Unless waived, counsel shall be provided to a juvenile
5 who is financially unable to obtain counsel without causing substantial
6 hardship to himself or herself or the juvenile's family, in any
7 proceeding where the juvenile may be subject to transfer for criminal
8 prosecution, or in any proceeding where the juvenile may be in danger
9 of confinement. The ability to pay part of the cost of counsel does
10 not preclude assignment. In no case may a juvenile be deprived of
11 counsel because of a parent, guardian, or custodian refusing to pay
12 therefor. The juvenile shall be fully advised of his or her right to
13 an attorney and of the relevant services an attorney can provide.

14 (3) The right to counsel includes the right to the appointment of
15 experts necessary, and the experts shall be required pursuant to the
16 procedures and requirements established by the supreme court.

17 (4) Upon application of a party, the clerk of the court shall
18 issue, and the court on its own motion may issue, subpoenas requiring
19 attendance and testimony of witnesses and production of records,
20 documents, or other tangible objects at any hearing, or such subpoenas
21 may be issued by an attorney of record.

22 (5) All proceedings shall be transcribed verbatim by means which
23 will provide an accurate record.

24 (6) The general public and press shall be permitted to attend any
25 hearing unless the court, for good cause, orders a particular hearing
26 to be closed. The presumption shall be that all such hearings will be
27 open.

28 (7) When a juvenile is alleged to have committed an offense that is
29 a violation of chapter 9A.44 or 9.68A RCW and the victim is less than
30 eighteen years old, the court, on its own motion, or the motion of

1 either the prosecuting attorney, the juvenile court probation
2 counselor, or the defense attorney, may order that during any court
3 proceedings the victim shall be referred to only by initials or such
4 other designation as the court provides, and that the victim's identity
5 shall not be stated in open court. The court may also provide that the
6 identity and address of the victim in any investigative records or
7 other documents offered or admitted into evidence at any of the court
8 proceedings must first be deleted and replaced with initials or such
9 other designation as the court provides. The court may refuse to issue
10 an order under this subsection only if the court makes a finding that
11 the order would impair the alleged offender in presenting a defense.

12 (8) In all adjudicatory proceedings before the court, all parties
13 shall have the right to adequate notice, discovery as provided in
14 criminal cases, opportunity to be heard, confrontation of witnesses
15 except in such cases as this chapter expressly permits the use of
16 hearsay testimony, findings based solely upon the evidence adduced at
17 the hearing, and an unbiased fact-finder.

18 ((+8)) (9) A juvenile shall be accorded the same privilege against
19 self-incrimination as an adult. An extrajudicial statement which would
20 be constitutionally inadmissible in a criminal proceeding may not be
21 received in evidence at an adjudicatory hearing over objection.
22 Evidence illegally seized or obtained may not be received in evidence
23 over objection at an adjudicatory hearing to prove the allegations
24 against the juvenile if the evidence would be inadmissible in an adult
25 criminal proceeding. An extrajudicial admission or confession made by
26 the juvenile out of court is insufficient to support a finding that the
27 juvenile committed the acts alleged in the information unless evidence
28 of a corpus delicti is first independently established in the same
29 manner as required in an adult criminal proceeding.

1 (~~(9)~~) (10) Waiver of any right which a juvenile has under this
2 chapter must be an express waiver intelligently made by the juvenile
3 after the juvenile has been fully informed of the right being waived.

4 (~~(10)~~) (11) Whenever this chapter refers to waiver or objection
5 by a juvenile, the word juvenile shall be construed to refer to a
6 juvenile who is at least twelve years of age. If a juvenile is under
7 twelve years of age, the juvenile's parent, guardian, or custodian
8 shall give any waiver or offer any objection contemplated by this
9 chapter."

10 "NEW SECTION. Sec. 5. A new section is added to chapter 42.17 RCW
11 to read as follows:

12 Information revealing the identity of child victims of sexual
13 offenses who are under age eighteen is confidential and not subject to
14 public disclosure. Identifying information means the child victim's
15 name, address, location, photograph, and in cases in which the child
16 victim is a relative or stepchild of the alleged perpetrator,
17 identification of the relationship between the child and the alleged
18 perpetrator. Sexual offenses include violations of chapters 9A.44 and
19 9.68A RCW."

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23 In line 2 of the title, after "abuse;" strike the remainder of the
24 title and insert "amending RCW 13.40.140; adding a new section to
25 chapter 10.04 RCW; adding a new section to chapter 10.46 RCW; adding a
26 new section to chapter 42.17 RCW; and creating a new section."