VETO MESSAGE ON 2SHB 2319

April 6, 1994

To the Honorable Speaker and Members,

The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 302; 313; 323; 402(1)(d); 402~~(6)~~, page 31, lines 11 through 26; 404(1)(b); 404(4)(a)(i); 431; 438; 606; 607; 802; 804; 805; 809; 810; and 919(8), Engrossed Second Substitute House Bill No. 2319 entitled:

"AN ACT Relating to violence reduction programs;"

I applaud the legislature's commitment and hard work in passing Engrossed Second Substitute House Bill No. 2319. Youth violence is a serious problem that affects the long-term economic, social, and public safety interests of our state. It is not a problem that government alone can address, nor is it a problem that a single piece of legislation can cure.

This legislation is a balanced and responsible approach to curbing youth violence in our state. It is the beginning of a long process of giving hope and opportunity to our young people, while acknowledging that solutions to youth violence require a comprehensive approach including tough sentencing, effective prevention programs, and restricted access to firearms.

Even though I have vetoed certain sections of the bill--some for technical purposes and others, such as the sections pertaining to the media, for their overly-broad implications--our mission to create a future of hope for our young people remains intact.

My reasons for vetoing these sections are as follows:

Section 302 - Definitions

Section 302 establishes definitions for, among other things, the terms "at-risk," "at-risk behaviors," "protective factors," and "risk factors," and modifies the definition of "outcome" and "matching funds." In addition, this section expands the membership of the current 10-member Family Policy Council to include an unspecified number of additional representatives, bringing the total membership to at least 23 persons.

I am vetoing section 302 because I believe that the expansion of the Family Policy Council, as set forth in this section, is unworkable. Under this section, the additional members are to represent designated entities that have, by definition, a fiduciary interest in matters the council must act upon. This is a clear conflict of interest. In addition, the council's expansion will make it exceedingly difficult for the council to manage the implementation of this legislation in an efficient and effective fashion. Finally, the additional representation is duplicative of the community networks which have been given planning and administrative duties at the local level. Vetoing this section retains the Family Policy Council in its current manageable configuration.

However, because I believe that the Family Policy Council would benefit from the expertise of those who represent the entities described in section 302, I will create by Executive Order the Family Policy Council Advisory Committee. Appointments to the advisory committee will be made before June, 1994, so the council

can benefit from the committee's advice during the implementation of family services restructuring.

With respect to the other definitions in section 302, I am instructing the Family Policy Council to use those definitions in rule making and to include them in family services restructuring legislation developed for next session.

Section 313 - Federal Funding Standards

This section prohibits state agencies from placing any program requirements, except those necessary to meet federal funding standards, on grant funds awarded to community networks.

Allowing communities more flexibility in their use of funds for programs serving children and families is a significant intent of family services restructuring. However, this section goes too far by preventing the state from requiring that the use of these funds be consistent with important state interests and priorities if they differ from or exceed federal requirements. I believe that the state must not abrogate its responsibility for accountability in the expenditure of tax dollars. In addition, I am concerned that this section would limit our ability to achieve equitable distribution of funds to underserved populations. Furthermore, this language would limit the state's ability to ensure that community networks give priority to clients most likely to use state-funded entitlement programs.

Section 323 - Governor's Appointment Deadline

Section 323 specifies that the governor shall appoint the new members of the Family Policy Council by May 1, 1994. Since I have vetoed section 302, this section is not necessary.

Section 402(1)(d); section 402~~(6)~~, page 31, lines 11 through 26; section 404(1)(b); and section 404(4)(a)(i); - Involuntary Commitment

Current law makes it illegal for persons committed by court order for treatment of mental illness to possess a firearm. Section 402(1)(d); section 402~~(6)~~, page 31, lines 11-- 26; section 404(1)(b); and section 404(4)(a)(i), expand this law by making it illegal for persons who are "voluntarily committed" for mental health treatment for a period exceeding 14 continuous days to possess a firearm. This prohibition applies regardless of the reason a person voluntarily seeks such treatment or of the nature of his or her mental health problems. Serious questions are raised as to the range of circumstances and treatment programs which might fall under the definition of voluntary commitment. While I share the concern of the legislature that persons who present a danger to themselves, to others, or to the public should not possess firearms, the prohibition in this section is far too broad and will apply to many people who need the temporary help of mental health professionals but who do not pose a danger to society. My key concern is the chilling effect this provision would have on persons who would otherwise seek mental health treatment. I am confident that such a result was not intended by the legislature and that the extent of these criminal sanctions can be better defined and limited in future legislation. Further, the possibility of retroactive application to those who currently possess firearms or concealed pistol licenses has been raised by legal experts.

Section 431 - Firearm Range Training and Practice Facility

Section 431 requires that local governments maintain firearm range training and practice facilities at their current level by requiring that any capacity reduction must be replaced within 30 days. This mandate creates an entitlement for a select group of enthusiasts. Local jurisdictions have no more inherent responsibility to maintain public firing ranges than they do to maintain bowling alleys or pool halls. This is an inappropriate infringement on local jurisdictions.

Section 438 - Disclosure of Firearms Application Information

Section 438 exempts from public disclosure, information and records relating to firearm license applications and pistol purchases, sales, and transfers. This section represents a dramatic expansion of the current exemption for concealed pistol licenses. I believe that the proposed expansion is unwise and unwarranted. Disclosure of information relating to licenses is governed by the public records law which favors full disclosure. Section 438 would contravene this well-established policy by excluding from disclosure a broad category of information relating to the licensing of firearms. I am unaware of any evidence that would justify such an exemption.

Section 606 and section 607 - Information Released to School Officials

Section 606 allows court and law enforcement personnel to share a student's confidential police and court records with school officials. These records could include sensitive psychological and/or psychiatric information about the student and his or her family. Because this section lacks any criteria to govern school officials' requests for these sensitive records, I am concerned that their release may not be in the student's best interest.

Moreover, the amendments in these sections create a significant inconsistency in the availability of information between the criminal justice/social service system and school officials. Where criminal justice and social service officials must obtain a court order or subpoena to receive confidential student records, school officials are only required to provide 72 hours notice to the student's parents to receive his or her social file, diversion record, police contact record, or arrest record. Current law provides schools with access to a student's non confidential police and court records. With the veto of section 606, section 607 is unnecessary.

Notwithstanding these vetoes, I agree that the prudent exchange of even sensitive information among public agencies dealing with children and youth is desirable. Therefore, I am urging the Department of Social and Health Services (DSHS) and the Office of the Superintendent of Public Instruction (OSPI) to expand the scope of section 609. This section directs them to review statutes and rules relative to the sharing or exchange of information about children who are the subject of child abuse and neglect or who are charged with criminal behavior. Specifically, I am directing DSHS and OSPI to review, in conjunction with the Office of the Administrator for the Courts (OAC), the broader continuum of information exchange issues to eliminate impediments to the efficient sharing of information that is consistent with the best interests of the child. If necessary, legislation will be

offered in the 1995 legislative session to improve this cooperative exchange.

Section 802 - Definitions

This section defines the terms "time/channel lock," "video," "violence," and "virtual reality," as used in sections 803, 804, 809 and 810. The definition of "time/channel lock" is unnecessarily restrictive, requiring the ability to block both selected times and channels from viewing. Moreover, this definition does not take into account new technology which will allow television owners to block selected programming. The remaining definitions are unnecessary in light of my decision to veto sections 804, 809, and 810. Accordingly, I am vetoing section 802.

Section 804 - Age-Based Rating

Section 804 requires the display of an age-based rating on all motion pictures, video cassettes, video games, virtual reality games, and television programming sold or rented in the state. The age-rating determination must include an objective evaluation and an estimate of the number of violent incidents represented in the material being rated.

Parents and others are understandably concerned over children's exposure to violence in videos, video and virtual reality games, movies, and television programming. The purpose of this section is to assist parents and other responsible adults in determining what is reasonable, age-appropriate viewing for our children and our youth. I share the concerns of parents and fully support the intent of this section. However, this section is drafted so broadly that it gives rise to serious problems which I believe justify a veto.

As written, this section would require that every title in every video store be rated or re-rated consistent with the stated criteria. This requirement, which applies to videos that are already in the marketplace, as well as to future releases, is unworkable. Many videos, including videos of movies produced before the creation of the age-rating system developed by the Motion Picture Association of America (MPAA), and videos of television movies, currently lack any age rating. Even those videos of movies that have a MPAA age rating would require a re-rating because the MPAA rating is not based exclusively upon an objective evaluation, nor does it include an estimate of the number of violent incidents represented in the material being rated as is required under this section. Therefore, this section would impose on motion picture and video suppliers the burden of rating and re-rating movies and videos solely for Washington state consumers. In addition, it would impose on video retailers an overwhelming burden of sending back thousands of titles to suppliers for ratings and re-ratings. These burdens could seriously disrupt the sale and rental of all videos and force hundreds of video retailers in our state to close. I also believe this section is unworkable as it applies to television programming, particularly news broadcasts.

Further, section 804 requires that the age-rating determination be based solely upon objective factors, such as the number of violent incidents, as opposed to more subjective factors, such as the gratuitous nature of the violence depicted. Thus, under this system, a movie about the civil war that includes battle

scenes could receive the same age rating as Terminator II.

Due in large part to congressional pressure, the television, cable, video game, and motion picture industries are already working to reduce the level of gratuitous violence in their respective medium, as well as to provide more information to parents so they can make informed decisions about their children's television viewing. Parental advisories and warnings now appear before television programs containing depictions of violence that may not be suitable for children's viewing. In addition, the networks have agreed to retain an outside monitor to assess the content of their programming. Furthermore, the cable industry has pledged to develop a rating system and to use an external monitoring group to track programming and to report on violence. The video game industry is also developing an age-rating system which is scheduled to be in operation by the end of the year. The motion picture industry is continuing to discuss the treatment of violence in movies.

Notwithstanding the veto of this section, I urge the television and video game industries to follow through on their commitment to reduce levels of violent programming and to provide parents with more information about violent content. I also urge the motion picture industry to begin taking concrete steps to reduce the level of gratuitous violence in movies. Further, I encourage the media to report these and other violence reduction efforts as provided in section 205. Finally, I encourage parents to become aware of what their children are viewing and to restrict their children's viewing as appropriate. I believe that the provisions contained in section 803 will assist parents in this endeavor.

Section 805 - Anti-violence Public Service Messages

Section 805 contains a statement encouraging television and broadcast stations, including cable stations, video rental companies, and print media, to broadcast anti-violence public service messages. I fully concur with this statement as these messages are an important complement to community-based violence prevention efforts. During the past several months, I have met with numerous representatives from the media who have expressed strong interest in airing, producing, and printing anti-violence messages as a public service.

Unfortunately, however, section 805 requires that the content of all such messages be developed by the Family Policy Council. I believe this requirement is unduly restrictive. Media around the state are already broadcasting and printing anti-violence messages that have been developed at the national or local levels. Moreover, President Clinton recently announced that the television networks, cable program services, and video providers will begin showing violence prevention public service announcements that were developed in cooperation with the White House and the Ad Council. I believe that these ongoing efforts are highly desirable and that the Family Policy Council should build upon, not displace, such efforts.

Section 809 - Profiting from Violence-Related Products

Section 809 requires the Department of General Administration to establish a policy of refusing to purchase goods and services

from any business or corporation, including parent corporations, which profit from violence-related products or services. I support the intent of Section 804 to limit the exposure of young people to violence-related products and to discourage corporations from profiting from such products. However, the language of this section is too broad and too vague to be meaningfully implemented and also raises serious legal questions.

Section 810 - Profiting from Violence-Related Products

Section 810 requires the State Investment Board (SIB) to study and examine the extent to which it maintains investments in businesses or corporations, including parent corporations, profiting from violence-related products or services and to report the results to the legislature by December 1, 1995. While I support the intent of this section, it has the same flaws and raises the same concerns as section 809. In addition, funds to conduct the study were not included in the SIB budget.

Section 919(8) - Children and Family Services - Appropriation

Section 919(8) provides $4,142,000 General Fund-State and $1,858,000 General Fund-Federal to DSHS, Division of Children and Family Services (DCFS), to implement family services restructuring and youth violence prevention program provisions in this bill. I am vetoing this section to allow the department to maintain total funding levels intended in the Children and Family Services appropriations while adjusting the use of state and federal funds in order to ensure that the state meets the federal requirements for the Family Preservation and Support Act. I will direct the department to adhere to the intent of this proviso.

The total DCFS appropriation provides federal authority totaling $2,693,000 for new funds (Title IVB-2) authorized under the 1993 federal Family Preservation and Support Act. The budget appropriates the new funds for two purposes. First, $1,858,000 is appropriated in section 919(8) to support the activities of community public health and safety networks established by this bill. Second, $835,000 is appropriated for enhancements to therapeutic child development programs. The enhancement for therapeutic child development is not covered by a proviso.

The appropriation, by using Family Preservation and Support Act funds for enhancements to therapeutic child development programs, places the state's receipt of these funds at risk. The proposed veto would allow adjustments to funding sources that would not cause a net change in total expenditures.

With the exception of sections 302; 313; 323; 402(1)(d); 402~~(6)~~, page 31, lines 11 through 26; 404(1)(b); 404(4)(a)(i); 431; 438; 606; 607; 802; 804; 805; 809; 810; and 919(8), Engrossed Second Substitute House Bill No. 2319 is approved.

Respectfully submitted,
Mike Lowry
Governor