

# SENATE BILL REPORT

## SB 6159

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As of January 18, 1996

**Title:** An act relating to interviews of children conducted by the department of social and health services.

**Brief Description:** Regulating the use of taped interviews of child victims of sex abuse for use as evidence.

**Sponsors:** Senators Roach and Schow.

**Brief History:**

**Committee Activity:** Law & Justice: 1/22/96.

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### SENATE COMMITTEE ON LAW & JUSTICE

**Staff:** Martin Lovinger (786-7443)

**Background:** When allegations of sexual child abuse are made or concerns about such abuse are reported, often some of the most important interviews of the child in terms of subsequent prosecutions are conducted by employees of the Department of Social and Health Services (DSHS). These interviews can set the tone for the prosecution. A number of high profile cases have raised serious questions about the way in which these interviews have been conducted and the reliability of the information elicited.

Inaccurate information can lead to charges against innocent people, who may suffer considerable harm as a result. People wrongfully charged with child sexual abuse can lose their families, jobs, and freedom. The child who is the victim of sexual abuse can be harmed by the use of inaccurate information attributed to the child. Recent situations have shown that even the person conducting such interviews is at risk of harm. Publicity about improper investigations of child sexual abuse allegations can undermine public support for law enforcement efforts to combat child sexual abuse.

It has been suggested that one cost-effective and significant step that can be taken to protect the rights of child victims, their families, those accused of child abuse, and those conducting the interviews, and at the same time increase the reliability of interviews with alleged child sexual abuse victims, is to require that these interviews be taped in either audio or video format.

**Summary of Bill:** An interview by DSHS of a child regarding allegations of sexual abuse, conducted in the absence of a law enforcement officer, must be recorded by audiotape or videotape. Failure to tape the interview does not affect the admissibility of the statement as evidence if the failure was not willful. If the failure is willful, there is a presumption that the statements are inadmissible.

DSHS may not make copies of the tape. The original must be immediately transmitted to the prosecutor' office or law enforcement agency to be preserved as evidence. The tape can only be listened to or viewed by the person accused of sexual abuse or that person's attorney as necessary to prepare a defense, but it must remain in the custody of the prosecutor or law enforcement. If the tape is introduced as evidence, custody is transferred to the court. If the charges are dismissed or the accused is found not guilty, the tape must be destroyed. The tape may be admitted into evidence if made in compliance with this bill and other statutory requirements for admission of statements of children regarding sexual abuse, or if the parties stipulate to the admission.

In interviewing a child with regard to sexual abuse or neglect, DSHS or a law enforcement agency must make reasonable efforts to accommodate the wishes of the child that a third party be present.

**Appropriation:** None.

**Fiscal Note:** Requested on January 16, 1996.

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