
ENGROSSED SUBSTITUTE HOUSE BILL 2442

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 there has been a
15 gradual encroachment by the state into the fundamental rights of
16 parents to exercise legitimate care, responsibility, and guidance over
17 the upbringing of their children. The legislature also finds that
18 government's inability to adequately support reasonable attempts by

1 parents to guide, discipline, and prepare their children for a
2 productive, fulfilling life, is both a result and cause of the
3 breakdown in the family unit and harmful to society.

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

8 This act is intended to ensure parents can rightfully guide and
9 direct the affairs of their minor or dependent children. This act is
10 also intended to ensure government appropriately respects and
11 reinforces those rights, and to ensure parents meet the
12 responsibilities inherent in bearing and raising young children. The
13 legislature recognizes that upholding the rights of parents is in the
14 best interest of the families and minor 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 abilities and the rights of parents as recognized
24 and protected by 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 beyond an initial assessment, to a minor
34 under RCW 70.96A.095(1) shall provide notice of the treatment to the
35 minor's parents. The notice shall be made within forty-eight hours of
36 the first date of treatment after the initial assessment, excluding

1 Saturdays, Sundays, and holidays, and shall contain the same
2 information as required under RCW 71.34.030(2)(b).

3 The provider shall provide notice only if (a) the minor signs a
4 written consent authorizing the disclosure in accordance with sections
5 523 and 527 of the public health services act, 42 U.S.C. Sec. 290dd-3,
6 290ee-3, as implemented by 42 C.F.R. Sec. 2.31 (1994) or (b) the
7 consent of the minor's parent, parents, custodian, or guardian is
8 unnecessary for the minor to receive treatment and the program or
9 facility director determines that the minor lacks capacity to make a
10 rational choice regarding consenting to disclosure.

11 (2) Any provider of outpatient treatment who provides outpatient
12 treatment to a minor shall provide notice of the minor's request for
13 treatment to the minor's parents if (a) the minor signs a written
14 consent authorizing the disclosure in accordance with sections 523 and
15 527 of the public health services act, 42 U.S.C. Sec. 290dd-3, 290ee-3,
16 as implemented by 42 C.F.R. Sec. 2.31 (1994) or (b) the program or
17 facility director determines that the minor lacks capacity to make a
18 rational choice regarding consenting to disclosure. The notice shall
19 be made within seven days of the request for treatment, excluding
20 Saturdays, Sundays, and holidays, and shall contain the same
21 information as required under RCW 71.34.030(2)(b).

22 **B. PARENTS' RIGHT TO NOTICE OF OUTPATIENT OR INPATIENT**
23 **MENTAL HEALTH TREATMENT PROVIDED TO A MINOR**
24 **OR DEPENDENT CHILD**

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

27 (1) Any treatment provider at an inpatient evaluation and treatment
28 facility who agrees to provide inpatient treatment to a minor at the
29 minor's request under RCW 71.34.030(2), must notify the minor's parent
30 or guardian of the minor's request for inpatient treatment. The notice
31 must be made within forty-eight hours of the request for treatment,
32 excluding Saturdays, Sundays, and holidays, and must contain the same
33 information as required under RCW 71.34.030(2)(b). If the minor is
34 admitted to the inpatient treatment facility upon the minor's request
35 for inpatient treatment the notice must be provided within twenty-four
36 hours as provided in RCW 71.34.030(2)(b).

37 (2) Any treatment provider of outpatient treatment must notify the
38 minor's parent or guardian of the minor's request for outpatient

1 treatment beyond an initial assessment. The notice must be made within
2 seven days of the request for treatment, excluding Saturdays, Sundays,
3 and holidays, and must contain the same information as required under
4 RCW 71.34.030(2)(b).

5 (3) The treatment provider is not required to notify a parent or
6 guardian of a minor's request for inpatient or outpatient treatment as
7 required by this section, if the minor does not consent to notifying
8 the parent or guardian and the minor claims that a parent or guardian
9 has physically or sexually abused the minor. If the minor is admitted
10 for inpatient treatment, the notice provisions of RCW 71.34.030(2)(b)
11 apply.

12 **C. PARENTS' RIGHT TO BE NOTIFIED OF A RUNAWAY MINOR**
13 **OR DEPENDENT CHILD**

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

16 (1) Any person who, without legal authorization, provides shelter
17 to a minor and who knows at the time of providing the shelter that the
18 minor is away from the parent's home, or other lawfully prescribed
19 residence, without the permission of the parent, shall promptly report
20 the location of the child to the parent, the law enforcement agency of
21 the jurisdiction in which the person lives, or the department. The
22 report may be made by telephone or any other reasonable means.

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

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

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

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

32 (3) When the department receives a report under subsection (1) of
33 this section, it shall make a reasonable attempt to notify the parent
34 that a report has been received and may offer services designed to
35 resolve the conflict and accomplish a reunification of the family
36 between the parent and the child.

1 NEW SECTION. **Sec. 5.** A new section is added to chapter 13.32A RCW
2 to read as follows:

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

5 (2) A violation of RCW 13.32A.082 by any other person is a
6 misdemeanor.

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

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

10 The department may suspend, revoke, restrict, or condition any
11 driver's license upon a showing of its records that the licensee has
12 been found by a juvenile court, chief probation officer, or any other
13 duly authorized officer of a juvenile court to have committed any
14 offense or offenses which under Title 46 RCW constitutes grounds for
15 said action. If the department takes any such action against the
16 driver's license of an unemancipated minor under age eighteen, the
17 department must make a reasonable effort to notify the juvenile's
18 parent, parents, or guardian.

19 **E. PARENTS' RIGHT TO BE NOTIFIED OF ANY JUVENILE OFFENDER**
20 **PROCEEDINGS INVOLVING A MINOR OR DEPENDENT CHILD**

21 NEW SECTION. **Sec. 7.** A new section is added to chapter 13.40 RCW
22 to read as follows:

23 If a parent would not otherwise be notified, the state and its
24 political subdivisions must notify a parent or legal guardian of a
25 minor or dependent child of any arrest, detention, or penalty imposed
26 under color of law upon the minor or dependent child by the state or
27 any of its political subdivisions.

28 **PART III**
29 **EDUCATION**

30 **A. PARENTS' RIGHT TO DETERMINE WHAT A MINOR OR DEPENDENT CHILD**
31 **IS LEARNING**

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

1 (1) Upon the written request or personal appearance of a parent or
2 legal guardian of a student, a public school shall make available for
3 inspection by the parent or legal guardian, during school hours, any
4 classroom instructional materials, including textbooks, teacher
5 manuals, library books, films, video tapes, audio tapes, computer
6 programs, supplementary materials, or any other materials, associated
7 with the education or instruction of the student by the school.
8 Materials physically located in the school must be made available
9 within five working days of the request. Materials within the school
10 district must be made available within fourteen working days of the
11 request.

12 (2) A student may attend or participate in any public school-
13 sponsored class, program, or activity that concerns suicide or
14 euthanasia, or includes human sexuality issues dealing with sex
15 education, sexually transmitted diseases, contraception, or sexual
16 orientation, provided that the school has on file a signed confirmation
17 from the parent that the parent has received notification that the
18 class, program, or activity concerns suicide or euthanasia, or includes
19 human sexuality issues dealing with sex education, sexually transmitted
20 diseases, contraception, or sexual orientation and the parent approves
21 of his or her child's participation in the specific class, program, or
22 activity. A school or school district may comply with the notification
23 requirement in this section by notifying the parent at least once per
24 school year of the planned classes, programs, or activities.

25 (3) A parent may inspect all instructional materials including
26 teachers' manuals, tapes, or other supplementary materials, or
27 instructional materials that may be used by any guest speaker, in
28 presenting any of the components of subsection (1) of this section.

29 (4) Employees of a school district may not encourage a student to
30 withhold materials or other information concerning classroom
31 activities, tests, discussions, or programs from his or her parents.

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

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

35 (1) Except when generated by a student as a part of course work, a
36 public school must give parents or legal guardians advance written
37 notice before the school, or before any person or organization under
38 contract with the school, conducts any student test, questionnaire,

1 survey, analysis, or evaluation that requests disclosure by the student
2 of information about either the student or the student's parent or
3 legal guardian's personal: Political or religious affiliations, mental
4 or psychological problems, sexual behavior or attitudes, illegal, self-
5 incriminating, or demeaning behavior, critical appraisals of any other
6 individual with whom the student has a family relationship, legally
7 privileged information arising out of confidential relationships with
8 persons such as lawyers, physicians, or ministers, or religious issues.
9 The notice must provide complete disclosure to the student's parent or
10 legal guardian regarding the subject matter and nature of the test,
11 questionnaire, survey, analysis, or evaluation.

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

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

23 **C. PARENTS' RIGHT TO KNOW WHETHER THEIR CHILD**
24 **IS SEEKING COUNSELING SERVICES**

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

27 (1) All schools shall maintain a written register regarding
28 counseling services provided by a school counselor or other
29 paraprofessional employed by the district to provide counseling
30 services to students in the public schools. This register must
31 maintain the dates on which the student received counseling services.
32 This register must be available for parent review and may not be
33 maintained with student academic records. This register may not be
34 released to anyone other than the parent or student without the
35 parent's consent.

1 (2) Counseling records maintained from counseling sessions
2 involving social or emotional issues must be destroyed upon the
3 student's high school graduation or permanent transfer from the school.
4 (3) No school employee may knowingly use formal counseling
5 techniques that are beyond the scope of his or her certification.

6 **PART IV**
7 **HEALTH CARE**

8 **A. PARENTS' RIGHT TO BE PRESENT DURING MEDICAL PROCEDURES**
9 **INVOLVING A MINOR OR DEPENDENT CHILD**

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

12 A parent or legal guardian of an unemancipated minor or dependent
13 child has a right to be present when the minor or child is receiving
14 medical care if: (1) The parent is present at the time needed care is
15 provided; (2) the parent indicates his or her desire to be present; (3)
16 the child indicates his or her desire for the parent to be present; and
17 (4) the parent's presence will not interfere with or disrupt the
18 provider's ability to administer care.

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

22 As used in this section, "medical care" means any medical
23 procedure, treatment, diagnosis, or examination that is performed by a
24 person licensed in this state to provide health care.

25 **B. PARENTS' RIGHT TO ACCESS HEALTH RELATED TEST RESULTS**

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

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

32 (2) No person may disclose or be compelled to disclose the identity
33 of any person upon whom an HIV antibody test is performed, or the
34 results of such a test, nor may the result of a test for any other
35 sexually transmitted disease when it is positive be disclosed. This

1 protection against disclosure of test subject, diagnosis, or treatment
2 also applies to any information relating to diagnosis of or treatment
3 for HIV infection and for any other confirmed sexually transmitted
4 disease. The following persons, however, may receive such information:

5 (a) The subject of the test or the subject's legal representative
6 for health care decisions in accordance with RCW 7.70.065, with the
7 exception of such a representative of a minor child over fourteen years
8 of age and otherwise competent when the minor seeks testing without
9 parent involvement. Test results must be available to a parent or
10 legal guardian if the parent or legal guardian is present at the time
11 of testing;

12 (b) Any person who secures a specific release of test results or
13 information relating to HIV or confirmed diagnosis of or treatment for
14 any other sexually transmitted disease executed by the subject or the
15 subject's legal representative for health care decisions in accordance
16 with RCW 7.70.065, with the exception of such a representative of a
17 minor child over fourteen years of age and otherwise competent when the
18 minor seeks testing without parent involvement. Test results must be
19 available to a parent or legal guardian if the parent or legal guardian
20 is present at the time of testing;

21 (c) The state public health officer, a local public health officer,
22 or the centers for disease control of the United States public health
23 service in accordance with reporting requirements for a diagnosed case
24 of a sexually transmitted disease;

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

31 (e) Any state or local public health officer conducting an
32 investigation pursuant to RCW 70.24.024, provided that such record was
33 obtained by means of court ordered HIV testing pursuant to RCW
34 70.24.340 or 70.24.024;

35 (f) A person allowed access to the record by a court order granted
36 after application showing good cause therefor. In assessing good
37 cause, the court shall weigh the public interest and the need for
38 disclosure against the injury to the patient, to the physician-patient
39 relationship, and to the treatment services. Upon the granting of the

1 order, the court, in determining the extent to which any disclosure of
2 all or any part of the record of any such test is necessary, shall
3 impose appropriate safeguards against unauthorized disclosure. An
4 order authorizing disclosure shall: (i) Limit disclosure to those
5 parts of the patient's record deemed essential to fulfill the objective
6 for which the order was granted; (ii) limit disclosure to those persons
7 whose need for information is the basis for the order; and (iii)
8 include any other appropriate measures to keep disclosure to a minimum
9 for the protection of the patient, the physician-patient relationship,
10 and the treatment services, including but not limited to the written
11 statement set forth in subsection (5) of this section;

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

18 (h) A law enforcement officer, fire fighter, health care provider,
19 health care facility staff person, or other persons as defined by the
20 board in rule pursuant to RCW 70.24.340(4), who has requested a test of
21 a person whose bodily fluids he or she has been substantially exposed
22 to, pursuant to RCW 70.24.340(4), if a state or local public health
23 officer performs the test;

24 (i) Claims management personnel employed by or associated with an
25 insurer, health care service contractor, health maintenance
26 organization, self-funded health plan, state-administered health care
27 claims payer, or any other payer of health care claims where such
28 disclosure is to be used solely for the prompt and accurate evaluation
29 and payment of medical or related claims. Information released under
30 this subsection shall be confidential and shall not be released or
31 available to persons who are not involved in handling or determining
32 medical claims payment; and

33 (j) A department of social and health services worker, a child
34 placing agency worker, or a guardian ad litem who is responsible for
35 making or reviewing placement or case-planning decisions or
36 recommendations to the court regarding a child, who is less than
37 fourteen years of age, has a sexually transmitted disease, and is in
38 the custody of the department of social and health services or a
39 licensed child placing agency; this information may also be received by

1 a person responsible for providing residential care for such a child
2 when the department of social and health services or a licensed child
3 placing agency determines that it is necessary for the provision of
4 child care services.

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

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

12 (a) The sexually transmitted disease status of a department of
13 corrections offender shall be made available by department of
14 corrections health care providers to a department of corrections
15 superintendent or administrator as necessary for disease prevention or
16 control and for protection of the safety and security of the staff,
17 offenders, and the public. The information may be submitted to
18 transporting officers and receiving facilities, including facilities
19 that are not under the department of correction's jurisdiction.

20 (b) The sexually transmitted disease status of a person detained in
21 a jail shall be made available by the local public health officer to a
22 jail administrator as necessary for disease prevention or control and
23 for protection of the safety and security of the staff, offenders, and
24 the public. The information may be submitted to transporting officers
25 and receiving facilities.

26 (c) Information regarding a department of corrections offender's
27 sexually transmitted disease status is confidential and may be
28 disclosed by a correctional superintendent or administrator or local
29 jail administrator only as necessary for disease prevention or control
30 and for protection of the safety and security of the staff, offenders,
31 and the public. Unauthorized disclosure of this information to any
32 person may result in disciplinary action, in addition to any other
33 penalties as may be prescribed by law.

34 (5) Whenever disclosure is made pursuant to this section, except
35 for subsections (2)(a) and (6) of this section, it shall be accompanied
36 by a statement in writing which includes the following or substantially
37 similar language: "This information has been disclosed to you from
38 records whose confidentiality is protected by state law. State law
39 prohibits you from making any further disclosure of it without the

1 specific written consent of the person to whom it pertains, or as
2 otherwise permitted by state law. A general authorization for the
3 release of medical or other information is NOT sufficient for this
4 purpose." An oral disclosure shall be accompanied or followed by such
5 a notice within ten days.

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

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

18 **C. PARENTS' RIGHT TO NOTIFICATION OF HEALTH CARE TREATMENT**
19 **PROVIDED FOR SEXUALLY TRANSMITTED DISEASES**

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

22 A minor fourteen years of age or older who may have come in contact
23 with any sexually transmitted disease or suspected sexually transmitted
24 disease may give consent to the furnishing of hospital, medical and
25 surgical care related to the diagnosis or treatment of such disease.
26 Such consent shall not be subject to disaffirmance because of minority.
27 The consent of the parent, parents, or legal guardian of such minor
28 shall not be necessary to authorize hospital, medical and surgical care
29 related to such disease and such parent, parents, or legal guardian
30 shall not be liable for payment for any care rendered pursuant to this
31 section. However, a parent or legal guardian is entitled to receive
32 information regarding treatment provided and test results when the
33 parent or legal guardian accompanies the minor child for testing or
34 treatment services provided in this chapter.

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

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

3 NEW SECTION. **Sec. 16.** This act is intended to be cumulative and
4 nonexclusive and is not intended to affect any rights granted to
5 parents by any other law or statute. This act shall be liberally
6 construed to effectuate the policies and purposes of this act.

7 NEW SECTION. **Sec. 17.** If any provision of this act or its
8 application to any person or circumstance is held invalid, the
9 remainder of the act or the application of the provision to other
10 persons or circumstances is not affected.

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

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