
SECOND SUBSTITUTE HOUSE BILL 2856

State of Washington

54th Legislature

1996 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Cooke, D. Schmidt, Wolfe, Reams, Tokuda, Chopp, Stevens, Costa, Mulliken, Hymes, Hatfield, Silver, Scheuerman, Kessler, Conway and Cole; by request of Governor Lowry)

Read first time 02/05/96.

1 AN ACT Relating to establishing the office of the child, youth, and
2 family ombudsman; amending RCW 13.50.010, 42.17.310, and 26.44.030;
3 adding a new section to chapter 41.06 RCW; adding a new chapter to
4 Title 43 RCW; creating a new section; providing an effective date; and
5 declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** This chapter may be known and cited as the
8 child, youth, and family ombudsman act.

9 NEW SECTION. **Sec. 2.** Unless the context clearly requires
10 otherwise, the definitions in this section apply throughout this
11 chapter.

12 (1) "Administrative act" means any of the following, whether final
13 or not:

14 (a) An action, omission, decision, recommendation, practice, or
15 other procedure of the department or a child-placing agency, with
16 respect to a particular child or family member relating to children and
17 family services as defined in subsection (3) of this section; or

1 (b) An action, omission, decision, recommendation, practice, or
2 other procedure of a state institution that receives children, or
3 state-licensed facility or residence, with respect to a particular
4 child or family member that may adversely affect the health, safety,
5 welfare, and rights of the child or family member.

6 (2) "Child-placing agency" has the same meaning as in RCW
7 74.15.020.

8 (3) "Children and family services" means adoption, out-of-home
9 care, child day care, child protective services, child welfare
10 services, and juvenile rehabilitative services provided by the
11 department or through contract, and services provided by the department
12 or through contract for sexually aggressive youth, at-risk youth and
13 families in conflict, children with mental health or substance abuse
14 problems, and children with developmental disabilities.

15 (4) "Child" or "children" means any unemancipated person under the
16 age of eighteen.

17 (5) "Department" means the department of social and health
18 services.

19 (6) "Office" means the office of the child, youth, and family
20 ombudsman.

21 (7) "Ombudsman" means the child, youth, and family ombudsman.

22 (8) "State-licensed facility or residence" means those facilities
23 or residences that directly serve children and are subject to licensing
24 by the department or have programs that are subject to certification by
25 the department pursuant to law or a facility where a child has been
26 placed by superior court or the department.

27 NEW SECTION. **Sec. 3.** As a means of promoting public awareness and
28 understanding of children and family services, identifying systems
29 issues and responses for the department, the governor, and the
30 legislature to act upon, and monitoring and ensuring compliance with
31 administrative acts, relevant statutes, rules, and policies pertaining
32 to children and family services and the placement, supervision, and
33 treatment of children in the state s care or in state-licensed
34 facilities or residences, the office of the child, youth, and family
35 ombudsman is established within the office of the governor. The
36 ombudsman shall report directly to the governor and shall exercise his
37 or her powers and duties independently of the secretary of the
38 department.

1 NEW SECTION. **Sec. 4.** (1) The governor shall appoint the child,
2 youth, and family ombudsman, subject to confirmation by the senate.
3 The ombudsman shall be a person of recognized judgment, independence,
4 objectivity, and integrity, and shall be qualified by training or
5 experience or both in children and family services policy and law.

6 (2) An ombudsman shall not have been employed by the department
7 within the three years immediately preceding his or her appointment.

8 (3) No ombudsman or any member of his or her immediate family may
9 have or have had within the three years immediately preceding his or
10 her appointment any contract with the department for the provision of
11 children and family services or for consultative services.

12 NEW SECTION. **Sec. 5.** (1) The ombudsman may appoint such personnel
13 as necessary for the general administration of the office. The
14 ombudsman and personnel appointed by the ombudsman are exempt from
15 state civil service law, chapter 41.06 RCW.

16 (2) Any power or duty vested in or transferred to the ombudsman by
17 law or executive order may be delegated by the ombudsman to any other
18 assistant or subordinate, but the ombudsman shall be responsible for
19 the official acts of the officers and employees of the office.

20 NEW SECTION. **Sec. 6.** The person appointed ombudsman shall hold
21 office for a term of three years and shall continue to hold office
22 until reappointed or until his or her successor is appointed and
23 confirmed. The governor may remove the ombudsman only for neglect of
24 duty, misconduct, or inability to perform duties. Any vacancy shall be
25 filled by similar appointment for the remainder of the unexpired term.

26 NEW SECTION. **Sec. 7.** The ombudsman shall perform the following
27 duties:

28 (1) Provide information as appropriate on the rights and
29 responsibilities of individuals receiving children and family services,
30 and on the procedures for providing these services;

31 (2) Investigate upon his or her own initiative or upon receipt of
32 a complaint, an administrative act alleged to be contrary to law, rule,
33 or policy, imposed without an adequate statement of reason, or based on
34 irrelevant, immaterial, or erroneous grounds; however, the ombudsman
35 may decline to investigate any complaint as provided by rules adopted
36 under this chapter;

1 (3) Monitor the procedures as established, implemented, and
2 practiced by the department to carry out its responsibilities in
3 delivering children, youth, and family services with a view toward
4 appropriate preservation of families and ensuring children s health and
5 safety;

6 (4) Review periodically the facilities and procedures of state
7 institutions serving children and state-licensed facilities or
8 residences;

9 (5) Review reports relating to the unexpected deaths of minors in
10 the care of the department receiving children and family services and
11 develop recommendations as appropriate;

12 (6) Recommend changes in the procedures for addressing the needs of
13 children and families;

14 (7) Submit annually to the governor and the legislature by November
15 1st a detailed report analyzing the work of the office including
16 recommendations;

17 (8) Coordinate the activities of the ombudsman throughout the
18 state;

19 (9) Provide for training volunteers and promoting the development
20 of citizen organizations to assist the office. A trained volunteer
21 shall be able to identify problems of individuals receiving children,
22 youth, and family services and children and youth who are in state-
23 licensed facilities or residences. Volunteers may assist the ombudsman
24 in carrying out the duties of the office;

25 (10) Establish procedures for receiving and processing complaints,
26 conducting investigations, and reporting findings resulting from
27 investigations; and

28 (11) Adopt rules necessary to implement this chapter.

29 NEW SECTION. **Sec. 8.** (1) Upon deciding to investigate a
30 complaint, the ombudsman shall notify the complainant, the department,
31 the child-placing agency, or state licensed facility or residence of
32 the ombudsman's intention to investigate. If the ombudsman declines to
33 investigate a complaint he or she shall notify the complainant. If the
34 ombudsman discontinues an investigation, he or she shall notify the
35 complainant, the department, child-placing agency, or state-licensed
36 facility or residence of the decision and the reasons for the action.

1 (2) The ombudsman may require a complainant to pursue all
2 administrative remedies or means of complaint open to the complainant
3 before pursuing a complaint with the ombudsman.

4 (3) If the ombudsman finds reasonable cause to believe in the
5 course of an investigation that an individual's action is in violation
6 of state or federal criminal law, the ombudsman shall immediately
7 report that fact to the appropriate law enforcement agency and the
8 department. If the complaint is against a child-placing agency or
9 state-licensed facility or residence, the ombudsman shall also refer
10 the matter to the department for further action with respect to
11 licensing.

12 (4) The ombudsman or any volunteer shall report suspected abuse or
13 neglect of any child or adult dependent, or developmentally disabled
14 person as required in chapter 26.44 RCW.

15 NEW SECTION. **Sec. 9.** The department, a child-placing agency, and
16 a provider of children and family services shall do all of the
17 following:

18 (1) Upon the ombudsman's request, grant the ombudsman or the
19 ombudsman's designee lawful access to all relevant information,
20 records, and documents in the possession of the department or child-
21 placing agency that the ombudsman considers necessary in an
22 investigation;

23 (2) Assist the ombudsman to obtain the necessary releases of those
24 confidential records and documents that by law require a release to
25 authorize access by the ombudsman;

26 (3) When deciding whether to initiate or continue an administrative
27 act, consider any findings or recommendations made by the ombudsman;

28 (4) Upon deciding not to act on a finding or recommendation made by
29 the ombudsman, provide the ombudsman with a written statement setting
30 forth the reason or reasons for the decision;

31 (5) Provide the ombudsman upon request with progress reports
32 concerning administrative processing of a complaint; and

33 (6) Provide information regarding this chapter.

34 **Sec. 10.** RCW 13.50.010 and 1994 sp.s. c 7 s 541 are each amended
35 to read as follows:

36 (1) For purposes of this chapter:

1 (a) "Juvenile justice or care agency" means any of the following:
2 Police, diversion units, court, prosecuting attorney, defense attorney,
3 detention center, attorney general, the office of the children, youth,
4 and family ombudsman, the department of social and health services and
5 its contracting agencies, schools; and, in addition, persons or public
6 or private agencies having children committed to their custody;

7 (b) "Official juvenile court file" means the legal file of the
8 juvenile court containing the petition or information, motions,
9 memorandums, briefs, findings of the court, and court orders;

10 (c) "Social file" means the juvenile court file containing the
11 records and reports of the probation counselor;

12 (d) "Records" means the official juvenile court file, the social
13 file, and records of any other juvenile justice or care agency in the
14 case.

15 (2) Each petition or information filed with the court may include
16 only one juvenile and each petition or information shall be filed under
17 a separate docket number. The social file shall be filed separately
18 from the official juvenile court file.

19 (3) It is the duty of any juvenile justice or care agency to
20 maintain accurate records. To this end:

21 (a) The agency may never knowingly record inaccurate information.
22 Any information in records maintained by the department of social and
23 health services relating to a petition filed pursuant to chapter 13.34
24 RCW that is found by the court, upon proof presented, to be false or
25 inaccurate shall be corrected or expunged from such records by the
26 agency;

27 (b) An agency shall take reasonable steps to assure the security of
28 its records and prevent tampering with them; and

29 (c) An agency shall make reasonable efforts to insure the
30 completeness of its records, including action taken by other agencies
31 with respect to matters in its files.

32 (4) Each juvenile justice or care agency shall implement procedures
33 consistent with the provisions of this chapter to facilitate inquiries
34 concerning records.

35 (5) Any person who has reasonable cause to believe information
36 concerning that person is included in the records of a juvenile justice
37 or care agency and who has been denied access to those records by the
38 agency may make a motion to the court for an order authorizing that
39 person to inspect the juvenile justice or care agency record concerning

1 that person. The court shall grant the motion to examine records
2 unless it finds that in the interests of justice or in the best
3 interests of the juvenile the records or parts of them should remain
4 confidential.

5 (6) A juvenile, or his or her parents, or any person who has
6 reasonable cause to believe information concerning that person is
7 included in the records of a juvenile justice or care agency may make
8 a motion to the court challenging the accuracy of any information
9 concerning the moving party in the record or challenging the continued
10 possession of the record by the agency. If the court grants the
11 motion, it shall order the record or information to be corrected or
12 destroyed.

13 (7) The person making a motion under subsection (5) or (6) of this
14 section shall give reasonable notice of the motion to all parties to
15 the original action and to any agency whose records will be affected by
16 the motion.

17 (8) The court may permit inspection of records by, or release of
18 information to, any clinic, hospital, or agency which has the subject
19 person under care or treatment. The court may also permit inspection
20 by or release to individuals or agencies, including juvenile justice
21 advisory committees of county law and justice councils, engaged in
22 legitimate research for educational, scientific, or public purposes.
23 The court may also permit inspection of, or release of information
24 from, records which have been sealed pursuant to RCW 13.50.050(11).
25 Access to records or information for research purposes shall be
26 permitted only if the anonymity of all persons mentioned in the records
27 or information will be preserved. Each person granted permission to
28 inspect juvenile justice or care agency records for research purposes
29 shall present a notarized statement to the court stating that the names
30 of juveniles and parents will remain confidential.

31 (9) Juvenile detention facilities shall release records to the
32 juvenile disposition standards commission under RCW 13.40.025 upon
33 request. The commission shall not disclose the names of any juveniles
34 or parents mentioned in the records without the named individual's
35 written permission.

36 (10) Requirements in this chapter relating to the court's authority
37 to compel disclosure of records shall not apply to the office of the
38 child, youth, and family ombudsman.

1 NEW SECTION. **Sec. 11.** (1) The ombudsman shall prepare a report of
2 the findings of an investigation and make recommendations to the
3 department, child-placing agency, or state-licensed facility or
4 residence if the ombudsman finds one or more of the following:

5 (a) A matter should be further considered by the department, child-
6 placing agency, or state-licensed facility or residence;

7 (b) An administrative act should be modified or canceled;

8 (c) An explanation should be given for an administrative act; or

9 (d) Other action should be taken by the department, child-placing
10 agency, or state-licensed facility or residence.

11 (2) Before publicly announcing a conclusion or recommendation that
12 expressly or by implication criticizes an individual, the department,
13 child-placing agency, or state-licensed facility or residence, the
14 ombudsman shall consult with that individual, the department, child-
15 placing agency, or state-licensed facility or residence and give the
16 person or entity the opportunity to respond. When publishing an
17 opinion adverse to the department, child-placing agency, or state-
18 licensed facility or residence, the ombudsman shall include in the
19 publication any statement of reasonable length made to the ombudsman by
20 the department, child-placing agency, or state-licensed facility or
21 residence in defense or mitigation of the action. The ombudsman may
22 request to be notified by the department, child-placing agency, or
23 state-licensed facility or residence, within a specified time, of any
24 action taken on any recommendation presented.

25 (3) The ombudsman shall notify the complainant of the actions taken
26 by the ombudsman and by the department, child-placing agency, or state-
27 licensed facility or residence.

28 (4) The ombudsman shall provide the complainant with a copy of its
29 recommendations on a complaint.

30 NEW SECTION. **Sec. 12.** (1) The ombudsman shall have the following
31 rights and powers:

32 (a) To copy and subpoena records held by the department, except as
33 prohibited by law;

34 (b) To apply for and accept grants, gifts, and bequests of funds
35 from other states, federal and interstate agencies, independent
36 authorities, and private firms, individuals, and foundations, for the
37 purpose of carrying out his or her lawful responsibilities. The funds

1 shall be deposited in the child, youth, and family ombudsman account
2 created in section 13 of this act;

3 (c) To appoint advisory committees as appropriate to carry out the
4 duties of the office;

5 (d) To request legal assistance, including appointment of special
6 counsel through the office of the attorney general;

7 (e) To mediate disputes between a complainant and the department
8 where appropriate; and

9 (f) To submit to the governor budgetary and legislative
10 recommendations relating to children, youth, and family services.

11 (2) Actions of the office shall be solely advisory to the governor
12 and the department. The office shall not be delegated any
13 administrative authority or responsibility, and its functions shall not
14 supplant existing avenues for recourse or appeals.

15 NEW SECTION. **Sec. 13.** The ombudsman may apply for and accept
16 contributions, grants, gifts in cash or otherwise, and bequests of
17 funds from other states, federal and interstate agencies, independent
18 authorities, and private firms, individuals, and foundations, for the
19 purpose of carrying out his or her lawful responsibilities. All moneys
20 received by the ombudsman or any employee thereof from contributions,
21 grants, or gifts and not through appropriation by the legislature shall
22 be deposited in an account in the custody of the state treasurer to be
23 known as the child, youth, and family ombudsman account. Disbursements
24 of such funds shall be on the authorization of the ombudsman or a duly
25 authorized representative of the ombudsman and only for the purposes
26 stated in this chapter. The account is subject to chapter 43.88 RCW,
27 but no appropriation is required to permit expenditure of the funds.

28 NEW SECTION. **Sec. 14.** The ombudsman shall treat all matters under
29 investigation, including the identities of service recipients,
30 complainants, and individuals from whom information is acquired, as
31 confidential, except as far as disclosures may be necessary to enable
32 the ombudsman to perform the duties of the office and to support any
33 recommendations resulting from an investigation. However, the
34 ombudsman shall honor the request of a service recipient, complainant,
35 or individual from whom information is acquired, or the legal
36 representative of any of these individuals, not to disclose his or her
37 identity. Upon receipt of information that by law is confidential or

1 privileged, the ombudsman shall maintain the confidentiality of such
2 information and shall not further disclose or disseminate the
3 information except as provided by applicable state or federal law. A
4 record of the office of the ombudsman is confidential, shall only be
5 used for purposes set forth in this chapter, and is not subject to
6 court subpoena. A record of the office of the ombudsman is exempt from
7 disclosure under chapter 42.17 RCW.

8 NEW SECTION. **Sec. 15.** (1) An ombudsman, including a volunteer
9 ombudsman, is not liable for good faith performance of responsibilities
10 under this chapter.

11 (2) No discriminatory, disciplinary, or retaliatory action may be
12 taken against any employee of the department, child-placing agency, or
13 state-licensed facility or residence, a recipient of children, youth,
14 and family services, or a volunteer, for any communication made, or
15 information given or disclosed, to aid the ombudsman in carrying out
16 his or her responsibilities, unless the communication or information is
17 made, given, or disclosed maliciously or without good faith. This
18 subsection is not intended to infringe on the rights of the employer to
19 supervise, discipline, or terminate an employee for other reasons.

20 (3) An individual, the department, a child-placing agency, or a
21 state-licensed facility or residence shall not hinder the lawful
22 actions of the ombudsman or members of the ombudsman's office.

23 (4) All communications by an ombudsman, if reasonably related to
24 the requirements of that individual's responsibilities under this
25 chapter and done in good faith, are privileged and that privilege shall
26 serve as a defense in any defamation action.

27 (5) A representative of the office shall not be required to testify
28 in court as to any confidential matters except as the court may deem
29 necessary to enforce this chapter.

30 NEW SECTION. **Sec. 16.** The authority granted the ombudsman under
31 this chapter is in addition to the authority granted under the
32 provisions of any other act or rule under which the remedy or right of
33 appeal or objection is provided for a person, or any procedures
34 provided for the inquiry into or investigation of any matter. The
35 authority granted the ombudsman does not limit or affect the remedy or
36 right of appeal or objection and is not an exclusive remedy or
37 procedure.

1 NEW SECTION. **Sec. 17.** A new section is added to chapter 41.06 RCW
2 to read as follows:

3 In addition to the exemptions under RCW 41.06.070, the provisions
4 of this chapter shall not apply in the office of the child, youth, and
5 family ombudsman to the ombudsman and all personnel in the office.

6 **Sec. 18.** RCW 42.17.310 and 1995 c 267 s 6 are each amended to read
7 as follows:

8 (1) The following are exempt from public inspection and copying:

9 (a) Personal information in any files maintained for students in
10 public schools, patients or clients of public institutions or public
11 health agencies, or welfare recipients.

12 (b) Personal information in files maintained for employees,
13 appointees, or elected officials of any public agency to the extent
14 that disclosure would violate their right to privacy.

15 (c) Information required of any taxpayer in connection with the
16 assessment or collection of any tax if the disclosure of the
17 information to other persons would (i) be prohibited to such persons by
18 RCW 82.32.330 or (ii) violate the taxpayer's right to privacy or result
19 in unfair competitive disadvantage to the taxpayer.

20 (d) Specific intelligence information and specific investigative
21 records compiled by investigative, law enforcement, and penology
22 agencies, and state agencies vested with the responsibility to
23 discipline members of any profession, the nondisclosure of which is
24 essential to effective law enforcement or for the protection of any
25 person's right to privacy.

26 (e) Information revealing the identity of persons who are witnesses
27 to or victims of crime or who file complaints with investigative, law
28 enforcement, or penology agencies, other than the public disclosure
29 commission, if disclosure would endanger any person's life, physical
30 safety, or property. If at the time a complaint is filed the
31 complainant, victim or witness indicates a desire for disclosure or
32 nondisclosure, such desire shall govern. However, all complaints filed
33 with the public disclosure commission about any elected official or
34 candidate for public office must be made in writing and signed by the
35 complainant under oath.

36 (f) Test questions, scoring keys, and other examination data used
37 to administer a license, employment, or academic examination.

1 (g) Except as provided by chapter 8.26 RCW, the contents of real
2 estate appraisals, made for or by any agency relative to the
3 acquisition or sale of property, until the project or prospective sale
4 is abandoned or until such time as all of the property has been
5 acquired or the property to which the sale appraisal relates is sold,
6 but in no event shall disclosure be denied for more than three years
7 after the appraisal.

8 (h) Valuable formulae, designs, drawings, and research data
9 obtained by any agency within five years of the request for disclosure
10 when disclosure would produce private gain and public loss.

11 (i) Preliminary drafts, notes, recommendations, and intra-agency
12 memorandums in which opinions are expressed or policies formulated or
13 recommended except that a specific record shall not be exempt when
14 publicly cited by an agency in connection with any agency action.

15 (j) Records which are relevant to a controversy to which an agency
16 is a party but which records would not be available to another party
17 under the rules of pretrial discovery for causes pending in the
18 superior courts.

19 (k) Records, maps, or other information identifying the location of
20 archaeological sites in order to avoid the looting or depredation of
21 such sites.

22 (l) Any library record, the primary purpose of which is to maintain
23 control of library materials, or to gain access to information, which
24 discloses or could be used to disclose the identity of a library user.

25 (m) Financial information supplied by or on behalf of a person,
26 firm, or corporation for the purpose of qualifying to submit a bid or
27 proposal for (i) a ferry system construction or repair contract as
28 required by RCW 47.60.680 through 47.60.750 or (ii) highway
29 construction or improvement as required by RCW 47.28.070.

30 (n) Railroad company contracts filed prior to July 28, 1991, with
31 the utilities and transportation commission under RCW 81.34.070, except
32 that the summaries of the contracts are open to public inspection and
33 copying as otherwise provided by this chapter.

34 (o) Financial and commercial information and records supplied by
35 private persons pertaining to export services provided pursuant to
36 chapter 43.163 RCW and chapter 53.31 RCW.

37 (p) Financial disclosures filed by private vocational schools under
38 chapter 28C.10 RCW.

1 (q) Records filed with the utilities and transportation commission
2 or attorney general under RCW 80.04.095 that a court has determined are
3 confidential under RCW 80.04.095.

4 (r) Financial and commercial information and records supplied by
5 businesses or individuals during application for loans or program
6 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,
7 or during application for economic development loans or program
8 services provided by any local agency.

9 (s) Membership lists or lists of members or owners of interests of
10 units in timeshare projects, subdivisions, camping resorts,
11 condominiums, land developments, or common-interest communities
12 affiliated with such projects, regulated by the department of
13 licensing, in the files or possession of the department.

14 (t) All applications for public employment, including the names of
15 applicants, resumes, and other related materials submitted with respect
16 to an applicant.

17 (u) The residential addresses and residential telephone numbers of
18 employees or volunteers of a public agency which are held by the agency
19 in personnel records, employment or volunteer rosters, or mailing lists
20 of employees or volunteers.

21 (v) The residential addresses and residential telephone numbers of
22 the customers of a public utility contained in the records or lists
23 held by the public utility of which they are customers.

24 (w)(i) The federal social security number of individuals governed
25 under chapter 18.130 RCW maintained in the files of the department of
26 health, except this exemption does not apply to requests made directly
27 to the department from federal, state, and local agencies of
28 government, and national and state licensing, credentialing,
29 investigatory, disciplinary, and examination organizations; (ii) the
30 current residential address and current residential telephone number of
31 a health care provider governed under chapter 18.130 RCW maintained in
32 the files of the department, if the provider requests that this
33 information be withheld from public inspection and copying, and
34 provides to the department an accurate alternate or business address
35 and business telephone number. On or after January 1, 1995, the
36 current residential address and residential telephone number of a
37 health care provider governed under RCW 18.130.140 maintained in the
38 files of the department shall automatically be withheld from public

1 inspection and copying if the provider has provided the department with
2 an accurate alternative or business address and telephone number.

3 (x) Information obtained by the board of pharmacy as provided in
4 RCW 69.45.090.

5 (y) Information obtained by the board of pharmacy or the department
6 of health and its representatives as provided in RCW 69.41.044,
7 69.41.280, and 18.64.420.

8 (z) Financial information, business plans, examination reports, and
9 any information produced or obtained in evaluating or examining a
10 business and industrial development corporation organized or seeking
11 certification under chapter 31.24 RCW.

12 (aa) Financial and commercial information supplied to the state
13 investment board by any person when the information relates to the
14 investment of public trust or retirement funds and when disclosure
15 would result in loss to such funds or in private loss to the providers
16 of this information.

17 (bb) Financial and valuable trade information under RCW 51.36.120.

18 (cc) Client records maintained by an agency that is a domestic
19 violence program as defined in RCW 70.123.020 or 70.123.075 or a rape
20 crisis center as defined in RCW 70.125.030.

21 (dd) Information that identifies a person who, while an agency
22 employee: (i) Seeks advice, under an informal process established by
23 the employing agency, in order to ascertain his or her rights in
24 connection with a possible unfair practice under chapter 49.60 RCW
25 against the person; and (ii) requests his or her identity or any
26 identifying information not be disclosed.

27 (ee) Investigative records compiled by an employing agency
28 conducting a current investigation of a possible unfair practice under
29 chapter 49.60 RCW or of a possible violation of other federal, state,
30 or local laws prohibiting discrimination in employment.

31 (ff) Business related information protected from public inspection
32 and copying under RCW 15.86.110.

33 (gg) Financial, commercial, operations, and technical and research
34 information and data submitted to or obtained by the clean Washington
35 center in applications for, or delivery of, program services under
36 chapter 70.95H RCW.

37 (hh) Information and documents created specifically for, and
38 collected and maintained by a quality improvement committee pursuant to

1 RCW 43.70.510, regardless of which agency is in possession of the
2 information and documents.

3 (ii) Records of the office of the child, youth, and family
4 ombudsman under chapter 43.-- RCW (sections 1 through 9 and 11 through
5 16 of this act).

6 (2) Except for information described in subsection (1)(c)(i) of
7 this section and confidential income data exempted from public
8 inspection pursuant to RCW 84.40.020, the exemptions of this section
9 are inapplicable to the extent that information, the disclosure of
10 which would violate personal privacy or vital governmental interests,
11 can be deleted from the specific records sought. No exemption may be
12 construed to permit the nondisclosure of statistical information not
13 descriptive of any readily identifiable person or persons.

14 (3) Inspection or copying of any specific records exempt under the
15 provisions of this section may be permitted if the superior court in
16 the county in which the record is maintained finds, after a hearing
17 with notice thereof to every person in interest and the agency, that
18 the exemption of such records is clearly unnecessary to protect any
19 individual's right of privacy or any vital governmental function.

20 (4) Agency responses refusing, in whole or in part, inspection of
21 any public record shall include a statement of the specific exemption
22 authorizing the withholding of the record (or part) and a brief
23 explanation of how the exemption applies to the record withheld.

24 **Sec. 19.** RCW 26.44.030 and 1995 c 311 s 17 are each amended to
25 read as follows:

26 (1)(a) When any practitioner, county coroner or medical examiner,
27 law enforcement officer, professional school personnel, registered or
28 licensed nurse, social service counselor, psychologist, pharmacist,
29 licensed or certified child care providers or their employees, employee
30 of the department, or juvenile probation officer or state child, youth,
31 and family ombudsman or any volunteer in the ombudsman's office has
32 reasonable cause to believe that a child or adult dependent or
33 developmentally disabled person, has suffered abuse or neglect, he or
34 she shall report such incident, or cause a report to be made, to the
35 proper law enforcement agency or to the department as provided in RCW
36 26.44.040.

37 (b) The reporting requirement shall also apply to any adult who has
38 reasonable cause to believe that a child or adult dependent or

1 developmentally disabled person, who resides with them, has suffered
2 severe abuse, and is able or capable of making a report. For the
3 purposes of this subsection, "severe abuse" means any of the following:
4 Any single act of abuse that causes physical trauma of sufficient
5 severity that, if left untreated, could cause death; any single act of
6 sexual abuse that causes significant bleeding, deep bruising, or
7 significant external or internal swelling; or more than one act of
8 physical abuse, each of which causes bleeding, deep bruising,
9 significant external or internal swelling, bone fracture, or
10 unconsciousness.

11 (c) The report shall be made at the first opportunity, but in no
12 case longer than forty-eight hours after there is reasonable cause to
13 believe that the child or adult has suffered abuse or neglect. The
14 report shall include the identity of the accused if known.

15 (2) The reporting requirement of subsection (1) of this section
16 does not apply to the discovery of abuse or neglect that occurred
17 during childhood if it is discovered after the child has become an
18 adult. However, if there is reasonable cause to believe other
19 children, dependent adults, or developmentally disabled persons are or
20 may be at risk of abuse or neglect by the accused, the reporting
21 requirement of subsection (1) of this section shall apply.

22 (3) Any other person who has reasonable cause to believe that a
23 child or adult dependent or developmentally disabled person has
24 suffered abuse or neglect may report such incident to the proper law
25 enforcement agency or to the department of social and health services
26 as provided in RCW 26.44.040.

27 (4) The department, upon receiving a report of an incident of abuse
28 or neglect pursuant to this chapter, involving a child or adult
29 dependent or developmentally disabled person who has died or has had
30 physical injury or injuries inflicted upon him or her other than by
31 accidental means or who has been subjected to sexual abuse, shall
32 report such incident to the proper law enforcement agency. In
33 emergency cases, where the child, adult dependent, or developmentally
34 disabled person's welfare is endangered, the department shall notify
35 the proper law enforcement agency within twenty-four hours after a
36 report is received by the department. In all other cases, the
37 department shall notify the law enforcement agency within seventy-two
38 hours after a report is received by the department. If the department

1 makes an oral report, a written report shall also be made to the proper
2 law enforcement agency within five days thereafter.

3 (5) Any law enforcement agency receiving a report of an incident of
4 abuse or neglect pursuant to this chapter, involving a child or adult
5 dependent or developmentally disabled person who has died or has had
6 physical injury or injuries inflicted upon him or her other than by
7 accidental means, or who has been subjected to sexual abuse, shall
8 report such incident in writing as provided in RCW 26.44.040 to the
9 proper county prosecutor or city attorney for appropriate action
10 whenever the law enforcement agency's investigation reveals that a
11 crime may have been committed. The law enforcement agency shall also
12 notify the department of all reports received and the law enforcement
13 agency's disposition of them. In emergency cases, where the child,
14 adult dependent, or developmentally disabled person's welfare is
15 endangered, the law enforcement agency shall notify the department
16 within twenty-four hours. In all other cases, the law enforcement
17 agency shall notify the department within seventy-two hours after a
18 report is received by the law enforcement agency.

19 (6) Any county prosecutor or city attorney receiving a report under
20 subsection (5) of this section shall notify the victim, any persons the
21 victim requests, and the local office of the department, of the
22 decision to charge or decline to charge a crime, within five days of
23 making the decision.

24 (7) The department may conduct ongoing case planning and
25 consultation with those persons or agencies required to report under
26 this section, with consultants designated by the department, and with
27 designated representatives of Washington Indian tribes if the client
28 information exchanged is pertinent to cases currently receiving child
29 protective services or department case services for the developmentally
30 disabled. Upon request, the department shall conduct such planning and
31 consultation with those persons required to report under this section
32 if the department determines it is in the best interests of the child
33 or developmentally disabled person. Information considered privileged
34 by statute and not directly related to reports required by this section
35 shall not be divulged without a valid written waiver of the privilege.

36 (8) Any case referred to the department by a physician licensed
37 under chapter 18.57 or 18.71 RCW on the basis of an expert medical
38 opinion that child abuse, neglect, or sexual assault has occurred and
39 that the child's safety will be seriously endangered if returned home,

1 the department shall file a dependency petition unless a second
2 licensed physician of the parents' choice believes that such expert
3 medical opinion is incorrect. If the parents fail to designate a
4 second physician, the department may make the selection. If a
5 physician finds that a child has suffered abuse or neglect but that
6 such abuse or neglect does not constitute imminent danger to the
7 child's health or safety, and the department agrees with the
8 physician's assessment, the child may be left in the parents' home
9 while the department proceeds with reasonable efforts to remedy
10 parenting deficiencies.

11 (9) Persons or agencies exchanging information under subsection (7)
12 of this section shall not further disseminate or release the
13 information except as authorized by state or federal statute.
14 Violation of this subsection is a misdemeanor.

15 (10) Upon receiving reports of abuse or neglect, the department or
16 law enforcement agency may interview children. The interviews may be
17 conducted on school premises, at day-care facilities, at the child's
18 home, or at other suitable locations outside of the presence of
19 parents. Parental notification of the interview shall occur at the
20 earliest possible point in the investigation that will not jeopardize
21 the safety or protection of the child or the course of the
22 investigation. Prior to commencing the interview the department or law
23 enforcement agency shall determine whether the child wishes a third
24 party to be present for the interview and, if so, shall make reasonable
25 efforts to accommodate the child's wishes. Unless the child objects,
26 the department or law enforcement agency shall make reasonable efforts
27 to include a third party in any interview so long as the presence of
28 the third party will not jeopardize the course of the investigation.

29 (11) Upon receiving a report of child abuse and neglect, the
30 department or investigating law enforcement agency shall have access to
31 all relevant records of the child in the possession of mandated
32 reporters and their employees.

33 (12) The department shall maintain investigation records and
34 conduct timely and periodic reviews of all cases constituting abuse and
35 neglect. The department shall maintain a log of screened-out
36 nonabusive cases.

37 (13) The department shall use a risk assessment process when
38 investigating child abuse and neglect referrals. The department shall
39 present the risk factors at all hearings in which the placement of a

1 dependent child is an issue. The department shall, within funds
2 appropriated for this purpose, offer enhanced community-based services
3 to persons who are determined not to require further state
4 intervention.

5 The department shall provide annual reports to the legislature on
6 the effectiveness of the risk assessment process.

7 (14) Upon receipt of a report of abuse or neglect the law
8 enforcement agency may arrange to interview the person making the
9 report and any collateral sources to determine if any malice is
10 involved in the reporting.

11 NEW SECTION. **Sec. 20.** Sections 1 through 9 and 11 through 16 of
12 this act shall constitute a new chapter in Title 43 RCW.

13 NEW SECTION. **Sec. 21.** Sections 2 through 6, 13, and 17 of this
14 act are necessary for the immediate preservation of the public peace,
15 health, or safety, or support of the state government and its existing
16 public institutions, and shall take effect immediately.

17 NEW SECTION. **Sec. 22.** Sections 1, 7 through 12, 14 through 16,
18 18, and 19 of this act shall take effect January 1, 1997.

19 NEW SECTION. **Sec. 23.** If specific funding for the purposes of
20 this act, referencing this act by bill or chapter number, is not
21 provided by June 30, 1996, in the omnibus appropriations act, this act
22 is null and void.