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## Early Learning & Human Services Committee

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### HB 2700

**Brief Description:** Concerning the handling of child forensic interview and child interview digital recordings.

**Sponsors:** Representatives Valdez, Smith, Stonier, Sawyer, Jinkins, Ortiz-Self and Kagi.

#### Brief Summary of Bill

- Exempts child forensic interviews that depict or describe allegations of abuse or exposure to violence from the Public Records Act except by court order upon a showing of good cause and notice to the child's guardian.
- Requires that digital recordings of child interviews disclosed in a criminal or civil proceedings subject to a protective order; a violation of this order is subject to a civil penalty up to \$10,000.
- Defines the term child forensic interview.

**Hearing Date:** 1/23/18

**Staff:** Luke Wickham (786-7146).

#### Background:

##### *Disclosure of Public Records.*

The Public Records Act (PRA) requires state and local agencies to make all public records available for public inspection and copying, unless a record falls within an exemption in the PRA or another statute that exempts or prohibits disclosure of specific information or records. To the extent required to prevent an unreasonable invasion of personal privacy interests, an agency must delete identifying details when it makes a public record available. A person's right to privacy is violated only if disclosure would be highly offensive to a reasonable person and is not of legitimate concern to the public. The PRA is liberally construed and its exemptions narrowly construed. If the PRA conflicts with any other law, the provisions of the PRA govern.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

The PRA provides exemptions from disclosure for certain investigative, law enforcement, and crime victim information including information revealing the identity of child victims of sexual assault who are under age 18.

*Child Sexual Abuse Investigation Protocol.*

Each county must develop a written protocol for handling criminal child sexual abuse investigations. The protocol must address the coordination of child sexual abuse investigations between the prosecutor's office, law enforcement, Child Protective Services, Children's Advocacy Centers, local advocacy groups, community sexual assault programs, and any other local agency involved in the criminal investigation of child sexual abuse.

A community sexual assault program means a community-based social service agency that is qualified to provide and provides core services to victims of sexual assault.

A children's advocacy center is a child-focused facility in good standing with the state chapter for children's advocacy centers and coordinates a multidisciplinary process for the investigation, prosecution, and treatment of sexual and other types of child abuse. Children's advocacy centers provide a location for forensic interviews and coordinate access to services such as, but not limited to, medical evaluations, advocacy, therapy, and case review by multidisciplinary teams.

**Summary of Bill:**

The term "child forensic interview" is defined as a developmentally sensitive and legally sound method of gathering factual information regarding allegations of abuse or exposure to violence. The interview is conducted by a competently trained, neutral professional utilizing techniques informed by research and best practice as part of a larger investigative process. Child forensic interviews that depict or describe allegations of abuse or exposure to violence are exempt from disclosure under the Public Records Act, except by court order upon a showing of good cause and only with advance notice to the child's guardian.

Any digital recording of a child forensic interview or child interview that is disclosed in a criminal or civil proceeding is subject to a protective order, or other appropriate order. A violation of this court order is subject to a civil penalty up to \$10,000, in addition to any other appropriate sanction by the court. The court issuing the protective order must provide that the recording:

- be used only for the purposes of conducting the party's side of the case, unless otherwise agreed by the parties or ordered by the court;
- not be copied, photographed, duplicated, or otherwise reproduced;
- not be provided to a third party except as necessary at trial;
- remain in the exclusive custody of the attorneys, their employees, or agents, including expert witnesses, who shall be provided a copy of the protective order; and
- be returned by defense counsel upon termination of representation or disposition of the matter.

Requires that the child sexual abuse investigation protocol required for counties include the handling of child forensic interview digital recordings in a manner that complies with the protective order requirements.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** This bill takes effect 90 days after adjournment of the session in which the bill is passed, except for section 3, that amends a statute that will change on July 1, 2018 based on the transfer of authority to the Department of Children, Youth, and Families, which takes effect July 1, 2018.