

HOUSE BILL REPORT

HB 2484

As Reported by House Committee On:
State Government & Tribal Relations

Title: An act relating to sunshine committee recommendations regarding juveniles.

Brief Description: Concerning sunshine committee recommendations regarding juveniles.

Sponsors: Representatives Van Werven, Springer and Cody; by request of Public Records Exemptions Accountability Committee.

Brief History:

Committee Activity:

State Government & Tribal Relations: 2/4/20 [DPS].

Brief Summary of Substitute Bill

- Modifies the identifying information of certain child victims or witnesses that is exempt or restricted from disclosure.
- Alters the types of juvenile offender records that may be released in certain situations.
- Exempts certain records related to ongoing Child Protective Services investigations from disclosure.

HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL RELATIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Gregerson, Chair; Pellicciotti, Vice Chair; Goehner, Assistant Ranking Minority Member; Appleton, Dolan, Hudgins, Mosbrucker and Smith.

Minority Report: Without recommendation. Signed by 1 member: Representative Walsh, Ranking Minority Member.

Staff: Carrington Skinner (786-7192).

Background:

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 Public Records Act and the Sunshine Committee.

The Public Records Act (PRA) generally requires state and local governmental entities to make many government records available to the public upon request. There are, however, over 500 statutory exemptions for certain records or information contained in records.

The Public Records Exemption Accountability Committee, known as the Sunshine Committee, reviews these exemptions from public disclosure and provides recommendations as to whether exemptions should be continued, modified, or terminated.

The Sunshine Committee meets in public and considers input from interested parties. By November 15 of each year, the Sunshine Committee provides a report to the Governor, the Attorney General, and the Legislature with its annual recommendations.

The Sunshine Committee made several recommendations in its 2018 and 2019 annual reports related to exemptions for records with information about child victims and witnesses, as well as records related to juvenile offenders.

Child Victim and Witness Records.

Certain investigative, law enforcement, and crime victim information is exempt from disclosure under the PRA. There are also restrictions on disclosure of these records under the Criminal Records Privacy Act (CRPA).

Information revealing specific details or the identity of an alleged or proven child victim of sexual assault, which includes the victim's name, address, location, photograph, and in cases in which the child victim is a relative or stepchild of the alleged perpetrator, identification of the relationship between the child and the alleged perpetrator, is exempt from disclosure. Contact information of an alleged or proven child victim of sexual assault, including phone numbers, electronic mail (email) addresses, social media profiles, and usernames and passwords are also exempt.

The CRPA also restricts the disclosure by criminal justice agencies of information regarding child victims of sexual assault. These restrictions closely mirror the exemptions under the PRA; however, the information may be disclosed with the permission of the child victim or his or her legal guardian.

In addition, living child victims of any crime, as well as child witnesses, have certain rights that apply to criminal court and juvenile court proceedings. These rights include the right to not have certain identifying information disclosed without permission of the child victim or witness, or his or her parents or legal guardians, except to certain law enforcement, legal, or government entities. The information concerning a child victim or witness protected from disclosure includes names, addresses, photographs, or the relationship to the alleged perpetrator, when such person is a relative of the child.

Certain other personal information generally related to children is exempt from public records disclosure, including personal information in files maintained for students in public schools and files maintained by the Department of Youth, Children, and Families for children enrolled in licensed child care.

Juvenile Records.

Official juvenile court files are generally open to public inspection unless sealed. Other juvenile records are confidential and may only be released under certain circumstances. The release of law enforcement and prosecuting attorney records pertaining to juvenile offenses to the juvenile or his or her attorney are governed by rules of discovery and rules of law applicable to adult criminal investigations and prosecutions.

Upon the decision to arrest or the arrest of a juvenile, law enforcement and prosecuting attorneys may cooperate with schools in releasing information regarding the investigation of a juvenile, including incident reports, subject to certain restrictions. Upon request, the identity of an alleged or proven juvenile offender and the circumstance of an alleged or proven crime may be released to the alleged or proven victim or his or her immediate family members.

Summary of Substitute Bill:

The same types of identifying information of child victims of crimes, child victims of sexual assault, and child witnesses are exempted or restricted from disclosure in the PRA, the CRPA, and rights afforded child victims and witnesses. That identifying information includes the child's:

- telephone number;
- email address;
- social media identifier;
- image;
- voice; and
- location, except the location of the assault when it is not the child's address.

Certain other personal information is exempt from public records disclosure unless the agency has received consent for disclosure from the subject of the information, or in the case of a child, from the child's parent or guardian.

Upon request, law enforcement and prosecuting attorney records pertaining to juvenile offenses must be released to a juvenile offender or his or her attorney, parent, or legal guardian, and are no longer governed by rules of discovery or rules applicable in adult criminal investigations and prosecutions.

Restrictions on the release of certain juvenile records are modified. Upon the decision to arrest or the arrest of a juvenile, unredacted incident reports may be released to a school unless redaction is necessary to avoid jeopardizing the investigation or prosecution or endangering witnesses, other students, staff, or school property. Upon request of the victim of a crime or the victim's immediate family, incident reports must be released to the victim of the crime or the victim's immediate family.

For Department of Children, Youth, and Families records regarding an ongoing Child Protective Services investigation in conjunction with an early learning licensing complaint inspection, records may not be disclosed during the course of the investigation. At the

conclusion of the investigation, all responsive records must be made available when requested.

Substitute Bill Compared to Original Bill:

The substitute bill removes the specification in statute that a child or victim means a "living" child or victim. It also adds "voice" to the list of identifying information of a child.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Every year the Sunshine Committee makes recommendations; some go forward as legislation and some do not, but the Committee was in agreement that it had an obligation to protect juvenile victims. Some people request police reports out of idle curiosity or with ill intent and use information in the reports with malice. It is important to take action to protect personal and identifying information before something bad happens, especially regarding the most vulnerable in society. This bill will protect children so that they do not find their name and circumstances in public which could embarrass or retraumatize them. The update to the definition of "identifying information" to include email address and social media identifiers makes sense with today's technology. This bill removes the burden from the parent so the child's information is exempt unless permission is given. It is important to add "voice" to the information that is exempted. A family had to fight to prevent the release of a 911 call recording that included the voice of a deceased child; they do not want that experience to happen to anyone else.

(Opposed) None.

(Other) The bill without the amendment was the consensus of the members of the Sunshine Committee. The Committee did not come to a consensus on the items in the amendment because it is important to use 911 calls to establish how information is being conveyed and handled by law enforcement. The Sunshine Committee requests that amendments from outside the Committee be introduced as a separate bill. The amendment would give rights of privacy to someone no longer living and has not been fully fleshed out. Victims have rights, but society has the right to open enforcement of criminal laws to see if everyone is being treated equally.

Persons Testifying: (In support) Representative Van Werven, prime sponsor; Andria Fountain, Bellingham Police Department; Byron Manering, Brigid Collins; and Michael Gulizia.

(Other) Rowland Thompson, Sunshine Committee; and Arthur West.

Persons Signed In To Testify But Not Testifying: None.