

VETO MESSAGE ON HB 2348-S

April 2, 1992

To the Honorable, the House
of Representatives of the
State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 3, 4 and 5, Substitute House Bill No. 2348 entitled:

"AN ACT Relating to the confidentiality of victim-identifying information in cases of child victims of sexual abuse."

The legislature should be applauded for advocating for the protection of privacy interests of child victims of sexual assault. Substitute House Bill No. 2348 is an attempt to regulate access to, and dissemination of, the names and identifying information of child victims of sexual assault. We have a moral obligation to protect our children from the impact of insensitive disclosure of this information. Child victims are often stigmatized by peers or traumatized by public knowledge of the events that have occurred. This traumatization makes recovery from the effects of the crime more difficult and creates a sense of continuing victimization. Victims may fear public knowledge about the events and may be reluctant to step forward and report the crime to law enforcement.

This bill takes necessary steps to assure that information on child victims of sexual assault is not disseminated. It sets a very high standard for protecting the privacy interests of child victims.

Despite the improvements made by the legislature, I am forced to veto sections 3, 4 and 5, because of the unconstitutional prior restraint placed upon the press in its efforts to publish information about sexual assault victims. The courts have consistently said that prior restraint on speech and publication is the most serious and least tolerable infringement on First Amendment rights. The courts have also stated that there may be no prior restraint on reporting what transpires in open court, whether before or during trial.

Were I to sign this bill into law in its entirety, there is no doubt that major provisions of this Act would be found unconstitutional.

Other provisions of Substitute House Bill No. 2348 address two areas that will strongly protect the privacy interests of child victims of sexual assault. First, none of the information about the identity of the sexual assault victim shall be disclosed. This includes information gathered by law enforcement, social service entities, and the courts. Further, the courts have the authority to close their courtrooms for good cause. Section 9 specifically says that "the court shall ensure that information identifying the child victim is not disclosed to the press or public." The court shall also "order that any portion of any court records, transcripts or recordings of court proceedings that contain information identifying the child victim shall be sealed and not opened to public inspection."

The strength of these directives prohibits the disclosure of identifying information and sends a very strong message --- a message that says we will not tolerate the infringement on the

rights of child victims of sexual assault.

For these reasons, I have vetoed sections 3, 4 and 5, of Substitute House Bill No. 2348.

With the exception of sections 3, 4 and 5, Substitute House Bill No. 2348 is approved.

Respectfully submitted,
Booth Gardner
Governor