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HOUSE BILL 1828

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By Representatives H. Myers, Ballasiotes, Anderson, Rayburn, Karahalios, Riley, Johanson, Springer, King, Campbell, Morris, Pruitt and Padden

Read first time 02/10/93. Referred to Committee on State Government.

1 AN ACT Relating to the office of crime victims' advocacy; amending  
2 RCW 43.280.010, 43.280.020, 43.280.030, 43.280.050, and 43.280.060;  
3 reenacting and amending RCW 42.17.310; adding new sections to chapter  
4 43.280 RCW; and adding a new section to chapter 41.06 RCW.

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

6 **Sec. 1.** RCW 43.280.010 and 1990 c 3 s 1201 are each amended to  
7 read as follows:

8 The legislature recognizes the need to increase ((the)) services  
9 available to ((the)) victims of ((sex—offenders)) crime. The  
10 legislature also recognizes that these services are most effectively  
11 planned and provided at the local level through the combined efforts of  
12 concerned community and citizens groups, treatment providers, and local  
13 government officials. The legislature further recognizes that adequate  
14 treatment for victims is not only a matter of justice for the victim,  
15 but also a method by which additional ((abuse)) crime can be prevented.

16 The legislature intends to enhance the community-based  
17 ((treatment)) services available to ((the)) victims of ((sex  
18 offenders)) crime by:

1       (1) Establishing the office of crime victims' advocacy to provide  
2 a focus within state government on the rights of, and services for,  
3 victims of crime;

4       (2) Providing funding support for local ~~((treatment))~~ programs  
5 ~~((which))~~ that provide services to victims of ~~((sex-offenders))~~ crime;

6       ~~((+2))~~ (3) Providing technical assistance and support to help  
7 communities plan for and provide ~~((treatment))~~ services to crime  
8 victims; and

9       ~~((+3))~~ (4) Providing communities and local ~~((treatment))~~ service  
10 providers with opportunities to share information about successful  
11 prevention and treatment programs.

12       NEW SECTION. Sec. 2.       The office of crime victims' advocacy is  
13 established within the department of community development to provide  
14 a focus within state government on the rights of, and services for,  
15 victims of crime.

16       The office of crime victims' advocacy shall:

17       (1) Advocate for programs and policies that strengthen victim  
18 rights and improve the quality and accessibility of services for  
19 victims;

20       (2) Serve as an ombuds to assist victims in obtaining needed  
21 services, and to investigate situations in which victims believe their  
22 rights have been violated;

23       (3) Serve as a clearinghouse of information regarding services,  
24 statutes, and research related to crime victims;

25       (4) Work with crime victim service organizations to provide  
26 leadership in the development of public policy relative to crime victim  
27 issues;

28       (5) Facilitate the development of standards for the provision of  
29 services to crime victims upon the request of providers of such  
30 services and affected regulatory agencies;

31       (6) Facilitate the planning and provision of training for providers  
32 of crime victim services including, but not limited to, personnel in  
33 social service, criminal justice, medical, and education systems;

34       (7) Administer grant funds that are made available to enhance the  
35 capacity of communities to serve victims of crime and to prevent  
36 victimization; and

37       (8) Provide technical assistance to state and community  
38 organizations to help them serve victims of crime.

1        NEW SECTION.    **Sec. 3.**        The crime victims' ombuds is created  
2 within the office of crime victims' advocacy.

3        (1) The crime victims' ombuds may investigate complaints concerning  
4 possible violation of the rights of crime victims or witnesses provided  
5 for by law, the delivery of services to crime victims, claims for crime  
6 victims compensation under chapter 7.68 RCW, and other complaints of  
7 mistreatment by elements of the criminal justice system or victim  
8 service providers. Clients or other affected individuals who have  
9 complaints regarding a policy or procedure, or the application of a  
10 policy or procedure, of the department of social and health services,  
11 shall be referred to the complaint resolution process established under  
12 RCW 74.13.045 if the complaint is related to programs administered  
13 under chapter 74.13 RCW. The ombuds shall act as a liaison, if  
14 requested, between agencies in the criminal justice system or victim  
15 service providers, and victims and witnesses. The ombuds shall be  
16 available through the use of a toll-free telephone number and shall  
17 answer questions concerning the criminal justice system and victim  
18 services from victims and witnesses in accordance with the ombuds'  
19 knowledge of the facts or law, unless the information is otherwise  
20 restricted.

21        (2) The crime victim ombuds has those powers necessary to carry out  
22 the duties set out in subsection (1) of this section, including:

23        (a) The ombuds may investigate any action of an element of the  
24 criminal justice system or a victim assistance program.

25        (b) The ombuds may request and be given access to all information  
26 pertaining to a complaint, including any records pertaining to  
27 juveniles and juvenile offenders. Records obtained under this chapter  
28 shall not be released to any person by the office of crime victims'  
29 advocacy.

30        (c) After completing investigation of a complaint, the ombuds may  
31 inform in writing the complainant, the investigated person or entity,  
32 and other appropriate authorities of the action taken.

33        (3)(a) On finding a complaint valid after duly considering the  
34 complaint and whatever material the ombuds deems pertinent, the ombuds  
35 may recommend action to the appropriate authority.

36        (b) If the ombuds makes a recommendation to an appropriate  
37 authority for action, the authority shall, within a reasonable time  
38 period, inform the ombuds about the action taken or the reasons for not  
39 complying with the recommendation.

1 (4) The crime victims' ombuds shall not serve as legal counsel to  
2 any person in a civil or criminal proceeding.

3 (5) The executive administrator of the office of crime victims'  
4 advocacy shall establish procedures to ensure the impartiality of all  
5 ombuds actions including those that involve crime victim programs  
6 funded by the department of community development.

7 NEW SECTION. **Sec. 4.** The executive administrator of the  
8 office of crime victims' advocacy shall be appointed by and report to  
9 the director of the department of community development.

10 NEW SECTION. **Sec. 5.** A new section is added to chapter 41.06 RCW  
11 to read as follows:

12 In addition to the exemptions set forth in RCW 41.06.070, the  
13 provisions of this chapter do not apply to the executive administrator  
14 of the office of crime victims' advocacy.

15 **Sec. 6.** RCW 43.280.020 and 1990 c 3 s 1203 are each amended to  
16 read as follows:

17 There is established in the department of community development a  
18 grant program to enhance the funding for treating the victims of sex  
19 offenders and prevention of sexual assault victimization. Activities  
20 that can be funded through this grant program are limited to those  
21 that:

22 (1) Provide effective treatment or prevention services to victims  
23 of sex offenders;

24 (2) Increase access to and availability of treatment or prevention  
25 services for victims of sex offenders, particularly if from underserved  
26 populations; and

27 (3) Create or build on efforts by existing community programs,  
28 coordinate those efforts, or develop cooperative efforts or other  
29 initiatives to make the most effective use of resources to provide  
30 treatment or prevention services to these victims.

31 Funding priority shall be given to those applicants that represent  
32 well-established existing programs and applicants that represent new  
33 programs that are being created in geographic areas where no programs  
34 presently exist.

1       **Sec. 7.** RCW 43.280.030 and 1990 c 3 s 1204 are each amended to  
2 read as follows:

3       Applications for funding under this chapter must:

4       (1) Present evidence demonstrating how the criteria in RCW  
5 (~~43.280.010~~) 43.280.020 will be met and demonstrating the  
6 effectiveness of the proposal.

7       (2) Contain evidence of active participation of the community and  
8 its commitment to providing (~~an~~) effective treatment or prevention  
9 services for victims of sex offenders through the participation of  
10 local governments, tribal governments, human service and health  
11 organizations, and treatment entities and through meaningful  
12 involvement from others, including citizen groups, as applicable.

13       **Sec. 8.** RCW 43.280.050 and 1990 c 3 s 1206 are each amended to  
14 read as follows:

15       At a minimum, grant applications must include the following:

16       (1) The geographic area from which the victims or persons at-risk  
17 of becoming victims to be served are expected to come;

18       (2) A description of the extent and effect of the needs of these  
19 victims and persons at-risk of becoming victims within the relevant  
20 geographic area;

21       (3) An explanation of how the funds will be used, their  
22 relationship to existing services available within the community, and  
23 the need that they will fulfill;

24       (4) An explanation of what organizations were involved in the  
25 development of the proposal; and

26       (5) An evaluation methodology.

27       **Sec. 9.** RCW 43.280.060 and 1990 c 3 s 1207 are each amended to  
28 read as follows:

29       (1) Subject to funds appropriated by the legislature, the  
30 department of community development shall make awards under the grant  
31 program established by RCW 43.280.020.

32       (2) Awards shall be made competitively based on the purposes of and  
33 criteria in this chapter.

34       (3) To aid the department of community development in making its  
35 determination, the department shall form a peer review committee  
36 comprised of the executive administrator or designee for the office of  
37 crime victims' advocacy (~~office~~) and individuals who have experience

1 in (~~the treatment of victims of predatory violent sex offenders~~)  
2 providing sexual assault treatment or prevention services. The peer  
3 review committee shall advise the department on the extent to which  
4 each eligible applicant meets the purposes and criteria of this  
5 chapter. The department shall consider this advice in making awards.

6 (4) Activities funded under this section may be considered for  
7 funding in future years, but shall be considered under the same terms  
8 and criteria as new activities. Funding under this chapter shall not  
9 constitute an obligation by the state of Washington to provide ongoing  
10 funding.

11 NEW SECTION. Sec. 10. Records maintained by the office of  
12 crime victims' advocacy are not subject to discovery in any judicial  
13 proceeding unless:

14 (1) A written motion is made to a court stating that discovery is  
15 requested of such records;

16 (2) The written motion is accompanied by an affidavit or affidavits  
17 setting forth specifically the reasons why discovery is requested of  
18 office of crime victims' advocacy records;

19 (3) The court reviews the office of crime victims' advocacy records  
20 in camera to determine whether the records are relevant and whether the  
21 probative value of the records are outweighed by the victim's privacy  
22 interest in the confidentiality of such records, taking into account  
23 the further trauma that may be inflicted upon the victim by the  
24 disclosure of the records; and

25 (4) The court enters an order stating whether the records or any  
26 part of the records are discoverable and setting forth a basis for the  
27 courts findings.

28 NEW SECTION. Sec. 11. No member of the office of crime  
29 victims' advocacy may be compelled to testify in any court with respect  
30 to matters involving the exercise of the ombuds functions of the  
31 office, except for the purpose of establishing the validity of records  
32 that may be entered into evidence pursuant to section 10 of this act.

33 **Sec. 12.** RCW 42.17.310 and 1992 c 139 s 5 and 1992 c 71 s 12 are  
34 each reenacted and amended to read as follows:

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

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

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

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

12 (d) Specific intelligence information and specific investigative  
13 records compiled by investigative, law enforcement, and penology  
14 agencies, and state agencies vested with the responsibility to  
15 discipline members of any profession, the nondisclosure of which is  
16 essential to effective law enforcement or for the protection of any  
17 person's right to privacy.

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

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

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

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

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

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

9 (k) Records, maps, or other information identifying the location of  
10 archaeological sites in order to avoid the looting or depredation of  
11 such sites.

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

15 (m) Financial information supplied by or on behalf of a person,  
16 firm, or corporation for the purpose of qualifying to submit a bid or  
17 proposal for ~~((a))~~ (i) a ferry system construction or repair contract  
18 as required by RCW 47.60.680 through 47.60.750 or ~~((b))~~ (ii) highway  
19 construction or improvement as required by RCW 47.28.070.

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

24 (o) Financial and commercial information and records supplied by  
25 private persons pertaining to export services provided pursuant to  
26 chapter 43.163 RCW and chapter 53.31 RCW.

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

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

32 (r) Financial and commercial information and records supplied by  
33 businesses during application for loans or program services provided by  
34 chapter 43.163 RCW and chapters 43.31, 43.63A, and 43.168 RCW.

35 (s) Membership lists or lists of members or owners of interests of  
36 units in timeshare projects, subdivisions, camping resorts,  
37 condominiums, land developments, or common-interest communities  
38 affiliated with such projects, regulated by the department of  
39 licensing, in the files or possession of the department.



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

4 (u) The residential addresses and residential telephone numbers of  
5 employees or volunteers of a public agency which are held by the agency  
6 in personnel records, employment or volunteer rosters, or mailing lists  
7 of employees or volunteers.

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

11 (w) Information obtained by the board of pharmacy as provided in  
12 RCW 69.45.090.

13 (x) Information obtained by the board of pharmacy or the department  
14 of health and its representatives as provided in RCW 69.41.044,  
15 69.41.280, and 18.64.420.

16 (y) Financial information, business plans, examination reports, and  
17 any information produced or obtained in evaluating or examining a  
18 business and industrial development corporation organized or seeking  
19 certification under chapter 31.24 RCW.

20 (z) Financial and commercial information supplied to the state  
21 investment board by any person when the information relates to the  
22 investment of public trust or retirement funds and when disclosure  
23 would result in loss to such funds or in private loss to the providers  
24 of this information.

25 (aa) Financial and valuable trade information under RCW 51.36.120.

26 (bb) Client records maintained by an agency that is a domestic  
27 violence program as defined in RCW 70.123.020 or a rape crisis center  
28 as defined in RCW 70.125.030.

29 (cc) Information that identifies a person who, while an agency  
30 employee: (i) Seeks advice, under an informal process established by  
31 the employing agency, in order to ascertain his or her rights in  
32 connection with a possible unfair practice under chapter 49.60 RCW  
33 against the person; and (ii) requests his or her identity or any  
34 identifying information not be disclosed.

35 (dd) Business related information protected from public inspection  
36 and copying under RCW 15.86.110.

37 (ee) Records maintained by the office of crime victims' advocacy  
38 related to the ombuds functions of the office that disclose or could be  
39 used to disclose the identity of a crime victim or complainant.

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

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

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

19 NEW SECTION. **Sec. 13.** Sections 2 through 4, 10, and 11 of this  
20 act are each added to chapter 43.280 RCW.

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