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**SUBSTITUTE SENATE BILL 5898**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Senate Human Services, Mental Health & Housing (originally sponsored by Senator Miloscia)

AN ACT Relating to the Washington homeless client management information system; amending RCW 43.185C.100 and 43.185C.180; reenacting and amending RCW 43.185C.010; and creating a new section.

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

NEW SECTION. **Sec.**  The legislature finds that:

(1) Individuals who have experienced domestic violence and others experiencing homelessness need to be informed about the privacy and extent of the disclosure of their own personal information as a matter of fairness to enable them to make informed decisions about their safety, privacy, and confidentiality.

(2) Personally identifying information about homeless individuals that is improperly shared or released may do significant harm to a homeless person's interests in privacy, safety, financial, or other interests.

(3) Individuals who have experienced domestic violence and their children frequently utilize a broad range of services and housing supports in addition to domestic violence shelters and community-based domestic violence programs.

(4) To retain the trust and confidence of homeless individuals, the state, local governments, and homeless housing and service providers have an interest in assuring that personally identifying information is not improperly disclosed and in having clear and certain rules for the disclosure of personally identifying information.

**Sec.**  RCW 43.185C.010 and 2009 c 565 s 40 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Community action agency" means a nonprofit private or public organization established under the economic opportunity act of 1964.

(2) "Department" means the department of commerce.

(3) "Director" means the director of the department of commerce.

(4) "Home security fund account" means the state treasury account receiving the state's portion of income from revenue from the sources established by RCW 36.22.179, RCW 36.22.1791, and all other sources directed to the homeless housing and assistance program.

(5) "Homeless housing grant program" means the vehicle by which competitive grants are awarded by the department, utilizing moneys from the home security fund account, to local governments for programs directly related to housing homeless individuals and families, addressing the root causes of homelessness, preventing homelessness, collecting data on homeless individuals, and other efforts directly related to housing homeless persons.

(6) "Homeless housing plan" means the ten-year plan developed by the county or other local government to address housing for homeless persons.

(7) "Homeless housing program" means the program authorized under this chapter as administered by the department at the state level and by the local government or its designated subcontractor at the local level.

(8) "Homeless housing strategic plan" means the ten-year plan developed by the department, in consultation with the interagency council on homelessness and the affordable housing advisory board.

(9) "Homeless person" means an individual living outside or in a building not meant for human habitation or which they have no legal right to occupy, in an emergency shelter, or in a temporary housing program which may include a transitional and supportive housing program if habitation time limits exist. This definition includes substance abusers, people with mental illness, and sex offenders who are homeless.

(10) "Housing authority" means any of the public corporations created by chapter 35.82 RCW.

(11) "Housing continuum" means the progression of individuals along a housing-focused continuum with homelessness at one end and homeownership at the other.

(12) "Interagency council on homelessness" means a committee appointed by the governor and consisting of, at least, policy level representatives of the following entities: (a) The department of commerce; (b) the department of corrections; (c) the department of social and health services; (d) the department of veterans affairs; and (e) the department of health.

(13) "Local government" means a county government in the state of Washington or a city government, if the legislative authority of the city affirmatively elects to accept the responsibility for housing homeless persons within its borders.

(14) "Local homeless housing task force" means a voluntary local committee created to advise a local government on the creation of a local homeless housing plan and participate in a local homeless housing program. It must include a representative of the county, a representative of the largest city located within the county, at least one homeless or formerly homeless person, such other members as may be required to maintain eligibility for federal funding related to housing programs and services and if feasible, a representative of a private nonprofit organization with experience in low-income housing.

(15) "Long-term private or public housing" means subsidized and unsubsidized rental or owner-occupied housing in which there is no established time limit for habitation of less than two years.

(16) "Performance measurement" means the process of comparing specific measures of success against ultimate and interim goals.

(17) "Personally identifying information" or "personal information" means individually identifying information for or about an individual, including:

(a) A first and last name;

(b) A home or other physical address;

(c) Contact information, including a postal, email, or internet protocol address, or telephone number;

(d) A social security number; or

(e) Any other information, including date of birth, racial or ethnic background, or religious affiliation, that, in combination with any other nonpersonally identifying information, would serve to identify any individual or would likely disclose the location of a victim of domestic violence, dating violence, sexual assault, or stalking.

(18) "Washington homeless census" means an annual statewide census conducted as a collaborative effort by towns, cities, counties, community-based organizations, and state agencies, with the technical support and coordination of the department, to count and collect data on all homeless individuals in Washington.

((~~(18)~~)) (19) "Washington homeless client management information system" means a database of information about homeless individuals in the state used to coordinate resources to assist homeless clients to obtain and retain housing and reach greater levels of self-sufficiency or economic independence when appropriate, depending upon their individual situations.

**Sec.**  RCW 43.185C.100 and 2005 c 484 s 14 are each amended to read as follows:

The department shall provide technical assistance to any participating local government or its designated subcontractor at the local level that requests such assistance. Technical assistance activities may include:

(1) ((~~Assisting local governments~~)) Providing assistance to identify appropriate parties to participate on local homeless housing task forces;

(2) ((~~Assisting local governments~~)) Providing assistance to identify appropriate service providers with which the local governments may subcontract for service provision and development activities, when necessary;

(3) ((~~Assisting local governments~~)) Providing assistance to implement or expand homeless census programs to meet homeless housing program requirements;

(4) ((~~Assisting~~)) Providing assistance in the identification of "best practices" from other areas;

(5) ((~~Assisting~~)) Providing assistance in identifying additional funding sources for specific projects; ((~~and~~))

(6) Providing assistance to implement confidentiality and privacy policies and protocols relating to personal information collected and maintained about homeless individuals and families; and

(7) Training local government and subcontractor staff.

**Sec.**  RCW 43.185C.180 and 2011 c 239 s 1 are each amended to read as follows:

(1) In order to improve services for the homeless, the department, within amounts appropriated by the legislature for this specific purpose, shall implement the Washington homeless client management information system for the ongoing collection and updates of information about all homeless individuals in the state.

(2) Information about homeless individuals for the Washington homeless client management information system shall come from the Washington homeless census and from state agencies and community organizations providing services to homeless individuals and families.

(a) Personally identifying information about a homeless individual((~~s~~)) for the Washington homeless client management information system may only be collected after ((~~having obtained informed, reasonably time limited (i) written consent from the homeless individual to whom the information relates, or (ii) telephonic consent from the homeless individual, provided that written consent is obtained at the first time the individual is physically present at an organization with access to the Washington homeless client management information system. Safeguards consistent with federal requirements on data collection must be in place to protect homeless individuals' rights regarding their personally identifying information.~~

~~(b) Data collection under this subsection shall be done in a manner consistent with federally informed consent guidelines regarding human research which, at a minimum, require that individuals receive~~)) the homeless individual has been provided the following information or, in the case of telephonic acknowledgment, the homeless individual has been provided the following information the first time the individual is physically present at an organization with access to the Washington homeless client management information system:

(i) Information about the expected duration of ((~~their~~)) his or her participation in the Washington homeless client management information system;

(ii) ((~~An explanation of whom to contact for answers to pertinent questions about the data collection and their rights regarding their personal identifying information;~~

~~(iii)~~)) An explanation of the nature of the personally identifying information and the institutions or agencies and persons or class of persons to whom the personally identifying information is to be disclosed, and to what extent the information may be accessed, including under subsection (5) of this section;

(iii) An explanation that the homeless individual has a right to request that his or her personally identifying information not be shared;

(iv) An explanation that the homeless individual has a right to have his or her personally identifying information promptly removed from the homeless client management information system and information about the procedure to have such information removed;

(v) An explanation that the homeless individual will not experience adverse consequences including, but not limited to, the denial of services or provision of lesser services;

(vi) An explanation regarding whom to contact ((~~in the event of injury to the individual related to~~)) with complaints or concerns about the Washington homeless client management information system;

((~~(iv) A description of any reasonably foreseeable risks to the homeless individual;~~)) and

((~~(v)~~)) (vii) A statement describing the extent to which confidentiality of records identifying the individual will be maintained.

((~~(c)~~)) (b) Personally identifying information about homeless individuals must not be shared with the Washington homeless client management information system when a homeless individual has requested that his or her personally identifying information not be shared.

(c) Safeguards consistent with federal requirements on data collection must be in place to protect homeless individuals' rights regarding their personally identifying information.

(d) Homeless housing and service organizations providing services to homeless individuals and families must provide a written copy, upon request, of all confidentiality and privacy policies to the homeless individual regarding his or her personal identifying information in a language that the homeless individual understands or telephonic notice may be provided to the homeless individual in a language that the homeless individual understands, as long as a written copy is provided, upon request, at the first time the individual is physically present at an organization with access to the Washington homeless client management information system. The materials identified in this section must include a statement that the homeless individual has the right to instruct that personally identifying information not be entered into the Washington homeless client management information system. These policies must also be physically posted in a prominent, visible location in all locations where information for the Washington homeless client management information system is collected.

(e) Protocols for data collection and management must be developed by the department in consultation with, but not limited to, a statewide membership organization comprised of homeless housing organizations, a statewide membership organization comprised of a majority of community-based victim service organizations, and other privacy and confidentiality experts.

(f) Any person thirteen years of age or older may give consent for the collection of his or her own personally identifying information under this section.

(i) If an unaccompanied minor appears for services at a service provider that utilizes the Washington homeless client management information system, the supervisor must report the minor's presence to law enforcement and the minor's parents or legal guardian.

(ii) If the service provider is unable to reach the minor's parents or legal guardian, the service provider must contact the department of social and health services.

(g) The disclosure of personally identifying information under this subsection (2) does not constitute a waiver of any privacy or confidentiality rights a homeless individual has under other statutes, the rules of evidence, or common law.

(h) The department must adopt policies governing the appropriate process for destroying Washington homeless client management information system paper documents containing personally identifying information when the paper documents are no longer needed. The policies must not conflict with any federal data requirements. A homeless housing and service provider must adopt reasonable safeguards to protect the security and confidentiality of personally identifying information that it maintains.

(3) The Washington homeless client management information system shall serve as an online information and referral system to enable local governments and providers to connect homeless persons in the database with available housing and other support services. Local governments may develop or utilize a comparable referral system in collaboration with victim service providers to provide housing and support services for homeless individuals who have experienced domestic violence, dating violence, sexual assault, or stalking. Local governments shall develop a capacity for continuous case management, including independent living plans, when appropriate, to assist homeless persons.

(4) The information in the Washington homeless client management information system will also provide the department with the information to consolidate and analyze data about the extent and nature of homelessness in Washington state((~~, giving emphasis to information about the extent and nature of homelessness in Washington state among families with children~~)).

(5)(a) The system may be merged with other data gathering and reporting systems and shall:

((~~(a)~~)) (i) Protect the right of privacy of individuals;

((~~(b)~~)) (ii) Provide for consultation and collaboration with all relevant state agencies including the department of social and health services, experts, and community organizations involved in the delivery of services to homeless persons; and

((~~(c)~~)) (iii) Include related information held or gathered by other state agencies.

(b) In merging the information in the Washington homeless client management information system with other data gathering and reporting systems, all relevant agencies must adopt safeguards to protect personal identifying information from redisclosure and adopt policies and procedures to remove or destroy, at the earliest opportunity, information that would enable individual homeless persons to be identified.

(6) Within amounts appropriated by the legislature, for this specific purpose, the department shall evaluate the information gathered and disseminate the analysis and the evaluation broadly, using appropriate computer networks as well as written reports.

(7) The Washington homeless client management information system shall be implemented by December 31, 2009, and updated with new homeless client information at least annually.

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