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**SENATE BILL 5835**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Senators Brown, Cleveland, Becker, Darneille, Walsh, Kuderer, Nguyen, Palumbo, Rolfes, and Wilson, L.

AN ACT Relating to a hotline for the reporting of potential self-harm and criminal acts; adding a new chapter to Title 43 RCW; and prescribing penalties.

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

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Attorney general" means the office of the Washington state attorney general.

(2) "Fund" means the community mental health safety fund created in section 6 of this act.

(3) "Hotline" means a statewide toll-free telephone number or other means of communication, or a combination of a toll-free telephone number and another means of communication, that transmits voice, text, photographic, and other messages and information to the vendor, including information forwarded to that vendor through the web site described in section 2(2) of this act.

(4) "Vendor" means the entity contracted to operate the hotline under section 2(3) of this act.

NEW SECTION. **Sec.**  (1) The attorney general, in consultation with the Washington state patrol and the Washington state health care authority shall, to the extent that funds are appropriated for this purpose, establish a program for receiving reports and other information from the public regarding potential self-harm and potential harm or criminal acts including, but not limited to, sexual abuse, assault, or rape. The attorney general shall establish the program within the guidelines of this chapter.

(2) The program described in subsection (1) of this section must include a hotline for receiving reports and information described in subsection (1) of this section. The hotline must be available for use twenty-four hours a day, three hundred sixty-five days a year. The attorney general may provide promotional information regarding the program on the attorney general's web site.

(3) Prior to operation of the hotline, the attorney general shall issue a request for proposals to enter into a contract for operation of the hotline. The attorney general has sole authority over the request for proposals process and the decision over which entity is awarded the contract. This subsection does not prohibit the Washington state patrol from submitting a proposal. Any contract must require the vendor to be bound by the requirements of this chapter, including its confidentiality provisions.

(4) The attorney general is responsible for the continued operational and administrative oversight of the program. The program must provide for a means to review all information submitted through the hotline and to direct those reports and that information, including any analysis of the potential threat as determined appropriate by the attorney general or a vendor under contract with the attorney general to local law enforcement officials and mental health officials. The program must include a means by which responses at the local level are determined and evaluated for effectiveness. The attorney general shall ensure that appropriate training is provided to program personnel in all of the following areas:

(a) Crisis management, including recognizing mental illness and emotional disturbance;

(b) The resources that are available in the community for providing mental health treatment and other human services; and

(c) Other matters determined by the attorney general to be relevant to the administration and operation of the program.

(5) A report or other information submitted to the hotline is considered to be a report to a law enforcement agency and must be maintained as a record by the vendor for at least one year, subject to the confidentiality requirements of this chapter.

(6) The attorney general shall ensure that any hotline information that suggests that a psychiatric emergency is taking place within a county is immediately referred to the community mental health services program crisis line for that county.

(7) The attorney general shall develop a source of information on available community mental health resources and contacts, including mental health services. The attorney general shall notify law enforcement and mental health officials of this information source. The notice must include the attorney general's recommendation that law enforcement and mental health officials, upon investigating a case and determining that mental illness or emotional disturbance is or may be involved, utilize this information in aiding subjects and their parents or guardians.

NEW SECTION. **Sec.**  (1) Any report or information submitted to the hotline under section 2 of this act is confidential, shall not be released except as otherwise provided in this chapter, and is not subject to disclosure under chapter 42.56 RCW, the public records act.

(2) Any report or information submitted to the hotline and forwarded by the vendor described in section 2(3) of this act to a law enforcement official or to a mental health official is confidential, shall not be released except as otherwise provided in this chapter, and is not subject to disclosure under chapter 42.56 RCW, the public records act.

(3) A person who intentionally discloses information to another person in violation of subsection (1) or (2) of this section is guilty of a misdemeanor punishable by imprisonment for not more than ninety days or a fine of not more than five hundred dollars, or both.

(4) If a report to the hotline does not result in a referral, or the investigation of a subject results in a determination that no action regarding that subject is warranted, the subject's name shall be expunged from the records of all entities involved in the hotline program except as otherwise provided by law.

NEW SECTION. **Sec.**  Information regarding a report or information submitted to the hotline under section 2 of this act, including any identifying information, may be disclosed as follows:

(1) By either of the following as necessary for purposes of this chapter and as necessary to address reports and information received under this chapter:

(a) The vendor and its employees acting in the course of their duties; or

(b) The attorney general, law enforcement agencies, the Washington state health care authority, and community mental health service programs, and their employees acting in the course of their duties. However, this subsection (1)(b) does not allow the disclosure of information that would identify the person who submitted the report or information to the hotline under section 2 of this act;

(2) With the permission of the person or, if the person is a minor, with the permission of the minor and his or her parents or guardians; or

(3) Pursuant to a court order issued under section 5 of this act.

NEW SECTION. **Sec.**  (1) A person who is charged with a criminal offense as a result of a report or information filed under section 2 of this act may petition the court for disclosure of the report or information, including any identifying information, as provided in this subsection. The prosecuting attorney for the county having jurisdiction and the attorney general shall be notified of the petition not less than seven days before the hearing on the petition, or as otherwise provided by the court, and have the right to appear in the proceedings to oppose the petition. If a petition is filed under this subsection, the court may conduct a hearing on the petition. If a hearing is conducted, it shall be conducted in chambers outside of the presence of the petitioner. If the court determines that the report or information, including any identifying information, is relevant to the criminal proceedings and is essential to the fair trial of the person, the court may order the disclosure of that report or information, including any identifying information, as determined appropriate by the court. The court may place restrictions on the release and use of the report or information, including any identifying information, obtained under this subsection or may redact material as it considers appropriate. Material reviewed by the court that is not ordered released or that is redacted shall be maintained by the court under seal for purposes of appeal only.

(2) If the prosecuting attorney has reason to believe that a report or other information provided under section 2 of this act was falsely provided to the vendor described in section 2(3) of this act through the hotline operated by that vendor under section 2 of this act, that prosecuting attorney may petition the court to disclose the report or information, including any identifying information. The attorney general shall be notified of the petition not less than seven days before the hearing on the petition, or as otherwise provided by the court, and has the right to appear in the proceedings to oppose the petition. If the court determines that there is reason to believe that the report or information may have been falsely provided, the court may order the disclosure of the report or information, including any identifying information, as determined appropriate by the court. The court may place restrictions on the release and use of the report or information, including any identifying information, obtained under this subsection or may redact material as it considers appropriate. Material reviewed by the court that is not ordered released or that is redacted shall be maintained by the court under seal for purposes of appeal only.

(3) The attorney general may also appear in any other action to oppose the release of any report or information obtained under section 2 of this act, including any identifying information.

NEW SECTION. **Sec.**  (1) The community mental health safety fund is created in the custody of the state treasurer.

(2) The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(3) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) The attorney general shall be the administrator of the fund for auditing purposes.

(5) The attorney general may expend money from the fund, upon appropriation, only for one or more of the following purposes:

(a) To pay the costs of the attorney general for administering this chapter;

(b) To pay the costs of the vendor described in section 2(3) of this act for operating the hotline;

(c) To promote public awareness of the program, including the availability of the hotline and the web site operated by the attorney general.

(6) Money shall not be expended for any promotion program that includes a reference to, or the image or voice of, an elected official, appointed state employee, state employee governed by a senior executive service limited term employment agreement, or a candidate for elective office, that is targeted to a media market in this state.

NEW SECTION. **Sec.**  (1) The attorney general, in consultation with the Washington state health care authority and the vendor, shall prepare an annual report under this chapter. The report shall be filed not later than July 31st of the year in which the report is due. Copies of the report shall be filed with the governor, the secretary of the senate, the chief clerk of the house of representatives, the clerk of the senate standing committee on ways and means, and the clerk of the house standing committee on appropriations. The report shall also be maintained on the attorney general's web site. The report shall contain all of the following information:

(a) The number of reports and other information reported to the hotline under this chapter;

(b) The number of reports and information reported to the hotline that are forwarded to local law enforcement officials;

(c) The number of hotline reports resulting in referral to mental health services;

(d) The nature of the reports and information reported to the hotline in categories established by the attorney general;

(e) The responses to the reports and information reported to the hotline at the local level in categories established by the attorney general;

(f) The source of all funds deposited in the community mental health safety fund;

(g) The itemized costs and expenditures incurred by the attorney general in implementing this chapter;

(h) The itemized costs and expenditures incurred by the Washington state patrol in implementing this chapter;

(i) The contributions of, and the costs and expenditures incurred by, the vendor; and

(j) An analysis of the overall effectiveness of the program in addressing potential self-harm and potential harm or criminal acts.

(2) Agencies in possession of information necessary to complete the report shall provide access to the attorney general, to the extent authorized by law.

NEW SECTION. **Sec.**  Sections 1 through 7 of this act constitute a new chapter in Title 43 RCW.

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