

2 **2SHB 1176** - S COMM AMD

3 By Committee on Human Services & Corrections

4 ADOPTED 4/14/99

5 Strike everything after the enacting clause and insert the  
6 following:

7 "**Sec. 1.** RCW 40.14.060 and 1982 c 36 s 5 are each amended to read  
8 as follows:

9 (1) Any destruction of official public records shall be pursuant to  
10 a schedule approved under RCW 40.14.050. Official public records shall  
11 not be destroyed unless:

12 (a) Except as provided under RCW 40.14.070(2)(b), the records are  
13 six or more years old;

14 (b) The department of origin of the records has made a satisfactory  
15 showing to the state records committee that the retention of the  
16 records for a minimum of six years is both unnecessary and  
17 uneconomical, particularly if lesser federal retention periods for  
18 records generated by the state under federal programs have been  
19 established; or

20 (c) The originals of official public records less than six years  
21 old have been copied or reproduced by any photographic or other process  
22 approved by the state archivist which accurately reproduces or forms a  
23 durable medium for so reproducing the original.

24 (2) Any lesser term of retention than six years must have the  
25 additional approval of the director of financial management, the state  
26 auditor and the attorney general, except when records have federal  
27 retention guidelines the state records committee may adjust the  
28 retention period accordingly. An automatic reduction of retention  
29 periods from seven to six years for official public records on record  
30 retention schedules existing on June 10, 1982, shall not be made, but  
31 the same shall be reviewed individually by the state records committee  
32 for approval or disapproval of the change to a retention period of six  
33 years.

34 Recommendations for the destruction or disposition of office files  
35 and memoranda shall be submitted to the records committee upon approved  
36 forms prepared by the records officer of the agency concerned and the

1 archivist. The committee shall determine the period of time that any  
2 office file or memorandum shall be preserved and may authorize the  
3 division of archives and records management to arrange for its  
4 destruction or disposition.

5 **Sec. 2.** RCW 40.14.070 and 1995 c 301 s 71 are each amended to read  
6 as follows:

7 (1)(a) County, municipal, and other local government agencies may  
8 request authority to destroy noncurrent public records having no  
9 further administrative or legal value by submitting to the division of  
10 archives and records management lists of such records on forms prepared  
11 by the division. The archivist, a representative appointed by the  
12 state auditor, and a representative appointed by the attorney general  
13 shall constitute a committee, known as the local records committee,  
14 which shall review such lists and which may veto the destruction of any  
15 or all items contained therein.

16 (b) A local government agency, as an alternative to submitting  
17 lists, may elect to establish a records control program based on  
18 recurring disposition schedules recommended by the agency to the local  
19 records committee. The schedules are to be submitted on forms provided  
20 by the division of archives and records management to the local records  
21 committee, which may either veto, approve, or amend the schedule.  
22 Approval of such schedule or amended schedule shall be by unanimous  
23 vote of the local records committee. Upon such approval, the schedule  
24 shall constitute authority for the local government agency to destroy  
25 the records listed thereon, after the required retention period, on a  
26 recurring basis until the schedule is either amended or revised by the  
27 committee.

28 (2)(a) Except as otherwise provided by law, no public records shall  
29 be destroyed until approved for destruction by the local records  
30 committee. Official public records shall not be destroyed unless:

31 ~~((1))~~ (i) The records are six or more years old;

32 ~~((2))~~ (ii) The department of origin of the records has made a  
33 satisfactory showing to the state records committee that the retention  
34 of the records for a minimum of six years is both unnecessary and  
35 uneconomical, particularly where lesser federal retention periods for  
36 records generated by the state under federal programs have been  
37 established; or

1       (~~(3)~~) (iii) The originals of official public records less than  
2 six years old have been copied or reproduced by any photographic,  
3 photostatic, microfilm, miniature photographic, or other process  
4 approved by the state archivist which accurately reproduces or forms a  
5 durable medium for so reproducing the original.

6       An automatic reduction of retention periods from seven to six years  
7 for official public records on record retention schedules existing on  
8 June 10, 1982, shall not be made, but the same shall be reviewed  
9 individually by the local records committee for approval or disapproval  
10 of the change to a retention period of six years.

11       The state archivist may furnish appropriate information,  
12 suggestions, and guidelines to local government agencies for their  
13 assistance in the preparation of lists and schedules or any other  
14 matter relating to the retention, preservation, or destruction of  
15 records under this chapter. The local records committee may adopt  
16 appropriate regulations establishing procedures to be followed in such  
17 matters.

18       Records of county, municipal, or other local government agencies,  
19 designated by the archivist as of primarily historical interest, may be  
20 transferred to a recognized depository agency.

21       (b) Records of investigative reports prepared by any state, county,  
22 municipal, or other law enforcement agency pertaining to sex offenders  
23 contained in chapter 9A.44 RCW or sexually violent offenses as defined  
24 in RCW 71.09.020 that are not required in the current operation of the  
25 law enforcement agency or for pending judicial proceedings shall,  
26 following the expiration of the applicable schedule of the law  
27 enforcement agency's retention of the records, be transferred to the  
28 Washington association of sheriffs and police chiefs for permanent  
29 electronic retention and retrieval. Upon electronic retention of any  
30 document, the association shall be permitted to destroy the paper copy  
31 of the document.

32       (c) Any record transferred to the Washington association of  
33 sheriffs and police chiefs pursuant to (b) of this subsection shall be  
34 deemed to no longer constitute a public record pursuant to RCW  
35 42.17.020 and shall be exempt from public disclosure. Such records  
36 shall be disseminated only to criminal justice agencies as defined in  
37 RCW 10.97.030 for the purpose of determining if a sex offender met the  
38 criteria of a sexually violent predator as defined in chapter 71.09  
39 RCW.

1       **Sec. 3.** RCW 42.17.310 and 1998 c 69 s 1 are each amended to read  
2 as follows:

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

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

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

10       (c) Information required of any taxpayer in connection with the  
11 assessment or collection of any tax if the disclosure of the  
12 information to other persons would (i) be prohibited to such persons by  
13 RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the  
14 taxpayer's right to privacy or result in unfair competitive  
15 disadvantage to the taxpayer.

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

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

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

34       (g) Except as provided by chapter 8.26 RCW, the contents of real  
35 estate appraisals, made for or by any agency relative to the  
36 acquisition or sale of property, until the project or prospective sale  
37 is abandoned or until such time as all of the property has been  
38 acquired or the property to which the sale appraisal relates is sold,

1 but in no event shall disclosure be denied for more than three years  
2 after the appraisal.

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

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

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

14 (k) Records, maps, or other information identifying the location of  
15 archaeological sites in order to avoid the looting or depredation of  
16 such sites.

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

20 (m) Financial information supplied by or on behalf of a person,  
21 firm, or corporation for the purpose of qualifying to submit a bid or  
22 proposal for (i) a ferry system construction or repair contract as  
23 required by RCW 47.60.680 through 47.60.750 or (ii) highway  
24 construction or improvement as required by RCW 47.28.070.

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

29 (o) Financial and commercial information and records supplied by  
30 private persons pertaining to export services provided pursuant to  
31 chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to  
32 export projects pursuant to RCW 43.23.035.

33 (p) Financial disclosures filed by private vocational schools under  
34 chapters 28B.85 and 28C.10 RCW.

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

38 (r) Financial and commercial information and records supplied by  
39 businesses or individuals during application for loans or program

1 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,  
2 or during application for economic development loans or program  
3 services provided by any local agency.

4 (s) Membership lists or lists of members or owners of interests of  
5 units in timeshare projects, subdivisions, camping resorts,  
6 condominiums, land developments, or common-interest communities  
7 affiliated with such projects, regulated by the department of  
8 licensing, in the files or possession of the department.

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

12 (u) The residential addresses and residential telephone numbers of  
13 employees or volunteers of a public agency which are held by the agency  
14 in personnel records, employment or volunteer rosters, or mailing lists  
15 of employees or volunteers.

16 (v) The residential addresses and residential telephone numbers of  
17 the customers of a public utility contained in the records or lists  
18 held by the public utility of which they are customers, except that  
19 this information may be released to the division of child support or  
20 the agency or firm providing child support enforcement for another  
21 state under Title IV-D of the federal social security act, for the  
22 establishment, enforcement, or modification of a support order.

23 (w)(i) The federal social security number of individuals governed  
24 under chapter 18.130 RCW maintained in the files of the department of  
25 health, except this exemption does not apply to requests made directly  
26 to the department from federal, state, and local agencies of  
27 government, and national and state licensing, credentialing,  
28 investigatory, disciplinary, and examination organizations; (ii) the  
29 current residential address and current residential telephone number of  
30 a health care provider governed under chapter 18.130 RCW maintained in  
31 the files of the department, if the provider requests that this  
32 information be withheld from public inspection and copying, and  
33 provides to the department an accurate alternate or business address  
34 and business telephone number. On or after January 1, 1995, the  
35 current residential address and residential telephone number of a  
36 health care provider governed under RCW 18.130.140 maintained in the  
37 files of the department shall automatically be withheld from public  
38 inspection and copying unless the provider specifically requests the

1 information be released, and except as provided for under RCW  
2 42.17.260(9).

3 (x) Information obtained by the board of pharmacy as provided in  
4 RCW 69.45.090.

5 (y) Information obtained by the board of pharmacy or the department  
6 of health and its representatives as provided in RCW 69.41.044,  
7 69.41.280, and 18.64.420.

8 (z) Financial information, business plans, examination reports, and  
9 any information produced or obtained in evaluating or examining a  
10 business and industrial development corporation organized or seeking  
11 certification under chapter 31.24 RCW.

12 (aa) Financial and commercial information supplied to the state  
13 investment board by any person when the information relates to the  
14 investment of public trust or retirement funds and when disclosure  
15 would result in loss to such funds or in private loss to the providers  
16 of this information.

17 (bb) Financial and valuable trade information under RCW 51.36.120.

18 (cc) Client records maintained by an agency that is a domestic  
19 violence program as defined in RCW 70.123.020 or 70.123.075 or a rape  
20 crisis center as defined in RCW 70.125.030.

21 (dd) Information that identifies a person who, while an agency  
22 employee: (i) Seeks advice, under an informal process established by  
23 the employing agency, in order to ascertain his or her rights in  
24 connection with a possible unfair practice under chapter 49.60 RCW  
25 against the person; and (ii) requests his or her identity or any  
26 identifying information not be disclosed.

27 (ee) Investigative records compiled by an employing agency  
28 conducting a current investigation of a possible unfair practice under  
29 chapter 49.60 RCW or of a possible violation of other federal, state,  
30 or local laws prohibiting discrimination in employment.

31 (ff) Business related information protected from public inspection  
32 and copying under RCW 15.86.110.

33 (gg) Financial, commercial, operations, and technical and research  
34 information and data submitted to or obtained by the clean Washington  
35 center in applications for, or delivery of, program services under  
36 chapter 70.95H RCW.

37 (hh) Information and documents created specifically for, and  
38 collected and maintained by a quality improvement committee pursuant to

1 RCW 43.70.510, regardless of which agency is in possession of the  
2 information and documents.

3 (ii) Personal information in files maintained in a data base  
4 created under RCW 43.07.360.

5 (jj) Financial and commercial information requested by the public  
6 stadium authority from any person or organization that leases or uses  
7 the stadium and exhibition center as defined in RCW 36.102.010.

8 (kk) Names of individuals residing in emergency or transitional  
9 housing that are furnished to the department of revenue or a county  
10 assessor in order to substantiate a claim for property tax exemption  
11 under RCW 84.36.043.

12 (ll) The names, residential addresses, residential telephone  
13 numbers, and other individually identifiable records held by an agency  
14 in relation to a vanpool, carpool, or other ride-sharing program or  
15 service. However, these records may be disclosed to other persons who  
16 apply for ride-matching services and who need that information in order  
17 to identify potential riders or drivers with whom to share rides.

18 (mm) Proprietary financial and commercial information that the  
19 submitting entity, with review by the department of health,  
20 specifically identifies at the time it is submitted and that is  
21 provided to or obtained by the department of health in connection with  
22 an application for, or the supervision of, an antitrust exemption  
23 sought by the submitting entity under RCW 43.72.310. If a request for  
24 such information is received, the submitting entity must be notified of  
25 the request. Within ten business days of receipt of the notice, the  
26 submitting entity shall provide a written statement of the continuing  
27 need for confidentiality, which shall be provided to the requester.  
28 Upon receipt of such notice, the department of health shall continue to  
29 treat information designated under this section as exempt from  
30 disclosure. If the requester initiates an action to compel disclosure  
31 under this chapter, the submitting entity must be joined as a party to  
32 demonstrate the continuing need for confidentiality.

33 (nn) Records maintained by the board of industrial insurance  
34 appeals that are related to appeals of crime victims' compensation  
35 claims filed with the board under RCW 7.68.110.

36 (oo) Financial and commercial information supplied by or on behalf  
37 of a person, firm, corporation, or entity under chapter 28B.95 RCW  
38 relating to the purchase or sale of tuition units and contracts for the  
39 purchase of multiple tuition units.



1        On page 1, line 2 of the title, after "offenses;" strike the  
2 remainder of the title and insert "amending RCW 40.14.060, 40.14.070,  
3 and 42.17.310; and adding a new section to chapter 10.97 RCW."

--- **END** ---