
ENGROSSED SENATE BILL 5906

State of Washington 52nd Legislature 1991 Regular Session

By Senators Rinehart, McCaslin and Talmadge.

Read first time March 4, 1991. Referred to Committee on Governmental Operations.

1 AN ACT Relating to protecting persons seriously threatened by
2 domestic violence by restricting disclosure of their names or
3 addresses; amending RCW 42.17.310, 42.17.311, and 29.01.155; adding a
4 new section to chapter 26.04 RCW; adding a new chapter to Title 40 RCW;
5 creating a new section; providing an effective date; and declaring an
6 emergency.

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

8 NEW SECTION. **Sec. 1.** The legislature finds that persons
9 attempting to escape from actual or threatened domestic violence
10 frequently establish new addresses in order to prevent their assailants
11 or probable assailants from finding them. The purpose of this chapter
12 is to enable state and local agencies to respond to requests for public
13 records without disclosing the location of a victim of domestic
14 violence, to enable interagency cooperation with the secretary of state

1 in providing address confidentiality for victims of domestic violence,
2 and to enable state and local agencies to accept a program
3 participant's use of an address designated by the secretary of state as
4 a substitute mailing address.

5 NEW SECTION. **Sec. 2.** Unless the context clearly requires
6 otherwise, the definitions in this section apply throughout this
7 chapter.

8 (1) "Address" means a residential street address, school address,
9 or work address of an individual, as specified on the individual's
10 application to be a program participant under this chapter.

11 (2) "Program participant" means a person certified as a program
12 participant under section 3 of this act.

13 (3) "Domestic violence" means an act as defined in RCW 10.99.020
14 and includes a threat of such acts committed against an individual in
15 a domestic situation, regardless of whether these acts or threats have
16 been reported to law enforcement officers.

17 NEW SECTION. **Sec. 3.** (1) An adult person, a parent or
18 guardian acting on behalf of a minor, or a guardian acting on behalf of
19 an incapacitated person, as defined in RCW 11.88.010, may apply to the
20 secretary of state to have an address designated by the secretary of
21 state serve as the person's address or the address of the minor or
22 incapacitated person. The secretary of state shall approve an
23 application if it is filed in the manner and on the form prescribed by
24 the secretary of state and if it contains:

25 (a) A sworn statement by the applicant that the applicant has good
26 reason to believe (i) that the applicant, or the minor or incapacitated
27 person on whose behalf the application is made, is a victim of domestic
28 violence; and (ii) that the applicant fears for his or her safety or

1 his or her children's safety, or the safety of the minor or
2 incapacitated person on whose behalf the application is made;

3 (b) A designation of the secretary of state as agent for purposes
4 of service of process and for the purpose of receipt of mail;

5 (c) The mailing address where the applicant can be contacted by the
6 secretary of state, and the phone number or numbers where the applicant
7 can be called by the secretary of state;

8 (d) The new address or addresses that the applicant requests not be
9 disclosed for the reason that disclosure will increase the risk of
10 domestic violence;

11 (e) The signature of the applicant and of any individual or
12 representative of any office designated in writing under section 8 of
13 this act who assisted in the preparation of the application, and the
14 date on which the applicant signed the application.

15 (2) Applications shall be filed with the office of the secretary of
16 state.

17 (3) Upon filing a properly completed application, the secretary of
18 state shall certify the applicant as a program participant. Applicants
19 shall be certified for four years following the date of filing unless
20 the certification is withdrawn or invalidated before that date. The
21 secretary of state shall by rule establish a renewal procedure.

22 (4) A person who falsely attests in an application that disclosure
23 of the applicant's address would endanger the applicant's safety or the
24 safety of the applicant's children or the minor or incapacitated person
25 on whose behalf the application is made, or who knowingly provides
26 false or incorrect information upon making an application, shall be
27 punishable under RCW 40.16.030 or other applicable statutes.

28 NEW SECTION. **Sec. 4.** (1) If the program participant obtains
29 a name change, he or she loses certification as a program participant.

1 (2) The secretary of state may cancel a program participant's
2 certification if there is a change in the residential address from the
3 one listed on the application, unless the program participant provides
4 the secretary of state with seven days' prior notice of the change of
5 address.

6 (3) The secretary of state may cancel certification of a program
7 participant if mail forwarded by the secretary to the program
8 participant's address is returned as nondeliverable.

9 (4) The secretary of state shall cancel certification of a program
10 participant who applies using false information.

11 NEW SECTION. **Sec. 5.** (1) A program participant may request
12 that state and local agencies use the address designated by the
13 secretary of state as his or her address. When creating a new public
14 record, state and local agencies shall accept the address designated by
15 the secretary of state as a program participant's substitute address,
16 unless the secretary of state has determined that:

17 (a) The agency has a bona fide statutory or administrative
18 requirement for the use of the address which would otherwise be
19 confidential under this chapter; and

20 (b) This address will be used only for those statutory and
21 administrative purposes.

22 (2) A program participant may use the address designated by the
23 secretary of state as his or her work address.

24 (3) The office of the secretary of state shall forward all first
25 class mail to the appropriate program participants.

26 NEW SECTION. **Sec. 6.** (1) A program participant who is
27 otherwise qualified to vote may apply as a service voter under RCW
28 29.01.155. The program participant shall automatically receive

1 absentee ballots for all elections in the jurisdictions for which that
2 individual resides in the same manner as absentee voters who qualify
3 under RCW 29.36.013, except that the program participant shall not be
4 required to reapply following January 1st of each odd-numbered year.
5 The county auditor shall transmit the absentee ballot to the program
6 participant at the address designated by the participant in his or her
7 application as a service voter. Neither the name nor the address of a
8 program participant shall be included in any list of registered voters
9 available to the public.

10 (2) The county auditor may not make the participant's address
11 contained in voter registration records available for public inspection
12 or copying except under the following circumstances:

13 (a) If requested by a law enforcement agency, to the law
14 enforcement agency; and

15 (b) If directed by a court order, to a person identified in the
16 order.

17 NEW SECTION. **Sec. 7.** The secretary of state may not make a
18 program participant's address, other than the address designated by the
19 secretary of state, available for inspection or copying, except under
20 the following circumstances:

21 (1) If requested by a law enforcement agency, to the law
22 enforcement agency;

23 (2) If directed by a court order, to a person identified in the
24 order; and

25 (3) If certification has been canceled.

26 NEW SECTION. **Sec. 8.** The secretary of state shall designate
27 state and local agencies and nonprofit agencies that provide counseling
28 and shelter services to victims of domestic violence to assist persons

1 applying to be program participants. Any assistance and counseling
2 rendered by the office of the secretary of state or its designees to
3 applicants shall in no way be construed as legal advice.

4 NEW SECTION. **Sec. 9.** The secretary of state may adopt rules
5 to facilitate the administration of this chapter by state and local
6 agencies.

7 **Sec. 10.** RCW 42.17.310 and 1991 c 1 s 1 are each amended to read
8 as follows:

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

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

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

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

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

27 (e) Information revealing the identity of persons who file
28 complaints with investigative, law enforcement, or penology agencies,

1 other than the public disclosure commission, if disclosure would
2 endanger any person's life, physical safety, or property. If at the
3 time the complaint is filed the complainant indicates a desire for
4 disclosure or nondisclosure, such desire shall govern. However, all
5 complaints filed with the public disclosure commission about any
6 elected official or candidate for public office must be made in writing
7 and signed by the complainant under oath.

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

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

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

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

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

28 (k) Records, maps, or other information identifying the location of
29 archaeological sites in order to avoid the looting or depredation of
30 such sites.

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

4 (m) Financial information supplied by or on behalf of a person,
5 firm, or corporation for the purpose of qualifying to submit a bid or
6 proposal for (a) a ferry system construction or repair contract as
7 required by RCW 47.60.680 through 47.60.750 or (b) highway construction
8 or improvement as required by RCW 47.28.070.

9 (n) Railroad company contracts filed with the utilities and
10 transportation commission under RCW 81.34.070, except that the
11 summaries of the contracts are open to public inspection and copying as
12 otherwise provided by this chapter.

13 (o) Financial and commercial information and records supplied by
14 private persons pertaining to export services provided pursuant to
15 chapter 43.163 RCW and chapter 53.31 RCW.

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

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

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

24 (s) Membership lists or lists of members or owners of interests of
25 units in timeshare projects, subdivisions, camping resorts,
26 condominiums, land developments, or common-interest communities
27 affiliated with such projects, regulated by the department of
28 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 and its
14 representatives as provided in RCW 69.41.044 and 69.41.280.

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

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

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

25 ~~((bb) Effective April 19, 1991, the work and home addresses, other
26 than the city of residence, of a person shall remain undisclosed or be
27 omitted from all documents made available for public review if that
28 person requests in writing, under oath, that these addresses be kept
29 private because disclosure would endanger his or her life, physical
30 safety, or property. This provision does not in any way restrict the~~

1 ~~sharing or collection of information by state and local governmental~~
2 ~~agencies required for the daily administration of their duties. The~~
3 ~~secretary of state shall administer this provision and establish the~~
4 ~~procedures and rules that are necessary for its operation. An agency~~
5 ~~that has not been furnished with a request for confidentiality of~~
6 ~~address information is not liable for damages resulting from its~~
7 ~~disclosure of the information. For purpose of service of process, the~~
8 ~~secretary of state shall serve as agent for each person who submits a~~
9 ~~request under this subsection. A request shall be of no force or~~
10 ~~effect if the requester does not include a statement, along with or~~
11 ~~part of the request, designating the secretary of state as agent of the~~
12 ~~requester for purposes of service of process.))~~

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

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

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

1 **Sec. 11.** RCW 42.17.311 and 1990 c 256 s 2 are each amended to read
2 as follows:

3 Nothing in RCW 42.17.310(1) (t) through (v) (~~and (bb)~~) shall
4 affect a positive duty of an agency to disclose or a positive duty to
5 withhold information which duty to disclose or withhold is contained in
6 any other law.

7 NEW SECTION. **Sec. 12.** A new section is added to chapter 26.04 RCW
8 to read as follows:

9 If a program participant under chapter 40.--- RCW (sections 1
10 through 9 of this act) notifies the appropriate county auditor as
11 required under rules adopted by the secretary of state, the county
12 auditor shall not make available for inspection or copying the name and
13 address of a program participant contained in marriage applications and
14 records filed under chapter 26.04 RCW, except under the following
15 circumstances:

16 (1) If requested by a law enforcement agency, to the law
17 enforcement agency; and

18 (2) If directed by a court order, to a person identified in the
19 order.

20 **Sec. 13.** RCW 29.01.155 and 1987 c 346 s 8 are each amended to read
21 as follows:

22 "Service voter" means any elector of the state of Washington who is
23 a member of the armed forces under 42 U.S.C. Sec. 1973 ff-6 while in
24 active service, is a student or member of the faculty at a United
25 States military academy, is a member of the merchant marine of the
26 United States, is a program participant as defined in section 2 of this
27 1991 act, or is a member of a religious group or welfare agency

1 officially attached to and serving with the armed forces of the United
2 States.

3 NEW SECTION. **Sec. 14.** The office of the secretary of state
4 shall collect information from applicants regarding additional records
5 for which a substitute address may not be possible but for which
6 address information protection may be desirable. The secretary of
7 state shall report to the legislature by July 1, 1992, on the
8 information obtained from applicants under this section.

9 NEW SECTION. **Sec. 15.** Sections 1 through 9 of this act shall
10 constitute a new chapter in Title 40 RCW.

11 NEW SECTION. **Sec. 16.** (1) Sections 10 and 11 of this act are
12 necessary for the immediate preservation of the public peace, health,
13 or safety, or support of the state government and its existing public
14 institutions, and shall take effect immediately.

15 (2) Sections 1 through 9 and 12 through 15 of this act are
16 necessary for the immediate preservation of the public peace, health,
17 or safety, or support of the state government and its existing public
18 institutions, and shall take effect July 1, 1991.