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HOUSE BILL 1037

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State of Washington

56th Legislature

1999 Regular Session

By Representatives Bush, Morris and Ruderman

Read first time 01/12/1999. Referred to Committee on Technology,  
Telecommunications & Energy.

1 AN ACT Relating to commercial electronic mail; amending RCW  
2 19.190.010, 19.190.020, 19.190.030, and 42.17.310; adding a new section  
3 to chapter 19.190 RCW; adding a new chapter to Title 19 RCW; repealing  
4 RCW 19.190.005; and prescribing penalties.

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

6 **Sec. 1.** RCW 19.190.010 and 1998 c 149 s 2 are each amended to read  
7 as follows:

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

10 (1) "Assist the transmission" means actions taken by a person to  
11 provide substantial assistance or support which enables any person to  
12 formulate, compose, send, originate, initiate, or transmit a  
13 commercial electronic mail message.

14 (2) "Commercial electronic mail message" means an electronic mail  
15 message sent for the purpose of promoting real property, goods, or  
16 services for sale or lease. It does not mean an electronic mail  
17 message to which an interactive computer service provider has attached  
18 an advertisement in exchange for free use of an electronic mail  
19 account, when the sender has agreed to such an arrangement.

1       (~~(2)~~) (3) "Electronic mail address" means a destination, commonly  
2 expressed as a string of characters, to which electronic mail may be  
3 sent or delivered.

4       (~~(3)~~) (4) "Initiate the transmission" refers to the action by the  
5 original sender of an electronic mail message, not to the action by any  
6 intervening interactive computer service that may handle or retransmit  
7 the message, unless such intervening interactive computer service  
8 assists in the transmission of an electronic mail message when it  
9 knows, or consciously avoids knowing, that the person initiating the  
10 transmission is engaged, or intends to engage, in any act or practice  
11 that violates the consumer protection act.

12       (~~(4)~~) (5) "Interactive computer service" means any information  
13 service, system, or access software provider that provides or enables  
14 computer access by multiple users to a computer server, including  
15 specifically a service or system that provides access to the internet  
16 and such systems operated or services offered by libraries or  
17 educational institutions.

18       (~~(5)~~) (6) "Internet domain name" refers to a globally unique,  
19 hierarchical reference to an internet host or service, assigned through  
20 centralized internet naming authorities, comprising a series of  
21 character strings separated by periods, with the right-most string  
22 specifying the top of the hierarchy.

23       (7) "Person" means a person, corporation, partnership, or  
24 association.

25       (8) "Unsolicited commercial electronic mail message" means a  
26 commercial electronic mail message:

27       (a) Sent without a recipient's prior consent;

28       (b) Sent to a recipient with whom the sender does not have a  
29 preexisting and ongoing business or personal relationship; or

30       (c) Sent for a purpose other than collecting an existing  
31 obligation.

32       **Sec. 2.** RCW 19.190.020 and 1998 c 149 s 3 are each amended to read  
33 as follows:

34       (1) No person(~~(, corporation, partnership, or association)~~) may  
35 initiate the transmission, or assist the transmission, of a commercial  
36 electronic mail message from a computer located in Washington or to an  
37 electronic mail address that the sender knows, or has reason to know,  
38 is held by a Washington resident that:

1 (a) Uses a third party's internet domain name without permission of  
2 the third party, or otherwise misrepresents or obscures any information  
3 in identifying the point of origin or the transmission path of a  
4 commercial electronic mail message; ((or))

5 (b) Contains false or misleading information in the subject line;  
6 or

7 (c) Fails to prominently display in the body of an unsolicited  
8 commercial electronic mail message the following identifying  
9 information: The legal name, mailing address, physical address, true  
10 electronic mail address, and telephone number, including area code, of  
11 the person initiating the transmission of the message.

12 (2) For purposes of this section, a person(~~(, corporation,~~  
13 ~~partnership, or association))~~) knows that the intended recipient of a  
14 commercial electronic mail message is a Washington resident if that  
15 information is available, upon request, from the registrant of the  
16 internet domain name contained in the recipient's electronic mail  
17 address or the information is available in the electronic registry of  
18 Washington internet electronic mail addresses maintained by the  
19 attorney general.

20 **Sec. 3.** RCW 19.190.030 and 1998 c 149 s 4 are each amended to read  
21 as follows:

22 (1) It is a violation of the consumer protection act, chapter 19.86  
23 RCW, to initiate the transmission of a commercial electronic mail  
24 message that:

25 (a) Uses a third party's internet domain name without permission of  
26 the third party, or otherwise misrepresents any information in  
27 identifying the point of origin or the transmission path of a  
28 commercial electronic mail message; ((or))

29 (b) Contains false or misleading information in the subject line;  
30 or

31 (c) Fails to prominently display in the body of an unsolicited  
32 commercial electronic mail message the following identifying  
33 information: The legal name, mailing address, physical address, true  
34 electronic mail address, and telephone number, including area code, of  
35 the person initiating the transmission of the message.

36 (2) It is a violation of the consumer protection act, chapter 19.86  
37 RCW, to assist in the transmission of a commercial electronic mail  
38 message, when the person providing the assistance knows, or consciously

1 avoids knowing, that the initiator of the commercial electronic mail  
2 message is engaged, or intends to engage, in any act or practice that  
3 violates the consumer protection act.

4 (3) The legislature finds that the practices covered by this  
5 chapter are matters vitally affecting the public interest for the  
6 purpose of applying the consumer protection act, chapter 19.86 RCW. A  
7 violation of this chapter is not reasonable in relation to the  
8 development and preservation of business and is an unfair or deceptive  
9 act in trade or commerce and an unfair method of competition for the  
10 purpose of applying the consumer protection act, chapter 19.86 RCW.

11 NEW SECTION. **Sec. 4.** A new section is added to chapter 19.190 RCW  
12 to read as follows:

13 (1) The attorney general is authorized to create an electronic  
14 registry of Washington internet electronic mail addresses. The  
15 attorney general may contract with an independent administrator,  
16 subject to the direction and control of the attorney general, to  
17 operate and maintain the electronic registry. The electronic registry  
18 shall be searchable so that a person wishing to send commercial  
19 electronic mail messages may verify whether an electronic mail address  
20 is registered to a Washington resident. Records in the electronic  
21 registry are exempt from the public disclosure provisions of chapter  
22 42.17 RCW.

23 (2)(a) A person who is a bona fide resident of Washington may  
24 indicate his or her residency in this state by registering his or her  
25 internet electronic mail address in the registry. To ensure that  
26 information is current, a registration is valid for a period of two  
27 years, upon which time the registration expires. A person who remains  
28 a bona fide Washington resident may reregister upon expiration.

29 (b) Each registration in the registry shall be a declaration of  
30 Washington residency made under penalty of perjury. A person who is  
31 not a bona fide resident of Washington is prohibited from registering  
32 his or her internet electronic mail address in the registry.

33 (3)(a) An interactive computer service provider whose clientele  
34 exclusively consists of Washington residents may register all  
35 electronic mail addresses belonging to its users through a single  
36 registration of its internet domain name. Any electronic mail address  
37 containing within it a registered internet domain name shall be  
38 presumed to belong to a Washington resident. To ensure that

1 information is current, a registration is valid for a period of two  
2 years, upon which time the registration expires. An interactive  
3 computer service provider that continues to exclusively provide service  
4 to Washington residents may reregister upon expiration.

5 (b) Each registration in the registry is a declaration under  
6 penalty of perjury that an interactive computer service provider  
7 exclusively provides service to bona fide Washington residents. An  
8 interactive computer service provider who knowingly provides service to  
9 persons who are not bona fide residents of Washington is prohibited  
10 from registering its internet electronic mail address in the registry.

11 NEW SECTION. **Sec. 5.** The definitions in this section apply  
12 throughout this chapter unless the context clearly requires otherwise.

13 (1) "Assist the transmission" means actions taken by a person to  
14 provide substantial assistance or support which enables any person to  
15 formulate, compose, send, originate, initiate, or transmit a  
16 commercial electronic mail message.

17 (2) "Commercial electronic mail message" means an electronic mail  
18 message sent for the purpose of promoting real property, goods, or  
19 services for sale or lease. It does not mean an electronic mail  
20 message to which an interactive computer service provider has attached  
21 an advertisement in exchange for free use of an electronic mail  
22 account, when the sender has agreed to such an arrangement.

23 (3) "Electronic mail address" means a destination, commonly  
24 expressed as a string of characters, to which electronic mail may be  
25 sent or delivered.

26 (4) "Initiate the transmission" refers to the action by the  
27 original sender of an electronic mail message, not to the action by any  
28 intervening interactive computer service that may handle or retransmit  
29 the message, unless such intervening interactive computer service  
30 assists in the transmission of an electronic mail message when it  
31 knows, or consciously avoids knowing, that the person initiating the  
32 transmission is engaged, or intends to engage, in any act or practice  
33 that violates the consumer protection act.

34 (5) "Interactive computer service" means any information service,  
35 system, or access software provider that provides or enables computer  
36 access by multiple users to a computer server, including specifically  
37 a service or system that provides access to the internet and such

1 systems operated or services offered by libraries or educational  
2 institutions.

3 (6) "Person" means a person, corporation, partnership, or  
4 association.

5 (7) "Publish" means to do either of the following with respect to  
6 the interactive computer service provider's policy on unsolicited  
7 commercial electronic mail messages:

8 (a) Make that policy available upon request in written form at no  
9 charge; or

10 (b) Display that policy through an on-line notice on the internet  
11 home page of the interactive computer service provider, or a page  
12 accessible through a conspicuous link on the internet home page of the  
13 interactive computer service provider.

14 (8) "Registered user" means a person that maintains an electronic  
15 mail address with an interactive computer service provider.

16 (9) "Unsolicited commercial electronic mail message" means a  
17 commercial electronic mail message:

18 (a) Sent without a recipient's prior consent;

19 (b) Sent to a recipient with whom the sender does not have a  
20 preexisting and ongoing business or personal relationship; or

21 (c) Sent for a purpose other than collecting an existing  
22 obligation.

23 NEW SECTION. **Sec. 6.** No registered user shall use or cause to be  
24 used an interactive computer service provider's service or equipment  
25 located in this state in violation of the interactive computer service  
26 provider's published policy prohibiting or restricting the use of its  
27 service or equipment for the initiation of unsolicited commercial  
28 electronic mail messages.

29 NEW SECTION. **Sec. 7.** No person shall initiate or assist the  
30 transmission of an unsolicited commercial electronic mail message and  
31 use, or cause to be used, an interactive computer service provider's  
32 equipment located in this state in violation of that interactive  
33 computer service provider's published policy prohibiting or restricting  
34 the use of its service or equipment to deliver unsolicited commercial  
35 electronic messages.

1        NEW SECTION.    **Sec. 8.** An interactive computer service provider is  
2 not required to create a policy prohibiting or restricting the use of  
3 its service or equipment for the initiation or delivery of unsolicited  
4 commercial electronic mail messages.

5        NEW SECTION.    **Sec. 9.** This chapter does not limit or restrict the  
6 rights of an interactive computer service provider under Section  
7 230(c)(1) of Title 47 of the United States Code, under chapter 19.190  
8 RCW, or any decision of an interactive computer service provider to  
9 permit to restrict access to or use of its system, or any exercise of  
10 its editorial function.

11        NEW SECTION.    **Sec. 10.**    (1) In addition to any other action  
12 available under law, any interactive computer service provider whose  
13 published policy on unsolicited commercial electronic mail messages is  
14 violated as provided in this chapter may bring a civil action against  
15 a person or a registered user:

16        (a) Who initiates a message transmitted in violation of the  
17 interactive computer service provider's published policy; or

18        (b) Who assists in the transmission of a message, when the person  
19 providing the assistance knows, or consciously avoids knowing, that the  
20 person initiating the transmission is engaged in, or intends to engage  
21 in, any acts or practices that violate an interactive computer service  
22 provider's published policy.

23        (2) In any action brought pursuant to subsection (1) of this  
24 section, an interactive computer service provider shall be required to  
25 establish as an element of its cause of action that prior to the  
26 alleged violation, the defendant had notice of both of the following:

27        (a) The policy of the interactive computer service provider  
28 regarding unsolicited commercial electronic mail messages; and

29        (b) The fact that the defendant's unsolicited commercial electronic  
30 mail message would use or cause to be used the interactive computer  
31 service provider's equipment located in this state.

32        (3) In addition to any other action available under law, a customer  
33 of an interactive computer service provider whose published policy on  
34 unsolicited commercial electronic mail messages is violated as provided  
35 in this chapter may bring a civil action against a person:

1 (a) Who initiates a message to a customer that is transmitted in  
2 violation of an interactive computer service provider's published  
3 policy; or

4 (b) Who assists in the transmission of a message to a customer,  
5 when the person providing the assistance knows, or consciously avoids  
6 knowing, that the person initiating the transmission is engaged in, or  
7 intends to engage in, any acts or practices that violate an interactive  
8 computer service provider's published policy.

9 (4) In any action brought pursuant to subsection (3) of this  
10 section, a customer of an interactive computer service provider shall  
11 be required to establish as an element of his or her cause of action  
12 that prior to the alleged violation, the defendant had notice of both  
13 of the following:

14 (a) The policy of the customer's interactive computer service  
15 provider regarding unsolicited commercial electronic mail messages; and

16 (b) The fact that the defendant's unsolicited commercial electronic  
17 mail message would use or cause to be used the interactive computer  
18 service provider's equipment located in this state.

19 (5) An interactive computer service provider may recover the actual  
20 monetary loss suffered by that provider by reason of a violation of its  
21 published policy, or liquidated damages of fifty dollars for each  
22 message initiated or delivered in violation of this chapter, up to a  
23 maximum of twenty-five thousand dollars per day, whichever amount is  
24 greater.

25 (6) A customer may recover liquidated damages of five hundred  
26 dollars for each unsolicited commercial electronic mail message  
27 received by the customer in violation of this chapter, up to a maximum  
28 of twenty-five thousand dollars per day, whichever amount is greater.

29 (7) The prevailing party in any action brought under this section  
30 is entitled to recover costs and reasonable attorneys' fees.

31 **Sec. 11.** RCW 42.17.310 and 1998 c 69 s 1 are each amended to read  
32 as follows:

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

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



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

4 (c) Information required of any taxpayer in connection with the  
5 assessment or collection of any tax if the disclosure of the  
6 information to other persons would (i) be prohibited to such persons by  
7 RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the  
8 taxpayer's right to privacy or result in unfair competitive  
9 disadvantage to the taxpayer.

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

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

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

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

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

38 (i) Preliminary drafts, notes, recommendations, and intra-agency  
39 memorandums in which opinions are expressed or policies formulated or

1 recommended except that a specific record shall not be exempt when  
2 publicly cited by an agency in connection with any agency action.

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

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

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

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

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

22 (o) Financial and commercial information and records supplied by  
23 private persons pertaining to export services provided pursuant to  
24 chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to  
25 export projects pursuant to RCW 43.23.035.

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

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

31 (r) Financial and commercial information and records supplied by  
32 businesses or individuals during application for loans or program  
33 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,  
34 or during application for economic development loans or program  
35 services provided by any local agency.

36 (s) Membership lists or lists of members or owners of interests of  
37 units in timeshare projects, subdivisions, camping resorts,  
38 condominiums, land developments, or common-interest communities

1 affiliated with such projects, regulated by the department of  
2 licensing, in the files or possession of the department.

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

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

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

17 (w)(i) The federal social security number of individuals governed  
18 under chapter 18.130 RCW maintained in the files of the department of  
19 health, except this exemption does not apply to requests made directly  
20 to the department from federal, state, and local agencies of  
21 government, and national and state licensing, credentialing,  
22 investigatory, disciplinary, and examination organizations; (ii) the  
23 current residential address and current residential telephone number of  
24 a health care provider governed under chapter 18.130 RCW maintained in  
25 the files of the department, if the provider requests that this  
26 information be withheld from public inspection and copying, and  
27 provides to the department an accurate alternate or business address  
28 and business telephone number. On or after January 1, 1995, the  
29 current residential address and residential telephone number of a  
30 health care provider governed under RCW 18.130.140 maintained in the  
31 files of the department shall automatically be withheld from public  
32 inspection and copying unless the provider specifically requests the  
33 information be released, and except as provided for under RCW  
34 42.17.260(9).

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

37 (y) Information obtained by the board of pharmacy or the department  
38 of health and its representatives as provided in RCW 69.41.044,  
39 69.41.280, and 18.64.420.

1 (z) Financial information, business plans, examination reports, and  
2 any information produced or obtained in evaluating or examining a  
3 business and industrial development corporation organized or seeking  
4 certification under chapter 31.24 RCW.

5 (aa) Financial and commercial information supplied to the state  
6 investment board by any person when the information relates to the  
7 investment of public trust or retirement funds and when disclosure  
8 would result in loss to such funds or in private loss to the providers  
9 of this information.

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

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

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

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

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

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

30 (hh) Information and documents created specifically for, and  
31 collected and maintained by a quality improvement committee pursuant to  
32 RCW 43.70.510, regardless of which agency is in possession of the  
33 information and documents.

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

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

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

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

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

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

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

33 (pp) Records registered in the electronic registry of Washington  
34 internet electronic mail addresses maintained by the attorney general.

35 (2) Except for information described in subsection (1)(c)(i) of  
36 this section and confidential income data exempted from public  
37 inspection pursuant to RCW 84.40.020, the exemptions of this section  
38 are inapplicable to the extent that information, the disclosure of  
39 which would violate personal privacy or vital governmental interests,

1 can be deleted from the specific records sought. No exemption may be  
2 construed to permit the nondisclosure of statistical information not  
3 descriptive of any readily identifiable person or persons.

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

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

14 NEW SECTION. **Sec. 12.** RCW 19.190.005 and 1998 c 149 s 1 are each  
15 repealed.

16 NEW SECTION. **Sec. 13.** Sections 5 through 10 of this act  
17 constitute a new chapter in Title 19 RCW.

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