
Select Committee on Community Security Committee

SSB 6439

Brief Description: Protecting certain domestic security records.

Sponsors: Senate Committee on State & Local Government (originally sponsored by Senators Gardner, Haugen, McCaslin and Winsley; by request of Governor Locke and Attorney General).

Brief Summary of Substitute Bill

- Adds deployment plans and compiled underlying data to current public disclosure exemption for terrorism response plans and vulnerability assessments.
- Adds public disclosure exemptions for: (1) specific intelligence information and specific investigative records shared by federal or international law enforcement agencies with certain state and local agencies; (2) national security records and records from national security briefings; and (3) information regarding infrastructure and security of computer and telecommunications networks.

Hearing Date: 2/28/02

Staff: Caroleen Dineen (786-7156).

Background:

The Public Disclosure Act (PDA) requires agencies to make available for public inspection and copying all public records, unless the information falls within a specific exemption. The PDA is liberally construed, and its exemptions narrowly construed, to promote a public policy of keeping the public informed. The current exemptions are specific and focus generally on issues of personal privacy, personal safety, or vital governmental interests.

In 2001 the PDA was amended to exempt from public disclosure those portions of records containing specific and unique vulnerability assessments and specific and unique response plans intended to prevent or mitigate criminal terrorist acts, the disclosure of which would have a substantial likelihood of threatening public safety. The 2001 amendment references the definition of "terrorist act" in the State Explosives Act - an act that is intended to: (1)

intimidate or coerce a civilian population; (2) influence the policy of a branch or level of government by intimidation or coercion; (3) affect the conduct of a branch of government by intimidation or coercion; or (4) retaliate against a branch or level of government for a policy or conduct of the government.

Summary of Bill:

The Public Disclosure Act's (PDA's) exemption for vulnerability assessments and response plan documents is amended to exempt from public disclosure those portions of records assembled, prepared, or maintained to prevent, mitigate, or respond to certain terrorism crimes (specified in SHB 2879 of the 2002 session), the public disclosure of which would have a substantial likelihood of threatening public safety. The terrorism crimes specified in SHB 2879 are terrorism in the first degree, terrorism in the second degree, unlawful use or possession of a weapon of mass destruction, threatening acts of terrorism in the first degree, providing material support or resources to terrorists, and unlawful possession of false identification for terrorist purposes. Specifically included within this exemption are deployment plans and compiled underlying data collected in preparation of or essential to the assessments or to the response or deployment plans.

Other records exempt from public disclosure are specific intelligence information and investigative records shared by federal and international law enforcement agencies with state and local law enforcement, the Governor, the state Military Department, the Department of Transportation, state and local health departments, or state and local emergency management agencies. In addition, the PDA exempts:

- national security records classified under federal executive order and not subject to public disclosure under federal law that are shared by federal agencies; and
- records prepared from national security briefings provided to state or local government officials related to domestic preparedness for acts of terrorism.

A new PDA exemption is added for information regarding the infrastructure and security of computer and telecommunications networks. This information includes security passwords, security access codes and programs, access codes for secure software applications, security and service recovery plans, security risk assessments, and security test results that identify specific system vulnerabilities.

Appropriation: None.

Fiscal Note: Not Requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.