

# SENATE BILL REPORT

## SSB 6439

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As Passed Senate, February 18, 2002

**Title:** An act relating to exemptions from disclosure of public records for domestic security purposes.

**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 History:**

**Committee Activity:** State & Local Government: 1/30/02, 2/6/02 [DPS, DNP].  
Passed Senate: 2/18/02, 44-4.

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### SENATE COMMITTEE ON STATE & LOCAL GOVERNMENT

**Majority Report:** That Substitute Senate Bill No. 6439 be substituted therefor, and the substitute bill do pass.

Signed by Senators Gardner, Chair; Hale, Haugen, Horn, Keiser, Kline, McCaslin and Swecker.

**Minority Report:** Do not pass.

Signed by Senator Fairley, Vice Chair.

**Staff:** Mac Nicholson (786-7445)

**Background:** It has been argued that the events of September 11, 2001, have focused our nation's attention on the importance of preparedness in preventing, investigating, and prosecuting acts of terrorism. To further that effort, some have argued that certain records should be exempt from public inspection and copying.

**Summary of Bill:** The following records are exempt from public inspection and copying: those portions of records assembled, prepared, or maintained to prevent mitigate, or respond to terrorism crimes specified in sections 3 through 8 of SHB 2879, the public disclosure of which would have a substantial likelihood of threatening public safety, containing: (1) specific and unique vulnerability assessments or specific and unique response or deployment plans, including compiled underlying data collected in preparation of or essential to the assessments, or the response or deployment plans; (2) specific intelligence information and investigative records shared by federal or international law enforcement agencies with state or local law enforcement, the Governor, the Military Department, the Department of Transportation, state and local health departments, or state and local emergency management agencies; (3) 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.

Also exempt from public inspection and copying is information regarding the infrastructure and security of computer and telecommunications networks, consisting of 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 system vulnerabilities.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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

**Testimony For:** Federal agencies have concerns about Washington's sunshine laws that may require public disclosure of federal information disseminated to state and local law enforcement agencies. System vulnerability concerns can be decreased by exempting certain records from public disclosure. The state cannot give blueprints to terrorists by making vulnerability assessments available for public inspection.

**Testimony Against:** Many of the concerns addressed in this legislation are already covered by existing exemptions to public disclosure. The public disclosure exemptions need to be narrowly drawn so as not to withhold information the public wants to know about, such as pipeline designs and safety assessments.

**Testified:** PRO: Christine Gregoire, Attorney General; Kathy Mix, Office of the Attorney General; Glen Woodbury, State Military Dept., Emergency Management Division; Fred Hellberg, Office of the Governor; Chief Ronal Serpas, WSP; Michael McVicker, Dept. of Information Services; Bob Mack, City of Tacoma; CON: Diana Kramer, WA Newspaper Publishers Assoc.; Rowland Thompson, Allied Daily Newspapers of WA; Chris Clifford.

**House Amendment(s):** The provision exempting specific intelligence information and specific investigative records shared by federal and international law enforcement agencies with state or local law enforcement and certain other state and local agencies is removed.

The provision exempting national security records is changed to apply to all records not subject to disclosure under federal law that are shared by federal or international agencies with state or local government officials or to information (rather than records) prepared from national security briefings provided to state and local government officials.

The Joint Legislative Audit and Review Committee (JLARC) must review the effect of the public disclosure exemptions established by this bill on state agency performance in responding to public disclosure requests.