
SUBSTITUTE SENATE BILL 5255

State of Washington

57th Legislature

2001 Regular Session

By Senate Committee on Judiciary (originally sponsored by Senators Kastama, Regala and Costa)

READ FIRST TIME 02/27/01.

1 AN ACT Relating to the public disclosure of specific and unique
2 information related to criminal acts of terrorism; reenacting and
3 amending RCW 42.17.310; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that public health and
6 safety is promoted when the public has knowledge that enables them to
7 make informed choices about their health and safety. Therefore, the
8 legislature declares, as a matter of public policy, that the public has
9 a right to information necessary to protect members of the public from
10 harm caused by alleged hazards or threats to the public.

11 The legislature also recognizes that the public disclosure of those
12 portions of records containing specific and unique vulnerability
13 assessments or specific and unique response plans, either of which is
14 intended to prevent or mitigate criminal terrorist acts as defined in
15 RCW 70.74.285, could have a substantial likelihood of threatening
16 public safety. Therefore, the legislature declares, as a matter of
17 public policy, that such specific and unique information should be
18 protected from unnecessary disclosure.

1 **Sec. 2.** RCW 42.17.310 and 2000 c 134 s 3, 2000 c 56 s 1, and 2000
2 c 6 s 5 are each reenacted and amended to read 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, computer source code or
4 object code, and research data obtained by any agency within five years
5 of the request for disclosure when disclosure would produce private
6 gain and public loss.

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

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

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

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

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

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

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

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

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

1 (r) Financial and commercial information and records supplied by
2 businesses or individuals during application for loans or program
3 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,
4 or during application for economic development loans or program
5 services provided by any local agency.

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

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

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

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

25 (w)(i) The federal social security number of individuals governed
26 under chapter 18.130 RCW maintained in the files of the department of
27 health, except this exemption does not apply to requests made directly
28 to the department from federal, state, and local agencies of
29 government, and national and state licensing, credentialing,
30 investigatory, disciplinary, and examination organizations; (ii) the
31 current residential address and current residential telephone number of
32 a health care provider governed under chapter 18.130 RCW maintained in
33 the files of the department, if the provider requests that this
34 information be withheld from public inspection and copying, and
35 provides to the department an accurate alternate or business address
36 and business telephone number. On or after January 1, 1995, the
37 current residential address and residential telephone number of a
38 health care provider governed under RCW 18.130.040 maintained in the
39 files of the department shall automatically be withheld from public

1 inspection and copying unless the provider specifically requests the
2 information be released, and except as provided for under RCW
3 42.17.260(9).

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

6 (y) Information obtained by the board of pharmacy or the department
7 of health and its representatives as provided in RCW 69.41.044,
8 69.41.280, and 18.64.420.

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

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

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

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

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

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

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

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

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

1 RCW 43.70.510 or 70.41.200, or by a peer review committee under RCW
2 4.24.250, regardless of which agency is in possession of the
3 information and documents.

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

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

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

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

19 (mm) The personally identifying information of current or former
20 participants or applicants in a paratransit or other transit service
21 operated for the benefit of persons with disabilities or elderly
22 persons.

23 (nn) The personally identifying information of persons who acquire
24 and use transit passes and other fare payment media including, but not
25 limited to, stored value smart cards and magnetic strip cards, except
26 that an agency may disclose this information to a person, employer,
27 educational institution, or other entity that is responsible, in whole
28 or in part, for payment of the cost of acquiring or using a transit
29 pass or other fare payment media, or to the news media when reporting
30 on public transportation or public safety. This information may also
31 be disclosed at the agency's discretion to governmental agencies or
32 groups concerned with public transportation or public safety.

33 (oo) Proprietary financial and commercial information that the
34 submitting entity, with review by the department of health,
35 specifically identifies at the time it is submitted and that is
36 provided to or obtained by the department of health in connection with
37 an application for, or the supervision of, an antitrust exemption
38 sought by the submitting entity under RCW 43.72.310. If a request for
39 such information is received, the submitting entity must be notified of

1 the request. Within ten business days of receipt of the notice, the
2 submitting entity shall provide a written statement of the continuing
3 need for confidentiality, which shall be provided to the requester.
4 Upon receipt of such notice, the department of health shall continue to
5 treat information designated under this section as exempt from
6 disclosure. If the requester initiates an action to compel disclosure
7 under this chapter, the submitting entity must be joined as a party to
8 demonstrate the continuing need for confidentiality.

9 (pp) Records maintained by the board of industrial insurance
10 appeals that are related to appeals of crime victims' compensation
11 claims filed with the board under RCW 7.68.110.

12 (qq) Financial and commercial information supplied by or on behalf
13 of a person, firm, corporation, or entity under chapter 28B.95 RCW
14 relating to the purchase or sale of tuition units and contracts for the
15 purchase of multiple tuition units.

16 (rr) Any records of investigative reports prepared by any state,
17 county, municipal, or other law enforcement agency pertaining to sex
18 offenses contained in chapter 9A.44 RCW or sexually violent offenses as
19 defined in RCW 71.09.020, which have been transferred to the Washington
20 association of sheriffs and police chiefs for permanent electronic
21 retention and retrieval pursuant to RCW 40.14.070(2)(b).

22 (ss) Credit card numbers, debit card numbers, electronic check
23 numbers, card expiration dates, or bank or other financial account
24 numbers supplied to an agency for the purpose of electronic transfer of
25 funds, except when disclosure is expressly required by law.

26 (tt) Financial information, including but not limited to account
27 numbers and values, and other identification numbers supplied by or on
28 behalf of a person, firm, corporation, limited liability company,
29 partnership, or other entity related to an application for a liquor
30 license, gambling license, or lottery retail license.

31 (uu) Records maintained by the employment security department and
32 subject to chapter 50.13 RCW if provided to another individual or
33 organization for operational, research, or evaluation purposes.

34 (vv) Individually identifiable information received by the work
35 force training and education coordinating board for research or
36 evaluation purposes.

37 (ww) Those portions of records containing specific and unique
38 vulnerability assessments or specific and unique response plans, either
39 of which is intended to prevent or mitigate criminal terrorist acts as

1 defined in RCW 70.74.285, the public disclosure of which would have a
2 substantial likelihood of threatening public safety.

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

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

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

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