

2SHB 1758 - S AMD TO GO COMM AMD (S3078.1) **479**
By Senators Hargrove, Brandland

ADOPTED 04/11/2005

1 On page 1, after line 2 of the amendment, insert the following:

2 "NEW SECTION. **Sec. 1.** It is and has been the intent of the
3 legislature that information regarding sex offenders be shared between
4 state agencies and with local law enforcement, and that public
5 disclosure of sex offender information that is accurate, relevant, and
6 necessary to protect the public be managed by and controlled through
7 the community notification statute, RCW 4.24.550. The legislature
8 finds that law enforcement has been, and continues to be, the most
9 reliable means of ensuring that the information released protects the
10 public, protects the confidentiality of victims, protects ongoing
11 criminal investigations, and complies with the confidentiality
12 provisions of other federal and state laws. The legislature further
13 finds that the criminal records privacy act and other statutes
14 reference RCW 4.24.550 as the disclosure provision for sex offender
15 information.

16 The legislature finds that to accomplish its penological duties,
17 the department of corrections must receive and use protected
18 information to appropriately confine, supervise, treat, and assess the
19 risk of offenders. To further this intent, the legislature has
20 authorized the end of sentence review committee to access and consider
21 information that otherwise may be confidential for the specific reason
22 of determining if the offender should be referred for civil commitment
23 as a sexually violent predator under chapter 71.09 RCW. The
24 legislature further finds that it is appropriate for the department to
25 share information, beyond what is publicly disclosable, with law
26 enforcement agencies for the appropriate supervision of offenders in
27 the community or for the investigation of criminal acts. The
28 legislature does not intend that law enforcement bulletins or notes,
29 comments, and assessments of the end of sentence review committee to
30 assess the risk, or plan the transition of sex offenders to the

1 community, be available for public inspection through public disclosure
2 due to the risk that providing the information in such a manner would
3 pose to the state's community notification program and the risk that
4 the information would unnecessarily traumatize the victims of the
5 offenders' previous offenses."

6 On page 2, after line 17 of the amendment, insert the following:

7 "Sec. 3. RCW 42.17.310 and 2003 1st sp.s. c 26 s 926, 2003 c 277
8 s 3, and 2003 c 124 s 1 are each reenacted and amended to read as
9 follows:

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

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

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

17 (c) Information required of any taxpayer in connection with the
18 assessment or collection of any tax if the disclosure of the
19 information to other persons would (i) be prohibited to such persons by
20 RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the
21 taxpayer's right to privacy or result in unfair competitive
22 disadvantage to the taxpayer.

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

29 (e) Information revealing the identity of persons who are witnesses
30 to or victims of crime or who file complaints with investigative, law
31 enforcement, or penology agencies, other than the public disclosure
32 commission, if disclosure would endanger any person's life, physical
33 safety, or property. If at the time a complaint is filed the
34 complainant, victim or witness indicates a desire for disclosure or
35 nondisclosure, such desire shall govern. However, all complaints filed

1 with the public disclosure commission about any elected official or
2 candidate for public office must be made in writing and signed by the
3 complainant under oath.

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

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

13 (h) Valuable formulae, designs, drawings, computer source code or
14 object code, and research data obtained by any agency within five years
15 of the request for disclosure when disclosure would produce private
16 gain and public loss.

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

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

25 (k) Records, maps, or other information identifying the location of
26 archaeological sites in order to avoid the looting or depredation of
27 such sites.

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

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

36 (n) Railroad company contracts filed prior to July 28, 1991, with
37 the utilities and transportation commission under RCW 81.34.070, except

1 that the summaries of the contracts are open to public inspection and
2 copying as otherwise provided by this chapter.

3 (o) Financial and commercial information and records supplied by
4 private persons pertaining to export services provided pursuant to
5 chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to
6 export projects pursuant to RCW 43.23.035.

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

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

12 (r) Financial and commercial information and records supplied by
13 businesses or individuals during application for loans or program
14 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,
15 or during application for economic development loans or program
16 services provided by any local agency.

17 (s) Membership lists or lists of members or owners of interests of
18 units in timeshare projects, subdivisions, camping resorts,
19 condominiums, land developments, or common-interest communities
20 affiliated with such projects, regulated by the department of
21 licensing, in the files or possession of the department.

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

25 (u) The residential addresses or residential telephone numbers of
26 employees or volunteers of a public agency which are held by any public
27 agency in personnel records, public employment related records, or
28 volunteer rosters, or are included in any mailing list of employees or
29 volunteers of any public agency.

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

37 (w)(i) The federal social security number of individuals governed
38 under chapter 18.130 RCW maintained in the files of the department of

1 health, except this exemption does not apply to requests made directly
2 to the department from federal, state, and local agencies of
3 government, and national and state licensing, credentialing,
4 investigatory, disciplinary, and examination organizations; (ii) the
5 current residential address and current residential telephone number of
6 a health care provider governed under chapter 18.130 RCW maintained in
7 the files of the department, if the provider requests that this
8 information be withheld from public inspection and copying, and
9 provides to the department an accurate alternate or business address
10 and business telephone number. On or after January 1, 1995, the
11 current residential address and residential telephone number of a
12 health care provider governed under RCW 18.130.040 maintained in the
13 files of the department shall automatically be withheld from public
14 inspection and copying unless the provider specifically requests the
15 information be released, and except as provided for under RCW
16 42.17.260(9).

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

19 (y) Information obtained by the board of pharmacy or the department
20 of health and its representatives as provided in RCW 69.41.044,
21 69.41.280, and 18.64.420.

22 (z) Financial information, business plans, examination reports, and
23 any information produced or obtained in evaluating or examining a
24 business and industrial development corporation organized or seeking
25 certification under chapter 31.24 RCW.

26 (aa) Financial and commercial information supplied to the state
27 investment board by any person when the information relates to the
28 investment of public trust or retirement funds and when disclosure
29 would result in loss to such funds or in private loss to the providers
30 of this information.

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

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

35 (dd) Information that identifies a person who, while an agency
36 employee: (i) Seeks advice, under an informal process established by
37 the employing agency, in order to ascertain his or her rights in

1 connection with a possible unfair practice under chapter 49.60 RCW
2 against the person; and (ii) requests his or her identity or any
3 identifying information not be disclosed.

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

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

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

14 (hh) Information and documents created specifically for, and
15 collected and maintained by a quality improvement committee pursuant to
16 RCW 43.70.510 or 70.41.200, or by a peer review committee under RCW
17 4.24.250, regardless of which agency is in possession of the
18 information and documents.

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

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

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

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

34 (mm) The personally identifying information of current or former
35 participants or applicants in a paratransit or other transit service
36 operated for the benefit of persons with disabilities or elderly
37 persons.

1 (nn) The personally identifying information of persons who acquire
2 and use transit passes and other fare payment media including, but not
3 limited to, stored value smart cards and magnetic strip cards, except
4 that an agency may disclose this information to a person, employer,
5 educational institution, or other entity that is responsible, in whole
6 or in part, for payment of the cost of acquiring or using a transit
7 pass or other fare payment media, or to the news media when reporting
8 on public transportation or public safety. This information may also
9 be disclosed at the agency's discretion to governmental agencies or
10 groups concerned with public transportation or public safety.

11 (oo) 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 (pp) 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 (qq) 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 (rr) Any records of investigative reports prepared by any state,
34 county, municipal, or other law enforcement agency pertaining to sex
35 offenses contained in chapter 9A.44 RCW or sexually violent offenses as
36 defined in RCW 71.09.020, which have been transferred to the Washington
37 association of sheriffs and police chiefs for permanent electronic
38 retention and retrieval pursuant to RCW 40.14.070(2)(b).

1 (ss) Credit card numbers, debit card numbers, electronic check
2 numbers, card expiration dates, or bank or other financial account
3 numbers, except when disclosure is expressly required by or governed by
4 other law.

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

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

13 (vv) Individually identifiable information received by the work
14 force training and education coordinating board for research or
15 evaluation purposes.

16 (ww) Those portions of records assembled, prepared, or maintained
17 to prevent, mitigate, or respond to criminal terrorist acts, which are
18 acts that significantly disrupt the conduct of government or of the
19 general civilian population of the state or the United States and that
20 manifest an extreme indifference to human life, the public disclosure
21 of which would have a substantial likelihood of threatening public
22 safety, consisting of:

23 (i) Specific and unique vulnerability assessments or specific and
24 unique response or deployment plans, including compiled underlying data
25 collected in preparation of or essential to the assessments, or to the
26 response or deployment plans; and

27 (ii) Records not subject to public disclosure under federal law
28 that are shared by federal or international agencies, and information
29 prepared from national security briefings provided to state or local
30 government officials related to domestic preparedness for acts of
31 terrorism.

32 (xx) Commercial fishing catch data from logbooks required to be
33 provided to the department of fish and wildlife under RCW 77.12.047,
34 when the data identifies specific catch location, timing, or
35 methodology and the release of which would result in unfair competitive
36 disadvantage to the commercial fisher providing the catch data.
37 However, this information may be released to government agencies
38 concerned with the management of fish and wildlife resources.

1 (yy) Sensitive wildlife data obtained by the department of fish and
2 wildlife. However, sensitive wildlife data may be released to
3 government agencies concerned with the management of fish and wildlife
4 resources. Sensitive wildlife data includes:

5 (i) The nesting sites or specific locations of endangered species
6 designated under RCW 77.12.020, or threatened or sensitive species
7 classified by rule of the department of fish and wildlife;

8 (ii) Radio frequencies used in, or locational data generated by,
9 telemetry studies; or

10 (iii) Other location data that could compromise the viability of a
11 specific fish or wildlife population, and where at least one of the
12 following criteria are met:

13 (A) The species has a known commercial or black market value;

14 (B) There is a history of malicious take of that species; or

15 (C) There is a known demand to visit, take, or disturb, and the
16 species behavior or ecology renders it especially vulnerable or the
17 species has an extremely limited distribution and concentration.

18 (zz) The personally identifying information of persons who acquire
19 recreational licenses under RCW 77.32.010 or commercial licenses under
20 chapter 77.65 or 77.70 RCW, except name, address of contact used by the
21 department, and type of license, endorsement, or tag. However, the
22 department of fish and wildlife may disclose personally identifying
23 information to:

24 (i) Government agencies concerned with the management of fish and
25 wildlife resources;

26 (ii) The department of social and health services, child support
27 division, and to the department of licensing in order to implement RCW
28 77.32.014 and 46.20.291; and

29 (iii) Law enforcement agencies for the purpose of firearm
30 possession enforcement under RCW 9.41.040.

31 (aaa)(i) Discharge papers of a veteran of the armed forces of the
32 United States filed at the office of the county auditor before July 1,
33 2002, that have not been commingled with other recorded documents.
34 These records will be available only to the veteran, the veteran's next
35 of kin, a deceased veteran's properly appointed personal representative
36 or executor, a person holding that veteran's general power of attorney,
37 or to anyone else designated in writing by that veteran to receive the
38 records.

1 (ii) Discharge papers of a veteran of the armed forces of the
2 United States filed at the office of the county auditor before July 1,
3 2002, that have been commingled with other records, if the veteran has
4 recorded a "request for exemption from public disclosure of discharge
5 papers" with the county auditor. If such a request has been recorded,
6 these records may be released only to the veteran filing the papers,
7 the veteran's next of kin, a deceased veteran's properly appointed
8 personal representative or executor, a person holding the veteran's
9 general power of attorney, or anyone else designated in writing by the
10 veteran to receive the records.

11 (iii) Discharge papers of a veteran filed at the office of the
12 county auditor after June 30, 2002, are not public records, but will be
13 available only to the veteran, the veteran's next of kin, a deceased
14 veteran's properly appointed personal representative or executor, a
15 person holding the veteran's general power of attorney, or anyone else
16 designated in writing by the veteran to receive the records.

17 (iv) For the purposes of this subsection (1)(aaa), next of kin of
18 deceased veterans have the same rights to full access to the record.
19 Next of kin are the veteran's widow or widower who has not remarried,
20 son, daughter, father, mother, brother, and sister.

21 (bbb) Those portions of records containing specific and unique
22 vulnerability assessments or specific and unique emergency and escape
23 response plans at a city, county, or state adult or juvenile
24 correctional facility, the public disclosure of which would have a
25 substantial likelihood of threatening the security of a city, county,
26 or state adult or juvenile correctional facility or any individual's
27 safety.

28 (ccc) Information compiled by school districts or schools in the
29 development of their comprehensive safe school plans pursuant to RCW
30 28A.320.125, to the extent that they identify specific vulnerabilities
31 of school districts and each individual school.

32 (ddd) Information regarding the infrastructure and security of
33 computer and telecommunications networks, consisting of security
34 passwords, security access codes and programs, access codes for secure
35 software applications, security and service recovery plans, security
36 risk assessments, and security test results to the extent that they
37 identify specific system vulnerabilities.

1 (eee) Information obtained and exempted or withheld from public
2 inspection by the health care authority under RCW 41.05.026, whether
3 retained by the authority, transferred to another state purchased
4 health care program by the authority, or transferred by the authority
5 to a technical review committee created to facilitate the development,
6 acquisition, or implementation of state purchased health care under
7 chapter 41.05 RCW.

8 (fff) Proprietary data, trade secrets, or other information that
9 relates to: (i) A vendor's unique methods of conducting business; (ii)
10 data unique to the product or services of the vendor; or (iii)
11 determining prices or rates to be charged for services, submitted by
12 any vendor to the department of social and health services for purposes
13 of the development, acquisition, or implementation of state purchased
14 health care as defined in RCW 41.05.011.

15 (ggg) Proprietary information deemed confidential for the purposes
16 of section 923, chapter 26, Laws of 2003 1st sp. sess.

17 (hhh) Records or documents obtained, maintained, or used by an
18 agency with jurisdiction over the release of sex offenders for the
19 purpose of fulfilling the responsibility of the end of sentence review
20 committee, and the requirements under RCW 72.09.345, 71.09.025, and
21 9.95.420 are disclosable only under the community notification
22 provisions of RCW 4.24.550.

23 (iii) Law enforcement bulletins created by the end of sentence
24 review committee or a correctional authority to be provided to law
25 enforcement agencies for the purpose of meeting the requirements of RCW
26 4.24.550.

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

35 (3) Inspection or copying of any specific records exempt under the
36 provisions of this section may be permitted if the superior court in
37 the county in which the record is maintained finds, after a hearing

1 with notice thereof to every person in interest and the agency, that
2 the exemption of such records is clearly unnecessary to protect any
3 individual's right of privacy or any vital governmental function.

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

8 **Sec. 4.** RCW 42.17.310 and 2003 c 277 s 3 and 2003 c 124 s 1 are
9 each reenacted and amended to read as follows:

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

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

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

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18 assessment or collection of any tax if the disclosure of the
19 information to other persons would (i) be prohibited to such persons by
20 RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the
21 taxpayer's right to privacy or result in unfair competitive
22 disadvantage to the taxpayer.

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24 records compiled by investigative, law enforcement, and penology
25 agencies, and state agencies vested with the responsibility to
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30 to or victims of crime or who file complaints with investigative, law
31 enforcement, or penology agencies, other than the public disclosure
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33 safety, or property. If at the time a complaint is filed the
34 complainant, victim or witness indicates a desire for disclosure or
35 nondisclosure, such desire shall govern. However, all complaints filed
36 with the public disclosure commission about any elected official or

1 candidate for public office must be made in writing and signed by the
2 complainant under oath.

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4 to administer a license, employment, or academic examination.

5 (g) Except as provided by chapter 8.26 RCW, the contents of real
6 estate appraisals, made for or by any agency relative to the
7 acquisition or sale of property, until the project or prospective sale
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22 to an applicant.

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25 agency in personnel records, public employment related records, or
26 volunteer rosters, or are included in any mailing list of employees or
27 volunteers of any public agency.

28 (v) The residential addresses and residential telephone numbers of
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4 a health care provider governed under chapter 18.130 RCW maintained in
5 the files of the department, if the provider requests that this
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7 provides to the department an accurate alternate or business address
8 and business telephone number. On or after January 1, 1995, the
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21 any information produced or obtained in evaluating or examining a
22 business and industrial development corporation organized or seeking
23 certification under chapter 31.24 RCW.

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25 investment board by any person when the information relates to the
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31 violence program as defined in RCW 70.123.020 or 70.123.075 or a rape
32 crisis center as defined in RCW 70.125.030.

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

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

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

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

11 (hh) Information and documents created specifically for, and
12 collected and maintained by a quality improvement committee pursuant to
13 RCW 43.70.510 or 70.41.200, or by a peer review committee under RCW
14 4.24.250, regardless of which agency is in possession of the
15 information and documents.

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

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

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

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

31 (mm) The personally identifying information of current or former
32 participants or applicants in a paratransit or other transit service
33 operated for the benefit of persons with disabilities or elderly
34 persons.

35 (nn) The personally identifying information of persons who acquire
36 and use transit passes and other fare payment media including, but not
37 limited to, stored value smart cards and magnetic strip cards, except
38 that an agency may disclose this information to a person, employer,

1 educational institution, or other entity that is responsible, in whole
2 or in part, for payment of the cost of acquiring or using a transit
3 pass or other fare payment media, or to the news media when reporting
4 on public transportation or public safety. This information may also
5 be disclosed at the agency's discretion to governmental agencies or
6 groups concerned with public transportation or public safety.

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

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

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

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

35 (ss) Credit card numbers, debit card numbers, electronic check
36 numbers, card expiration dates, or bank or other financial account
37 numbers, except when disclosure is expressly required by or governed by
38 other law.

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

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

9 (vv) Individually identifiable information received by the work
10 force training and education coordinating board for research or
11 evaluation purposes.

12 (ww) Those portions of records assembled, prepared, or maintained
13 to prevent, mitigate, or respond to criminal terrorist acts, which are
14 acts that significantly disrupt the conduct of government or of the
15 general civilian population of the state or the United States and that
16 manifest an extreme indifference to human life, the public disclosure
17 of which would have a substantial likelihood of threatening public
18 safety, consisting of:

19 (i) Specific and unique vulnerability assessments or specific and
20 unique response or deployment plans, including compiled underlying data
21 collected in preparation of or essential to the assessments, or to the
22 response or deployment plans; and

23 (ii) Records not subject to public disclosure under federal law
24 that are shared by federal or international agencies, and information
25 prepared from national security briefings provided to state or local
26 government officials related to domestic preparedness for acts of
27 terrorism.

28 (xx) Commercial fishing catch data from logbooks required to be
29 provided to the department of fish and wildlife under RCW 77.12.047,
30 when the data identifies specific catch location, timing, or
31 methodology and the release of which would result in unfair competitive
32 disadvantage to the commercial fisher providing the catch data.
33 However, this information may be released to government agencies
34 concerned with the management of fish and wildlife resources.

35 (yy) Sensitive wildlife data obtained by the department of fish and
36 wildlife. However, sensitive wildlife data may be released to
37 government agencies concerned with the management of fish and wildlife
38 resources. Sensitive wildlife data includes:

1 (i) The nesting sites or specific locations of endangered species
2 designated under RCW 77.12.020, or threatened or sensitive species
3 classified by rule of the department of fish and wildlife;

4 (ii) Radio frequencies used in, or locational data generated by,
5 telemetry studies; or

6 (iii) Other location data that could compromise the viability of a
7 specific fish or wildlife population, and where at least one of the
8 following criteria are met:

9 (A) The species has a known commercial or black market value;

10 (B) There is a history of malicious take of that species; or

11 (C) There is a known demand to visit, take, or disturb, and the
12 species behavior or ecology renders it especially vulnerable or the
13 species has an extremely limited distribution and concentration.

14 (zz) The personally identifying information of persons who acquire
15 recreational licenses under RCW 77.32.010 or commercial licenses under
16 chapter 77.65 or 77.70 RCW, except name, address of contact used by the
17 department, and type of license, endorsement, or tag. However, the
18 department of fish and wildlife may disclose personally identifying
19 information to:

20 (i) Government agencies concerned with the management of fish and
21 wildlife resources;

22 (ii) The department of social and health services, child support
23 division, and to the department of licensing in order to implement RCW
24 77.32.014 and 46.20.291; and

25 (iii) Law enforcement agencies for the purpose of firearm
26 possession enforcement under RCW 9.41.040.

27 (aaa)(i) Discharge papers of a veteran of the armed forces of the
28 United States filed at the office of the county auditor before July 1,
29 2002, that have not been commingled with other recorded documents.
30 These records will be available only to the veteran, the veteran's next
31 of kin, a deceased veteran's properly appointed personal representative
32 or executor, a person holding that veteran's general power of attorney,
33 or to anyone else designated in writing by that veteran to receive the
34 records.

35 (ii) Discharge papers of a veteran of the armed forces of the
36 United States filed at the office of the county auditor before July 1,
37 2002, that have been commingled with other records, if the veteran has
38 recorded a "request for exemption from public disclosure of discharge

1 papers" with the county auditor. If such a request has been recorded,
2 these records may be released only to the veteran filing the papers,
3 the veteran's next of kin, a deceased veteran's properly appointed
4 personal representative or executor, a person holding the veteran's
5 general power of attorney, or anyone else designated in writing by the
6 veteran to receive the records.

7 (iii) Discharge papers of a veteran filed at the office of the
8 county auditor after June 30, 2002, are not public records, but will be
9 available only to the veteran, the veteran's next of kin, a deceased
10 veteran's properly appointed personal representative or executor, a
11 person holding the veteran's general power of attorney, or anyone else
12 designated in writing by the veteran to receive the records.

13 (iv) For the purposes of this subsection (1)(aaa), next of kin of
14 deceased veterans have the same rights to full access to the record.
15 Next of kin are the veteran's widow or widower who has not remarried,
16 son, daughter, father, mother, brother, and sister.

17 (bbb) Those portions of records containing specific and unique
18 vulnerability assessments or specific and unique emergency and escape
19 response plans at a city, county, or state adult or juvenile
20 correctional facility, the public disclosure of which would have a
21 substantial likelihood of threatening the security of a city, county,
22 or state adult or juvenile correctional facility or any individual's
23 safety.

24 (ccc) Information compiled by school districts or schools in the
25 development of their comprehensive safe school plans pursuant to RCW
26 28A.320.125, to the extent that they identify specific vulnerabilities
27 of school districts and each individual school.

28 (ddd) Information regarding the infrastructure and security of
29 computer and telecommunications networks, consisting of security
30 passwords, security access codes and programs, access codes for secure
31 software applications, security and service recovery plans, security
32 risk assessments, and security test results to the extent that they
33 identify specific system vulnerabilities.

34 (eee) Information obtained and exempted or withheld from public
35 inspection by the health care authority under RCW 41.05.026, whether
36 retained by the authority, transferred to another state purchased
37 health care program by the authority, or transferred by the authority

1 to a technical review committee created to facilitate the development,
2 acquisition, or implementation of state purchased health care under
3 chapter 41.05 RCW.

4 (fff) Proprietary data, trade secrets, or other information that
5 relates to: (i) A vendor's unique methods of conducting business; (ii)
6 data unique to the product or services of the vendor; or (iii)
7 determining prices or rates to be charged for services, submitted by
8 any vendor to the department of social and health services for purposes
9 of the development, acquisition, or implementation of state purchased
10 health care as defined in RCW 41.05.011.

11 (ggg) Records or documents obtained, maintained, or used by an
12 agency with jurisdiction over the release of sex offenders for the
13 purpose of fulfilling the responsibility of the end of sentence review
14 committee, and the requirements under RCW 72.09.345, 71.09.025, and
15 9.95.420 are disclosable only under the community notification
16 provisions of RCW 4.24.550.

17 (hhh) Law enforcement bulletins created by the end of sentence
18 review committee or a correctional authority to be provided to law
19 enforcement agencies for the purpose of meeting the requirements of RCW
20 4.24.550.

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

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

35 (4) Agency responses refusing, in whole or in part, inspection of
36 any public record shall include a statement of the specific exemption
37 authorizing the withholding of the record (or part) and a brief
38 explanation of how the exemption applies to the record withheld."

1 Renumber the remaining sections consecutively and correct any
2 internal references accordingly.

3 On page 4, after line 22 of the amendment, insert the following:

4 "**Sec. 6.** RCW 72.09.345 and 1997 c 364 s 4 are each amended to read
5 as follows:

6 (1) In addition to any other information required to be released
7 under this chapter, the department is authorized, pursuant to RCW
8 4.24.550, to release relevant information that is necessary to protect
9 the public concerning offenders convicted of sex offenses.

10 (2) In order for public agencies to have the information necessary
11 to notify the public as authorized in RCW 4.24.550, the secretary shall
12 establish and administer an end-of-sentence review committee for the
13 purposes of assigning risk levels, reviewing available release plans,
14 and making appropriate referrals for sex offenders. The committee
15 shall assess, on a case-by-case basis, the public risk posed by sex
16 offenders who are: (a) Preparing for their release from confinement
17 for sex offenses committed on or after July 1, 1984; and (b) accepted
18 from another state under a reciprocal agreement under the interstate
19 compact authorized in chapter 72.74 RCW.

20 (3) Notwithstanding any other provision of law, the committee shall
21 have access to all relevant records and information in the possession
22 of public agencies relating to the offenders under review, including
23 police reports; prosecutors' statements of probable cause; presentence
24 investigations and reports; complete judgments and sentences; current
25 classification referrals; criminal history summaries; violation and
26 disciplinary reports; all psychological evaluations and psychiatric
27 hospital reports; sex offender treatment program reports; and juvenile
28 records. Records and information obtained under this subsection shall
29 not be disclosed outside the committee unless otherwise authorized by
30 law.

31 (4) The committee shall review each sex offender under its
32 authority before the offender's release from confinement or start of
33 the offender's term of community placement or community custody in
34 order to: (a) Classify the offender into a risk level for the purposes
35 of public notification under RCW 4.24.550; (b) where available, review

1 the offender's proposed release plan in accordance with the
2 requirements of RCW 72.09.340; and (c) make appropriate referrals.

3 (5) The committee shall classify as risk level I those sex
4 offenders whose risk assessments indicate a low risk of reoffense
5 within the community at large. The committee shall classify as risk
6 level II those offenders whose risk assessments indicate a moderate
7 risk of reoffense within the community at large. The committee shall
8 classify as risk level III those offenders whose risk assessments
9 indicate a high risk of reoffense within the community at large.

10 (6) The committee shall issue to appropriate law enforcement
11 agencies(~~(, for their use in making public notifications under RCW~~
12 ~~4.24.550, narrative notices regarding the pending release of sex~~
13 ~~offenders from the department's facilities. The narrative notices)) a
14 law enforcement bulletin. The law enforcement bulletin shall, at a
15 minimum, (~~describe the~~) provide a narrative description, identity,
16 and criminal history behavior of the offender and shall include the
17 (~~department's~~) committee's risk level classification for the
18 offender(~~(. For sex offenders classified as either risk level II or~~
19 ~~III, the narrative notices shall also include)) and the reasons
20 underlying the classification. Law enforcement bulletins are not a
21 public record under RCW 42.17.310. Law enforcement bulletins are
22 subject to inspection upon request but not available for copying.~~~~

23 (7) The committee shall provide the law enforcement agency a
24 narrative notice for their use in making public notifications under RCW
25 4.24.550 regarding the offenders in subsection (6) of this section.
26 The narrative notice must describe the identity of the offender, the
27 general relationship between the offender and the victim or victims,
28 and the criminal history of the offender. The notices must include the
29 committee's risk level classification for the offender and the reasons
30 underlying the classification. These notices are a public record.

31 NEW SECTION. Sec. 7. Section 3 of this act expires June 30, 2005.

32 NEW SECTION. Sec. 8. (1) Sections 1, 3, and 6 of this act are
33 necessary for the immediate preservation of the public peace, health,
34 or safety, or support of the state government and its existing public
35 institutions, and take effect immediately.

1 (2) Section 4 of this act is necessary for the immediate
2 preservation of the public peace, health, or safety, or support of the
3 state government and its existing public institutions, and takes effect
4 June 30, 2005."

2SHB 1758 - S AMD TO GO COMM AMD (S3078.1) **479**
By Senators Hargrove, Brandland

ADOPTED 04/11/2005

5 On page 4, line 24 of the title amendment, after "insert;" strike
6 the remainder of the title amendment and insert "amending RCW
7 42.17.270, 42.17.348, 42.17.340, and 72.09.345; reenacting and amending
8 RCW 42.17.300, 42.17.310, and 42.17.310; adding a new section to
9 chapter 42.17 RCW; creating a new section; providing an effective date;
10 providing an expiration date; and declaring an emergency."

EFFECT: Records or documents obtained, prepared, or maintained by an agency with jurisdiction over the release of sex offenders for the purpose of fulfilling the responsibility of the end of sentence review committee regarding sex offender assessment, risk level classification, and referral for civil commitment is exempt from public disclosure under chapter 42.17 RCW. The end of sentence review committee must prepare two documents. The present law enforcement bulletin is not a public document, and while it may be inspected upon request, it may not be copied. The second document is a narrative notice for use in community notification and is a public document. In addition to the identity of the offender, the general relationship between the offender and the victim(s), and the offender's criminal history, it must contain the end of sentence review committee's risk level classification and the reasons underlying that classification.

--- END ---