
HOUSE BILL 2548

State of Washington

59th Legislature

2006 Regular Session

By Representatives Nixon and Rodne

Read first time 01/10/2006. Referred to Committee on Criminal Justice & Corrections.

1 AN ACT Relating to penalties for violations of the public records
2 act; reenacting and amending RCW 42.56.550; adding a new section to
3 chapter 42.56 RCW; prescribing penalties; and providing an effective
4 date.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 42.56 RCW
7 to read as follows:

8 A person is guilty of a gross misdemeanor, punishable under RCW
9 9A.20.021, if he or she maliciously and intentionally violates any
10 provision of this chapter. "Maliciously" has the same definition as in
11 RCW 9A.04.110.

12 **Sec. 2.** RCW 42.56.550 and 2005 c 483 s 5 and 2005 c 274 s 288 are
13 each reenacted and amended to read as follows:

14 (1) Upon the motion of any person having been denied an opportunity
15 to inspect or copy a public record by an agency, the superior court in
16 the county in which a record is maintained may require the responsible
17 agency to show cause why it has refused to allow inspection or copying
18 of a specific public record or class of records. The burden of proof

1 shall be on the agency to establish that refusal to permit public
2 inspection and copying is in accordance with a statute that exempts or
3 prohibits disclosure in whole or in part of specific information or
4 records.

5 (2) Upon the motion of any person who believes that an agency has
6 not made a reasonable estimate of the time that the agency requires to
7 respond to a public record request, the superior court in the county in
8 which a record is maintained may require the responsible agency to show
9 that the estimate it provided is reasonable. The burden of proof shall
10 be on the agency to show that the estimate it provided is reasonable.

11 (3) Judicial review of all agency actions taken or challenged under
12 RCW 42.56.030 through 42.56.520 shall be de novo. Courts shall take
13 into account the policy of this chapter that free and open examination
14 of public records is in the public interest, even though such
15 examination may cause inconvenience or embarrassment to public
16 officials or others. Courts may examine any record in camera in any
17 proceeding brought under this section. The court may conduct a hearing
18 based solely on affidavits.

19 (4) Any person who prevails against an agency in any action in the
20 courts seeking the right to inspect or copy any public record or the
21 right to receive a response to a public record request within a
22 reasonable amount of time shall be awarded all costs, including
23 reasonable attorney fees, incurred in connection with such legal
24 action. In addition, it shall be within the discretion of the court to
25 award such person, for each record that the person was denied access
26 to, an amount not less than ~~((five))~~ fifty dollars and not to exceed
27 ~~((one))~~ two hundred fifty dollars for each day that he or she was
28 denied the right to inspect or copy said public record.

29 (5) For actions under this section against counties, the venue
30 provisions of RCW 36.01.050 apply.

31 (6) Actions under this section must be filed within one year of the
32 agency's claim of exemption or the last production of a record on a
33 partial or installment basis.

34 NEW SECTION. **Sec. 3.** This act takes effect July 1, 2006.

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