
SENATE BILL 6294

State of Washington

60th Legislature

2008 Regular Session

By Senators Hargrove, Regala, and Carrell; by request of Attorney General

Read first time 01/14/08. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to public records; and reenacting and amending RCW
2 42.56.550.

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

4 **Sec. 1.** RCW 42.56.550 and 2005 c 483 s 5 and 2005 c 274 s 288 are
5 each reenacted and amended to read as follows:

6 (1) Upon the motion of any person having been denied an opportunity
7 to inspect or copy a public record by an agency, the superior court in
8 the county in which a record is maintained may require the responsible
9 agency to show cause why it has refused to allow inspection or copying
10 of a specific public record or class of records. The burden of proof
11 shall be on the agency to establish that refusal to permit public
12 inspection and copying is in accordance with a statute that exempts or
13 prohibits disclosure in whole or in part of specific information or
14 records.

15 (2) Upon the motion of any person who believes that an agency has
16 not made a reasonable estimate of the time that the agency requires to
17 respond to a public record request, the superior court in the county in
18 which a record is maintained may require the responsible agency to show

1 that the estimate it provided is reasonable. The burden of proof shall
2 be on the agency to show that the estimate it provided is reasonable.

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

11 (4)(a) Except as provided in (b) of this subsection, any person who
12 prevails against an agency in any action in the courts seeking the
13 right to inspect or copy any public record or the right to receive a
14 response to a public record request within a reasonable amount of time
15 shall be awarded all costs, including reasonable attorney fees,
16 incurred in connection with such legal action. In addition, it shall
17 be within the discretion of the court to award such person an amount
18 not less than five dollars and not to exceed one hundred dollars for
19 each day that he or she was denied the right to inspect or copy said
20 public record.

21 (b) A person requesting public records while incarcerated, detained
22 in, or committed to any state, local, or federal correctional facility,
23 secure facility as defined in RCW 71.09.020, or any private facility
24 contracting with any governmental entity shall not be entitled to any
25 penalty award for each day he or she was denied requested public
26 records. Rather, penalties shall be awarded to the crime victims'
27 compensation program, as outlined in chapter 7.68 RCW, in an amount not
28 less than five dollars and not to exceed one hundred dollars for each
29 day that an incarcerated, detained, or committed requester was
30 wrongfully denied requested public records. An incarcerated, detained,
31 or committed requester prevailing against an agency in any action under
32 this chapter shall be awarded all costs, including reasonable attorney
33 fees, incurred with such action. This provision applies retroactively
34 to all cases where a penalty award is not a final judgment.

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

37 (6) Actions under this section must be filed within one year of the

1 agency's claim of exemption or the last production of a record on a
2 partial or installment basis.

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