

FINAL BILL REPORT

SSB 5130

C 10 L 09
Synopsis as Enacted

Brief Description: Regarding prisoner access to public records.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Carrell, Hargrove, Swecker, Hatfield, Holmquist, Brandland, Sheldon, Tom, King, Hobbs, McCaslin, Stevens and Marr; by request of Attorney General).

Senate Committee on Human Services & Corrections
House Committee on State Government & Tribal Affairs

Background: Upon request, an agency must make its public records available for public inspection and copying unless the records fall within a specific statutory exemption. Within five business days of receiving a request, the agency must provide the record, acknowledge receipt of the request and provide a reasonable time estimate of the time required to respond, or deny the request. A person whose request has been denied, may petition the court to determine whether the agency was correct in its denial. If the court determines that the agency was not correct, the person requesting the record must be awarded all costs, including reasonable attorney fees, incurred in bringing the court action. The court may also award the petitioner a penalty award of not less than \$5 and not more than \$100 for each day the petitioner was denied the right to inspect or copy the public records requested.

The court may enjoin the examination of a specific public record if, upon motion by the agency or agency representative, the court finds that such examination would clearly not be in the public interest and would substantially and irreparably damage any person or a vital government function.

Summary: The court may enjoin the examination of any nonexempt public record requested by a person serving a criminal sentence if, upon motion by an agency, a person named in the request, or a person to whom the request specifically pertains, the court finds:

- the request was made to harass or intimidate the agency or its employees;
- fulfilling the request would likely threaten the security of correctional facilities;
- fulfilling the request would likely threaten the safety or security of staff, inmates, family members of staff, family members of other inmates, or any other person; or
- fulfilling the request may assist criminal activity.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Factors to be considered by the court in making its determination are prescribed. Upon a showing by a preponderance of the evidence, the court may enjoin all or part of the request, as well as future requests, by the same requestor or an entity owned in whole or in part by the same requestor. An agency is not liable for penalties during the time period for which a court injunction is in effect even if that order is later appealed and overturned.

Votes on Final Passage:

Senate	47	0	
House	94	2	(House amended)
Senate	43	0	(Senate concurred)

Effective: March 20, 2009