
HOUSE BILL 1316

State of Washington

61st Legislature

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By Representatives Kessler, Rodne, Simpson, O'Brien, Hunt, Hurst, Ormsby, Morrell, Chase, and Roberts

Read first time 01/19/09. Referred to Committee on State Government & Tribal Affairs.

1 AN ACT Relating to court protection of public records; and amending
2 RCW 42.56.540.

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

4 **Sec. 1.** RCW 42.56.540 and 1992 c 139 s 7 are each amended to read
5 as follows:

6 (1) The examination of any specific public record may be enjoined
7 if, upon motion and affidavit by an agency or its representative or a
8 person who is named in the record or to whom the record specifically
9 pertains, the superior court for the county in which the movant resides
10 or in which the record is maintained, finds that such examination would
11 clearly not be in the public interest and would substantially and
12 irreparably damage any person, or would substantially and irreparably
13 damage vital governmental functions. An agency has the option of
14 notifying persons named in the record or to whom a record specifically
15 pertains, that release of a record has been requested. However, this
16 option does not exist where the agency is required by law to provide
17 such notice.

18 (2)(a) The examination and disclosure of any public record may be
19 enjoined if, upon motion and affidavit by an agency or its

1 representative or a person who is named in the record or to whom the
2 request specifically pertains, the court finds that the request, or
3 series of requests, was made for the purpose of harassing the agency,
4 its employees, the person who is named in the record, or the person to
5 whom the request specifically pertains.

6 (b) To determine whether a request or series of requests was made
7 for the purpose of harassment, the court may consider all relevant
8 factors, including, but not limited to:

9 (i) Any prior requests by the same requestor;

10 (ii) The types of records sought by the requestor;

11 (iii) Any statements by the requestor concerning the purpose for
12 the request or series of requests;

13 (iv) Whether the request or series of requests would substantially
14 damage any person, or would substantially damage vital governmental
15 functions; and

16 (v) Whether the request or series of requests seeks the production
17 of a significant and burdensome number of documents, except that the
18 repetitious nature of a request, without more, is not a sufficient
19 basis for an injunction.

20 (c) The action shall be filed in the superior court for the county
21 in which the record is maintained or in the Thurston county superior
22 court, and may be a summary proceeding based upon affidavits or
23 declarations, unless the court orders otherwise.

24 (d) The court may order that all or any part of the request, or
25 requests, shall be enjoined. The court may retain jurisdiction for
26 future requests by the same requestor for such period as the court
27 deems reasonable.

28 (e) The time period between a request to enjoin access to a public
29 record under this section and the court's ruling on that request is
30 exempt from penalty, attorneys' fees, or calculation of a daily fine
31 under RCW 42.56.550.

32 (3) As used in this section, "harassment" means requesting public
33 documents with the intent to cause an interruption or impairment of
34 government services or with the intent of annoying, tormenting, or
35 terrorizing any current or former government employee.

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