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**State Government & Tribal Affairs  
Committee**

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**HB 1034**

**Brief Description:** Concerning making requests by or on behalf of an inmate under the public records act ineligible for penalties.

**Sponsors:** Representatives Takko, Johnson, Angel, Upthegrove, Hurst, Armstrong, Walsh, Hinkle, Ross, Warnick, Klippert, Schmick, McCune, Nealey, Short, Dammeier, Fagan, Smith, Ladenburg, Pearson, Chandler, Tharinger, Darneille and Moeller; by request of Attorney General.

**Brief Summary of Bill**

- Prohibits a court from awarding penalties in a court appeal under the Public Records Act if the request for public records was made by or on behalf of an inmate in a correctional facility.

**Hearing Date:** 1/20/11

**Staff:** Thamas Osborn (786-7129).

**Background:**

The Public Records Act (PRA) requires all state and local government agencies to make all public records available for public inspection and copying unless they fall within certain statutory exemptions. The provisions requiring public records disclosure must be interpreted liberally and the exceptions narrowly in order to effectuate a general policy favoring disclosure.

Responding to PRA Requests.

An agency must respond to requests for public records promptly. Within five business days of a request, an agency must:

- provide the record; or

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*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.*

- acknowledge receipt of the request and provide a reasonable estimate of the time that is required to respond to the request; or
- deny the request.

The agency may take additional time to clarify the intent of the request, to locate the requested information, to notify third persons or agencies affected by the request, or to determine whether the requested information is protected by an exemption.

#### Judicial Remedies.

A person who is denied a public record, or who believes an agency's time estimate is unreasonable, may appeal the agency decision in the superior court of the county in which the record is maintained. In such court actions, the agency has the burden to prove, by a preponderance of the evidence, that the agency action was valid. If the person prevails in the action, he or she must be awarded all costs of maintaining the action, including reasonable attorney fees. In addition, it is within the courts discretion to assess a monetary penalty against the agency and award the proceeds to the prevailing party. The penalty must be an amount of not less than five dollars and not more than one hundred dollars for each day the person was unlawfully denied the opportunity to inspect or copy the requested records.

#### **Summary of Bill:**

A court is prohibited from awarding a monetary penalty to the person prevailing in a PRA appeal if the request for the records was by or on behalf of a person serving a criminal sentence in a correctional facility.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** [emergency clause]