

# SENATE BILL REPORT

## SB 6091

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As Reported by Senate Committee On:  
Ways & Means, February 23, 2012

**Title:** An act relating to the maintenance of privacy standards by eliminating the department of revenues' authorization to examine medical records.

**Brief Description:** Concerning the maintenance of privacy standards by eliminating the department of revenues' authorization to examine medical records.

**Sponsors:** Senator Honeyford.

**Brief History:**

**Committee Activity:** Ways & Means: 2/02/12, 2/23/12 [DPS].

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** That Substitute Senate Bill No. 6091 be substituted therefor, and the substitute bill do pass.

Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli, Ranking Minority Member; Parlette, Ranking Minority Member Capital; Baumgartner, Brown, Conway, Fraser, Harper, Hatfield, Hewitt, Holmquist Newbry, Honeyford, Kastama, Keiser, Kohl-Welles, Padden, Pflug, Pridemore, Regala, Schoesler and Tom.

**Staff:** Dianne Criswell (786-7433)

**Background:** Retention and Production of Tax Records: Every taxpayer liable for a tax or fee administered by Department of Revenue (DOR) must keep complete and adequate records to determine tax liability. Each taxpayer must prepare and preserve all records in a systematic manner conforming to accepted accounting methods and procedures. Such records are to be kept, preserved, and presented upon request of DOR. The records provided to DOR are confidential and privileged. DOR is authorized to issue an administrative summons, requiring production (subpoena) of records and testimony. If a person refuses to obey the summons, DOR must institute contempt of court proceedings in superior court.

Medical Information. The Health Insurance Portability and Accountability Act of 1996 (HIPAA) establishes nationwide standards for the use, disclosure, storage, and transfer of protected health information. Entities covered by HIPAA must have a patient's authorization to use or disclose health care information, unless there is a specified exception. Some

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exceptions pertain to disclosures for treatment, payment, and health care operations; public health activities; judicial proceedings; law enforcement purposes; and research purposes. HIPAA allows a state to establish standards that are more stringent than its provisions. In Washington, the Uniform Health Care Information Act (UHCIA) governs the disclosure of health care information by health care providers and their agents or employees. UHCIA provides that a health care provider may not disclose health care information about a patient unless there is a statutory exception or a written authorization by the patient. Some exceptions include disclosures for the provision of health care; quality improvement, legal, actuarial, and administrative services; research purposes; directory information; public health and law enforcement activities as required by law; and judicial proceedings.

**Summary of Bill (Recommended Substitute):** Individually identifiable health information is expressly excluded from records that DOR may examine and subpoena.

**EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (Recommended Substitute):** The term medical records is deleted and the term individually identifiable health information is inserted. For purposes of this section, individually identifiable health information means information that relates to the past, present, or future physical or mental health or condition of an individual, identifies the individual, or identifies the provision of health care to an individual.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Original Bill:** PRO: The goal of this legislation is to bring tax administration into alignment with patient privacy. I am working with DOR to clarify the definition of medical records. Physicians guard patient records. We understand that HIPAA prevents disclosure of this information, including to DOR, so express exclusion might not be necessary. Any clarification of medical records in this bill should consider existing similar terms in federal and state law to avoid confusion or unintended consequences.

**Persons Testifying:** PRO: Senator Honeyford, prime sponsor; Susie Tracy, WA State Medical Assn.