
SUBSTITUTE SENATE BILL 5025

State of Washington

62nd Legislature

2011 Regular Session

By Senate Human Services & Corrections (originally sponsored by Senators Hargrove, Becker, Sheldon, Litzow, Haugen, Carrell, White, King, Honeyford, Shin, Kilmer, Regala, Parlette, Conway, Tom, Rockefeller, Roach, and Holmquist Newbry; by request of Attorney General)

READ FIRST TIME 02/08/11.

1 AN ACT Relating to making requests by or on behalf of an inmate
2 under the public records act ineligible for penalties; amending RCW
3 42.56.565; creating a new section; and declaring an emergency.

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

5 **Sec. 1.** RCW 42.56.565 and 2009 c 10 s 1 are each amended to read
6 as follows:

7 (1) A court shall not award penalties under RCW 42.56.550(4) to a
8 person who was serving a criminal sentence in a state, local, or
9 privately operated correctional facility on the date the request for
10 public records was made, unless the court finds that the agency acted
11 in bad faith in denying the person the opportunity to inspect or copy
12 a public record.

13 (2) The inspection or copying of any nonexempt public record by
14 persons serving criminal sentences in state, local, or privately
15 operated correctional facilities may be enjoined pursuant to this
16 section.

17 (a) The injunction may be requested by: (i) An agency or its
18 representative; (ii) a person named in the record or his or her

1 representative; or (iii) a person to whom the requests specifically
2 pertains or his or her representative.

3 (b) The request must be filed in: (i) The superior court in which
4 the movant resides; or (ii) the superior court in the county in which
5 the record is maintained.

6 (c) In order to issue an injunction, the court must find that:

7 (i) The request was made to harass or intimidate the agency or its
8 employees;

9 (ii) Fulfilling the request would likely threaten the security of
10 correctional facilities;

11 (iii) Fulfilling the request would likely threaten the safety or
12 security of staff, inmates, family members of staff, family members of
13 other inmates, or any other person; or

14 (iv) Fulfilling the request may assist criminal activity.

15 ((+2)) (3) In deciding whether to enjoin a request under
16 subsection ((+1)) (2) of this section, the court may consider all
17 relevant factors including, but not limited to:

18 (a) Other requests by the requestor;

19 (b) The type of record or records sought;

20 (c) Statements offered by the requestor concerning the purpose for
21 the request;

22 (d) Whether disclosure of the requested records would likely harm
23 any person or vital government interest;

24 (e) Whether the request seeks a significant and burdensome number
25 of documents;

26 (f) The impact of disclosure on correctional facility security and
27 order, the safety or security of correctional facility staff, inmates,
28 or others; and

29 (g) The deterrence of criminal activity.

30 ((+3)) (4) The motion proceeding described in this section shall
31 be a summary proceeding based on affidavits or declarations, unless the
32 court orders otherwise. Upon a showing by a preponderance of the
33 evidence, the court may enjoin all or any part of a request or
34 requests. Based on the evidence, the court may also enjoin, for a
35 period of time the court deems reasonable, future requests by:

36 (a) The same requestor; or

37 (b) An entity owned or controlled in whole or in part by the same
38 requestor.

1 (~~(4)~~) (5) An agency shall not be liable for penalties under RCW
2 42.56.550(4) for any period during which an order under this section is
3 in effect, including during an appeal of an order under this section,
4 regardless of the outcome of the appeal.

5 NEW SECTION. **Sec. 2.** This act applies to all actions brought
6 under RCW 42.56.550 in which final judgment has not been entered as of
7 the effective date of this section.

8 NEW SECTION. **Sec. 3.** This act is necessary for the immediate
9 preservation of the public peace, health, or safety, or support of the
10 state government and its existing public institutions, and takes effect
11 immediately.

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