
SENATE BILL 5048

State of Washington 62nd Legislature 2011 Regular Session

By Senators Kline, Nelson, and Chase

Read first time 01/12/11. Referred to Committee on Judiciary.

1 AN ACT Relating to enhanced intelligence in Washington state; and
2 adding a new chapter to Title 42 RCW.

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

4 NEW SECTION. **Sec. 1.** This chapter may be known and cited as the
5 Washington enhanced intelligence act.

6 NEW SECTION. **Sec. 2.** The definitions in this section apply
7 throughout this chapter unless the context clearly requires otherwise.

8 (1) "Agency" means any state, local, or county law enforcement
9 agency.

10 (2) "Protected information" means information about the political,
11 religious, or other First Amendment protected views or opinions of any
12 individual or group. This includes the activities and associations
13 related to these views and opinions. Protected information does not
14 include:

- 15 (a) Administrative records;
- 16 (b) Incidental references;
- 17 (c) Confidential communications;
- 18 (d) Special investigations;

1 (e) Activities by departmental personnel as private citizens not
2 related to their law enforcement functions;

3 (f) The collection of information about police conduct regarding
4 internal investigations; or

5 (g) The participation of agency personnel in their official
6 capacities in the administrative and legislative processes with respect
7 to agency operations to the same extent and in the same manner as other
8 state or local departments.

9 NEW SECTION. **Sec. 3.** An agency may not collect or maintain
10 protected information about an individual or group unless such
11 information directly relates to criminal conduct or activity and there
12 is reasonable suspicion that the subject of the information is or may
13 be involved in criminal conduct or activity.

14 NEW SECTION. **Sec. 4.** Within two years after the effective date of
15 this section, all agencies shall adopt a privacy policy governing
16 treatment of protected information. The privacy policy shall, at a
17 minimum, contain the following provisions:

18 (1) Except where prohibited by federal law, agencies shall not
19 disseminate protected information unless authorized in writing by the
20 executive authority of the agency, or his or her designee.

21 (2) Agencies that collect, maintain, or disseminate criminal
22 intelligence information as defined by 28 C.F.R. Sec. 23 (2011) shall
23 do so in compliance with the provisions of 28 C.F.R. Sec. 23 (2011) as
24 it existed on the effective date of this section.

25 (3) Agency personnel shall not conduct infiltration unless the
26 group to be infiltrated is reasonably suspected of criminal activity,
27 and the executive authority of the agency authorizes the infiltration
28 in writing. "Infiltration" occurs when a person acting under the
29 direction of an agency poses or acts as a member or associate of a
30 political, religious, advocacy, or community organization, and who
31 either aims to disrupt the organization or agrees to provide or
32 provides information about the organization to an agency without
33 disclosing his or her relationship to law enforcement.

34 (4) Agencies shall investigate and correct or delete, in a timely
35 manner, any errors and deficiencies in information retained or

1 disseminated, whether by internal discovery or external complaint of
2 error.

3 (5) The executive authority of an agency, or his or her designee,
4 shall conduct periodic reviews of agency files to ensure compliance
5 with both this chapter and the relevant privacy policy.

6 NEW SECTION. **Sec. 5.** To ensure compliance with this chapter, the
7 attorney general must conduct in-place audits of agency files and
8 records at unscheduled intervals.

9 NEW SECTION. **Sec. 6.** Agencies shall ensure that all employees are
10 properly trained with regard to protected information, agency privacy
11 policies, and the provisions of this chapter within one year of
12 adoption of a privacy policy.

13 NEW SECTION. **Sec. 7.** Nothing in this chapter shall restrict
14 agency personnel from complying with a court order.

15 NEW SECTION. **Sec. 8.** Sections 1 through 7 of this act constitute
16 a new chapter in Title 42 RCW.

--- END ---