

SENATE BILL REPORT

SB 5436

As of February 12, 2013

Title: An act relating to making specific prosecution and defense documents and materials exempt from public inspection and copying.

Brief Description: Making specific prosecution and defense documents and materials exempt from public inspection and copying.

Sponsors: Senators Pearson, Darneille and Carrell.

Brief History:

Committee Activity: Law & Justice: 2/11/13.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Aldo Melchiori (786-7439)

Background: State and local agencies must make available, for public inspection and copying, all public records. Public records include any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. There are a number of exceptions including those for certain investigative, law enforcement, and crime victim information.

Summary of Bill: Victim impact statements are not subject to public disclosure. Documents and materials provided by defendants or their attorneys during communications regarding plea agreements, sentencing recommendations, the drug offender sentencing alternative, the parents' sentencing alternative, the special sex offender sentencing alternative, or aggravated first degree murder proceedings are exempt from public inspection and copying.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

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.

Staff Summary of Public Testimony: PRO: Public records laws are important, but they must be balanced against the privacy interests of crime victims. After a case is complete, it is important for the victims of violent crimes to regain their privacy. The provisions will foster the free exchange of information during plea negotiations. Most of this information is not admissible and may not be in the court record. The free exchange of information between the prosecution and defense should be encouraged.

CON: These documents sometimes contain unpleasant information, but the proceedings must be subject to public scrutiny. This is an exceptionally broad bill. The public has the right to know if the prosecutor is doing their job. There is an ongoing pattern of erosion in our public record laws. It is not the province of the Legislature to pass laws that overturn court decisions.

OTHER: Some of the language in the bill could be refined to provide accountability while adequately protecting victim privacy. This bill favors personal privacy too much.

Persons Testifying: PRO: Senator Pearson, prime sponsor; Gregory Linh, WA Assn. of Criminal Defense Attorneys, WA Defenders Assn.

CON: Rowland Thompson, Allied Daily Newspapers; Arthur West, citizen.

OTHER: Tom McBride, WA Assn. of Prosecuting Attorneys.