
SUBSTITUTE HOUSE BILL 1298

State of Washington

63rd Legislature

2013 Regular Session

By House Government Operations & Elections (originally sponsored by Representatives Springer, Hunt, Ryu, and Pollet; by request of Public Records Exemptions Accountability Committee)

READ FIRST TIME 02/18/13.

1 AN ACT Relating to implementing recommendations of the sunshine
2 committee; amending RCW 13.34.100, 42.56.240, 42.56.330, and
3 70.148.060; and reenacting and amending RCW 42.56.230.

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

5 **Sec. 1.** RCW 13.34.100 and 2010 c 180 s 2 are each amended to read
6 as follows:

7 (1) The court shall appoint a guardian ad litem for a child who is
8 the subject of an action under this chapter, unless a court for good
9 cause finds the appointment unnecessary. The requirement of a guardian
10 ad litem may be deemed satisfied if the child is represented by
11 independent counsel in the proceedings. The court shall attempt to
12 match a child with special needs with a guardian ad litem who has
13 specific training or education related to the child's individual needs.

14 (2) If the court does not have available to it a guardian ad litem
15 program with a sufficient number of volunteers, the court may appoint
16 a suitable person to act as guardian ad litem for the child under this
17 chapter. Another party to the proceeding or the party's employee or
18 representative shall not be so appointed.

1 (3) Each guardian ad litem program shall maintain a background
2 information record for each guardian ad litem in the program. The
3 background information record shall include, but is not limited to, the
4 following information:

5 (a) Level of formal education;

6 (b) General training related to the guardian ad litem's duties;

7 (c) Specific training related to issues potentially faced by
8 children in the dependency system;

9 (d) Specific training or education related to child disability or
10 developmental issues;

11 (e) Number of years' experience as a guardian ad litem;

12 (f) Number of appointments as a guardian ad litem and the county or
13 counties of appointment;

14 (g) The names of any counties in which the person was removed from
15 a guardian ad litem registry pursuant to a grievance action, and the
16 name of the court and the cause number of any case in which the court
17 has removed the person for cause;

18 (h) Founded allegations of abuse or neglect as defined in RCW
19 26.44.020;

20 (i) The results of an examination of state and national criminal
21 identification data. The examination shall consist of a background
22 check as allowed through the Washington state criminal records privacy
23 act under RCW 10.97.050, the Washington state patrol criminal
24 identification system under RCW 43.43.832 through 43.43.834, and the
25 federal bureau of investigation. The background check shall be done
26 through the Washington state patrol criminal identification section and
27 must include a national check from the federal bureau of investigation
28 based on the submission of fingerprints; and

29 (j) Criminal history, as defined in RCW 9.94A.030, for the period
30 covering ten years prior to the appointment.

31 The background information record shall be updated annually. As a
32 condition of appointment, the guardian ad litem's background
33 information record shall be made available to the court. If the
34 appointed guardian ad litem is not a member of a guardian ad litem
35 program a suitable person appointed by the court to act as guardian ad
36 litem shall provide the background information record to the court.

37 Upon appointment, the guardian ad litem, or guardian ad litem
38 program, shall provide the parties or their attorneys with a copy of

1 the background information record containing the results of the
2 background check conducted through the Washington state patrol criminal
3 identification system under RCW 43.43.832 through 43.43.834. The
4 portion of the background information record containing the results of
5 the criminal background check and the criminal history from the federal
6 bureau of investigation shall not be disclosed to the parties or their
7 attorneys. The background information record shall not include
8 identifying information that may be used to harm a guardian ad litem,
9 such as home addresses and home telephone numbers, and for volunteer
10 guardians ad litem the court may allow the use of maiden names or
11 pseudonyms as necessary for their safety.

12 (4) The appointment of the guardian ad litem shall remain in effect
13 until the court discharges the appointment or no longer has
14 jurisdiction, whichever comes first. The guardian ad litem may also be
15 discharged upon entry of an order of guardianship.

16 (5) A guardian ad litem through counsel, or as otherwise authorized
17 by the court, shall have the right to present evidence, examine and
18 cross-examine witnesses, and to be present at all hearings. A guardian
19 ad litem shall receive copies of all pleadings and other documents
20 filed or submitted to the court, and notice of all hearings according
21 to court rules. The guardian ad litem shall receive all notice
22 contemplated for a parent or other party in all proceedings under this
23 chapter.

24 (6)(a) Pursuant to this subsection, the department or supervising
25 agency and the child's guardian ad litem shall each notify a child of
26 his or her right to request counsel and shall ask the child whether he
27 or she wishes to have counsel. The department or supervising agency
28 and the child's guardian ad litem shall notify the child and make this
29 inquiry immediately after:

- 30 (i) The date of the child's twelfth birthday;
31 (ii) Assignment of a case involving a child age twelve or older; or
32 (iii) July 1, 2010, for a child who turned twelve years old before
33 July 1, 2010.

34 (b) The department or supervising agency and the child's guardian
35 ad litem shall repeat the notification and inquiry at least annually
36 and upon the filing of any motion or petition affecting the child's
37 placement, services, or familial relationships.

1 (c) The notification and inquiry is not required if the child has
2 already been appointed counsel.

3 (d) The department or supervising agency shall note in the child's
4 individual service and safety plan, and the guardian ad litem shall
5 note in his or her report to the court, that the child was notified of
6 the right to request counsel and indicate the child's position
7 regarding appointment of counsel.

8 (e) At the first regularly scheduled hearing after:

9 (i) The date of the child's twelfth birthday;

10 (ii) The date that a dependency petition is filed pursuant to this
11 chapter on a child age twelve or older; or

12 (iii) July 1, 2010, for a child who turned twelve years old before
13 July 1, 2010;

14 the court shall inquire whether the child has received notice of his or
15 her right to request legal counsel from the department or supervising
16 agency and the child's guardian ad litem. The court shall make an
17 additional inquiry at the first regularly scheduled hearing after the
18 child's fifteenth birthday. No inquiry is necessary if the child has
19 already been appointed counsel.

20 (f) If the child requests legal counsel and is age twelve or older,
21 or if the guardian ad litem or the court determines that the child
22 needs to be independently represented by counsel, the court may appoint
23 an attorney to represent the child's position.

24 (7) For the purposes of child abuse prevention and treatment act
25 (42 U.S.C. Secs. 5101 et seq.) grants to this state under P.L. 93-247,
26 or any related state or federal legislation, a person appointed
27 pursuant to this section shall be deemed a guardian ad litem to
28 represent the best interests of the minor in proceedings before the
29 court.

30 (8) When a court-appointed special advocate or volunteer guardian
31 ad litem is requested on a case, the program shall give the court the
32 name of the person it recommends. The program shall attempt to match
33 a child with special needs with a guardian ad litem who has specific
34 training or education related to the child's individual needs. The
35 court shall immediately appoint the person recommended by the program.

36 (9) If a party in a case reasonably believes the court-appointed
37 special advocate or volunteer guardian ad litem is inappropriate or
38 unqualified, the party may request a review of the appointment by the

1 program. The program must complete the review within five judicial
2 days and remove any appointee for good cause. If the party seeking the
3 review is not satisfied with the outcome of the review, the party may
4 file a motion with the court for the removal of the court-appointed
5 special advocate or volunteer guardian ad litem on the grounds the
6 advocate or volunteer is inappropriate or unqualified.

7 **Sec. 2.** RCW 42.56.230 and 2011 c 350 s 2 and 2011 c 173 s 1 are
8 each reenacted and amended to read as follows:

9 The following personal information is exempt from public inspection
10 and copying under this chapter:

11 (1) Personal information in any files maintained for students in
12 public schools, patients or clients of public institutions or public
13 health agencies, or welfare recipients;

14 (2) Personal information(~~(7)~~) including, but not limited to,
15 addresses, telephone numbers, personal electronic mail addresses,
16 social security numbers, emergency contact and date of birth
17 information for a participant in a public or nonprofit program serving
18 or pertaining to children, adolescents, or students, including but not
19 limited to early learning or child care services, parks and recreation
20 programs, youth development programs, and after-school programs.
21 Emergency contact information may be provided to appropriate
22 authorities and medical personnel for the purpose of treating the
23 individual during an emergency situation;

24 (3) Personal information in files maintained for employees,
25 appointees, or elected officials of any public agency to the extent
26 that disclosure would violate their right to privacy;

27 (4) Information required of any taxpayer in connection with the
28 assessment or collection of any tax if the disclosure of the
29 information to other persons would: (a) Be prohibited to such persons
30 by RCW 84.08.210, 82.32.330, 84.40.020, 84.40.340, or any ordinance
31 authorized under RCW 35.102.145; or (b) violate the taxpayer's right to
32 privacy or result in unfair competitive disadvantage to the taxpayer;

33 (5) Credit card numbers, debit card numbers, electronic check
34 numbers, card expiration dates, or bank or other financial (~~account~~
35 ~~numbers~~) information as defined in RCW 9.35.005 including social
36 security numbers, except when disclosure is expressly required by or
37 governed by other law;

1 (6) Personal and financial information related to a small loan or
2 any system of authorizing a small loan in RCW 31.45.093; and

3 (7)(a) Documents and related materials and scanned images of
4 documents and related materials used to prove identity, age,
5 residential address, social security number, or other personal
6 information required to apply for a driver's license or identicard.

7 (b) Information provided under RCW 46.20.111 that indicates that an
8 applicant declined to register with the selective service system.

9 **Sec. 3.** RCW 42.56.240 and 2012 c 88 s 1 are each amended to read
10 as follows:

11 The following investigative, law enforcement, and crime victim
12 information is exempt from public inspection and copying under this
13 chapter:

14 (1) Specific intelligence information and specific investigative
15 records compiled by investigative, law enforcement, and penology
16 agencies, and state agencies vested with the responsibility to
17 discipline members of any profession, the nondisclosure of which is
18 essential to effective law enforcement or for the protection of any
19 person's right to privacy;

20 (2) Information revealing the identity of persons who are witnesses
21 to or victims of crime or who file complaints with investigative, law
22 enforcement, or penology agencies, other than the commission, if
23 disclosure would endanger any person's life, physical safety, or
24 property. If at the time a complaint is filed the complainant, victim,
25 or witness indicates a desire for disclosure or nondisclosure, such
26 desire shall govern. However, all complaints filed with the commission
27 about any elected official or candidate for public office must be made
28 in writing and signed by the complainant under oath;

29 (3) Any records of investigative reports prepared by any state,
30 county, municipal, or other law enforcement agency pertaining to sex
31 offenses contained in chapter 9A.44 RCW or sexually violent offenses as
32 defined in RCW 71.09.020, which have been transferred to the Washington
33 association of sheriffs and police chiefs for permanent electronic
34 retention and retrieval pursuant to RCW 40.14.070(2)(b);

35 (4) License applications under RCW 9.41.070; copies of license
36 applications or information on the applications may be released to law
37 enforcement or corrections agencies;

1 (5) Information revealing the identity of child victims of sexual
2 assault who are under age eighteen. Identifying information (~~(means)~~)
3 includes, but is not limited to the child victim's name, address,
4 location, photograph, and in cases in which the child victim is a
5 relative or stepchild of the alleged perpetrator, identification of the
6 relationship between the child and the alleged perpetrator;

7 (6) Information contained in a local or regionally maintained gang
8 database as well as the statewide gang database referenced in RCW
9 43.43.762;

10 (7) Data from the electronic sales tracking system established in
11 RCW 69.43.165;

12 (8) Information submitted to the statewide unified sex offender
13 notification and registration program under RCW 36.28A.040(6) by a
14 person for the purpose of receiving notification regarding a registered
15 sex offender, including the person's name, residential address, and e-
16 mail address; and

17 (9) Personally identifying information collected by law enforcement
18 agencies pursuant to local security alarm system programs and vacation
19 crime watch programs. Nothing in this subsection shall be interpreted
20 so as to prohibit the legal owner of a residence or business from
21 accessing information regarding his or her residence or business.

22 **Sec. 4.** RCW 42.56.330 and 2012 c 68 s 4 are each amended to read
23 as follows:

24 The following information relating to public utilities and
25 transportation is exempt from disclosure under this chapter:

26 (1) Records filed with the utilities and transportation commission
27 or attorney general under RCW 80.04.095 that a court has determined are
28 confidential under RCW 80.04.095;

29 (2) The residential addresses and residential telephone numbers of
30 the customers of a public utility contained in the records or lists
31 held by the public utility of which they are customers, except that
32 this information may be released to the division of child support or
33 the agency or firm providing child support enforcement for another
34 state under Title IV-D of the federal social security act, for the
35 establishment, enforcement, or modification of a support order;

36 (3) The names, residential addresses, residential telephone
37 numbers, and other individually identifiable records held by an agency

1 in relation to a vanpool, carpool, or other ride-sharing program or
2 service(~~;~~ ~~however, these records~~). Participant's names, general
3 locations, and e-mail addresses may be disclosed to other persons who
4 apply for ride-matching services and who need that information in order
5 to identify potential riders or drivers with whom to share rides;

6 (4) The personally identifying information of current or former
7 participants or applicants in a paratransit or other transit service
8 operated for the benefit of persons with disabilities or elderly
9 persons;

10 (5) The personally identifying information of persons who acquire
11 and use transit passes or other fare payment media including, but not
12 limited to, stored value smart cards and magnetic strip cards, except
13 that an agency may disclose personally identifying information to a
14 person, employer, educational institution, or other entity that is
15 responsible, in whole or in part, for payment of the cost of acquiring
16 or using a transit pass or other fare payment media for the purpose of
17 preventing fraud(~~,~~ ~~or to the news media when reporting on public~~
18 ~~transportation or public safety~~). As used in this subsection,
19 "personally identifying information" includes acquisition or use
20 information pertaining to a specific, individual transit pass or fare
21 payment media.

22 (a) Information regarding the acquisition or use of transit passes
23 or fare payment media may be disclosed in aggregate form if the data
24 does not contain any personally identifying information.

25 (b) Personally identifying information may be released to law
26 enforcement agencies if the request is accompanied by a court order;

27 (6) Any information obtained by governmental agencies that is
28 collected by the use of a motor carrier intelligent transportation
29 system or any comparable information equipment attached to a truck,
30 tractor, or trailer; however, the information may be given to other
31 governmental agencies or the owners of the truck, tractor, or trailer
32 from which the information is obtained. As used in this subsection,
33 "motor carrier" has the same definition as provided in RCW 81.80.010;

34 (7) The personally identifying information of persons who acquire
35 and use transponders or other technology to facilitate payment of
36 tolls. This information may be disclosed in aggregate form as long as
37 the data does not contain any personally identifying information. For
38 these purposes aggregate data may include the census tract of the

1 account holder as long as any individual personally identifying
2 information is not released. Personally identifying information may be
3 released to law enforcement agencies only for toll enforcement
4 purposes. Personally identifying information may be released to law
5 enforcement agencies for other purposes only if the request is
6 accompanied by a court order; and

7 (8) The personally identifying information of persons who acquire
8 and use a driver's license or identicard that includes a radio
9 frequency identification chip or similar technology to facilitate
10 border crossing. This information may be disclosed in aggregate form
11 as long as the data does not contain any personally identifying
12 information. Personally identifying information may be released to law
13 enforcement agencies only for United States customs and border
14 protection enforcement purposes. Personally identifying information
15 may be released to law enforcement agencies for other purposes only if
16 the request is accompanied by a court order.

17 **Sec. 5.** RCW 70.148.060 and 2005 c 274 s 341 are each amended to
18 read as follows:

19 (1) All (~~examination and proprietary reports and~~) information
20 except for proprietary reports or information obtained by the director
21 and the director's staff in soliciting bids from insurers and in
22 monitoring the insurer selected by the director shall (~~not~~) be made
23 public or otherwise disclosed to any person, firm, corporation, agency,
24 association, governmental body, or other entity.

25 (2) Subsection (1) of this section notwithstanding, the director
26 may furnish all or part of examination reports prepared by the director
27 or by any person, firm, corporation, association, or other entity
28 preparing the reports on behalf of the director to:

29 (a) The Washington state insurance commissioner;

30 (b) A person or organization officially connected with the insurer
31 as officer, director, attorney, auditor, or independent attorney or
32 independent auditor; and

33 (c) The attorney general in his or her role as legal advisor to the
34 director.

35 (3) Subsection (1) of this section notwithstanding, the director
36 may furnish all or part of the examination or proprietary reports or
37 information obtained by the director to:

1 (a) The Washington state insurance commissioner; and

2 (b) A person, firm, corporation, association, governmental body, or
3 other entity with whom the director has contracted for services
4 necessary to perform his or her official duties.

5 (4) (~~Examination reports and~~) Proprietary information obtained by
6 the director and the director's staff (~~are~~) is not subject to public
7 disclosure under chapter 42.56 RCW.

8 (5) A person who violates any provision of this section is guilty
9 of a gross misdemeanor.

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