

HOUSE BILL REPORT

ESHB 1980

As Passed Legislature

Title: An act relating to implementing recommendations of the sunshine committee.

Brief Description: Implementing recommendations of the sunshine committee.

Sponsors: House Committee on State Government (originally sponsored by Representative Springer).

Brief History:

Committee Activity:

State Government: 2/18/15, 2/19/15 [DPS].

Floor Activity:

Passed House: 3/10/15, 89-9.

Senate Amended.

Passed Senate: 4/9/15, 44-0.

House Concurred.

Passed House: 4/23/15, 87-11.

Passed Legislature.

Brief Summary of Engrossed Substitute Bill

- Expands the personal financial information that is exempt from disclosure under the Public Records Act (PRA).
- Exempts local or regionally maintained gang databases from public disclosure under the PRA.
- Limits the personal information of participants in ride-share programs that is subject to disclosure under the PRA.
- Eliminates the disclosure exemption for examination reports obtained by the Pollution Liability Insurance Program.
- Exempts information contained in enhanced 911 communication and notification systems from public disclosure.
- Authorizes disclosure of state background checks for a guardian ad litem appointed in a child welfare case.

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.

HOUSE COMMITTEE ON STATE GOVERNMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives S. Hunt, Chair; Bergquist, Vice Chair; Holy, Ranking Minority Member; Van Werven, Assistant Ranking Minority Member; Appleton, Gregory and Hawkins.

Staff: Sean Flynn (786-7124).

Background:

Public Records Act.

The Public Records Act (PRA) requires state and local agencies to make their written records available to the public for inspection and copying upon request, unless the information fits into one of the various specific exemptions in the PRA or otherwise provided in law. The stated policy of the PRA favors disclosure and requires narrow application of the listed exemptions.

Financial Information. An exemption exists for records containing certain kinds of personal information, including financial account information. This exemption includes credit, debit, and check numbers and other bank or financial account numbers.

Law Enforcement, Investigation, and Crime Victims. Certain investigative, law enforcement, and crime victim information is exempt from disclosure, including information in a statewide gang database maintained by the Washington State Patrol.

Transportation. Certain information in records regarding transportation is exempt from disclosure. Such information includes individually identifying information in records related to a ride-sharing program, such as a vanpool or carpool. However, names, addresses, telephone numbers, and other identifying information may be given to persons who apply for ride-sharing services in order to identify potential riders.

Personal information related to transit passes or fare payment, such as payment cards, are exempt from disclosure. However, an agency may disclose such information to an employer or other party responsible for paying the transit costs for the purpose of preventing fraud. An agency also may provide such personal information to the news media when reporting on transportation or public safety.

Guardian Ad Litem. A court may appoint a guardian ad litem (GAL) to assist a child who is the subject of a child welfare case. If available, the court will make an appointment from a GAL program.

A GAL program must maintain background information records for each GAL in the program. The background information must include education, experience, and training related to GAL services. The records also must contain the GAL's criminal history as well as the results of state and national criminal identification data, including background checks allowed through the state Criminal Records Privacy Act, the State Patrol criminal

identification system, and the Federal Bureau of Investigation (FBI). Upon appointment to a child welfare case, the GAL must provide a copy of his or her background information record to the parties and their attorneys, except that the results of the criminal background check may not be disclosed.

Pollution Liability Insurance Program.

Public disclosure is not allowed for examination and proprietary reports and information obtained through the Washington Pollution Liability Insurance Program (PLIP) related to soliciting bids from insurers and in monitoring the insurer. Examination reports prepared by or for the PLIP may be provided to the state insurance commissioner and other specified organizations.

Enhanced 911 Communication and Notification Systems.

The state and counties implement and coordinate enhanced 911 communications systems so that 911 emergency response services are available throughout the state. Agencies have access to private addresses and telephone numbers used in the 911 emergency communications systems.

As the state implements the next generation 911 system, people will have the ability to voluntarily submit personal information in communication systems so that it will be accessible to responders through the 911 service. Also, the state and local governments may collect information to include in emergency notification systems that allow for broad dissemination of notice during a community emergency event.

Summary of Engrossed Substitute Bill:

Public Records Act.

Personal Financial Information. Financial information, as defined for purposes of identity crimes, is exempt from disclosure. Such information includes information identifiable to the individual that concerns the amount and conditions of an individual's assets, liabilities, or credit. Specifically, this includes:

- account numbers, balances, and transactional information;
- codes, passwords, Social Security numbers, and tax identification numbers;
- driver's license, Identicard, and permit numbers; and
- other information held for the purpose of account access or transaction initiation.

Law Enforcement, Investigation, and Crime Victims. Local or regionally maintained gang databases are exempt from disclosure.

Transportation. The personal information of participants in a ride-share program is not subject to disclosure, except for the participant's name, general location, and points of contact. The permission to provide personal information regarding transit passes or fare payment to the news media is eliminated.

Guardian Ad Litem - Background Information. A GAL appointed in a child welfare case must provide to parties and attorneys his or her background information record containing the results of the State Patrol criminal identification system. The criminal history from the FBI may not be disclosed.

Enhanced 911 Communication and Notification Systems. Voluntarily submitted information contained in a database for enhanced 911 emergency communication systems is exempt from disclosure when the information is included in the database for purposes of displaying when a person makes a call to the 911 service.

The exemption for information contained in emergency communications systems does not prohibit disclosure for:

- the display and dissemination of information at a public safety answering point to emergency responders;
- database maintenance;
- dissemination of information for inclusion in an emergency notifications system ;
- inspection or copying by the subject of the information, or an authorized representative; or
- information prepared, retained, disseminated, transmitted, or recorded for the purpose of responding to emergency calls, unless such information is otherwise exempt.

Information contained or used in emergency notifications systems is exempt from disclosure. The exemption for such information contained or used in emergency notifications systems does not prohibit disclosure for:

- making outgoing calls to provide notification a community emergency event;
- database maintenance; or
- inspection or copying by the subject of the information or an authorized representative.

Pollution Liability Insurance Program.

Examination and proprietary reports obtained by the PLIP are no longer exempt from disclosure.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The Sunshine Committee heard testimony over the past several years on the GAL issue, and the proposal in this bill is the least intrusive.

The deaf community relies on the Smart 911 system, especially for deaf victim of sexual assault. There are many difficulties and delays for deaf victims of abuse to reach the services needed in an emergency. Smart 911 helps share information about a deaf victim more

quickly and completely to responders in an emergency. This bill would prevent any chilling effect on encouraging deaf people to use the Smart 911 system.

Time is of the essence in emergency situations where response time is critical, however, people often are not able to communicate enough information on a 911 call during an emergency. There is an option for people to voluntarily provide information in a 911 system so that medical and other critical information is available to responders when a call is made during an emergency. Smart 911 links the phone number to the caller's address as well as other medical or emergency conditions.

The risk of disclosure of such sensitive information could have a chilling effect on encouraging people to sign up to use these new 911 systems. The personal information shared in these systems should be secured so people are not hesitant to use the system. Once a call is made it is in the public domain, and therefore not protected against disclosure.

(Opposed) Most GALs are volunteers and supervised by trained advocates. Other people in these cases are screened, but not required to provide criminal background checks. This will have chilling effect on people choosing to volunteer. Disclosure could expose court appointed special advocates to harassment and threats. If there are no more volunteers, then the state will have to pay for such services because they are required under state and federal law.

(Other) The bill should not refer to electronic mail addresses for ride-share participants, but rather a point of contact, which would include texting and other forms of communication. It is important for the news media to have access to transit fare programs because newspapers investigate these programs and state tollbooth charging serves to highlight abuses of the system. The contents of a 911 call itself should not be exempt from disclosure.

Persons Testifying: (In support) Tiffany Williams, Abused Deaf Women's Advocacy Services; Marlys Davis, King County 911; Keith Flewelling, Thurston County 911; Barb Graff, Seattle Office of Emergency Management; Patrick Butschli, King County Sheriff's Office; and Eric Norton, West Pierce Fire and Rescue and Washington Fire Chief.

(Opposed) Judith Reel and Ryan Murrey, Washington State Court Appointed Special Advocates; and Steve Warning, Superior Court Judges' Association.

(Other) Rowland Thompson, Sunshine Committee and Allied Daily Newspapers.

Persons Signed In To Testify But Not Testifying: None.