

SENATE BILL REPORT

SB 6438

As of February 4, 2020

Title: An act relating to applying the public records act to all courts and offices within the judicial branch.

Brief Description: Applying the public records act to all courts and offices within the judicial branch.

Sponsors: Senators Van De Wege, Schoesler, Hunt, Warnick, Wagoner and Becker.

Brief History:

Committee Activity: State Government, Tribal Relations & Elections: 2/07/20.

<p style="text-align: center;">Brief Summary of Bill</p> <ul style="list-style-type: none">• Applies the Public Records Act to state and local judicial offices and all judicial records.
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SENATE COMMITTEE ON STATE GOVERNMENT, TRIBAL RELATIONS & ELECTIONS

Staff: Samuel Brown (786-7470)

Background: Public Records Act. The Public Records Act (PRA), enacted in 1972 as part of Initiative 276, requires that all state and local government agencies make all public records available for public inspection and copying unless certain statutory exemptions apply. Over 500 specific references in the PRA or other statutes remove certain information from application of the PRA, provide exceptions to the public disclosure and copying of certain information, or designate certain information as confidential. The provisions requiring public records disclosure must be interpreted liberally while the exemptions are interpreted narrowly to effectuate the general policy favoring disclosure.

Public Records Act and the Judiciary. On two occasions, the Washington Supreme Court has held that the PRA and its disclosure obligations do not apply to courts and the judicial branch. In *Nast v. Michels*, 107 Wn. 2d 300 (1986), the court found that the PRA did not provide a right to access court files because common law provided the public with access to court files. In *City of Federal Way v. Koenig*, 167 Wn. 2d 341 (2009), the court, affirming a

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prior holding that courts have inherent authority to control their records and proceedings, held that courts were not included in the PRA's definition of "agency" and thus not subject to the PRA's disclosure obligations.

Access to Court and Administrative Records. General Rule 31 of the Washington Courts governs access to court records. It states that the public has the right to access court records, such as documents, exhibits, and other filings in connection with a judicial proceeding, as well as indexes, dockets, judgments, and other records of proceedings. General Rule 31.1 provides public access to records related to judicial administration. Under these rules, the public does not have a right to access judges' personal notes, communications, and working papers created or maintained by judges and under control of judicial chambers.

Summary of Bill: Courts and judicial offices are agencies subject to the PRA. Court case files and judicial records are public records subject to the PRA's disclosure requirements.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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