

---

ENGROSSED SUBSTITUTE HOUSE BILL 1956

---

State of Washington

67th Legislature

2022 Regular Session

By House State Government & Tribal Relations (originally sponsored by Representatives Hackney, Valdez, Davis, Simmons, Goodman, Peterson, Dolan, and Macri)

READ FIRST TIME 01/31/22.

1 AN ACT Relating to exempting from public disclosure sensitive  
2 records pertaining to current and formerly incarcerated individuals'  
3 dignity and safety; adding a new section to chapter 42.56 RCW;  
4 creating a new section; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 42.56  
7 RCW to read as follows:

8 (1) The following information or records created or maintained by  
9 the department of corrections is exempt from public inspection and  
10 copying under this chapter:

11 (a) Body scanner images from any system designed to detect and  
12 visualize contraband hidden in body cavities or beneath clothing,  
13 including backscatter X-ray, millimeter wave, and transmission X-ray  
14 systems;

15 (b) Records or information created or maintained pursuant to the  
16 federal prison rape elimination act, 34 U.S.C. Sec. 30301 et seq.,  
17 and its regulations, about an incarcerated individual other than  
18 records or information contained in referrals to law enforcement or  
19 violation or infraction records; and

20 (c) Health information in records other than an incarcerated  
21 individual's medical, mental health, or dental files.

1 (2) The exemption of information or records described under  
2 subsections (1)(b) and (1)(c) of this section does not apply to  
3 requests by the incarcerated individual who is the subject of the  
4 information, a requestor with the written permission of the  
5 incarcerated individual who is the subject of the information, or a  
6 personal representative of an incarcerated individual who is the  
7 subject of the information. In response to such requests, the  
8 department of corrections may withhold information revealing the  
9 identity of other incarcerated individuals.

10 (3) An agency refusing, in whole or in part, inspection of a  
11 public record containing information listed in subsection (1)(c) of  
12 this section may identify the number of such pages withheld and cite  
13 to subsection (1)(c) of this section without further explanation when  
14 providing a brief explanation of how the exemption applies to the  
15 record withheld.

16 (4) For purposes of this section:

17 (a) "Health information" means any information that identifies or  
18 can readily be associated with the identity of an incarcerated  
19 individual and directly relates to the following: Medical or mental  
20 health diagnoses or conditions; PULHES codes; treatment or  
21 programming provided, overseen, or coordinated by a health care  
22 provider, including requests for or complaints about such treatment  
23 or programming; transgender, intersex, nonbinary, or gender  
24 nonconforming status; sexual orientation; genital anatomy; or gender-  
25 affirming care or accommodations other than an incarcerated  
26 individual's preferred name, pronouns, and gender marker.

27 (b) The following information is not "health information" under  
28 this section: Health care information subject to RCW 42.56.360(2) and  
29 chapter 70.02 RCW; the fact that an incarcerated individual  
30 participated in, failed to participate in, was terminated from, or  
31 satisfactorily completed court-ordered treatment or programming  
32 eligible for earned release time as determined by the department of  
33 corrections pursuant to RCW 9.94A.729; images or descriptions of an  
34 injury contained in a violation or infraction record; or information  
35 related to the death, irreversible coma, or persistent vegetative  
36 state of an incarcerated individual.

37 (c) "Incarcerated individual" has the same meaning as "inmate"  
38 under RCW 72.09.015 and includes currently or formerly incarcerated  
39 individuals.

1        NEW SECTION.    **Sec. 2.**    This act is remedial, curative, and  
2 retroactive, and the exemptions in section 1 of this act apply  
3 retroactively to any public records request made prior to the  
4 effective date of this section for which disclosure of records has  
5 not already occurred.

6        NEW SECTION.    **Sec. 3.**    This act is necessary for the immediate  
7 preservation of the public peace, health, or safety, or support of  
8 the state government and its existing public institutions, and takes  
9 effect immediately.

--- END ---