
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 referrals to law enforcement or information contained in a violation
19 or infraction record; and

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

1 (2) Information exempt under subsection (1) of this section must
2 be made available for inspection and copying to the incarcerated
3 individual who is the subject of the information, a requestor with
4 the written permission of the incarcerated individual who is the
5 subject of the information, or a personal representative of an
6 incarcerated individual who is the subject of the information. For
7 records disclosed pursuant to this subsection, the department of
8 corrections may withhold information revealing the identity of other
9 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) Jail records maintained by the department of corrections in
17 the course of operating a jail as described in RCW 70.48.100, and
18 department of corrections' records maintained by a jail as described
19 in RCW 70.48.100, are subject to RCW 70.48.100.

20 (5) For purposes of this section:

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

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

1 (c) "Incarcerated individual" has the same meaning as "inmate"
2 under RCW 72.09.015 and includes currently or formerly incarcerated
3 individuals.

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

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

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