
SUBSTITUTE SENATE BILL 5098

State of Washington

67th Legislature

2022 Regular Session

By Senate State Government & Elections (originally sponsored by Senator Hunt; by request of Public Records Exemptions Accountability Committee)

READ FIRST TIME 02/02/22.

1 AN ACT Relating to recommendations of the public records
2 exemptions accountability committee; amending RCW 10.27.090,
3 10.27.160, 21.20.480, 27.53.070, 43.22.290, 43.41.100, 46.52.065,
4 46.52.080, 46.52.120, and 72.05.130; reenacting and amending RCW
5 4.24.250; and repealing RCW 18.46.090, 24.06.480, and 26.12.080.

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

7 **Sec. 1.** RCW 4.24.250 and 2005 c 291 s 1 and 2005 c 33 s 5 are
8 each reenacted and amended to read as follows:

9 (1) Any health care provider as defined in RCW 7.70.020 (1) and
10 (2) who, in good faith, files charges or presents evidence against
11 another member of their profession based on the claimed incompetency
12 or gross misconduct of such person before a regularly constituted
13 review committee or board of a professional society or hospital whose
14 duty it is to evaluate the competency and qualifications of members
15 of the profession, including limiting the extent of practice of such
16 person in a hospital or similar institution, or before a regularly
17 constituted committee or board of a hospital whose duty it is to
18 review and evaluate the quality of patient care and any person or
19 entity who, in good faith, shares any information or documents with
20 one or more other committees, boards, or programs under subsection
21 (2) of this section, shall be immune from civil action for damages

1 arising out of such activities. For the purposes of this section,
2 sharing information is presumed to be in good faith. However, the
3 presumption may be rebutted upon a showing of clear, cogent, and
4 convincing evidence that the information shared was knowingly false
5 or deliberately misleading. (~~The proceedings, reports, and written~~
6 ~~records of such committees or boards, or of a member, employee, staff~~
7 ~~person, or investigator of such a committee or board,)~~ Information
8 and documents created by or specifically for, and collected and
9 maintained by such committees or boards are not subject to review or
10 disclosure, or subpoena or discovery proceedings in any civil action,
11 except actions arising out of the recommendations of such committees
12 or boards involving the restriction or revocation of the clinical or
13 staff privileges of a health care provider as defined in RCW 7.70.020
14 (1) and (2).

15 (2) A coordinated quality improvement program maintained in
16 accordance with RCW 43.70.510 or 70.41.200, a quality assurance
17 committee maintained in accordance with RCW 18.20.390 or 74.42.640,
18 or any committee or board under subsection (1) of this section may
19 share information and documents, including complaints and incident
20 reports, created specifically for, and collected and maintained by, a
21 coordinated quality improvement committee or committees or boards
22 under subsection (1) of this section, with one or more other
23 coordinated quality improvement programs or committees or boards
24 under subsection (1) of this section for the improvement of the
25 quality of health care services rendered to patients and the
26 identification and prevention of medical malpractice. The privacy
27 protections of chapter 70.02 RCW and the federal health insurance
28 portability and accountability act of 1996 and its implementing
29 regulations apply to the sharing of individually identifiable patient
30 information held by a coordinated quality improvement program. Any
31 rules necessary to implement this section shall meet the requirements
32 of applicable federal and state privacy laws. Information and
33 documents disclosed by one coordinated quality improvement program or
34 committee or board under subsection (1) of this section to another
35 coordinated quality improvement program or committee or board under
36 subsection (1) of this section and any information and documents
37 created or maintained as a result of the sharing of information and
38 documents shall not be subject to the discovery process and
39 confidentiality shall be respected as required by subsection (1) of

1 this section and by RCW 43.70.510(4), 70.41.200(3), 18.20.390 (6) and
2 (8), and 74.42.640 (7) and (9).

3 **Sec. 2.** RCW 10.27.090 and 2010 c 8 s 1021 are each amended to
4 read as follows:

5 (1) Every member of the grand jury shall keep secret whatever he,
6 she, or any other grand juror has said, and how he, she, or any other
7 grand juror has voted, except for disclosure of indictments, if any,
8 as provided in RCW 10.27.150.

9 (2) No grand juror shall be permitted to state or testify in any
10 court how he, she, or any other grand juror voted on any question
11 before them or what opinion was expressed by himself, herself, or any
12 other grand juror regarding such question.

13 (3) No grand juror, public or private attorney, city attorney or
14 corporation counsel, reporter, interpreter or public servant who held
15 a witness in custody before a grand jury or special inquiry judge, or
16 witness, principal or other person shall disclose the testimony of a
17 witness examined before the grand jury or special inquiry judge or
18 other evidence received by it, (~~except when required by the court to~~
19 ~~disclose the testimony of the witness examined before the grand jury~~
20 ~~or special inquiry judge for the purpose of ascertaining whether it~~
21 ~~is consistent with that of the witness given before the court, or to~~
22 ~~disclose his or her testimony given before the grand jury or special~~
23 ~~inquiry judge by any person upon a charge against such person for~~
24 ~~perjury in giving his or her testimony or upon trial therefor, or~~
25 ~~when permitted by the court in furtherance of justice)) when such
26 disclosure is prohibited by the court.~~

27 (4) The public attorney shall have access to all grand jury and
28 special inquiry judge evidence and may introduce such evidence before
29 any other grand jury or any trial in which the same may be relevant.

30 (5) The court upon a showing of good cause may make any or all
31 grand jury or special inquiry judge evidence available to any other
32 public attorney, prosecuting attorney, city attorney or corporation
33 counsel upon proper application and with the concurrence of the
34 public attorney attending such grand jury. Any witness' testimony,
35 given before a grand jury or a special inquiry judge and relevant to
36 any subsequent proceeding against the witness, shall be made
37 available to the witness upon proper application to the court. The
38 court may also, upon proper application and upon a showing of good

1 cause, make available to a defendant in a subsequent criminal
2 proceeding other testimony or evidence:

3 (a) When given or presented before a special inquiry judge, if
4 doing so is in the furtherance of justice; or

5 (b) When given or presented before a grand jury, if the court
6 finds that doing so is necessary to prevent an injustice and that
7 there is no reason to believe that doing so would endanger the life
8 or safety of any witness or his or her family. The cost of any such
9 transcript made available shall be borne by the applicant.

10 **Sec. 3.** RCW 10.27.160 and 1971 ex.s. c 67 s 16 are each amended
11 to read as follows:

12 The grand jury may prepare its conclusions, recommendations, and
13 suggestions in the form of a grand jury report. Such report shall be
14 released to the public only upon a determination by a majority of the
15 judges of the superior court of the county court that (1) the
16 findings in the report deal with matters of broad public policy
17 affecting the public interest (~~and do not identify or criticize any~~
18 ~~individual~~); (2) the release of the report would be consistent with
19 the public interest and further the ends of justice; and (3) release
20 of the report would not prejudice any pending criminal investigation
21 or trial.

22 NEW SECTION. **Sec. 4.** RCW 18.46.090 (Information confidential)
23 and 2000 c 93 s 36 & 1951 c 168 s 10 are each repealed.

24 **Sec. 5.** RCW 21.20.480 and 1979 ex.s. c 68 s 35 are each amended
25 to read as follows:

26 It is unlawful for the director or any of the director's officers
27 or employees to use for personal benefit any information which is
28 filed with or obtained by the director and which is not made public.
29 (~~The director or any of the director's officers or employees shall~~
30 ~~not disclose any such information or the fact that any investigation~~
31 ~~is being made except among themselves or when necessary or~~
32 ~~appropriate in a proceeding or investigation under this chapter.~~) No
33 provision of this chapter either creates or derogates from any
34 privilege which exists at common law or otherwise when documentary or
35 other evidence is sought under a subpoena directed to the director or
36 any of the director's officers or employees.

1 NEW SECTION. **Sec. 6.** RCW 24.06.480 (Confidential nature of
2 information disclosed by interrogatories) and 1982 c 35 s 158 & 1969
3 ex.s. c 120 s 96 are each repealed.

4 NEW SECTION. **Sec. 7.** RCW 26.12.080 (Protection of privacy of
5 parties) and 1989 c 375 s 22 & 1949 c 50 s 8 are each repealed.

6 **Sec. 8.** RCW 27.53.070 and 2011 c 219 s 2 are each amended to
7 read as follows:

8 (1) It is the declared intention of the legislature that field
9 investigations on privately owned lands should be conducted by
10 professional archaeologists in accordance with both the provisions
11 and spirit of this chapter. Persons having knowledge of the location
12 of archaeological sites or resources are encouraged to communicate
13 such information to the department. Such information shall ~~((not~~
14 ~~constitute a public record which requires))~~ be exempt from disclosure
15 pursuant to the exception authorized in ~~((chapter 42.56 RCW to avoid~~
16 ~~site depredation))~~ RCW 42.56.300.

17 (2) Nothing in this chapter shall be interpreted to allow
18 trespassing on private property.

19 **Sec. 9.** RCW 43.22.290 and 2011 c 96 s 28 are each amended to
20 read as follows:

21 Every owner, operator, or manager of a factory, workshop, mill,
22 mine, or other establishment where labor is employed, shall make to
23 the department, upon blanks furnished by it, such reports and returns
24 as the department may require, for the purpose of compiling such
25 labor statistics as are authorized by this chapter, and the owner or
26 business manager shall make such reports and returns within the time
27 prescribed therefor by the director, and shall certify to the
28 correctness thereof.

29 In the reports of the department no use shall be made of the
30 names of individuals, firms, or corporations supplying the
31 information called for by this section, such information being deemed
32 confidential ~~((, and not for the purpose of disclosing personal~~
33 ~~affairs, and any officer, agent, or employee of the department~~
34 ~~violating this provision shall be fined a sum not exceeding five~~
35 ~~hundred dollars, or be imprisoned for up to three hundred sixty-four~~
36 ~~days)).~~

1 **Sec. 10.** RCW 43.41.100 and 2009 c 549 s 5119 are each amended to
2 read as follows:

3 The director of financial management shall:

4 (1) Supervise and administer the activities of the office of
5 financial management.

6 (2) Exercise all the powers and perform all the duties prescribed
7 by law with respect to the administration of the state budget and
8 accounting system.

9 (3) Advise the governor and the legislature with respect to
10 matters affecting program management and planning.

11 (4) Make efficiency surveys of all state departments and
12 institutions, and the administrative and business methods pursued
13 therein, examine into the physical needs and industrial activities
14 thereof, and make (~~(confidential)~~) reports to the governor,
15 recommending necessary betterments, repairs, and the installation of
16 improved and more economical administrative methods, and advising
17 such action as will result in a greater measure of self-support and
18 remedies for inefficient functioning.

19 The director may enter into contracts on behalf of the state to
20 carry out the purposes of this chapter; he or she may act for the
21 state in the initiation of or participation in any multi-governmental
22 agency program relative to the purposes of this chapter; and he or
23 she may accept gifts and grants, whether such grants be of federal or
24 other funds.

25 **Sec. 11.** RCW 46.52.065 and 1977 ex.s. c 50 s 1 are each amended
26 to read as follows:

27 Every coroner or other official performing like functions shall
28 submit to the state toxicologist a blood sample taken from all
29 drivers and all pedestrians who are killed in any traffic accident
30 where the death occurred within four hours after the accident. Blood
31 samples shall be taken and submitted in the manner prescribed by the
32 state toxicologist. The state toxicologist shall analyze these blood
33 samples to determine the concentration of alcohol and, where
34 feasible, the presence of drugs or other toxic substances. The
35 reports and records of the state toxicologist relating to analyses
36 made pursuant to this section shall be (~~(confidential: PROVIDED, That~~
37 ~~the results of these analyses shall be)~~) reported to the state patrol
38 and made available to the prosecuting attorney or law enforcement
39 agency having jurisdiction(~~(: PROVIDED FURTHER, That the)~~). The

1 results of these analyses may be admitted in evidence in any civil or
2 criminal action where relevant and shall be made available to the
3 parties to any such litigation (~~(on application to the court)~~).

4 **Sec. 12.** RCW 46.52.080 and 1979 c 158 s 162 are each amended to
5 read as follows:

6 All required accident reports and supplemental reports and copies
7 thereof shall be without prejudice to the individual so reporting and
8 shall be for the confidential use of the county prosecuting attorney
9 and chief of police or county sheriff, as the case may be, and the
10 director of licensing and the chief of the Washington state patrol,
11 and other officer or commission as authorized by law, except that any
12 such officer shall disclose the names and addresses of persons
13 reported as involved in an accident or as witnesses thereto, the
14 vehicle license plate numbers and descriptions of vehicles involved,
15 and the date, time and location of an accident, to any person who may
16 have a proper interest therein, including the driver or drivers
17 involved, or the legal guardian thereof, the parent of a minor
18 driver, any person injured therein, the owner of vehicles or property
19 damaged thereby, or any authorized representative of such an
20 interested party, or the attorney or insurer thereof. No such
21 accident report or copy thereof shall be used as evidence in any
22 trial, civil or criminal, arising out of an accident, except that any
23 officer above named for receiving accident reports shall furnish,
24 upon demand of any person who has, or who claims to have, made such a
25 report, or, upon demand of any court, a certificate showing that a
26 specified accident report has or has not been made to the chief of
27 the Washington state patrol solely to prove a compliance or a failure
28 to comply with the requirement that such a report be made in the
29 manner required by law: PROVIDED, That the reports may be used as
30 evidence when necessary to prosecute charges filed in connection with
31 a violation of RCW 46.52.088. However, accident reports and
32 supplemental reports may be disclosed pursuant to chapter 42.56 RCW
33 upon redaction of all information identifying the persons involved in
34 the accident, including names, addresses, phone numbers, email
35 addresses, license plate numbers, driver's license numbers, vehicle
36 identification numbers, social security numbers, and photos of such
37 persons.

1 **Sec. 13.** RCW 46.52.120 and 2017 c 147 s 9 are each amended to
2 read as follows:

3 (1) The director shall keep a case record on every motor vehicle
4 driver licensed under the laws of this state, together with
5 information on each driver, showing all the convictions and findings
6 of traffic infractions certified by the courts, together with an
7 index cross-reference record of each accident reported relating to
8 such individual with a brief statement of the cause of the accident
9 and whether or not the accident resulted in any fatality.

10 (2) The records shall be for the (~~confidential~~) use of the
11 director, the chief of the Washington state patrol, the director of
12 the Washington traffic safety commission, and for such police
13 officers or other cognizant public officials as may be designated by
14 law. Such case records shall not be admitted into evidence in any
15 court, except where relevant to the prosecution or defense of a
16 criminal charge, or in case appeal is taken from the order of the
17 director, suspending, revoking, canceling, or refusing a vehicle
18 driver's license.

19 (3) The director shall tabulate and analyze vehicle driver's case
20 records and suspend, revoke, cancel, or refuse a vehicle driver's
21 license to a person when it is deemed from facts contained in the
22 case record of such person that it is for the best interest of public
23 safety that such person be denied the privilege of operating a motor
24 vehicle. The director shall also suspend a person's driver's license
25 if the person fails to attend or complete a driver improvement
26 interview or fails to abide by conditions of probation under RCW
27 46.20.335. Whenever the director orders the vehicle driver's license
28 of any such person suspended, revoked, or canceled, or refuses the
29 issuance of a vehicle driver's license, such suspension, revocation,
30 cancellation, or refusal is final and effective unless appeal from
31 the decision of the director is taken as provided by law.

32 **Sec. 14.** RCW 72.05.130 and 2020 c 274 s 55 are each amended to
33 read as follows:

34 The department of social and health services and the department
35 of children, youth, and families shall establish, maintain, operate
36 and administer a comprehensive program for the custody, care,
37 education, treatment, instruction, guidance, control, and
38 rehabilitation of all persons who may be committed or admitted to
39 institutions, schools, or other facilities, placed under the control

1 of each, except for the programs of education provided pursuant to
2 RCW 28A.190.030 through 28A.190.050 which shall be established,
3 operated, and administered by the school district conducting the
4 program, and in order to accomplish these purposes, the powers and
5 duties of the secretary of the department of social and health
6 services and the secretary of the department of children, youth, and
7 families for the institutions placed under the respective department
8 shall include the following:

9 (1) The assembling, analyzing, tabulating, and reproduction in
10 report form, of statistics and other data with respect to children
11 with behavior problems in the state of Washington, including, but not
12 limited to, the extent, kind, and causes of such behavior problems in
13 the different areas and population centers of the state. (~~Such~~
14 ~~reports shall not be open to public inspection, but shall be open to~~
15 ~~the inspection of the governor and to the superior court judges of~~
16 ~~the state of Washington.~~)

17 (2) The establishment and supervision of diagnostic facilities
18 and services in connection with the custody, care, and treatment of
19 persons with disabilities, and behavior problem children who may be
20 committed or admitted to any of the institutions, schools, or
21 facilities controlled and operated by the department, or who may be
22 referred for such diagnosis and treatment by any superior court of
23 this state. Such diagnostic services may be established in connection
24 with, or apart from, any other state institution under the
25 supervision and direction of the secretary of the department of
26 social and health services or the secretary of the department of
27 children, youth, and families. Such diagnostic services shall be
28 available to the superior courts of the state for persons referred
29 for such services by them prior to commitment, or admission to, any
30 school, institution, or other facility. Such diagnostic services
31 shall also be available to other departments of the state. When the
32 secretary of the department of social and health services or the
33 secretary of the department of children, youth, and families
34 determines it necessary, the secretary of the department of social
35 and health services or the secretary of the department of children,
36 youth, and families may create waiting lists and set priorities for
37 use of diagnostic services for juvenile offenders on the basis of
38 those most severely in need.

39 (3) The supervision of all persons committed or admitted to any
40 institution, school, or other facility operated by the department of

1 social and health services or the department of children, youth, and
2 families, and the transfer of such persons from any such institution,
3 school, or facility to any other such school, institution, or
4 facility: PROVIDED, That where a person has been committed to a
5 minimum security institution, school, or facility by any of the
6 superior courts of this state, a transfer to a close security
7 institution shall be made only with the consent and approval of such
8 court.

9 (4) The supervision of parole, discharge, or other release, and
10 the post-institutional placement of all persons committed to Green
11 Hill school, or such as may be assigned, paroled, or transferred
12 therefrom to other facilities operated by the department. Green Hill
13 school is hereby designated as a "close security" institution to
14 which shall be given the custody of children with the most serious
15 behavior problems.

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