

SSB 5130 - H COMM AMD

By Committee on State Government & Tribal Affairs

NOT ADOPTED 03/18/2009

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 42.56 RCW
4 to read as follows:

5 (1) The inspection or copying of any nonexempt public record by
6 persons serving criminal sentences in state, local, or privately
7 operated correctional facilities or persons directly connected to such
8 persons may be enjoined pursuant to this section.

9 (a) The injunction may be requested by: (i) An agency or its
10 representative; (ii) a person named in the record or his or her
11 representative; or (iii) a person to whom the requests specifically
12 pertains or his or her representative.

13 (b) The request must be filed in: (i) The superior court in which
14 the movant resides; or (ii) the superior court in the county in which
15 the record is maintained.

16 (c) In order to issue an injunction, the court must find that:

17 (i) The request was made to harass or intimidate the agency or its
18 employees;

19 (ii) Fulfilling the request would likely threaten the security of
20 correctional facilities;

21 (iii) Fulfilling the request would likely threaten the safety or
22 security of staff, inmates, family members of staff, family members of
23 other inmates, or any other person; or

24 (iv) Fulfilling the request may assist criminal activity.

25 (2) In deciding whether to enjoin a request under subsection (1) of
26 this section, the court may consider all relevant factors including,
27 but not limited to:

28 (a) Other requests by the requestor;

29 (b) The type of record or records sought;

1 (c) Statements offered by the requestor concerning the purpose for
2 the request;

3 (d) Whether disclosure of the requested records would likely harm
4 any person or vital government interest;

5 (e) Whether the request seeks a significant and burdensome number
6 of documents;

7 (f) The impact of disclosure on correctional facility security and
8 order, the safety or security of correctional facility staff, inmates,
9 or others; and

10 (g) The deterrence of criminal activity.

11 (3) The motion proceeding described in this section shall be a
12 summary proceeding based on affidavits or declarations, unless the
13 court orders otherwise. Upon a showing by a preponderance of the
14 evidence, the court may enjoin all or any part of a request or
15 requests. Based on the evidence, the court may also enjoin, for a
16 period of time the court deems reasonable, future requests by:

17 (a) The same requestor;

18 (b) An entity owned or controlled in whole or in part by the same
19 requestor;

20 (c) A family member of the requestor; or

21 (d) An acquaintance of the requestor.

22 (4) An agency shall not be liable for penalties under RCW
23 42.56.550(4) for any period during which an order under this section is
24 in effect, including during an appeal of an order under this section,
25 regardless of the outcome of the appeal.

26 NEW SECTION. **Sec. 2.** This act is necessary for the immediate
27 preservation of the public peace, health, or safety, or support of the
28 state government and its existing public institutions, and takes effect
29 immediately."

30 Correct the title.

EFFECT: Authorizes the filing of an injunction for requests made
by persons directly connected to the incarcerated person. Clarifies
under what circumstances a judge may enjoin a public record request by

an incarcerated person.

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