
SUBSTITUTE SENATE BILL 5130

State of Washington

61st Legislature

2009 Regular Session

By Senate Human Services & Corrections (originally sponsored by Senators Carrell, Hargrove, Swecker, Hatfield, Holmquist, Brandland, Sheldon, Tom, King, Hobbs, McCaslin, Stevens, and Marr; by request of Attorney General)

READ FIRST TIME 02/12/09.

1 AN ACT Relating to access to public records by persons serving
2 criminal sentences in correctional facilities; adding a new section to
3 chapter 42.56 RCW; and declaring an emergency.

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

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

7 (1) The inspection or copying of any nonexempt public record by
8 persons serving criminal sentences in state, local, or privately
9 operated correctional facilities may be enjoined if, upon motion by an
10 agency or its representative or a person named in the record or to whom
11 the request specifically pertains, or his or her representative, the
12 superior court for the county in which the movant resides or in which
13 the record is maintained, finds that the request was made to harass or
14 intimidate the agency, its employees, or any person, or that disclosure
15 of the record would likely threaten the security of correctional
16 facilities, the safety or security of staff, inmates, or others, or the
17 deterrence of criminal activity.

18 (2) In deciding whether to enjoin a request under subsection (1) of
19 this section, the court may consider all relevant factors, including,

1 but not limited to: Other requests by the requestor; the type of
2 record or records sought; statements offered by the requestor
3 concerning the purpose for the request; whether disclosure of the
4 requested records would likely harm any person or vital government
5 interest; whether the request seeks a significant and burdensome number
6 of documents; and the impact of disclosure on correctional facility
7 security and order, the safety or security of correctional facility
8 staff, inmates, or others, and the deterrence of criminal activity.

9 (3) The motion proceeding described in this section shall be a
10 summary proceeding based on affidavits or declarations, unless the
11 court orders otherwise. Upon a showing by a preponderance of the
12 evidence, the court may enjoin all or any part of the request or
13 requests, and may enjoin future requests by the same requestor, or by
14 an entity owned or controlled in whole or in part by the same
15 requestor, for such period as the court deems reasonable. An agency
16 shall not be liable for penalties under RCW 42.56.550(4) for any period
17 during which an order under this section is in effect, including during
18 an appeal of an order under this section, regardless of the outcome of
19 the appeal.

20 NEW SECTION. **Sec. 2.** This act is necessary for the immediate
21 preservation of the public peace, health, or safety, or support of the
22 state government and its existing public institutions, and takes effect
23 immediately.

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