
SENATE BILL 5685

State of Washington

62nd Legislature

2011 Regular Session

By Senators Swecker and Pridemore

Read first time 02/07/11. Referred to Committee on Government Operations, Tribal Relations & Elections.

1 AN ACT Relating to penalties for public records violations;
2 reenacting and amending RCW 42.56.550; creating a new section; and
3 prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** The legislature respectfully requests that
6 the courts use the multifactor analysis set forth in *Yousoufian v.*
7 *Office of Ron Sims*, 168 Wn.2d 444 (2010), when considering a monetary
8 award under RCW 42.56.550(4) to a person who was denied the right to
9 inspect or copy a public record.

10 **Sec. 2.** RCW 42.56.550 and 2005 c 483 s 5 and 2005 c 274 s 288 are
11 each reenacted and amended to read as follows:

12 (1) Upon the motion of any person having been denied an opportunity
13 to inspect or copy a public record by an agency, the superior court in
14 the county in which a record is maintained may require the responsible
15 agency to show cause why it has refused to allow inspection or copying
16 of a specific public record or class of records. The burden of proof
17 shall be on the agency to establish that refusal to permit public

1 inspection and copying is in accordance with a statute that exempts or
2 prohibits disclosure in whole or in part of specific information or
3 records.

4 (2) Upon the motion of any person who believes that an agency has
5 not made a reasonable estimate of the time that the agency requires to
6 respond to a public record request, the superior court in the county in
7 which a record is maintained may require the responsible agency to show
8 that the estimate it provided is reasonable. The burden of proof shall
9 be on the agency to show that the estimate it provided is reasonable.

10 (3) Judicial review of all agency actions taken or challenged under
11 RCW 42.56.030 through 42.56.520 shall be de novo. Courts shall take
12 into account the policy of this chapter that free and open examination
13 of public records is in the public interest, even though such
14 examination may cause inconvenience or embarrassment to public
15 officials or others. Courts may examine any record in camera in any
16 proceeding brought under this section. The court may conduct a hearing
17 based solely on affidavits.

18 (4) Any person who prevails against an agency in any action in the
19 courts seeking the right to inspect or copy any public record or the
20 right to receive a response to a public record request within a
21 reasonable amount of time shall be awarded all costs, including
22 reasonable attorney fees, incurred in connection with such legal
23 action. In addition, it shall be within the discretion of the court to
24 make a monetary award to such person (~~(an amount not less than five~~
25 ~~dollars and not to exceed one hundred dollars)) for each day that he or~~
26 she was denied the right to inspect or copy said public record.

27 (5) For actions under this section against counties, the venue
28 provisions of RCW 36.01.050 apply.

29 (6) Actions under this section must be filed within one year of the
30 agency's claim of exemption or the last production of a record on a
31 partial or installment basis.

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