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## Government Operations & Elections Committee

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### HB 1449

**Brief Description:** Making specific prosecution and defense documents and materials exempt from public inspection and copying.

**Sponsors:** Representatives Bergquist, Hope, Hunt, Buys, Orwall, Manweller and Freeman.

<p style="text-align: center;"><b>Brief Summary of Bill</b></p> <ul style="list-style-type: none"><li>• Exempts victim impact statements from disclosure under the Public Records Act.</li><li>• Exempts documents and other materials provided by the defense to the prosecution.</li></ul>
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**Hearing Date:** 2/12/13

**Staff:** Jasmine Vasavada (786-7301).

**Background:**

The Public Records Act (PRA) requires that all state and local government agencies make all public records available for public inspection and copying unless they fall within certain statutory exemptions. The provisions requiring public records disclosure must be interpreted liberally and the exemptions narrowly in order to effectuate a general policy favoring disclosure.

Certain information relating to investigative, law enforcement, and crime victims is exempt from public inspection and copying. This includes an exemption for specific investigative records compiled by law enforcement. Investigative records are exempt only if nondisclosure is essential either to effective law enforcement or for the protection of any person's privacy.

A victim impact statement is a statement submitted to the court by the victim or a survivor, individually, or with the assistance of the prosecuting attorney. It may include, but is not limited to, information assessing the financial, medical, social, and psychological impact of the offense upon the victim or survivors.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Some lower courts in Washington have found that certain information in victim impact statements and other materials provided by the defense to the prosecution can qualify as exempt from disclosure under the PRA's investigative records exemption. Under certain circumstances, the investigative records themselves may still be disclosed, but specific information, such as a victim's name, would first be redacted. In September 2012, the Washington State Supreme Court ruled that neither a victim impact statement nor a psychosexual evaluation provided by the defendant to the prosecution during a sentencing proceeding qualified for the "investigative record" exemption. As a result, the PRA required disclosure.

**Summary of Bill:**

Two new exemptions are expressly established under the PRA. Victim impact statements are exempt from public inspection and copying. Also exempt are documents and other materials provided by the defense to the prosecution, including but not limited to materials provided during communications, such as plea negotiations or sentencing discussions.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.