CERTIFICATION OF ENROLLMENT

**ENGROSSED SUBSTITUTE HOUSE BILL 1956**

Chapter 272, Laws of 2022

67th Legislature

2022 Regular Session

DEPARTMENT OF CORRECTIONS—PUBLIC RECORDS ACT EXEMPTIONS

EFFECTIVE DATE: March 31, 2022

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| Passed by the House March 8, 2022  Yeas 55 Nays 43  LAURIE JINKINS  **Speaker of the House of Representatives**  Passed by the Senate March 2, 2022  Yeas 28 Nays 20  DENNY HECK  **President of the Senate** | CERTIFICATE  I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1956** as passed by the House of Representatives and the Senate on the dates hereon set forth.  BERNARD DEAN  Chief Clerk |
| Approved March 31, 2022 4:39 PM | April 1, 2022 |
| JAY INSLEE  **Governor of the State of Washington** | **Secretary of State**  **State of Washington** |

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**ENGROSSED SUBSTITUTE HOUSE BILL 1956**

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AS AMENDED BY THE SENATE

Passed Legislature - 2022 Regular Session

**State of Washington 67th Legislature 2022 Regular Session**

**By** House State Government & Tribal Relations (originally sponsored by Representatives Hackney, Valdez, Davis, Simmons, Goodman, Peterson, Dolan, and Macri)

AN ACT Relating to exempting from public disclosure sensitive records pertaining to current and formerly incarcerated individuals' dignity and safety; adding a new section to chapter 42.56 RCW; creating a new section; and declaring an emergency.

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

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

(1) The following information or records created or maintained by the department of corrections is exempt from public inspection and copying under this chapter:

(a) Body scanner images from any system designed to detect and visualize contraband hidden in body cavities or beneath clothing, including backscatter X-ray, millimeter wave, and transmission X-ray systems;

(b) The following information and records created or maintained pursuant to the federal prison rape elimination act, 34 U.S.C. Sec. 30301 et seq., and its regulations:

(i) Risk assessments, risk indicators, and monitoring plans;

(ii) Reports of sexual abuse or sexual harassment, as defined under 28 C.F.R. 115.6;

(iii) Records of open prison rape elimination act investigations; and

(iv) The identities of individuals other than department of corrections staff, contractors, and volunteers, in closed prison rape elimination act investigation reports and related investigative materials; however, the identity of an accused individual is not exempt if the allegation is determined to have been substantiated; and

(c) Health information in records other than an incarcerated individual's medical, mental health, or dental files.

(2) The exemption of information or records described under subsection (1)(b) and (c) of this section does not apply to requests by the incarcerated individual who is the subject of the information, a requestor with the written permission of the incarcerated individual who is the subject of the information, or a personal representative of an incarcerated individual who is the subject of the information. In response to such requests, the department of corrections may withhold information revealing the identity of other incarcerated individuals.

(3) An agency refusing, in whole or in part, inspection of a public record containing information listed in subsection (1)(c) of this section may cite to subsection (1)(c) of this section, without further explanation, when providing the brief explanation required by RCW 42.56.210(3), and shall also identify the number of pages withheld, if any pages are withheld in their entirety.

(4) For purposes of this section:

(a) "Health information" means any information that identifies or can readily be associated with the identity of an incarcerated individual and directly relates to the following: Medical, mental health, or dental diagnoses or conditions; medical, mental health, or dental services, treatments, or procedures, including requests for or complaints about such services, treatments, or procedures; transgender, intersex, nonbinary, or gender nonconforming status; sexual orientation; genital anatomy; or gender-affirming care or accommodations other than an incarcerated individual's preferred name, pronouns, and gender marker.

(b) The following information is not "health information" under this section: (i) Health care information subject to RCW 42.56.360(2) and chapter 70.02 RCW; and (ii) information related to injuries, other than injuries related to medical procedures or genital anatomy, contained in incident reports, infraction records, or use of force reports, prepared by department of corrections staff other than health care providers.

(c) "Incarcerated individual" has the same meaning as "inmate" under RCW 72.09.015 and includes currently or formerly incarcerated individuals.

NEW SECTION. **Sec.**  This act is remedial, curative, and retroactive, and the exemptions in section 1 of this act apply retroactively to any public records request made prior to the effective date of this section for which disclosure of records has not already occurred.

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

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Passed by the House March 8, 2022.

Passed by the Senate March 2, 2022.

Approved by the Governor March 31, 2022.

Filed in Office of Secretary of State April 1, 2022.