

CERTIFICATION OF ENROLLMENT

HOUSE BILL 2583

Chapter 233, Laws of 1994

53rd Legislature
1994 Regular Session

RECORDS--DOMESTIC VIOLENCE PROGRAMS--UNFAIR
PRACTICE INVESTIGATIONS CONFIDENTIALITY

EFFECTIVE DATE: 7/1/94

Passed by the House March 5, 1994
Yeas 95 Nays 0

BRIAN EBERSOLE

**Speaker of the
House of Representatives**

Passed by the Senate March 3, 1994
Yeas 46 Nays 0

JOEL PRITCHARD

President of the Senate

Approved April 1, 1994

MIKE LOWRY

Governor of the State of Washington

CERTIFICATE

I, Marilyn Showalter, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 2583** as passed by the House of Representatives and the Senate on the dates hereon set forth.

MARILYN SHOWALTER

Chief Clerk

FILED

April 1, 1994 - 10:28 a.m.

**Secretary of State
State of Washington**

HOUSE BILL 2583

AS AMENDED BY THE SENATE

Passed Legislature - 1994 Regular Session

State of Washington 53rd Legislature 1994 Regular Session

By Representatives Veloria, Reams, Anderson, J. Kohl, Wood and Campbell

Read first time 01/19/94. Referred to Committee on State Government.

1 AN ACT Relating to disclosure of records; amending RCW 70.123.075;
2 reenacting and amending RCW 42.17.310; and providing an effective date.

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

4 **Sec. 1.** RCW 70.123.075 and 1991 c 301 s 10 are each amended to
5 read as follows:

6 (1) Client records maintained by domestic violence programs shall
7 not be subject to discovery in any judicial proceeding unless:

8 ~~((1))~~ (a) A written pretrial motion is made to a court stating
9 that discovery is requested of the client's domestic violence records;

10 ~~((2))~~ (b) The written motion is accompanied by an affidavit or
11 affidavits setting forth specifically the reasons why discovery is
12 requested of the domestic violence program's records;

13 ~~((3))~~ (c) The court reviews the domestic violence program's
14 records in camera to determine whether the domestic violence program's
15 records are relevant and whether the probative value of the records is
16 outweighed by the victim's privacy interest in the confidentiality of
17 such records, taking into account the further trauma that may be
18 inflicted upon the victim by the disclosure of the records; and

1 (~~(4)~~) (d) The court enters an order stating whether the records
2 or any part of the records are discoverable and setting forth the basis
3 for the court's findings.

4 (2) For purposes of this section "domestic violence program" means
5 a program that provides shelter, advocacy, or counseling services for
6 domestic violence victims.

7 **Sec. 2.** RCW 42.17.310 and 1993 c 360 s 2, 1993 c 320 s 9, and 1993
8 c 280 s 35 are each reenacted and amended to read as follows:

9 (1) The following are exempt from public inspection and copying:

10 (a) Personal information in any files maintained for students in
11 public schools, patients or clients of public institutions or public
12 health agencies, or welfare recipients.

13 (b) Personal information in files maintained for employees,
14 appointees, or elected officials of any public agency to the extent
15 that disclosure would violate their right to privacy.

16 (c) Information required of any taxpayer in connection with the
17 assessment or collection of any tax if the disclosure of the
18 information to other persons would (i) be prohibited to such persons by
19 RCW 82.32.330 or (ii) violate the taxpayer's right to privacy or result
20 in unfair competitive disadvantage to the taxpayer.

21 (d) Specific intelligence information and specific investigative
22 records compiled by investigative, law enforcement, and penology
23 agencies, and state agencies vested with the responsibility to
24 discipline members of any profession, the nondisclosure of which is
25 essential to effective law enforcement or for the protection of any
26 person's right to privacy.

27 (e) Information revealing the identity of persons who are witnesses
28 to or victims of crime or who file complaints with investigative, law
29 enforcement, or penology agencies, other than the public disclosure
30 commission, if disclosure would endanger any person's life, physical
31 safety, or property. If at the time a complaint is filed the
32 complainant, victim or witness indicates a desire for disclosure or
33 nondisclosure, such desire shall govern. However, all complaints filed
34 with the public disclosure commission about any elected official or
35 candidate for public office must be made in writing and signed by the
36 complainant under oath.

37 (f) Test questions, scoring keys, and other examination data used
38 to administer a license, employment, or academic examination.

1 (g) Except as provided by chapter 8.26 RCW, the contents of real
2 estate appraisals, made for or by any agency relative to the
3 acquisition or sale of property, until the project or prospective sale
4 is abandoned or until such time as all of the property has been
5 acquired or the property to which the sale appraisal relates is sold,
6 but in no event shall disclosure be denied for more than three years
7 after the appraisal.

8 (h) Valuable formulae, designs, drawings, and research data
9 obtained by any agency within five years of the request for disclosure
10 when disclosure would produce private gain and public loss.

11 (i) Preliminary drafts, notes, recommendations, and intra-agency
12 memorandums in which opinions are expressed or policies formulated or
13 recommended except that a specific record shall not be exempt when
14 publicly cited by an agency in connection with any agency action.

15 (j) Records which are relevant to a controversy to which an agency
16 is a party but which records would not be available to another party
17 under the rules of pretrial discovery for causes pending in the
18 superior courts.

19 (k) Records, maps, or other information identifying the location of
20 archaeological sites in order to avoid the looting or depredation of
21 such sites.

22 (l) Any library record, the primary purpose of which is to maintain
23 control of library materials, or to gain access to information, which
24 discloses or could be used to disclose the identity of a library user.

25 (m) Financial information supplied by or on behalf of a person,
26 firm, or corporation for the purpose of qualifying to submit a bid or
27 proposal for (i) a ferry system construction or repair contract as
28 required by RCW 47.60.680 through 47.60.750 or (ii) highway
29 construction or improvement as required by RCW 47.28.070.

30 (n) Railroad company contracts filed prior to July 28, 1991, with
31 the utilities and transportation commission under RCW 81.34.070, except
32 that the summaries of the contracts are open to public inspection and
33 copying as otherwise provided by this chapter.

34 (o) Financial and commercial information and records supplied by
35 private persons pertaining to export services provided pursuant to
36 chapter 43.163 RCW and chapter 53.31 RCW.

37 (p) Financial disclosures filed by private vocational schools under
38 chapter 28C.10 RCW.

1 (q) Records filed with the utilities and transportation commission
2 or attorney general under RCW 80.04.095 that a court has determined are
3 confidential under RCW 80.04.095.

4 (r) Financial and commercial information and records supplied by
5 businesses during application for loans or program services provided by
6 chapters 43.163, 43.160, 43.330, and 43.168 RCW.

7 (s) Membership lists or lists of members or owners of interests of
8 units in timeshare projects, subdivisions, camping resorts,
9 condominiums, land developments, or common-interest communities
10 affiliated with such projects, regulated by the department of
11 licensing, in the files or possession of the department.

12 (t) All applications for public employment, including the names of
13 applicants, resumes, and other related materials submitted with respect
14 to an applicant.

15 (u) The residential addresses and residential telephone numbers of
16 employees or volunteers of a public agency which are held by the agency
17 in personnel records, employment or volunteer rosters, or mailing lists
18 of employees or volunteers.

19 (v) The residential addresses and residential telephone numbers of
20 the customers of a public utility contained in the records or lists
21 held by the public utility of which they are customers.

22 (w)(i) The federal social security number of individuals governed
23 under chapter 18.130 RCW maintained in the files of the department of
24 health, except this exemption does not apply to requests made directly
25 to the department from federal, state, and local agencies of
26 government, and national and state licensing, credentialing,
27 investigatory, disciplinary, and examination organizations; (ii) the
28 current residential address and current residential telephone number of
29 a health care provider governed under chapter 18.130 RCW maintained in
30 the files of the department, if the provider requests that this
31 information be withheld from public inspection and copying, and
32 provides to the department an accurate alternate or business address
33 and business telephone number. On or after January 1, 1995, the
34 current residential address and residential telephone number of a
35 health care provider governed under RCW 18.130.140 maintained in the
36 files of the department shall automatically be withheld from public
37 inspection and copying if the provider has provided the department with
38 an accurate alternative or business address and telephone number.

1 (x) Information obtained by the board of pharmacy as provided in
2 RCW 69.45.090.

3 (y) Information obtained by the board of pharmacy or the department
4 of health and its representatives as provided in RCW 69.41.044,
5 69.41.280, and 18.64.420.

6 (z) Financial information, business plans, examination reports, and
7 any information produced or obtained in evaluating or examining a
8 business and industrial development corporation organized or seeking
9 certification under chapter 31.24 RCW.

10 (aa) Financial and commercial information supplied to the state
11 investment board by any person when the information relates to the
12 investment of public trust or retirement funds and when disclosure
13 would result in loss to such funds or in private loss to the providers
14 of this information.

15 (bb) Financial and valuable trade information under RCW 51.36.120.

16 (cc) Client records maintained by an agency that is a domestic
17 violence program as defined in RCW 70.123.020 or 70.123.075 or a rape
18 crisis center as defined in RCW 70.125.030.

19 (dd) Information that identifies a person who, while an agency
20 employee: (i) Seeks advice, under an informal process established by
21 the employing agency, in order to ascertain his or her rights in
22 connection with a possible unfair practice under chapter 49.60 RCW
23 against the person; and (ii) requests his or her identity or any
24 identifying information not be disclosed.

25 (ee) Investigative records compiled by an employing agency
26 conducting a current investigation of a possible unfair practice under
27 chapter 49.60 RCW or of a possible violation of other federal, state,
28 or local laws prohibiting discrimination in employment.

29 (ff) Business related information protected from public inspection
30 and copying under RCW 15.86.110.

31 (2) Except for information described in subsection (1)(c)(i) of
32 this section and confidential income data exempted from public
33 inspection pursuant to RCW 84.40.020, the exemptions of this section
34 are inapplicable to the extent that information, the disclosure of
35 which would violate personal privacy or vital governmental interests,
36 can be deleted from the specific records sought. No exemption may be
37 construed to permit the nondisclosure of statistical information not
38 descriptive of any readily identifiable person or persons.

1 (3) Inspection or copying of any specific records exempt under the
2 provisions of this section may be permitted if the superior court in
3 the county in which the record is maintained finds, after a hearing
4 with notice thereof to every person in interest and the agency, that
5 the exemption of such records is clearly unnecessary to protect any
6 individual's right of privacy or any vital governmental function.

7 (4) Agency responses refusing, in whole or in part, inspection of
8 any public record shall include a statement of the specific exemption
9 authorizing the withholding of the record (or part) and a brief
10 explanation of how the exemption applies to the record withheld.

11 NEW SECTION. **Sec. 3.** This act shall take effect July 1, 1994.

Passed the House March 5, 1994.

Passed the Senate March 3, 1994.

Approved by the Governor April 1, 1994.

Filed in Office of Secretary of State April 1, 1994.