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SENATE BILL 5101

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State of Washington                      55th Legislature                      1997 Regular Session

By Senators Oke, Winsley and Sheldon

Read first time 01/15/97. Referred to Committee on Law & Justice.

1            AN ACT Relating to juror privacy; adding new sections to chapter  
2 4.44 RCW; creating new sections; and prescribing penalties.

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

4            NEW SECTION.    **Sec. 1.** The legislature is aware jury duty and  
5 service is one of the highest obligations of citizenship. Individuals  
6 who are called upon to perform this duty have privacy concerns that  
7 need to be respected after their service has ended. The remote  
8 possibility that misconduct requiring reversal of a judgment may be  
9 undetected if a party to a lawsuit is not provided with unfettered  
10 postverdict access to jurors is more than offset by the importance of  
11 shielding former jurors from harassment. The legislature finds it is  
12 appropriate to advise jurors of their privacy rights at the conclusion  
13 of a case and to create a procedure for balancing juror's privacy  
14 rights with a party's legitimate need for access.

15            NEW SECTION.    **Sec. 2.** A new section is added to chapter 4.44 RCW  
16 to read as follows:

17            (1) Prior to discharging the jury from a case, the judge in a  
18 criminal or civil case shall inform the jurors that they have a right

1 to discuss or not to discuss the deliberation or verdict with anyone.  
2 The judge shall also inform the jurors of the provisions set forth in  
3 subsections (2), (3), and (4) of this section.

4 (2) Following the discharge of the jury, the plaintiff, or the  
5 plaintiff's attorney or representative, or the defendant, or the  
6 defendant's attorney or representative, may discuss the jury  
7 deliberation or verdict with a member of the jury, provided that the  
8 juror consents to the discussion prior to leaving the courthouse.

9 (3) Any contact with a juror that is initiated by the plaintiff,  
10 the plaintiff's attorney or representative, the defendant, or the  
11 defendant's attorney or representative, without the juror's consent  
12 shall be immediately reported to the trial judge.

13 (4) Any violation of this section is considered a violation of a  
14 lawful court order and is subject to punishment in accordance with  
15 chapter 7.21 RCW. Any information obtained in violation of this  
16 section is not admissible in any superior, district, or municipal court  
17 located within this state.

18 (5) Nothing in this section prohibits a peace officer from  
19 investigating any allegation of criminal conduct.

20 (6) Nothing in this section prohibits a plaintiff, or plaintiff's  
21 attorney, or a defendant, or defendant's attorney, from petitioning the  
22 court for access to jurors for the purpose of developing a motion for  
23 new trial or any other collateral attack on the verdict. Any petition  
24 for access is governed by the standards set forth in section 3 of this  
25 act.

26 NEW SECTION. **Sec. 3.** A new section is added to chapter 4.44 RCW  
27 to read as follows:

28 (1) Upon the recording of a jury's verdict in a criminal or civil  
29 proceeding, the court's record of personal juror identifying  
30 information, including the jurors' addresses and telephone numbers,  
31 shall be sealed until further order of the court as provided by this  
32 section.

33 (2) A person may petition the court for access to these records and  
34 for permission to contact the jurors. The petition must be supported  
35 by a declaration that includes facts sufficient to establish good cause  
36 for the release of the jurors' personal identifying information and the  
37 petition must be served upon the parties to the original action. The  
38 court shall set the matter for hearing if the petition and supporting

1 declaration establish a prima facie showing of good cause for the  
2 release of the identifying information, but shall not set the matter  
3 for hearing if there is a showing on the record of facts that establish  
4 a compelling interest against disclosure. A compelling interest  
5 includes, but is not limited to, protecting jurors from threats or  
6 danger of physical harm. Good cause includes, but is not limited to,  
7 the production of facts sufficient to support a reasonable belief that  
8 jury misconduct occurred. If the court does not set the matter for  
9 hearing, the court shall by minute order set forth the reasons and make  
10 express findings either of a lack of prima facie showing of good cause  
11 or the presence of a compelling interest against disclosure.

12 (3) If a hearing is set by the court under subsection (2) of this  
13 section, the court shall notify the parties to the civil or criminal  
14 action of the time and place of the hearing at least fifteen days prior  
15 to the date of the hearing. The court shall provide notice of the  
16 hearing to each affected former juror by personal service or by first  
17 class mail, addressed to the last known address of the former juror as  
18 shown in the records of the court. Any affected former juror may  
19 appear in person, in writing, by telephone, or by counsel to protest  
20 the granting of the petition.

21 (4) After the hearing, the records may be made available as  
22 requested in the petition, unless a former juror's protest to the  
23 granting of the petition is sustained. The court shall sustain the  
24 protest of the former juror if, in the discretion of the court, the  
25 petitioner fails to show good cause, the record establishes the  
26 presence of a compelling interest against disclosure as defined in  
27 subsection (2) of this section, or the juror is unwilling to be  
28 contacted by the petitioner. The court shall set forth reasons and  
29 make express findings to support the granting or denying of the  
30 petition to disclose. The court may require the person to whom  
31 disclosure is made, or his or her agent or employee, to agree not to  
32 divulge jurors' addresses or telephone numbers to others. The court  
33 may otherwise limit disclosure in any manner it deems appropriate, but  
34 in cases of potential juror misconduct, the court shall require that  
35 any questioning of jurors be done on the record in open court.

36 (5) Any court employee who has legal access to former jurors'  
37 addresses or telephone numbers that have been sealed under subsection  
38 (1) of this section, who knowingly and in violation of a court order

1 issued under subsection (1) of this section discloses the information,  
2 is guilty of a misdemeanor.

3 (6) Any person who intentionally solicits another to unlawfully  
4 access or disclose juror information contained in records sealed under  
5 subsection (1) of this section, knowing that the records have been  
6 sealed, or who knowing that the information was unlawfully secured,  
7 intentionally discloses it to another person, is guilty of a  
8 misdemeanor.

9 NEW SECTION. **Sec. 4.** This act is remedial in nature and applies  
10 to all cases tried in a superior court, district court, or municipal  
11 court located within this state, including cases in which the jury was  
12 discharged prior to the enactment of this statute. To this extent,  
13 this act applies retroactively, but in all other respects it applies  
14 prospectively.

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