
SUBSTITUTE HOUSE BILL 1037

State of Washington

56th Legislature

1999 Regular Session

By House Committee on Technology, Telecommunications & Energy
(originally sponsored by Representatives Bush, Morris and Ruderman)

Read first time 02/19/1999.

1 AN ACT Relating to commercial electronic mail; amending RCW
2 19.190.010, 19.190.020, 19.190.030, and 42.17.310; adding a new section
3 to chapter 19.190 RCW; adding a new chapter to Title 19 RCW; creating
4 a new section; repealing RCW 19.190.005; and prescribing penalties.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that the utilization
7 of electronic mail messages for commercial purposes merits further
8 study. The commercial electronic messages select task force created in
9 the 1998 session shall continue to explore technical, legal, and cost
10 issues surrounding the usage of electronic mail messages for commercial
11 purposes. The task force is extended and shall recommend to the
12 legislature any potential legislation needed for regulating commercial
13 electronic mail messages by November 1999.

14 **Sec. 2.** RCW 19.190.010 and 1998 c 149 s 2 are each amended to read
15 as follows:

16 The definitions in this section apply throughout this chapter
17 unless the context clearly requires otherwise.

1 (1) "Assist the transmission" means actions taken by a person to
2 provide substantial assistance or support which enables any person to
3 formulate, compose, send, originate, initiate, or transmit a
4 commercial electronic mail message when the person providing the
5 assistance knows or consciously avoids knowing that the initiator of
6 the commercial electronic mail message is engaged, or intends to
7 engage, in any practice that violates the consumer protection act.

8 (2) "Commercial electronic mail message" means an electronic mail
9 message sent for the purpose of promoting real property, goods, or
10 services for sale or lease. It does not mean an electronic mail
11 message to which an interactive computer service provider has attached
12 an advertisement in exchange for free use of an electronic mail
13 account, when the sender has agreed to such an arrangement.

14 (~~(2)~~) (3) "Electronic mail address" means a destination, commonly
15 expressed as a string of characters, to which electronic mail may be
16 sent or delivered.

17 (~~(3)~~) (4) "Initiate the transmission" refers to the action by the
18 original sender of an electronic mail message, not to the action by any
19 intervening interactive computer service that may handle or retransmit
20 the message, unless such intervening interactive computer service
21 assists in the transmission of an electronic mail message when it
22 knows, or consciously avoids knowing, that the person initiating the
23 transmission is engaged, or intends to engage, in any act or practice
24 that violates the consumer protection act.

25 (~~(4)~~) (5) "Interactive computer service" means any information
26 service, system, or access software provider that provides or enables
27 computer access by multiple users to a computer server, including
28 specifically a service or system that provides access to the internet
29 and such systems operated or services offered by libraries or
30 educational institutions.

31 (~~(5)~~) (6) "Internet domain name" refers to a globally unique,
32 hierarchical reference to an internet host or service, assigned through
33 centralized internet naming authorities, comprising a series of
34 character strings separated by periods, with the right-most string
35 specifying the top of the hierarchy.

36 (7) "Person" means a person, corporation, partnership, or
37 association.

38 (8) "Unsolicited commercial electronic mail message" means a
39 commercial electronic mail message:

- 1 (a) Sent without a recipient's prior consent;
2 (b) Sent to a recipient with whom the sender does not have a
3 preexisting and ongoing business or personal relationship; and
4 (c) Sent for a purpose other than collecting an existing
5 obligation.

6 **Sec. 3.** RCW 19.190.020 and 1998 c 149 s 3 are each amended to read
7 as follows:

8 (1) No person(~~(, corporation, partnership, or association)~~) may
9 initiate the transmission, conspire with another to initiate the
10 transmission, or assist the transmission, of a commercial electronic
11 mail message from a computer located in Washington or to an electronic
12 mail address that the sender knows, or has reason to know, is held by
13 a Washington resident that:

14 (a) Uses a third party's internet domain name without permission of
15 the third party, or otherwise misrepresents or obscures any information
16 in identifying the point of origin or the transmission path of a
17 commercial electronic mail message; ~~((or))~~

18 (b) Contains false or misleading information in the subject line;
19 or

20 (c) Fails to prominently display in the body of an unsolicited
21 commercial electronic mail message the following identifying
22 information: The legal name, mailing address, physical address, true
23 electronic mail address, and telephone number, including area code, of
24 the person initiating the transmission of the message, or his or her
25 registered agent in the state of Washington.

26 (2) For purposes of this section, a person(~~(, corporation,~~
27 ~~partnership, or association)~~) knows that the intended recipient of a
28 commercial electronic mail message is a Washington resident if that
29 information is available, upon request, from the registrant of the
30 internet domain name contained in the recipient's electronic mail
31 address or the information is available in the electronic registry of
32 Washington internet electronic mail addresses maintained by the
33 attorney general.

34 **Sec. 4.** RCW 19.190.030 and 1998 c 149 s 4 are each amended to read
35 as follows:

1 (1) It is a violation of the consumer protection act, chapter 19.86
2 RCW, to conspire with another person to initiate the transmission or to
3 initiate the transmission of a commercial electronic mail message that:

4 (a) Uses a third party's internet domain name without permission of
5 the third party, or otherwise misrepresents any information in
6 identifying the point of origin or the transmission path of a
7 commercial electronic mail message; ((or))

8 (b) Contains false or misleading information in the subject line;
9 or

10 (c) Fails to prominently display in the body of an unsolicited
11 commercial electronic mail message the following identifying
12 information: The legal name, mailing address, physical address, true
13 electronic mail address, and telephone number, including area code, of
14 the person initiating the transmission of the message, or his or her
15 registered agent in the state of Washington.

16 (2) It is a violation of the consumer protection act, chapter 19.86
17 RCW, to assist in the transmission of a commercial electronic mail
18 message, when the person providing the assistance knows, or consciously
19 avoids knowing, that the initiator of the commercial electronic mail
20 message is engaged, or intends to engage, in any act or practice that
21 violates the consumer protection act.

22 (3) The legislature finds that the practices covered by this
23 chapter are matters vitally affecting the public interest for the
24 purpose of applying the consumer protection act, chapter 19.86 RCW. A
25 violation of this chapter is not reasonable in relation to the
26 development and preservation of business and is an unfair or deceptive
27 act in trade or commerce and an unfair method of competition for the
28 purpose of applying the consumer protection act, chapter 19.86 RCW.

29 NEW SECTION. Sec. 5. A new section is added to chapter 19.190 RCW
30 to read as follows:

31 (1) The attorney general is authorized to create an electronic
32 registry of Washington internet electronic mail addresses. The
33 attorney general may contract with an independent administrator,
34 subject to the direction and control of the attorney general, to
35 operate and maintain the electronic registry. The electronic registry
36 shall be searchable so that a person wishing to send commercial
37 electronic mail messages may verify whether an electronic mail address
38 is registered to a Washington resident. Records in the electronic

1 registry are exempt from the public disclosure provisions of chapter
2 42.17 RCW.

3 (2)(a) A person who is a bona fide resident of Washington may
4 indicate his or her residency in this state by registering his or her
5 internet electronic mail address in the registry. To ensure that
6 information is current, a registration is valid for a period of two
7 years, upon which time the registration expires. A person who remains
8 a bona fide Washington resident may reregister upon expiration.

9 (b) Each registration in the registry shall be a declaration of
10 Washington residency made under penalty of perjury. A person who is
11 not a bona fide resident of Washington is prohibited from registering
12 his or her internet electronic mail address in the registry.

13 (3)(a) An interactive computer service provider whose clientele
14 exclusively consists of Washington residents may register all
15 electronic mail addresses belonging to its users through a single
16 registration of its internet domain name. Any electronic mail address
17 containing within it a registered internet domain name shall be
18 presumed to belong to a Washington resident. To ensure that
19 information is current, a registration is valid for a period of two
20 years, upon which time the registration expires. An interactive
21 computer service provider that continues to exclusively provide service
22 to Washington residents may reregister upon expiration.

23 (b) Each registration in the registry is a declaration under
24 penalty of perjury that an interactive computer service provider
25 exclusively provides service to bona fide Washington residents. An
26 interactive computer service provider who knowingly provides service to
27 persons who are not bona fide residents of Washington is prohibited
28 from registering its internet electronic mail address in the registry.

29 NEW SECTION. **Sec. 6.** The definitions in this section apply
30 throughout this chapter unless the context clearly requires otherwise.

31 (1) "Assist the transmission" means actions taken by a person to
32 provide substantial assistance or support which enables any person to
33 formulate, compose, send, originate, initiate, or transmit a
34 commercial electronic mail message when the person providing the
35 assistance knows or consciously avoids knowing that the initiator of
36 the commercial electronic mail message is engaged, or intends to
37 engage, in any practice that violates the consumer protection act.

1 (2) "Commercial electronic mail message" means an electronic mail
2 message sent for the purpose of promoting real property, goods, or
3 services for sale or lease. It does not mean an electronic mail
4 message to which an interactive computer service provider has attached
5 an advertisement in exchange for free use of an electronic mail
6 account, when the sender has agreed to such an arrangement.

7 (3) "Electronic mail address" means a destination, commonly
8 expressed as a string of characters, to which electronic mail may be
9 sent or delivered.

10 (4) "Initiate the transmission" refers to the action by the
11 original sender of an electronic mail message, not to the action by any
12 intervening interactive computer service that may handle or retransmit
13 the message, unless such intervening interactive computer service
14 assists in the transmission of an electronic mail message when it
15 knows, or consciously avoids knowing, that the person initiating the
16 transmission is engaged, or intends to engage, in any act or practice
17 that violates the consumer protection act.

18 (5) "Interactive computer service" means any information service,
19 system, or access software provider that provides or enables computer
20 access by multiple users to a computer server, including specifically
21 a service or system that provides access to the internet and such
22 systems operated or services offered by libraries or educational
23 institutions.

24 (6) "Person" means a person, corporation, partnership, or
25 association.

26 (7) "Publish" means to do either of the following with respect to
27 the interactive computer service provider's policy on unsolicited
28 commercial electronic mail messages:

29 (a) Make that policy available upon request in written form at no
30 charge; or

31 (b) Display that policy through an on-line notice on the internet
32 home page of the interactive computer service provider, or a page
33 accessible through a conspicuous link on the internet home page of the
34 interactive computer service provider.

35 (8) "Registered user" means a person that maintains an electronic
36 mail address with an interactive computer service provider.

37 (9) "Unsolicited commercial electronic mail message" means a
38 commercial electronic mail message:

39 (a) Sent without a recipient's prior consent;

1 (b) Sent to a recipient with whom the sender does not have a
2 preexisting and ongoing business or personal relationship; and

3 (c) Sent for a purpose other than collecting an existing
4 obligation.

5 NEW SECTION. **Sec. 7.** No registered user shall use or cause to be
6 used the registered user's interactive computer service provider's
7 service or equipment located in this state in violation of the
8 interactive computer service provider's published policy prohibiting or
9 restricting the use of its service or equipment for the initiation of
10 unsolicited commercial electronic mail messages.

11 NEW SECTION. **Sec. 8.** No person shall initiate, conspire with
12 another person to initiate, or assist the transmission of an
13 unsolicited commercial electronic mail message and use, or cause to be
14 used, an interactive computer service provider's equipment located in
15 this state in violation of that interactive computer service provider's
16 published policy prohibiting or restricting the use of its service or
17 equipment to deliver unsolicited commercial electronic messages.

18 NEW SECTION. **Sec. 9.** An interactive computer service provider is
19 not required to create a policy prohibiting or restricting the use of
20 its service or equipment for the initiation or delivery of unsolicited
21 commercial electronic mail messages.

22 NEW SECTION. **Sec. 10.** This chapter does not limit or restrict the
23 rights of an interactive computer service provider under Section
24 230(c)(1) of Title 47 of the United States Code, under chapter 19.190
25 RCW, or any decision of an interactive computer service provider to
26 permit to restrict access to or use of its system, or any exercise of
27 its editorial function.

28 NEW SECTION. **Sec. 11.** (1) In addition to any other action
29 available under law, any interactive computer service provider whose
30 published policy on unsolicited commercial electronic mail messages is
31 violated as provided in this chapter may bring a civil action against
32 a person or a registered user:

1 (a) Who initiates or conspires to initiate a message transmitted in
2 violation of the interactive computer service provider's published
3 policy; or

4 (b) Who assists in the transmission of a message, when the person
5 providing the assistance knows, or consciously avoids knowing, that the
6 person initiating the transmission is engaged in, or intends to engage
7 in, any acts or practices that violate an interactive computer service
8 provider's published policy.

9 (2) In any action brought pursuant to subsection (1) of this
10 section, an interactive computer service provider shall be required to
11 establish as an element of its cause of action that prior to the
12 alleged violation, the defendant had notice of both of the following:

13 (a) The policy of the interactive computer service provider
14 regarding unsolicited commercial electronic mail messages; and

15 (b) The fact that the defendant's unsolicited commercial electronic
16 mail message would use or cause to be used the interactive computer
17 service provider's equipment located in this state.

18 (3) In addition to any other action available under law, a customer
19 of an interactive computer service provider who receives commercial
20 electronic mail in violation of the interactive computer service
21 provider's published policy on unsolicited commercial electronic mail
22 messages as provided in this chapter may bring a civil action against
23 a person:

24 (a) Who initiates or conspires to initiate a message to a customer
25 that is transmitted in violation of an interactive computer service
26 provider's published policy; or

27 (b) Who assists in the transmission of a message to a customer,
28 when the person providing the assistance knows, or consciously avoids
29 knowing, that the person initiating the transmission is engaged in, or
30 intends to engage in, any acts or practices that violate an interactive
31 computer service provider's published policy.

32 (4) In any action brought pursuant to subsection (3) of this
33 section, a customer of an interactive computer service provider shall
34 be required to establish as an element of his or her cause of action
35 that prior to the alleged violation, the defendant had notice of both
36 of the following:

37 (a) The policy of the customer's interactive computer service
38 provider regarding unsolicited commercial electronic mail messages; and

1 (b) The fact that the defendant's unsolicited commercial electronic
2 mail message would use or cause to be used the interactive computer
3 service provider's equipment located in this state.

4 (5) An interactive computer service provider may recover the actual
5 monetary loss suffered by that provider by reason of a violation of its
6 published policy, or liquidated damages of fifty dollars for each
7 message initiated or delivered in violation of this chapter, up to a
8 maximum of twenty-five thousand dollars per day, whichever amount is
9 greater.

10 (6) A customer may recover liquidated damages of five hundred
11 dollars for each unsolicited commercial electronic mail message
12 received by the customer in violation of this chapter, up to a maximum
13 of twenty-five thousand dollars per day, whichever amount is greater.

14 (7) The prevailing party in any action brought under this section
15 is entitled to recover costs and reasonable attorneys' fees.

16 **Sec. 12.** RCW 42.17.310 and 1998 c 69 s 1 are each amended to read
17 as follows:

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

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

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

25 (c) Information required of any taxpayer in connection with the
26 assessment or collection of any tax if the disclosure of the
27 information to other persons would (i) be prohibited to such persons by
28 RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the
29 taxpayer's right to privacy or result in unfair competitive
30 disadvantage to the taxpayer.

31 (d) Specific intelligence information and specific investigative
32 records compiled by investigative, law enforcement, and penology
33 agencies, and state agencies vested with the responsibility to
34 discipline members of any profession, the nondisclosure of which is
35 essential to effective law enforcement or for the protection of any
36 person's right to privacy.

37 (e) Information revealing the identity of persons who are witnesses
38 to or victims of crime or who file complaints with investigative, law

1 enforcement, or penology agencies, other than the public disclosure
2 commission, if disclosure would endanger any person's life, physical
3 safety, or property. If at the time a complaint is filed the
4 complainant, victim or witness indicates a desire for disclosure or
5 nondisclosure, such desire shall govern. However, all complaints filed
6 with the public disclosure commission about any elected official or
7 candidate for public office must be made in writing and signed by the
8 complainant under oath.

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

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

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

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

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

29 (k) Records, maps, or other information identifying the location of
30 archaeological sites in order to avoid the looting or depredation of
31 such sites.

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

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

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

5 (o) Financial and commercial information and records supplied by
6 private persons pertaining to export services provided pursuant to
7 chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to
8 export projects pursuant to RCW 43.23.035.

9 (p) Financial disclosures filed by private vocational schools under
10 chapters 28B.85 and 28C.10 RCW.

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

14 (r) Financial and commercial information and records supplied by
15 businesses or individuals during application for loans or program
16 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,
17 or during application for economic development loans or program
18 services provided by any local agency.

19 (s) Membership lists or lists of members or owners of interests of
20 units in timeshare projects, subdivisions, camping resorts,
21 condominiums, land developments, or common-interest communities
22 affiliated with such projects, regulated by the department of
23 licensing, in the files or possession of the department.

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

27 (u) The residential addresses and residential telephone numbers of
28 employees or volunteers of a public agency which are held by the agency
29 in personnel records, employment or volunteer rosters, or mailing lists
30 of employees or volunteers.

31 (v) The residential addresses and residential telephone numbers of
32 the customers of a public utility contained in the records or lists
33 held by the public utility of which they are customers, except that
34 this information may be released to the division of child support or
35 the agency or firm providing child support enforcement for another
36 state under Title IV-D of the federal social security act, for the
37 establishment, enforcement, or modification of a support order.

38 (w)(i) The federal social security number of individuals governed
39 under chapter 18.130 RCW maintained in the files of the department of

1 health, except this exemption does not apply to requests made directly
2 to the department from federal, state, and local agencies of
3 government, and national and state licensing, credentialing,
4 investigatory, disciplinary, and examination organizations; (ii) the
5 current residential address and current residential telephone number of
6 a health care provider governed under chapter 18.130 RCW maintained in
7 the files of the department, if the provider requests that this
8 information be withheld from public inspection and copying, and
9 provides to the department an accurate alternate or business address
10 and business telephone number. On or after January 1, 1995, the
11 current residential address and residential telephone number of a
12 health care provider governed under RCW 18.130.140 maintained in the
13 files of the department shall automatically be withheld from public
14 inspection and copying unless the provider specifically requests the
15 information be released, and except as provided for under RCW
16 42.17.260(9).

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

19 (y) Information obtained by the board of pharmacy or the department
20 of health and its representatives as provided in RCW 69.41.044,
21 69.41.280, and 18.64.420.

22 (z) Financial information, business plans, examination reports, and
23 any information produced or obtained in evaluating or examining a
24 business and industrial development corporation organized or seeking
25 certification under chapter 31.24 RCW.

26 (aa) Financial and commercial information supplied to the state
27 investment board by any person when the information relates to the
28 investment of public trust or retirement funds and when disclosure
29 would result in loss to such funds or in private loss to the providers
30 of this information.

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

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

35 (dd) Information that identifies a person who, while an agency
36 employee: (i) Seeks advice, under an informal process established by
37 the employing agency, in order to ascertain his or her rights in
38 connection with a possible unfair practice under chapter 49.60 RCW

1 against the person; and (ii) requests his or her identity or any
2 identifying information not be disclosed.

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

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

9 (gg) Financial, commercial, operations, and technical and research
10 information and data submitted to or obtained by the clean Washington
11 center in applications for, or delivery of, program services under
12 chapter 70.95H RCW.

13 (hh) Information and documents created specifically for, and
14 collected and maintained by a quality improvement committee pursuant to
15 RCW 43.70.510, regardless of which agency is in possession of the
16 information and documents.

17 (ii) Personal information in files maintained in a data base
18 created under RCW 43.07.360.

19 (jj) Financial and commercial information requested by the public
20 stadium authority from any person or organization that leases or uses
21 the stadium and exhibition center as defined in RCW 36.102.010.

22 (kk) Names of individuals residing in emergency or transitional
23 housing that are furnished to the department of revenue or a county
24 assessor in order to substantiate a claim for property tax exemption
25 under RCW 84.36.043.

26 (ll) The names, residential addresses, residential telephone
27 numbers, and other individually identifiable records held by an agency
28 in relation to a vanpool, carpool, or other ride-sharing program or
29 service. However, these records may be disclosed to other persons who
30 apply for ride-matching services and who need that information in order
31 to identify potential riders or drivers with whom to share rides.

32 (mm) Proprietary financial and commercial information that the
33 submitting entity, with review by the department of health,
34 specifically identifies at the time it is submitted and that is
35 provided to or obtained by the department of health in connection with
36 an application for, or the supervision of, an antitrust exemption
37 sought by the submitting entity under RCW 43.72.310. If a request for
38 such information is received, the submitting entity must be notified of
39 the request. Within ten business days of receipt of the notice, the

1 submitting entity shall provide a written statement of the continuing
2 need for confidentiality, which shall be provided to the requester.
3 Upon receipt of such notice, the department of health shall continue to
4 treat information designated under this section as exempt from
5 disclosure. If the requester initiates an action to compel disclosure
6 under this chapter, the submitting entity must be joined as a party to
7 demonstrate the continuing need for confidentiality.

8 (nn) Records maintained by the board of industrial insurance
9 appeals that are related to appeals of crime victims' compensation
10 claims filed with the board under RCW 7.68.110.

11 (oo) Financial and commercial information supplied by or on behalf
12 of a person, firm, corporation, or entity under chapter 28B.95 RCW
13 relating to the purchase or sale of tuition units and contracts for the
14 purchase of multiple tuition units.

15 (pp) Records registered in the electronic registry of Washington
16 internet electronic mail addresses maintained by the attorney general.

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

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

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

35 NEW SECTION. Sec. 13. RCW 19.190.005 (Findings) and 1998 c 149 s
36 1 are each repealed.

1 NEW SECTION. **Sec. 14.** Sections 6 through 11 of this act
2 constitute a new chapter in Title 19 RCW.

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