
HOUSE BILL 1955

State of Washington 56th Legislature 1999 Regular Session

By Representatives McIntire, Clements and Conway

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1 AN ACT Relating to the transfer of data for operational,
2 evaluation, and research purposes; amending RCW 42.17.310 and
3 43.20A.080; reenacting and amending RCW 50.13.060; creating new
4 sections; and prescribing penalties.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that individuals in
7 need of employment and related services would be better served by
8 integrating employment and training services to form a comprehensive
9 network of state and local programs, called a one-stop career
10 development system. Successful integration of employment and training
11 services demands prompt and efficient exchange of information among
12 service providers. The legislature further finds that efficient
13 operation of state programs and their evaluation demand at times
14 information held by the employment security department. Current
15 restrictions on information exchange hamper this coordination,
16 resulting in increased administrative costs, reduced levels of service,
17 and fewer positive outcomes than could otherwise be achieved.

1 **Sec. 2.** RCW 50.13.060 and 1997 c 409 s 605 and 1997 c 58 s 1004
2 are each reenacted and amended to read as follows:

3 (1) Governmental agencies, including law enforcement agencies,
4 prosecuting agencies, and the executive branch, whether state, local,
5 or federal shall have access to information or records deemed private
6 and confidential under this chapter if the information or records are
7 needed by the agency for official purposes and:

8 (a) The agency submits an application in writing to the employment
9 security department for the records or information containing a
10 statement of the official purposes for which the information or records
11 are needed and specific identification of the records or information
12 sought from the department; and

13 (b) The director, commissioner, chief executive, or other official
14 of the agency has verified the need for the specific information in
15 writing either on the application or on a separate document; and

16 (c) The agency requesting access has served a copy of the
17 application for records or information on the individual or employing
18 unit whose records or information are sought and has provided the
19 department with proof of service. Service shall be made in a manner
20 which conforms to the civil rules for superior court. The requesting
21 agency shall include with the copy of the application a statement to
22 the effect that the individual or employing unit may contact the public
23 records officer of the employment security department to state any
24 objections to the release of the records or information. The
25 employment security department shall not act upon the application of
26 the requesting agency until at least five days after service on the
27 concerned individual or employing unit. The employment security
28 department shall consider any objections raised by the concerned
29 individual or employing unit in deciding whether the requesting agency
30 needs the information or records for official purposes.

31 (2) The requirements of subsections (1) and (9) of this section
32 shall not apply to the state legislative branch. The state legislature
33 shall have access to information or records deemed private and
34 confidential under this chapter, if the legislature or a legislative
35 committee finds that the information or records are necessary and for
36 official purposes. If the employment security department does not make
37 information or records available as provided in this subsection, the
38 legislature may exercise its authority granted by chapter 44.16 RCW.

1 (3) In cases of emergency the governmental agency requesting access
2 shall not be required to formally comply with the provisions of
3 subsection (1) of this section at the time of the request if the
4 procedures required by subsection (1) of this section are complied with
5 by the requesting agency following the receipt of any records or
6 information deemed private and confidential under this chapter. An
7 emergency is defined as a situation in which irreparable harm or damage
8 could occur if records or information are not released immediately.

9 (4) The requirements of subsection (1)(c) of this section shall not
10 apply to governmental agencies where the procedures would frustrate the
11 investigation of possible violations of criminal laws or to the release
12 of employing unit names, addresses, number of employees, and aggregate
13 employer wage data for the purpose of state governmental agencies
14 preparing small business economic impact statements under chapter 19.85
15 RCW or preparing cost-benefit analyses under RCW 34.05.328(1)(c).
16 Information provided by the department and held to be private and
17 confidential under state or federal laws must not be misused or
18 released to unauthorized parties. A person who misuses such
19 information or releases such information to unauthorized parties is
20 subject to the sanctions in RCW 50.13.080.

21 (5) Governmental agencies shall have access to certain records or
22 information, limited to such items as names, addresses, social security
23 numbers, and general information about benefit entitlement or employer
24 information possessed by the department, for comparison purposes with
25 records or information possessed by the requesting agency to detect
26 improper or fraudulent claims, or to determine potential tax liability
27 or employer compliance with registration and licensing requirements.
28 In those cases the governmental agency shall not be required to comply
29 with subsection (1)(c) of this section, but the requirements of the
30 remainder of subsection (1) of this section must be satisfied.

31 (6) Governmental agencies may have access to certain records and
32 information, limited to employer information possessed by the
33 department for purposes authorized in chapter 50.38 RCW. Access to
34 these records and information is limited to only those individuals
35 conducting authorized statistical analysis, research, and evaluation
36 studies. Only in cases consistent with the purposes of chapter 50.38
37 RCW are government agencies not required to comply with subsection
38 (1)(c) of this section, but the requirements of the remainder of
39 subsection (1) of this section must be satisfied. Information provided

1 by the department and held to be private and confidential under state
2 or federal laws shall not be misused or released to unauthorized
3 parties subject to the sanctions in RCW 50.13.080.

4 (7) Disclosure to governmental agencies of information or records
5 obtained by the employment security department from the federal
6 government shall be governed by any applicable federal law or any
7 agreement between the federal government and the employment security
8 department where so required by federal law. When federal law does not
9 apply to the records or information state law shall control.

10 (8) The department may provide information for purposes of
11 statistical analysis and evaluation of the WorkFirst program or any
12 successor state welfare program, the department of social and health
13 services, the office of financial management, and other governmental
14 entities with oversight or evaluation responsibilities for the program
15 ((shall have access to employer wage information on clients in the
16 program whose names and social security numbers are provided to the
17 department)) in accordance with RCW 43.20A.080. The confidential
18 information provided by the department shall remain the property of the
19 department and may be used by the authorized requesting agencies only
20 for statistical analysis, research, and evaluation purposes as provided
21 in RCW 74.08A.410 and 74.08A.420. The department of social and health
22 services ((is)), the office of financial management, or other
23 governmental entities with oversight or evaluation responsibilities for
24 the program are not required to comply with subsection (1)(c) of this
25 section, but the requirements of the remainder of subsection (1) of
26 this section and applicable federal laws and regulations must be
27 satisfied. The confidential information used for evaluation and
28 analysis of welfare reform supplied to the authorized requesting
29 entities with regard to the WorkFirst program or any successor state
30 welfare program are exempt from public inspection and copying under RCW
31 42.17.310.

32 (9) The disclosure of any records or information by a governmental
33 agency which has obtained the records or information under this section
34 is prohibited unless the disclosure is directly connected to the
35 official purpose for which the records or information were obtained.

36 (10) In conducting periodic salary or fringe benefit studies
37 pursuant to law, the department of personnel shall have access to
38 records of the employment security department as may be required for

1 such studies. For such purposes, the requirements of subsection (1)(c)
2 of this section need not apply.

3 (11) To promote the reemployment of job seekers, the commissioner
4 may enter into data-sharing contracts with partners of the one-stop
5 career development system. The contracts shall provide for the
6 transfer of data only to the extent that the transfer is necessary for
7 the efficient provisions of work force programs, including but not
8 limited to public labor exchange, unemployment insurance, worker
9 training and retraining, vocational rehabilitation, vocational
10 education, adult education, transition from public assistance, and
11 support services. The transfer of information under contracts with
12 one-stop partners is exempt from subsection (1)(c) of this section.

13 (12) To facilitate improved operation and evaluation of state
14 programs, the commissioner may enter into data-sharing contracts with
15 other state agencies only to the extent that such transfer is necessary
16 for the efficient operation or evaluation of outcomes for those
17 programs. The transfer of information by contract under this
18 subsection is exempt from subsection (1)(c) of this section.

19 (13) The misuse or unauthorized release of records or information
20 by any person or organization to which access is permitted by this
21 chapter subjects the person or organization to a civil penalty of five
22 thousand dollars and other applicable sanctions under state and federal
23 law. Suit to enforce this section shall be brought by the attorney
24 general and the amount of any penalties collected shall be paid into
25 the employment security department administrative contingency fund.
26 The attorney general may recover reasonable attorneys' fees for any
27 action brought to enforce this section.

28 **Sec. 3.** RCW 42.17.310 and 1998 c 69 s 1 are each amended to read
29 as follows:

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

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

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

37 (c) Information required of any taxpayer in connection with the
38 assessment or collection of any tax if the disclosure of the

1 information to other persons would (i) be prohibited to such persons by
2 RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the
3 taxpayer's right to privacy or result in unfair competitive
4 disadvantage to the taxpayer.

5 (d) Specific intelligence information and specific investigative
6 records compiled by investigative, law enforcement, and penology
7 agencies, and state agencies vested with the responsibility to
8 discipline members of any profession, the nondisclosure of which is
9 essential to effective law enforcement or for the protection of any
10 person's right to privacy.

11 (e) Information revealing the identity of persons who are witnesses
12 to or victims of crime or who file complaints with investigative, law
13 enforcement, or penology agencies, other than the public disclosure
14 commission, if disclosure would endanger any person's life, physical
15 safety, or property. If at the time a complaint is filed the
16 complainant, victim or witness indicates a desire for disclosure or
17 nondisclosure, such desire shall govern. However, all complaints filed
18 with the public disclosure commission about any elected official or
19 candidate for public office must be made in writing and signed by the
20 complainant under oath.

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

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

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

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

37 (j) Records which are relevant to a controversy to which an agency
38 is a party but which records would not be available to another party

1 under the rules of pretrial discovery for causes pending in the
2 superior courts.

3 (k) Records, maps, or other information identifying the location of
4 archaeological sites in order to avoid the looting or depredation of
5 such sites.

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

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

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

18 (o) Financial and commercial information and records supplied by
19 private persons pertaining to export services provided pursuant to
20 chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to
21 export projects pursuant to RCW 43.23.035.

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

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

27 (r) Financial and commercial information and records supplied by
28 businesses or individuals during application for loans or program
29 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,
30 or during application for economic development loans or program
31 services provided by any local agency.

32 (s) Membership lists or lists of members or owners of interests of
33 units in timeshare projects, subdivisions, camping resorts,
34 condominiums, land developments, or common-interest communities
35 affiliated with such projects, regulated by the department of
36 licensing, in the files or possession of the department.

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

1 (u) The residential addresses and residential telephone numbers of
2 employees or volunteers of a public agency which are held by the agency
3 in personnel records, employment or volunteer rosters, or mailing lists
4 of employees or volunteers.

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

12 (w)(i) The federal social security number of individuals governed
13 under chapter 18.130 RCW maintained in the files of the department of
14 health, except this exemption does not apply to requests made directly
15 to the department from federal, state, and local agencies of
16 government, and national and state licensing, credentialing,
17 investigatory, disciplinary, and examination organizations; (ii) the
18 current residential address and current residential telephone number of
19 a health care provider governed under chapter 18.130 RCW maintained in
20 the files of the department, if the provider requests that this
21 information be withheld from public inspection and copying, and
22 provides to the department an accurate alternate or business address
23 and business telephone number. On or after January 1, 1995, the
24 current residential address and residential telephone number of a
25 health care provider governed under RCW 18.130.140 maintained in the
26 files of the department shall automatically be withheld from public
27 inspection and copying unless the provider specifically requests the
28 information be released, and except as provided for under RCW
29 42.17.260(9).

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

32 (y) Information obtained by the board of pharmacy or the department
33 of health and its representatives as provided in RCW 69.41.044,
34 69.41.280, and 18.64.420.

35 (z) Financial information, business plans, examination reports, and
36 any information produced or obtained in evaluating or examining a
37 business and industrial development corporation organized or seeking
38 certification under chapter 31.24 RCW.

1 (aa) Financial and commercial information supplied to the state
2 investment board by any person when the information relates to the
3 investment of public trust or retirement funds and when disclosure
4 would result in loss to such funds or in private loss to the providers
5 of this information.

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

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

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

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

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

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

26 (hh) Information and documents created specifically for, and
27 collected and maintained by a quality improvement committee pursuant to
28 RCW 43.70.510, regardless of which agency is in possession of the
29 information and documents.

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

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

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

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

7 (mm) Proprietary financial and commercial information that the
8 submitting entity, with review by the department of health,
9 specifically identifies at the time it is submitted and that is
10 provided to or obtained by the department of health in connection with
11 an application for, or the supervision of, an antitrust exemption
12 sought by the submitting entity under RCW 43.72.310. If a request for
13 such information is received, the submitting entity must be notified of
14 the request. Within ten business days of receipt of the notice, the
15 submitting entity shall provide a written statement of the continuing
16 need for confidentiality, which shall be provided to the requester.
17 Upon receipt of such notice, the department of health shall continue to
18 treat information designated under this section as exempt from
19 disclosure. If the requester initiates an action to compel disclosure
20 under this chapter, the submitting entity must be joined as a party to
21 demonstrate the continuing need for confidentiality.

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

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

29 (pp) Records maintained by the employment security department and
30 subject to chapter 50.13 RCW if provided to another individual or
31 organization for operational, research, or evaluation purposes.

32 (qq) Individually identifiable information received by the work
33 force training and education coordinating board for research or
34 evaluation purposes.

35 (2) Except for information described in subsection (1)(c)(i) of
36 this section and confidential income data exempted from public
37 inspection pursuant to RCW 84.40.020, the exemptions of this section
38 are inapplicable to the extent that information, the disclosure of
39 which would violate personal privacy or vital governmental interests,

1 can be deleted from the specific records sought. No exemption may be
2 construed to permit the nondisclosure of statistical information not
3 descriptive of any readily identifiable person or persons.

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

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

14 **Sec. 4.** RCW 43.20A.080 and 1997 c 58 s 1005 are each amended to
15 read as follows:

16 (1) The department shall provide the employment security department
17 quarterly with the names and social security numbers of all clients in
18 the WorkFirst program and any successor state welfare program.

19 (2) The information provided by the employment security department
20 under RCW 50.13.060 for statistical analysis and welfare program
21 evaluation purposes may be used only for statistical analysis,
22 research, and evaluation purposes as provided in RCW 74.08A.410 and
23 74.08A.420. ~~((Through individual matches with accessed employment
24 security department confidential employer wage files, only aggregate,
25 statistical, group level data shall be reported. Data sharing by the
26 employment security department may be extended to include the office of
27 financial management and other such governmental entities with
28 oversight responsibility for this program.))~~

29 (3) The department and other agencies of state government shall
30 protect the privacy of confidential personal data supplied under RCW
31 50.13.060 consistent with federal law, chapter 50.13 RCW, and the terms
32 and conditions of a formal data-sharing agreement between the
33 employment security department and agencies of state government,
34 however the misuse or unauthorized use of confidential data supplied by
35 the employment security department is subject to the penalties in RCW
36 50.13.080.

1 NEW SECTION. **Sec. 5.** If any part of this act is found to be in
2 conflict with federal requirements that are a prescribed condition to
3 the allocation of federal funds to the state or the eligibility of
4 employers in this state for federal unemployment tax credits, the
5 conflicting part of this act is inoperative solely to the extent of the
6 conflict, and the finding or determination does not affect the
7 operation of the remainder of this act. Rules adopted under this act
8 must meet federal requirements that are a necessary condition to the
9 receipt of federal funds by the state or the granting of federal
10 unemployment tax credits to employers in this state.

11 NEW SECTION. **Sec. 6.** If any provision of this act or its
12 application to any person or circumstance is held invalid, the
13 remainder of the act or the application of the provision to other
14 persons or circumstances is not affected.

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