

***Criminal Justice & Corrections
Committee***

HB 1717

Brief Description: *Exempting from public inspection specified information held by law enforcement and correctional agencies.*

Sponsors: *Representatives Morell, O'Brien, Ballasiotes, McMorris, Cairnes and Ahern.*

Brief Summary of Bill

- *Makes certain records contained in files maintained by a law enforcement agency, penology agency, correctional facility, or juvenile rehabilitation facility exempt from public disclosure.*

Hearing Date: *2/16/01*

Staff: *Katy Freeman (786-7386).*

Background:

The Public Disclosure Act (PDA) requires all state and local agencies to disclose any public record upon request, unless the record falls within certain specified exemptions.

Disclosure requires that the records be made available for public inspection and copying.

Within five business days of receiving a public record request, an agency must respond by either:

- *providing the record;*
- *acknowledging that the agency has received the request and providing a reasonable estimate of the time the agency will require to respond to the request; or*
- *denying the request.*

The time the agency requires to respond to the request may be based on the agency's need to:

- *clarify the intent of the request;*
- *locate and assemble the information requested;*

- *notify third persons or agencies affected by the request; or*
- *determine whether any of the information requested is exempt and that a denial should be made as to all or part of a request.*

Denials of requests must be accompanied by a written statement of the specific reasons for denying the request. When an agency concludes that a public record is exempt from disclosure and denies a person an opportunity to inspect or copy a public record for that reason, the person may request the attorney general to review the matter. Additionally, the person may file a motion in superior court and the court may require the agency to show cause why it has refused to allow inspection or copying of the record. The burden of proof is on the agency to establish that refusal to permit inspection and copying is in accordance with a statute that exempts or prohibits disclosure in whole or in part of the specific information or records.

Certain records relating to law enforcement agencies and penology agencies are exempt from the PDA, such as:

- *specific intelligence and investigative information compiled by investigative, law enforcement, and penology agencies, if essential to law enforcement or to the protection of a person's right to privacy; and*
- *with some exceptions, information that reveals the identity of persons who are witnesses to or victims of crime or persons who file complaints with investigative, law enforcement, or penology agencies, other than the public disclosure commission, if disclosure would endanger any person's life, physical safety, or property.*

A confidential informant is a person who provides information that assists law enforcement officials in their investigation of criminal activity. Information provided by a confidential informant may be contained in files maintained by a law enforcement agency, penology agency, correctional facility, or juvenile rehabilitation facility. There is no specific statutory exemption for these records.

Under regulations, the Department of Corrections must formulate written emergency procedures appropriate for each specific facility relative to escapes, riots, rebellions, assaults, injuries, suicides or attempted suicides, outbreak of infectious disease, fire, acts of nature, and any other type of major disaster or disturbance. The emergency plan must outline the responsibilities of the facility staff, evacuation procedures, and subsequent disposition of the prisoners after removal from the area or facility. There is no specific statutory exemption for these records.

Summary of Bill:

Records contained in files maintained by a law enforcement agency, penology agency, correctional facility, or juvenile rehabilitation facility are exempt from the PDA if they:

- *contain information regarding a confidential informant or information provided by a confidential informant;*
- *contain specific information regarding emergency and escape response plans and procedures; or*
- *contain information that has been determined by the head of one of the above agencies or facilities, or his or her designee, to present a threat, if disclosed, to the security or*

rehabilitative objectives of the facility or to the correctional system, or to any individual's safety.

Appropriation: *None.*

Fiscal Note: *Not Requested.*

Effective Date: *Ninety days after adjournment of session in which bill is passed.*