

# SENATE BILL REPORT

## SB 5048

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As of February 15, 2011

**Title:** An act relating to enhanced intelligence in Washington state.

**Brief Description:** Creating the Washington enhanced intelligence act.

**Sponsors:** Senators Kline, Nelson and Chase.

**Brief History:**

**Committee Activity:** Judiciary: 2/16/11.

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### SENATE COMMITTEE ON JUDICIARY

**Staff:** Kim Johnson (786-7472)

**Background:** Various state and local government entities collect, analyze, and share information for law enforcement, public safety, or antiterrorism purposes. Other than the Public Records Act, there is generally no specific overarching state statute requiring oversight or approval of the collection and dissemination of information collected by law enforcement agencies.

Depending on the type of information collected and the purpose for which it was collected, federal laws may apply. For example, the collection and dissemination of intelligence information gathered by state and local law enforcement entities participating under the Omnibus Crime Control and Safe Streets Act of 1968 is subject to the requirements of the Criminal Intelligence Systems Operating Policies as set out in 28 CFR Part 23. These policies specify what type of information may be collected; whether a reasonable suspicion of criminal activity is required; how long the information is to be maintained; and whether the information may be shared; etc. Additionally, individual agency operating procedures and privacy policies may be in place to guide agency collection, use, and dissemination of certain information.

**Summary of Bill:** Protected information is defined as information about the political, religious, or other First-Amendment protected views or opinions of any individual or group. This includes the activities and associations related to these views and opinions. Certain exemptions are provided. Agency is defined as any state, local, or county law enforcement agency.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Law enforcement agencies are prohibited from collecting or maintaining protected information about an individual or group, unless such information directly relates to criminal conduct or activities and there is reasonable suspicion that the subject of the information is or may be involved in criminal conduct. Law enforcement agencies must investigate and correct or delete any errors or deficiencies in information.

Except where prohibited by federal law, law enforcement agencies must not disseminate protected information unless authorized in writing by the executive authority of the agency.

Law enforcement agencies that collect, maintain, or disseminate criminal intelligence information as defined by 28 CFR Section 23, must do so in compliance with federal regulations.

Within two years of the effective date of this act, all law enforcement agencies must adopt a privacy policy governing treatment of protected information. Law enforcement agencies must ensure that all employees are properly trained in the agency privacy policy within one year of the adoption of the privacy policy.

The use of infiltration is prohibited without reasonable suspicion of criminal activity and authorization from a supervisor.

The Attorney General's Office is required to conduct periodic audits of all law enforcement agencies to determine compliance with this act.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

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