
SENATE BILL 5049

State of Washington

62nd Legislature

2011 Regular Session

By Senators Kline, Roach, and Keiser

Read first time 01/12/11. Referred to Committee on Government Operations, Tribal Relations & Elections.

1 AN ACT Relating to implementing recommendations of the sunshine
2 committee; amending RCW 13.34.100, 42.56.230, 42.56.330, 48.03.050, and
3 70.148.060; reenacting and amending RCW 42.56.250; adding a new section
4 to chapter 42.56 RCW; and providing an expiration date.

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

6 **Sec. 1.** RCW 13.34.100 and 2010 c 180 s 2 are each amended to read
7 as follows:

8 (1) The court shall appoint a guardian ad litem for a child who is
9 the subject of an action under this chapter, unless a court for good
10 cause finds the appointment unnecessary. The requirement of a guardian
11 ad litem may be deemed satisfied if the child is represented by
12 independent counsel in the proceedings. The court shall attempt to
13 match a child with special needs with a guardian ad litem who has
14 specific training or education related to the child's individual needs.

15 (2) If the court does not have available to it a guardian ad litem
16 program with a sufficient number of volunteers, the court may appoint
17 a suitable person to act as guardian ad litem for the child under this
18 chapter. Another party to the proceeding or the party's employee or
19 representative shall not be so appointed.

1 (3) Each guardian ad litem program shall maintain a background
2 information record for each guardian ad litem in the program. The
3 background information record shall include, but is not limited to, the
4 following information:

5 (a) Level of formal education;

6 (b) General training related to the guardian ad litem's duties;

7 (c) Specific training related to issues potentially faced by
8 children in the dependency system;

9 (d) Specific training or education related to child disability or
10 developmental issues;

11 (e) Number of years' experience as a guardian ad litem;

12 (f) Number of appointments as a guardian ad litem and the county or
13 counties of appointment;

14 (g) The names of any counties in which the person was removed from
15 a guardian ad litem registry pursuant to a grievance action, and the
16 name of the court and the cause number of any case in which the court
17 has removed the person for cause;

18 (h) Founded allegations of abuse or neglect as defined in RCW
19 26.44.020;

20 (i) The results of an examination of state and national criminal
21 identification data. The examination shall consist of a background
22 check as allowed through the Washington state criminal records privacy
23 act under RCW 10.97.050, the Washington state patrol criminal
24 identification system under RCW 43.43.832 through 43.43.834, and the
25 federal bureau of investigation. The background check shall be done
26 through the Washington state patrol criminal identification section and
27 must include a national check from the federal bureau of investigation
28 based on the submission of fingerprints; and

29 (j) Criminal history, as defined in RCW 9.94A.030, for the period
30 covering ten years prior to the appointment.

31 The background information record shall be updated annually. As a
32 condition of appointment, the guardian ad litem's background
33 information record shall be made available to the court and public. If
34 the appointed guardian ad litem is not a member of a guardian ad litem
35 program a suitable person appointed by the court to act as guardian ad
36 litem shall provide the background information record to the court.

37 Upon appointment, the guardian ad litem, or guardian ad litem
38 program, shall provide the parties or their attorneys with a copy of

1 the background information record. (~~The portion of the background~~
2 ~~information record containing the results of the criminal background~~
3 ~~check and the criminal history shall not be disclosed to the parties or~~
4 ~~their attorneys.~~) The background information record shall not include
5 identifying information that may be used to harm a guardian ad litem,
6 such as home addresses and home telephone numbers, and for volunteer
7 guardians ad litem the court may allow the use of maiden names or
8 pseudonyms as necessary for their safety.

9 (4) The appointment of the guardian ad litem shall remain in effect
10 until the court discharges the appointment or no longer has
11 jurisdiction, whichever comes first. The guardian ad litem may also be
12 discharged upon entry of an order of guardianship.

13 (5) A guardian ad litem through counsel, or as otherwise authorized
14 by the court, shall have the right to present evidence, examine and
15 cross-examine witnesses, and to be present at all hearings. A guardian
16 ad litem shall receive copies of all pleadings and other documents
17 filed or submitted to the court, and notice of all hearings according
18 to court rules. The guardian ad litem shall receive all notice
19 contemplated for a parent or other party in all proceedings under this
20 chapter.

21 (6)(a) Pursuant to this subsection, the department or supervising
22 agency and the child's guardian ad litem shall each notify a child of
23 his or her right to request counsel and shall ask the child whether he
24 or she wishes to have counsel. The department or supervising agency
25 and the child's guardian ad litem shall notify the child and make this
26 inquiry immediately after:

- 27 (i) The date of the child's twelfth birthday;
28 (ii) Assignment of a case involving a child age twelve or older; or
29 (iii) July 1, 2010, for a child who turned twelve years old before
30 July 1, 2010.

31 (b) The department or supervising agency and the child's guardian
32 ad litem shall repeat the notification and inquiry at least annually
33 and upon the filing of any motion or petition affecting the child's
34 placement, services, or familial relationships.

35 (c) The notification and inquiry is not required if the child has
36 already been appointed counsel.

37 (d) The department or supervising agency shall note in the child's
38 individual service and safety plan, and the guardian ad litem shall

1 note in his or her report to the court, that the child was notified of
2 the right to request counsel and indicate the child's position
3 regarding appointment of counsel.

4 (e) At the first regularly scheduled hearing after:

5 (i) The date of the child's twelfth birthday;

6 (ii) The date that a dependency petition is filed pursuant to this
7 chapter on a child age twelve or older; or

8 (iii) July 1, 2010, for a child who turned twelve years old before
9 July 1, 2010;

10 the court shall inquire whether the child has received notice of his or
11 her right to request legal counsel from the department or supervising
12 agency and the child's guardian ad litem. The court shall make an
13 additional inquiry at the first regularly scheduled hearing after the
14 child's fifteenth birthday. No inquiry is necessary if the child has
15 already been appointed counsel.

16 (f) If the child requests legal counsel and is age twelve or older,
17 or if the guardian ad litem or the court determines that the child
18 needs to be independently represented by counsel, the court may appoint
19 an attorney to represent the child's position.

20 (7) For the purposes of child abuse prevention and treatment act
21 (42 U.S.C. Secs. 5101 et seq.) grants to this state under P.L. 93-247,
22 or any related state or federal legislation, a person appointed
23 pursuant to this section shall be deemed a guardian ad litem to
24 represent the best interests of the minor in proceedings before the
25 court.

26 (8) When a court-appointed special advocate or volunteer guardian
27 ad litem is requested on a case, the program shall give the court the
28 name of the person it recommends. The program shall attempt to match
29 a child with special needs with a guardian ad litem who has specific
30 training or education related to the child's individual needs. The
31 court shall immediately appoint the person recommended by the program.

32 (9) If a party in a case reasonably believes the court-appointed
33 special advocate or volunteer guardian ad litem is inappropriate or
34 unqualified, the party may request a review of the appointment by the
35 program. The program must complete the review within five judicial
36 days and remove any appointee for good cause. If the party seeking the
37 review is not satisfied with the outcome of the review, the party may

1 file a motion with the court for the removal of the court-appointed
2 special advocate or volunteer guardian ad litem on the grounds the
3 advocate or volunteer is inappropriate or unqualified.

4 **Sec. 2.** RCW 42.56.230 and 2010 c 106 s 102 are each amended to
5 read as follows:

6 The following personal information is exempt from public inspection
7 and copying under this chapter:

8 (1) Personal information in any files maintained for students in
9 public schools, patients or clients of public institutions or public
10 health agencies, or welfare recipients;

11 (2) Personal information in files maintained for employees,
12 appointees, or elected officials of any public agency to the extent
13 that disclosure would violate their right to privacy;

14 (3) Information required of any taxpayer in connection with the
15 assessment or collection of any tax if the disclosure of the
16 information to other persons would: (a) Be prohibited to such persons
17 by RCW 84.08.210, 82.32.330, 84.40.020, 84.40.340(~~(, or any ordinance~~
18 ~~authorized under RCW 35.102.145))~~); or (b) violate the taxpayer's right
19 to privacy or result in unfair competitive disadvantage to the
20 taxpayer;

21 (4) Credit card numbers, debit card numbers, electronic check
22 numbers, card expiration dates, or bank or other financial (~~account~~
23 ~~numbers~~) information as defined in RCW 9.35.005 including social
24 security numbers, except when disclosure is expressly required by or
25 governed by other law;

26 (5) Personal and financial information related to a small loan or
27 any system of authorizing a small loan in RCW 31.45.093; and

28 (6) Documents and related materials and scanned images of documents
29 and related materials used to prove identity, age, residential address,
30 social security number, or other personal information required to apply
31 for a driver's license or identicard.

32 **Sec. 3.** RCW 42.56.250 and 2010 c 257 s 1 and 2010 c 128 s 9 are
33 each reenacted and amended to read as follows:

34 The following employment and licensing information is exempt from
35 public inspection and copying under this chapter:

1 (1) Test questions, scoring keys, and other examination data used
2 to administer a license, employment, or academic examination;

3 (2) All applications for public employment, including the names of
4 applicants, resumes, and other related materials submitted with respect
5 to an applicant, subject to the following exceptions:

6 (a) Applications for the highest management position in a public
7 agency, county, or local government department with confidential
8 reference information removed or redacted is not exempt from inspection
9 and copying; and

10 (b) Application materials not exempt from inspection and copying
11 must be available to the public after the finalists are selected, but
12 before the agency, county, or local government makes its decision;

13 (3) The residential addresses, residential telephone numbers,
14 personal wireless telephone numbers, personal electronic mail
15 addresses, social security numbers, and emergency contact information
16 of employees or volunteers of a public agency, and the names, dates of
17 birth, residential addresses, residential telephone numbers, personal
18 wireless telephone numbers, personal electronic mail addresses, social
19 security numbers, and emergency contact information of dependents of
20 employees or volunteers of a public agency that are held by any public
21 agency in personnel records, public employment related records, or
22 volunteer rosters, or are included in any mailing list of employees or
23 volunteers of any public agency. For purposes of this subsection,
24 "employees" includes independent provider home care workers as defined
25 in RCW 74.39A.240;

26 (4) Information that identifies a person who, while an agency
27 employee: (a) Seeks advice, under an informal process established by
28 the employing agency, in order to ascertain his or her rights in
29 connection with a possible unfair practice under chapter 49.60 RCW
30 against the person; and (b) requests his or her identity or any
31 identifying information not be disclosed;

32 (5) Investigative records compiled by an employing agency
33 conducting an active and ongoing investigation of a possible unfair
34 practice under chapter 49.60 RCW or of a possible violation of other
35 federal, state, or local laws prohibiting discrimination in employment;

36 (6) Criminal history records checks for board staff finalist
37 candidates conducted pursuant to RCW 43.33A.025;

1 (7) Except as provided in RCW 47.64.220, salary and benefit
2 information for maritime employees collected from private employers
3 under RCW 47.64.220(1) and described in RCW 47.64.220(2); and

4 (8) Photographs and month and year of birth in the personnel files
5 of employees and workers of criminal justice agencies as defined in RCW
6 10.97.030. The news media, as defined in RCW 5.68.010(5), shall have
7 access to the photographs and full date of birth. For the purposes of
8 this subsection, news media does not include any person or organization
9 of persons in the custody of a criminal justice agency as defined in
10 RCW 10.97.030.

11 For the purposes of this section, "employment" does not include
12 service on boards or commissions where the individual does not receive
13 pay or benefits, even if that individual may receive minimal
14 reimbursement or stipend for expenses.

15 **Sec. 4.** RCW 42.56.330 and 2010 c 128 s 8 are each amended to read
16 as follows:

17 The following information relating to public utilities and
18 transportation is exempt from disclosure under this chapter:

19 (1) Records filed with the utilities and transportation commission
20 or attorney general under RCW 80.04.095 that a court has determined are
21 confidential under RCW 80.04.095;

22 (2) The residential addresses and residential telephone numbers of
23 the customers of a public utility contained in the records or lists
24 held by the public utility of which they are customers, except that
25 this information may be released to the division of child support or
26 the agency or firm providing child support enforcement for another
27 state under Title IV-D of the federal social security act, for the
28 establishment, enforcement, or modification of a support order;

29 (3)(a) The names, residential addresses, residential telephone
30 numbers, and other individually identifiable records held by an agency
31 in relation to a vanpool, carpool, or other ride-sharing program or
32 service(~~;- however, these records~~). Participant's names, general
33 locations, and e-mail addresses may be disclosed to other persons who
34 apply for ride-matching services and who need that information in order
35 to identify potential riders or drivers with whom to share rides;

36 (b) Participants concerned about personal safety may request that
37 their information not be released to individuals they identify;

1 (c) No civil liability may be imposed by any court on any public
2 entity or agency or its officers or employees under this subsection for
3 erroneously releasing a participant's information, except upon proof of
4 willful or wanton misconduct;

5 (4) The personally identifying information of current or former
6 participants or applicants in a paratransit or other transit service
7 operated for the benefit of persons with disabilities or elderly
8 persons;

9 (5) The personally identifying information of persons who acquire
10 and use transit passes and other fare payment media including, but not
11 limited to, stored value smart cards and magnetic strip cards, except
12 that an agency may disclose this information to a person, employer,
13 educational institution, or other entity that is responsible, in whole
14 or in part, for payment of the cost of acquiring or using a transit
15 pass or other fare payment media for the purpose of preventing fraud(~~(~~
16 ~~or to the news media when reporting on public transportation or public~~
17 ~~safety))~~).

18 (a) This information may be disclosed in aggregate form if the data
19 does not contain any personally identifying information.

20 (b) Personally identifying information may be released to law
21 enforcement agencies if the request is accompanied by a court order;

22 (6) Any information obtained by governmental agencies that is
23 collected by the use of a motor carrier intelligent transportation
24 system or any comparable information equipment attached to a truck,
25 tractor, or trailer; however, the information may be given to other
26 governmental agencies or the owners of the truck, tractor, or trailer
27 from which the information is obtained. As used in this subsection,
28 "motor carrier" has the same definition as provided in RCW 81.80.010;

29 (7) The personally identifying information of persons who acquire
30 and use transponders or other technology to facilitate payment of
31 tolls. This information may be disclosed in aggregate form as long as
32 the data does not contain any personally identifying information. For
33 these purposes aggregate data may include the census tract of the
34 account holder as long as any individual personally identifying
35 information is not released. Personally identifying information may be
36 released to law enforcement agencies only for toll enforcement
37 purposes. Personally identifying information may be released to law

1 enforcement agencies for other purposes only if the request is
2 accompanied by a court order; and

3 (8) The personally identifying information of persons who acquire
4 and use a driver's license or identicard that includes a radio
5 frequency identification chip or similar technology to facilitate
6 border crossing. This information may be disclosed in aggregate form
7 as long as the data does not contain any personally identifying
8 information. Personally identifying information may be released to law
9 enforcement agencies only for United States customs and border
10 protection enforcement purposes. Personally identifying information
11 may be released to law enforcement agencies for other purposes only if
12 the request is accompanied by a court order.

13 **Sec. 5.** RCW 48.03.050 and 1993 c 462 s 46 are each amended to read
14 as follows:

15 The commissioner may withhold from public inspection any
16 examination or investigation report for (~~so long as he or she deems it~~
17 ~~advisable~~) five days, or for a longer period if the commissioner
18 believes it appropriate. However, if any examination or investigative
19 report is withheld, the commissioner shall provide a time limit on how
20 long the information will be withheld and shall state why continued
21 confidentiality of the information requested is necessary, subject to
22 RCW 48.32.080.

23 **Sec. 6.** RCW 70.148.060 and 2005 c 274 s 341 are each amended to
24 read as follows:

25 (1) All (~~examination and proprietary reports and~~) information
26 except for proprietary reports or information obtained by the director
27 and the director's staff in soliciting bids from insurers and in
28 monitoring the insurer selected by the director shall (~~not~~) be made
29 public or otherwise disclosed to any person, firm, corporation, agency,
30 association, governmental body, or other entity.

31 (2) Subsection (1) of this section notwithstanding, the director
32 may furnish all or part of examination reports prepared by the director
33 or by any person, firm, corporation, association, or other entity
34 preparing the reports on behalf of the director to:

35 (a) The Washington state insurance commissioner;

1 (b) A person or organization officially connected with the insurer
2 as officer, director, attorney, auditor, or independent attorney or
3 independent auditor; and

4 (c) The attorney general in his or her role as legal advisor to the
5 director.

6 (3) Subsection (1) of this section notwithstanding, the director
7 may furnish all or part of the examination or proprietary reports or
8 information obtained by the director to:

9 (a) The Washington state insurance commissioner; and

10 (b) A person, firm, corporation, association, governmental body, or
11 other entity with whom the director has contracted for services
12 necessary to perform his or her official duties.

13 (4) (~~Examination reports and~~) Proprietary information obtained by
14 the director and the director's staff are not subject to public
15 disclosure under chapter 42.56 RCW.

16 (5) A person who violates any provision of this section is guilty
17 of a gross misdemeanor.

18 NEW SECTION. **Sec. 7.** A new section is added to chapter 42.56 RCW
19 to read as follows:

20 (1) Records reflecting communications transmitted in confidence
21 between a public official, representative, or employee of a public
22 agency acting in the performance of his or her duties and an attorney
23 serving in the capacity of legal advisor for the purpose of rendering
24 or obtaining legal advice, and records prepared by the attorney or a
25 public official, representative, or employee of a public agency in
26 furtherance of the request for or rendition of legal advice, are exempt
27 from inspection and copying under this chapter pursuant to the
28 attorney-client privilege.

29 (2) Records are not exempt from inspection and copying under this
30 section merely because they reflect communications in meetings where
31 legal counsel was present or because a record or copy of a record was
32 provided to legal counsel, if the elements of subsection (1) of this
33 section are not met.

34 (3) If an agency elects to produce a record that would otherwise be
35 protected by the attorney-client privilege, any privilege is waived
36 only as to the record produced. The production shall not waive the

1 privilege as to the subject matter addressed in the produced record or
2 as to any other record.

3 (4) Nothing in this section changes the applicability of the
4 privilege set forth in RCW 5.60.060(2) to public agencies, nor its
5 scope when claimed by a public agency.

6 NEW SECTION. **Sec. 8.** Section 6 of this act expires June 1, 2013.

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