
SENATE BILL 5099

State of Washington

62nd Legislature

2011 Regular Session

By Senators Carrell and Delvin

Read first time 01/13/11. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to inspection or copying of nonexempt public
2 records by persons incarcerated; and amending RCW 42.56.565.

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

4 **Sec. 1.** RCW 42.56.565 and 2009 c 10 s 1 are each amended to read
5 as follows:

6 (1) The inspection or copying of any nonexempt public record by
7 persons (~~(serving criminal sentences)~~) incarcerated in state, local, or
8 privately operated correctional facilities may be enjoined pursuant to
9 this section.

10 (a) The injunction may be requested by: (i) An agency or its
11 representative; (ii) a person named in the record or his or her
12 representative; or (iii) a person to whom the requests specifically
13 pertains or his or her representative.

14 (b) The request must be filed in: (i) The superior court in which
15 the movant resides; or (ii) the superior court in the county in which
16 the record is maintained.

17 (c) In order to issue an injunction, the court must find that:

18 (i) The request was made to harass or intimidate the agency or its
19 employees;

1 (ii) Fulfilling the request would likely threaten the security of
2 correctional facilities;

3 (iii) Fulfilling the request would likely threaten the safety or
4 security of staff, inmates, family members of staff, family members of
5 other inmates, or any other person; or

6 (iv) Fulfilling the request may assist criminal activity.

7 (2) In deciding whether to enjoin a request under subsection (1) of
8 this section, the court may consider all relevant factors including,
9 but not limited to:

10 (a) Other requests by the requestor;

11 (b) The type of record or records sought;

12 (c) Statements offered by the requestor concerning the purpose for
13 the request;

14 (d) Whether disclosure of the requested records would likely harm
15 any person or vital government interest;

16 (e) Whether the request seeks a significant and burdensome number
17 of documents;

18 (f) The impact of disclosure on correctional facility security and
19 order, the safety or security of correctional facility staff, inmates,
20 or others; and

21 (g) The deterrence of criminal activity.

22 (3) The motion proceeding described in this section shall be a
23 summary proceeding based on affidavits or declarations, unless the
24 court orders otherwise. Upon a showing by a preponderance of the
25 evidence, the court may enjoin all or any part of a request or
26 requests. Based on the evidence, the court may also enjoin, for a
27 period of time the court deems reasonable, future requests by:

28 (a) The same requestor; or

29 (b) An entity owned or controlled in whole or in part by the same
30 requestor.

31 (4) An agency shall not be liable for penalties under RCW
32 42.56.550(4) for any period during which an order under this section is
33 in effect, including during an appeal of an order under this section,
34 regardless of the outcome of the appeal.

--- END ---