

SENATE BILL REPORT

ESHB 1980

As Reported by Senate Committee On:
Government Operations & Security, March 30, 2015

Title: An act relating to implementing recommendations of the sunshine committee.

Brief Description: Implementing recommendations of the sunshine committee.

Sponsors: House Committee on State Government (originally sponsored by Representative Springer).

Brief History: Passed House: 3/10/15, 89-9.

Committee Activity: Government Operations & Security: 3/19/15, 3/30/15 [DPA].

SENATE COMMITTEE ON GOVERNMENT OPERATIONS & SECURITY

Majority Report: Do pass as amended.

Signed by Senators Roach, Chair; Benton, Vice Chair; Pearson, Vice Chair; Liias, Ranking Minority Member; Dandel, Habib and McCoy.

Staff: Samuel Brown (786-7470)

Background: The Public Records Act (PRA). Under the PRA, all state and local agencies must make all public records available for public inspection and copying, unless a specific exemption in the PRA or another statute applies. The PRA must be interpreted to promote a general policy favoring disclosure, including narrow construction of PRA exemptions. There are over 300 specific references in the PRA or other statutes removing certain information from application of the PRA, providing exceptions to the public disclosure and copying of certain information, or designating certain information as confidential.

The Public Records Exemption Accountability Committee (Sunshine Committee), created by the Legislature in 2007, reviews all exemptions from public disclosure. Members of the Sunshine Committee must include two representatives appointed by the Governor, two appointed by the Attorney General, four members of the public, and four members of the Legislature. The Sunshine Committee meets several times per year to discuss the exemptions and provide a recommendation as to whether the exemptions reviewed should be continued without modification, modified, scheduled for sunset review at a future date, or terminated. The Sunshine Committee must report its recommendations to the Governor, the Attorney General, and the appropriate committees of the Legislature annually.

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.

Guardian Ad Litem (GAL) Background Information. A court may appoint a GAL to assist a child who is the subject of a child welfare case. If available, the court will make an appointment from a GAL program. Each GAL program must maintain background information records for each GAL in the program which include education, experience, and training related to GAL services. The records also must contain the GAL's criminal history as well as the results of state and national criminal identification data, including background checks allowed through the state Criminal Records Privacy Act, the State Patrol criminal identification system, and the Federal Bureau of Investigation (FBI). Upon appointment to a child welfare case, the GAL must provide a copy of the GAL's background information record to the parties and their attorneys. However, the results of the criminal background check may not be disclosed.

Financial Information. An exemption exists for records containing certain kinds of personal information, including financial account information. This exemption includes credit, debit, and check numbers, and other bank or financial account numbers.

Law Enforcement, Investigation, and Crime Victim Information. Certain investigative, law enforcement, and crime victim information is exempt from disclosure, including information revealing the identity of children under the age of 18 who are victims of sexual assault. Such information includes the victim's name, address, location, photograph, and the relationship with the relative who is the perpetrator. The information in a statewide gang database maintained by the Washington State Patrol is also exempt from disclosure.

Transportation Information. Certain information in records regarding transportation is exempt from disclosure, including individually identifying information in records related to a ride-sharing program, such as a vanpool or carpool. However, names, addresses, telephone numbers, and other identifying information may be given to persons who apply for ride-sharing services in order to identify other potential riders.

Personal information related to transit passes or fare payment, such as payment cards, are exempt from disclosure. An agency may disclose such information to an employer or other party responsible for paying the transit costs for the purpose of preventing fraud or to the news media when reporting on transportation or public safety.

Washington Pollution Liability Insurance Program (PLIP) Information. All examination and proprietary reports and information obtained by the PLIP related to soliciting bids from insurers, and in monitoring the insurer, may not be disclosed. Examination reports prepared by or for the PLIP may be provided to the state insurance commissioner and other specified organizations.

Enhanced 911 Communication and Notification Systems. The state and counties implement and coordinate enhanced 911 communications systems so that 911 emergency response services are available throughout the state. Agencies have access to private addresses and telephone numbers used in the 911 emergency communications systems.

The next-generation 911 system is designed to allow people to voluntarily submit personal information in communication systems so responders may access the information through the

911 service. State and local governments may collect information to include in emergency notification systems broadly disseminating notice during a community emergency.

Summary of Bill (Recommended Amendments): Based on the recommendations of the Sunshine Committee, the following changes are made to public disclosure and copying of records.

GAL Background Information. The results of the Washington State Patrol criminal identification system check on a GAL in a child welfare case must be provided to parties and attorneys. The criminal history from the FBI background check may not be disclosed.

Personal Financial Information. Financial information, as defined for purposes of identity crimes, is exempt from disclosure. Such information includes the following information identifiable to an individual that concern the amount and conditions of an individual's assets, liabilities, or credit:

- account numbers, balances, and transactional information;
- codes, passwords, Social Security numbers, and tax identification numbers;
- driver's license, identicard, or permit numbers; and
- other information held for the purpose of account access or transaction initiation.

Law Enforcement, Investigation, and Crime Victim Information. Local or regionally maintained gang databases are exempt from disclosure.

Transportation Information. The personal information of participants in a ride-share program is not subject to disclosure, except for the participant's name, general location, and points of contact. The permission to provide personal information regarding transit passes or fare payment to the news media is eliminated.

PLIP Information. Examination and proprietary reports obtained by the PLIP are no longer exempt from disclosure.

Enhanced 911 Communication and Notification Systems. Voluntarily submitted information contained in enhanced 911 emergency communication systems is exempt from disclosure. Such information is included in a database for purposes of displaying when a person makes a call to the 911 service.

The exemption for information contained in emergency communications systems does not prohibit disclosure for the following:

- the display and dissemination of information at a public safety answering point to emergency responders;
- database maintenance;
- dissemination of information for inclusion in an emergency notifications system;
- inspection or copying by the subject of the information, or an authorized representative; or
- information prepared, retained, disseminated, transmitted, or recorded for the purpose of responding to emergency calls, unless such information is otherwise exempt.

Information contained or used in emergency notifications systems is exempt from disclosure. The exemption for such information contained or used in emergency notifications systems does not prohibit disclosure for the following:

- making outgoing calls to provide notification of a community emergency event;
- database maintenance; or
- inspection or copying by the subject of the information, or an authorized representative.

EFFECT OF CHANGES MADE BY GOVERNMENT OPERATIONS & SECURITY COMMITTEE (Recommended Amendments): GAL Background Information. The results of the Washington State Patrol criminal identification system check on a GAL in a child welfare case must be provided to parties and attorneys. The criminal history from the FBI background check may not be disclosed.

Law Enforcement, Investigation, and Crime Victim Information. The provision in the bill making the list of types of information for child victims of sexual assault exempt from public disclosure no longer exclusive is removed.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony on Engrossed Substitute House Bill: PRO: More people are choosing not to have home landlines. Smart 911 systems allow us to choose the device we want to receive notifications from and send critical information to first responders, but that information is disclosed under the PRA. The success of the smart 911 program will take a big hit if people know that their information will be disclosed. Many deaf people will not call 911 because they are afraid that hand gestures or actions will be misinterpreted as aggressive. In 2012 a deaf Seattle resident reported a domestic violence situation, ran out to officers when they arrived, and was tased because officers thought she was aggressive. This would give the deaf community protection so that the officer already knows the situation when arriving at an incident. Exempting smart 911 information from disclosure is an attempt to make the best use of the technology we have available to shave seconds and minutes off response time in an emergency. Seventy-six percent of 911 calls come from wireless phones, which list no address, just general location. We don't want people to enter anything preventing them from speaking when calling 911 to assist the dispatcher. Almost half of the children in the U.S. live in a home with only a wireless phone; if they forget or can't give their location, we can't find them and send help.

Local and regional databases are there for good reason, and we want to make sure those are exempt from disclosure like the state gang database. The committee should restore the language regarding guardians ad litem and special advocates removed by the House committee. This bill contains a clumsy attempt to overturn a court decision on disclosure of information to a parent regarding a child's assault and we hope that won't go forward. Smart

911 information should be exempt from disclosure, but not confidential. Information about the response to an emergency call would still be available under this bill.

CON: This bill violates the single-subject rule. The Sunshine Committee seems to be adding more exemptions rather than removing any and refuses to adopt conflict of interest rules. We need to evaluate how the Sunshine Committee works. A parent should have the right to know information about when their child is sexually assaulted.

Persons Testifying: PRO: Representative Springer, prime sponsor; Colleen Langdon, Signing for Safety; Barb Graff, city of Seattle Emergency Management; Jeff Axtell, West Pierce Fire and Rescue; Marlys Davis, King County E-911; James McMahan, WA Assn. of Sheriffs and Police Chiefs; Rowland Thompson, Allied Daily Newspapers of WA.

CON: Arthur West, citizen.

Persons Signed in to Testify But Not Testifying: No one.