
HOUSE BILL 2156

State of Washington 52nd Legislature 1991 Regular Session

By Representatives Anderson, Bowman, Pruitt, Ludwig, Brekke, Van Luven, Moyer, Ferguson, D. Sommers, Chandler, Hine, Mitchell, Hochstatter, Winsley, Rasmussen and Brough.

Read first time March 4, 1991. Referred to Committee on State Government.

1 AN ACT Relating to the disclosure of information from public
2 records by state and local agencies; amending RCW 42.17.310 and
3 42.17.311; adding a new section to chapter 29.36 RCW; adding a new
4 section to chapter 42.17 RCW; adding a new chapter to Title 40 RCW; and
5 declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** INTENT. The legislature finds that persons
8 attempting to escape from actual or threatened domestic violence
9 frequently establish new addresses in order to prevent their assailants
10 or probable assailants from finding them. The purpose of this chapter
11 is to aid such persons by enabling them to participate in a state
12 program under which they may use the office of the secretary of state
13 as their address.

1 NEW SECTION. **Sec. 2.** DEFINITIONS. "Domestic violence" has the
2 definition provided under RCW 10.99.020, except that for purposes of
3 this chapter, a minor shall also be considered as a family or household
4 member. "Protected address" includes the residential, work, or school
5 addresses that are included in an approved application under this
6 chapter and for which the applicant requests confidentiality.

7 NEW SECTION. **Sec. 3.** APPLICATION. An adult person, a parent or
8 guardian acting on behalf of a minor, or a guardian acting on behalf of
9 an incapacitated person, as defined in RCW 11.88.010, may apply to the
10 secretary of state to have the office of the secretary of state serve
11 as the person's address or the address of the minor or incapacitated
12 person. The secretary of state shall approve an application if it is
13 filed in the manner and on the form prescribed by the secretary of
14 state and if it contains:

15 (1) A sworn statement by the applicant that the applicant has good
16 reason to believe (a) that the applicant, or the minor or incapacitated
17 person on whose behalf the application is made, is under serious threat
18 of becoming a victim of domestic violence; (b) that the use of the
19 secretary of state's office as an address and the restrictions on
20 disclosure provided under this chapter would reduce the risk of such
21 victimization; and (c) that the address or addresses designated in
22 subsection (4) of this section have been established, or will be
23 established, at least in part to avoid detection and victimization;

24 (2) A designation of the secretary of state as agent for purposes
25 of service of process and for the purpose of receipt of all mail,
26 notices, and other written communications;

27 (3) The mailing address where the applicant can be contacted by the
28 secretary of state, and the phone number or numbers where the applicant
29 can be called by the secretary of state;

1 (4) The residential, work, or school address or addresses that the
2 applicant requests not be disclosed for the reason that disclosure will
3 increase the risk of domestic violence;

4 (5) The signature of the applicant and of any individual or
5 representative of any office designated in writing under section 7 of
6 this act who assisted in the preparation of the application.

7 NEW SECTION. **Sec. 4.** APPROVAL OF APPLICATION BY SECRETARY OF
8 STATE--ISSUANCE OF CERTIFICATE--DURATION. (1) Upon approval of an
9 application filed under section 3 of this act, the secretary of state
10 shall issue a certificate to the applicant recognizing the applicant's
11 permission to use the office of the secretary of state as the
12 applicant's address, or as the address of any other person for whom the
13 application was filed. The certificate shall contain the name of the
14 person issued the certificate; the name of the person with the
15 protected address; a statement that the office of the secretary of
16 state is the official address of the person with the protected address;
17 and a listing of the secretary of state's office address to be used.

18 (2) A certificate is effective for a period of one year following
19 its issuance, except under the following circumstances:

20 (a) The certificate will become ineffective if, and as of the time
21 that, the person for whom the certificate is granted obtains a change
22 of name; and

23 (b) A change in address listed on the application will render the
24 certificate ineffective, unless the certificate holder provides the
25 secretary of state with seven days' advance notice of the change of
26 address.

27 (3) The secretary of state may cancel the certificate if mail
28 forwarded by the secretary to that address is returned as
29 nondeliverable.

1 (4) A certificate obtained through false information is void.

2 (4) This section does not apply to a voter's address provided to
3 the county auditor for purposes of registering to vote or for any
4 voting purpose.

5 NEW SECTION. **Sec. 5.** ADOPTION OF RULES--USE OF SECRETARY OF
6 STATE'S ADDRESS. The secretary of state shall adopt rules permitting
7 a current certificate holder, or person for whom a current certificate
8 is obtained, to use the secretary of state's address in lieu of the
9 protected address. This permission extends to all communications and
10 transactions, except for those communications and transactions relating
11 to voting. The secretary of state shall forward all mail or other
12 materials sent to the secretary of state for a person with a protected
13 address to the mailing address provided in the approved application.
14 The secretary of state may send such mail or materials by United States
15 postal service, or other alternative methods approved by the secretary
16 of state.

17 NEW SECTION. **Sec. 6.** DISCLOSURE RESTRICTIONS. The secretary of
18 state may not make a protected address available for inspection or
19 copying, except under the following circumstances: (1) When requested
20 by a law enforcement agency, to the law enforcement agency; and (2)
21 when directed by court order, to a person identified in the order.

22 NEW SECTION. **Sec. 7.** CHAPTER ADMINISTERED BY SECRETARY OF STATE--
23 ASSISTANCE TO APPLICANTS. (1) The secretary of state shall administer
24 this chapter and adopt rules for its effective administration.

25 (2) Through interlocal or other agreements, the secretary of state
26 may designate and authorize state and local agencies and nonprofit
27 entities which provide counseling and shelter services to victims of

1 domestic violence to assist applicants for a certificate under this
2 chapter. Any assistance and counseling rendered by the office of the
3 secretary of state or its designees to applicants shall in no way be
4 construed as legal advice.

5 (3) The secretary of state shall serve as the agent for service of
6 process on each person with a current protected address.

7 NEW SECTION. **Sec. 8.** CAPTIONS NOT LAW. Section captions as used
8 in this chapter do not constitute any part of the law.

9 NEW SECTION. **Sec. 9.** A new section is added to chapter 29.36 RCW
10 to read as follows:

11 (1) The county auditor shall place on ongoing absentee status any
12 voter with a protected address, as defined under section 2 of this act,
13 who submits to the county auditor a copy of the certificate issued
14 under section 3 of this act and requests the county auditor to place
15 the voter on such status.

16 (2) The county auditor may not disclose a protected address of a
17 voter placed on ongoing absentee status under subsection (1) of this
18 section, except under the following circumstances: (a) When requested
19 by a law enforcement agency, to the law enforcement agency; and (b)
20 when directed by court order, to a person identified in the order.

21 (3) A voter placed on ongoing absentee status under this section
22 shall remain on such status for as long as the voter's address is a
23 protected address. Such voter shall be subject to the same
24 restrictions as other voters placed on such status, except that
25 termination of the status shall not occur on January 1st of each odd-
26 numbered year.

1 **Sec. 10.** RCW 42.17.310 and 1990 2nd ex.s. c 1 s 1103 are each
2 amended to read as follows:

3 (1) The following are exempt from public inspection and copying:

4 (a) Personal information in any files maintained for students in
5 public schools, patients or clients of public institutions or public
6 health agencies, or welfare recipients.

7 (b) Personal information in files maintained for employees,
8 appointees, or elected officials of any public agency to the extent
9 that disclosure would violate their right to privacy.

10 (c) Information required of any taxpayer in connection with the
11 assessment or collection of any tax if the disclosure of the
12 information to other persons would (i) be prohibited to such persons by
13 RCW 82.32.330 or (ii) violate the taxpayer's right to privacy or result
14 in unfair competitive disadvantage to the taxpayer.

15 (d) Specific intelligence information and specific investigative
16 records compiled by investigative, law enforcement, and penology
17 agencies, and state agencies vested with the responsibility to
18 discipline members of any profession, the nondisclosure of which is
19 essential to effective law enforcement or for the protection of any
20 person's right to privacy.

21 (e) Information revealing the identity of persons who file
22 complaints with investigative, law enforcement, or penology agencies,
23 other than the public disclosure commission, if disclosure would
24 endanger any person's life, physical safety, or property. If at the
25 time the complaint is filed the complainant indicates a desire for
26 disclosure or nondisclosure, such desire shall govern. However, all
27 complaints filed with the public disclosure commission about any
28 elected official or candidate for public office must be made in writing
29 and signed by the complainant under oath.

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

3 (g) Except as provided by chapter 8.26 RCW, the contents of real
4 estate appraisals, made for or by any agency relative to the
5 acquisition or sale of property, until the project or prospective sale
6 is abandoned or until such time as all of the property has been
7 acquired or the property to which the sale appraisal relates is sold,
8 but in no event shall disclosure be denied for more than three years
9 after the appraisal.

10 (h) Valuable formulae, designs, drawings, and research data
11 obtained by any agency within five years of the request for disclosure
12 when disclosure would produce private gain and public loss.

13 (i) Preliminary drafts, notes, recommendations, and intra-agency
14 memorandums in which opinions are expressed or policies formulated or
15 recommended except that a specific record shall not be exempt when
16 publicly cited by an agency in connection with any agency action.

17 (j) Records which are relevant to a controversy to which an agency
18 is a party but which records would not be available to another party
19 under the rules of pretrial discovery for causes pending in the
20 superior courts.

21 (k) Records, maps, or other information identifying the location of
22 archaeological sites in order to avoid the looting or depredation of
23 such sites.

24 (l) Any library record, the primary purpose of which is to maintain
25 control of library materials, or to gain access to information, which
26 discloses or could be used to disclose the identity of a library user.

27 (m) Financial information supplied by or on behalf of a person,
28 firm, or corporation for the purpose of qualifying to submit a bid or
29 proposal for (a) a ferry system construction or repair contract as

1 required by RCW 47.60.680 through 47.60.750 or (b) highway construction
2 or improvement as required by RCW 47.28.070.

3 (n) Railroad company contracts filed with the utilities and
4 transportation commission under RCW 81.34.070, except that the
5 summaries of the contracts are open to public inspection and copying as
6 otherwise provided by this chapter.

7 (o) Financial and commercial information and records supplied by
8 private persons pertaining to export services provided pursuant to
9 chapter 43.163 RCW and chapter 53.31 RCW.

10 (p) Financial disclosures filed by private vocational schools under
11 chapter 28C.10 RCW.

12 (q) Records filed with the utilities and transportation commission
13 or attorney general under RCW 80.04.095 that a court has determined are
14 confidential under RCW 80.04.095.

15 (r) Financial and commercial information and records supplied by
16 businesses during application for loans or program services provided by
17 chapter 43.163 RCW and chapters 43.31, 43.63A, and 43.168 RCW.

18 (s) Membership lists or lists of members or owners of interests of
19 units in timeshare projects, subdivisions, camping resorts,
20 condominiums, land developments, or common-interest communities
21 affiliated with such projects, regulated by the department of
22 licensing, in the files or possession of the department.

23 (t) All applications for public employment, including the names of
24 applicants, resumes, and other related materials submitted with respect
25 to an applicant.

26 (u) The residential addresses and residential telephone numbers of
27 employees or volunteers of a public agency which are held by the agency
28 in personnel records, employment or volunteer rosters, or mailing lists
29 of employees or volunteers.

1 (v) The residential addresses and residential telephone numbers of
2 the customers of a public utility contained in the records or lists
3 held by the public utility of which they are customers.

4 (w) Information obtained by the board of pharmacy as provided in
5 RCW 69.45.090.

6 (x) Information obtained by the board of pharmacy and its
7 representatives as provided in RCW 69.41.044 and 69.41.280.

8 (y) Financial information, business plans, examination reports, and
9 any information produced or obtained in evaluating or examining a
10 business and industrial development corporation organized or seeking
11 certification under chapter 31.24 RCW.

12 (z) Financial and commercial information supplied to the state
13 investment board by any person when the information relates to the
14 investment of public trust or retirement funds and when disclosure
15 would result in loss to such funds or in private loss to the providers
16 of this information.

17 (aa) Financial and valuable trade information under RCW 51.36.120.

18 ~~((bb) Effective March 1, 1991, the work and home addresses, other
19 than the city of residence, of a person shall remain undisclosed or be
20 omitted from all documents made available for public review if that
21 person requests in writing, under oath, that these addresses be kept
22 private because disclosure would endanger his or her life, physical
23 safety, or property. This provision does not in any way restrict the
24 sharing or collection of information by state and local governmental
25 agencies required for the daily administration of their duties. The
26 secretary of state shall administer this provision and establish the
27 procedures and rules that are necessary for its operation. An agency
28 that has not been furnished with a request for confidentiality of
29 address information is not liable for damages resulting from its
30 disclosure of the information. For purpose of service of process, the~~

1 secretary of state shall serve as agent for each person who submits a
2 request under this subsection. A request shall be of no force or
3 effect if the requester does not include a statement, along with or
4 part of the request, designating the secretary of state as agent of the
5 requester for purposes of service of process.))

6 (2) Except for information described in subsection (1)(c)(i) of
7 this section and confidential income data exempted from public
8 inspection pursuant to RCW 84.40.020, the exemptions of this section
9 are inapplicable to the extent that information, the disclosure of
10 which would violate personal privacy or vital governmental interests,
11 can be deleted from the specific records sought. No exemption may be
12 construed to permit the nondisclosure of statistical information not
13 descriptive of any readily identifiable person or persons.

14 (3) Inspection or copying of any specific records exempt under the
15 provisions of this section may be permitted if the superior court in
16 the county in which the record is maintained finds, after a hearing
17 with notice thereof to every person in interest and the agency, that
18 the exemption of such records is clearly unnecessary to protect any
19 individual's right of privacy or any vital governmental function.

20 (4) Agency responses refusing, in whole or in part, inspection of
21 any public record shall include a statement of the specific exemption
22 authorizing the withholding of the record (or part) and a brief
23 explanation of how the exemption applies to the record withheld.

24 **Sec. 11.** RCW 42.17.311 and 1990 c 256 s 2 are each amended to read
25 as follows:

26 Nothing in RCW 42.17.310(1) (t) through (v) and (~~(bb)~~) (aa) shall
27 affect a positive duty of an agency to disclose or a positive duty to
28 withhold information which duty to disclose or withhold is contained in
29 any other law.

1 NEW SECTION. **Sec. 12.** A new section is added to chapter 42.17 RCW
2 to read as follows:

3 PROTECTED RECORDS EXEMPT FROM PUBLIC DISCLOSURE ACT. Address
4 information contained in a public record is exempt from disclosure
5 under this chapter if the disclosure would violate chapter 40.--- RCW
6 (sections 1 through 8 of this act).

7 NEW SECTION. **Sec. 13.** NEW CHAPTER CREATED. Sections 1 through 8
8 of this act shall constitute a new chapter in Title 40 RCW.

9 NEW SECTION. **Sec. 14.** EMERGENCY CLAUSE. Sections 10 and 11 of
10 this act are necessary for the immediate preservation of the public
11 peace, health, or safety, or support of the state government and its
12 existing public institutions, and shall take effect immediately.