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**SUBSTITUTE SENATE BILL 6650**

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**State of Washington**

**54th Legislature**

**1996 Regular Session**

**By** Senate Committee on Energy, Telecommunications & Utilities  
(originally sponsored by Senators Finkbeiner, Hargrove, Loveland,  
Hochstatter, Strannigan, Zarelli, Swecker, Drew and Winsley)

Read first time 02/02/96.

1 AN ACT Relating to state records; adding a new chapter to Title 43  
2 RCW; prescribing penalties; and providing an effective date.

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

4 NEW SECTION. **Sec. 1.** The legislature finds that:

5 (1) Advances in the information and telecommunication technologies  
6 have rapidly expanded the collection of personal data on individuals,  
7 and improved the speed and access with which personal data can be  
8 retrieved and disseminated;

9 (2) The increased use of these technologies and their related  
10 systems, channels, and services has serious implications on individual  
11 privacy that can occur from any collection, maintenance, use, or  
12 dissemination of personal information;

13 (3) The right to privacy is an individual and fundamental right  
14 protected by the Constitution of the United States and the Constitution  
15 of the state of Washington;

16 (4) Government records contain potentially sensitive personal  
17 information related to criminal, medical and health, insurance,  
18 education, employment and personnel, credit, banking, financial

1 institutions, credit bureaus, telecommunications, and travel  
2 activities.

3 NEW SECTION. **Sec. 2.** The purposes of this chapter are to:

4 (1) Minimize the paperwork burden for individuals, small  
5 businesses, educational and nonprofit institutions, state, local, and  
6 tribal governments, and other persons affected by the collection of  
7 information by or for state government;

8 (2) Ensure the greatest possible public benefit from and maximize  
9 the utility of information created, collected, maintained, used,  
10 shared, and disseminated by or for state government;

11 (3) Improve the quality and use of state information to strengthen  
12 decision making, accountability, and openness in government;

13 (4) Minimize the costs to state government of the creation,  
14 collection, maintenance, use, dissemination, and disposition of  
15 information;

16 (5) Provide for the dissemination of public information on a timely  
17 basis, on equitable terms, and in a manner that promotes the utility of  
18 the information to the public and makes effective use of information  
19 technology;

20 (6) Ensure that the creation, collection, maintenance, use,  
21 dissemination, and disposition of information by and for state  
22 government is consistent with applicable laws.

23 NEW SECTION. **Sec. 3.** The definitions set forth in this section  
24 apply throughout this chapter.

25 (1) "Agency" means an executive department, government corporation,  
26 or other establishment organized under the executive branch.

27 (2) "Burden" means time, effort, or financial resources spent by  
28 persons to generate, maintain, or provide information.

29 (3) "Collection of information" means the obtaining, causing to be  
30 obtained, soliciting, or requiring the disclosure to third parties or  
31 the public of facts or opinions by or for an agency regardless of form  
32 or format calling for either:

33 (a) Answers to identical questions posed to, or identical reporting  
34 or recordkeeping requirements imposed on, ten or more persons; or

35 (b) Answers to questions posed to agencies, instrumentalities, or  
36 employees of the state of Washington that are to be used for  
37 statistical purposes.

1 (4) "Individual recorded information" means any information  
2 regardless of form or format that an agency collects, keeps, or uses to  
3 make determinations relative to that individual in the course of its  
4 business.

5 (5) "Information resources" means information and related  
6 resources, such as personnel, equipment, funds, and information  
7 technology.

8 (6) "Information system" means a discrete set of information  
9 resources and processes, automated or manual, organized for the  
10 collection, processing, maintenance, use, sharing, dissemination, or  
11 disposition of information.

12 (7) "Public information" means any information regardless of form  
13 or format, that an agency discloses or disseminates, or makes available  
14 to the public.

15 (8) "Recordkeeping requirement" means a requirement imposed by or  
16 for an agency on persons to maintain specific records, including a  
17 requirement to:

18 (a) Retain the records;

19 (b) Notify third parties or the public of the existence of the  
20 records;

21 (c) Disclose or make the records available to third parties or the  
22 public;

23 (d) Report to third parties or the public regarding the records.

24 NEW SECTION. **Sec. 4.** In conjunction with any planning efforts  
25 under way under RCW 43.105.170, the head of each agency, or a designee,  
26 shall develop and maintain a strategic information resources management  
27 plan that describes how information resources management activities of  
28 the agency will:

29 (1) Protect privacy interests of individuals whose information is  
30 held by that agency;

31 (2) Establish goals for improving agency performance, protection of  
32 privacy, system security, and methods for measuring progress towards  
33 those goals, and identifying clear roles and responsibilities for  
34 achieving those goals; and

35 (3) Evaluate the information systems, telecommunication, and other  
36 information technologies and services of that agency in order to  
37 determine the standards and procedures in force for the protection of  
38 personal information, individual privacy, and system security.

1        NEW SECTION.    **Sec. 5.**    (1) With respect to information collection  
2 each agency shall:

3        (a) Review, publish, file with the department of information  
4 services, and make available for public inspection, an annual report  
5 outlining its information resources providing:

6            (i) An evaluation of the need for collecting information;  
7            (ii) A functional description of the information to be collected;  
8            (iii) A specific, objectively supported estimate of the burden of  
9 collecting the information;

10          (iv) A record of the initiation, substantial modification, or  
11 termination of significant information products.

12        (b) Ensure that each collection of information after the effective  
13 date of this act:

14            (i) Displays, if appropriate, an expiration date;  
15            (ii) Is in accordance with this chapter;  
16            (iii) Contains a statement to inform the person receiving the  
17 request for information:

18                  (A) The reason the information is being collected;  
19                  (B) The way the information is to be used;  
20                  (C) An estimate, to the extent practicable, of the burden of the  
21 collection; and

22                  (D) Whether responses to collecting the information are voluntary,  
23 required to obtain a benefit, or mandatory.

24        (2) With respect to dissemination of information each agency shall:

25        (a) Post a notice in a location visible to the public stating that  
26 information retained by that agency is handled in accordance with that  
27 agency's information resources management plan, and indicating that the  
28 agency's plan is available for public inspection;

29        (b) Not, except where specifically authorized by statute:

30            (i) Establish an exclusive, restricted, or other distribution  
31 arrangement that interferes with timely and equitable availability of  
32 public information to the public;

33            (ii) Restrict or regulate the use of public information by the  
34 public;

35            (iii) Charge fees or royalties for resale or redissemination of  
36 public information;

37            (iv) Establish fees for public information that exceed the cost of  
38 dissemination;

1 (c) Follow applicable laws and rules governing privacy and system  
2 security.

3 NEW SECTION. **Sec. 6.** Upon receipt of a written request from an  
4 individual to examine or copy all or part of the individual's recorded  
5 information, an agency, as promptly as required under the  
6 circumstances, but no later than fifteen working days after receiving  
7 the request, shall:

8 (1) Make the information available for examination during regular  
9 business hours and provide a copy, if requested, to the individual;

10 (2) Inform the individual in writing if the information does not  
11 exist or cannot be found;

12 (3) If the agency does not maintain a record of the information,  
13 inform the individual in writing and provide the name and address, if  
14 known, of the agency that maintains the record; or

15 (4) If the information is in use or unusual circumstances have  
16 delayed handling the request, inform the individual and specify in  
17 writing the reasons for the delay and the earliest date, not later than  
18 twenty-one working days after receiving the request, when the  
19 information will be available for examination or copying or when the  
20 request will be otherwise disposed of.

21 NEW SECTION. **Sec. 7.** (1) For purposes of accuracy or  
22 completeness, an individual may request in writing that an agency  
23 correct or amend its record of the individual's information to which  
24 the individual has access under this chapter.

25 (2) As promptly as required under the circumstances, but no later  
26 than ten days after receiving a request from an individual to correct  
27 or amend its record of the individual's information, the agency shall:

28 (a) Make the requested correction or amendment and inform the  
29 individual in writing of the action;

30 (b) Inform the individual in writing if the record no longer exists  
31 or cannot be found;

32 (c) If the agency does not maintain the record, inform the  
33 individual in writing and provide the individual with the name and  
34 address, if known, of the person who maintains the record;

35 (d) If the record is in use or unusual circumstances have delayed  
36 the handling of the correction or amendment request, inform the  
37 individual and specify in writing the earliest date, not later than

1 twenty-one days after receiving the request, when the correction or  
2 amendment will be made or when the request will otherwise be disposed  
3 of; or

4 (e) Inform the individual in writing of the agency's refusal to  
5 correct or amend the record as requested and the individual's right to  
6 add a statement of disagreement.

7 NEW SECTION. **Sec. 8.** (1) In making a correction or amendment, the  
8 agency shall:

9 (a) Add the amending information as a part of its record; and

10 (b) Mark the challenged entries as corrected or amended entries and  
11 indicate the place in the record where the corrected or amended  
12 information is located, in a manner practicable under the  
13 circumstances.

14 (2) If the agency maintaining the record of the individual's  
15 information refuses to make the proposed correction or amendment, the  
16 agency shall:

17 (a) Permit the individual to file as a part of the record a  
18 statement of no more than one hundred words regarding the correction or  
19 amendment requested and the reasons therefor; and

20 (b) Mark the challenged entry to indicate that the individual  
21 claims the entry is inaccurate or incomplete and indicate the place in  
22 the record where the statement of disagreement is located, in a manner  
23 practicable under the circumstances.

24 NEW SECTION. **Sec. 9.** (1) An officer, employee, or member of an  
25 agency, who by virtue of the person's employment or position has access  
26 to or possession of records that contain individually identifiable  
27 information the disclosure of which is prohibited by this chapter, and  
28 who knowingly discloses the material in any manner to any person or  
29 agency not entitled to receive it, is guilty of a misdemeanor  
30 punishable by a fine of not more than one thousand dollars.

31 (2) A person who knowingly and willfully requests or obtains a  
32 record concerning an individual under false pretenses is guilty of a  
33 misdemeanor punishable by a fine of not more than one thousand dollars.

34 NEW SECTION. **Sec. 10.** (1) A person who has complied with this  
35 chapter may maintain an action for the relief provided in this section  
36 against an agency that has not complied with this chapter.

1 (2) The court may order the agency or responsible person to comply  
2 with this chapter. The relief may include damages, reasonable  
3 attorneys' fees, and all other expenses reasonably incurred by the  
4 prevailing party.

5 (3) An action under this chapter is barred unless the action is  
6 commenced within two years after the cause of action is discovered.

7 (4) A violation of this chapter shall not be deemed a violation of  
8 the Consumer Protection Act, chapter 19.86 RCW.

9 NEW SECTION. **Sec. 11.** This chapter does not restrict an agency  
10 from complying with obligations imposed by federal law or the lawful  
11 order of a court of competent jurisdiction.

12 NEW SECTION. **Sec. 12.** This chapter shall be construed broadly to  
13 effectuate its general purpose.

14 NEW SECTION. **Sec. 13.** Sections 1 through 12 of this act  
15 constitute a new chapter in Title 43 RCW.

16 NEW SECTION. **Sec. 14.** This act takes effect July 1, 1996.

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