

SENATE BILL REPORT

SHB 1717

As Reported By Senate Committee On:
Human Services & Corrections, March 28, 2001

Title: An act relating to public access to public records.

Brief Description: Exempting from public inspection specified information on correctional facilities.

Sponsors: By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Morell, O'Brien, Ballasiotes, McMorris, Cairnes and Ahern).

Brief History:

Committee Activity: Human Services & Corrections: 3/23/01, 3/28/01 [DP].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: Do pass.

Signed by Senators Hargrove, Chair; Costa, Vice Chair; Carlson, Franklin, Hewitt, Kastama, Kohl-Welles, Long and Stevens.

Staff: Edith Rice (786-7444)

Background: The Public Disclosure Act (PDA) requires all state and local agencies to disclose any public record upon request, unless the record falls within certain specified statutory exemptions. Disclosure requires that the records be made available for public inspection and copying.

When an agency concludes that a public record is exempt from disclosure and denies the requester an opportunity to inspect or copy a public record for that reason, the requester may ask the Attorney General to review the matter. Additionally, the requester may file a motion in superior court and the court may require the agency to show cause why it has refused to allow inspection or copying of the record. The burden of proof is on the agency to establish that refusal to permit inspection and copying is in accordance with a statute that exempts or prohibits disclosure.

The Department of Corrections must formulate written emergency procedures appropriate for each specific facility relative to escapes, riots, rebellions, assaults, injuries, suicides or attempted suicides, outbreak of infectious disease, fire, acts of nature, and any other type of major disaster or disturbance. The emergency plan must outline the responsibilities of the facility staff, evacuation procedures, and subsequent disposition of the prisoners after removal from the area or facility. There is no specific statutory exemption for these records.

Summary of Bill: Records, which if disclosed, would have a substantial likelihood of threatening the security of a correctional facility or any individual's safety and contain: specific and unique vulnerability assessments at a correctional facility; or specific and unique

emergency and escape response plans at a correctional facility are exempt from disclosures under the PDA.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: A recent court challenge in Thurston County has highlighted the need for this legislation. Although a superior court judge understood the department's need to withhold certain security related information, there is no specific statutory exemption which would allow a judge to rule in favor of the department. The exemption is narrow enough that general information could still be shared with the public.

Testimony Against: None.

Testified: Eldon Vail, Deputy Secretary, Department of Corrections (pro), Rolland Thompson, Allied Daily Newspapers of Washington (pro).