

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE SENATE BILL 5130**

Chapter 10, Laws of 2009

61st Legislature  
2009 Regular Session

PUBLIC RECORDS--ACCESS--INMATES

EFFECTIVE DATE: 03/20/09

Passed by the Senate March 20, 2009  
YEAS 43 NAYS 0

BRAD OWEN

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**President of the Senate**

Passed by the House March 18, 2009  
YEAS 94 NAYS 2

FRANK CHOPP

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**Speaker of the House of Representatives**

Approved March 20, 2009, 5:09 p.m.

CHRISTINE GREGOIRE  
\_\_\_\_\_  
**Governor of the State of Washington**

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5130** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

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**Secretary**

FILED

March 23, 2009

**Secretary of State  
State of Washington**

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**SUBSTITUTE SENATE BILL 5130**

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AS AMENDED BY THE HOUSE

Passed Legislature - 2009 Regular Session

**State of Washington                      61st Legislature                      2009 Regular Session**

**By** Senate Human Services & Corrections (originally sponsored by Senators Carrell, Hargrove, Swecker, Hatfield, Holmquist, Brandland, Sheldon, Tom, King, Hobbs, McCaslin, Stevens, and Marr; by request of Attorney General)

READ FIRST TIME 02/12/09.

1            AN ACT Relating to access to public records by persons serving  
2 criminal sentences in correctional facilities; adding a new section to  
3 chapter 42.56 RCW; and declaring an emergency.

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

5            NEW SECTION.    **Sec. 1.** A new section is added to chapter 42.56 RCW  
6 to read as follows:

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

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

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

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

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

3 (ii) Fulfilling the request would likely threaten the security of  
4 correctional facilities;

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

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

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

12 (a) Other requests by the requestor;

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

14 (c) Statements offered by the requestor concerning the purpose for  
15 the request;

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

18 (e) Whether the request seeks a significant and burdensome number  
19 of documents;

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

23 (g) The deterrence of criminal activity.

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

30 (a) The same requestor; or

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

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

1        NEW\_SECTION.    **Sec. 2.**    This act is necessary for the immediate  
2    preservation of the public peace, health, or safety, or support of the  
3    state government and its existing public institutions, and takes effect  
4    immediately.

      Passed by the Senate March 20, 2009.

      Passed by the House March 18, 2009.

      Approved by the Governor March 20, 2009.

      Filed in Office of Secretary of State March 23, 2009.