
HOUSE BILL 1034

State of Washington

62nd Legislature

2011 Regular Session

By Representatives Takko, Johnson, Angel, Upthegrove, Hurst, Armstrong, Walsh, Hinkle, Ross, Warnick, Klippert, Schmick, McCune, Nealey, Short, Dammeier, Fagan, Smith, Ladenburg, Pearson, Chandler, Tharinger, Darneille, and Moeller; by request of Attorney General

Prefiled 12/15/10. Read first time 01/10/11. Referred to Committee on State Government & Tribal Affairs.

1 AN ACT Relating to making requests by or on behalf of an inmate
2 under the public records act ineligible for penalties; reenacting and
3 amending RCW 42.56.550; creating a new section; and declaring an
4 emergency.

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

6 **Sec. 1.** RCW 42.56.550 and 2005 c 483 s 5 and 2005 c 274 s 288 are
7 each reenacted and amended to read as follows:

8 (1) Upon the motion of any person having been denied an opportunity
9 to inspect or copy a public record by an agency, the superior court in
10 the county in which a record is maintained may require the responsible
11 agency to show cause why it has refused to allow inspection or copying
12 of a specific public record or class of records. The burden of proof
13 shall be on the agency to establish that refusal to permit public
14 inspection and copying is in accordance with a statute that exempts or
15 prohibits disclosure in whole or in part of specific information or
16 records.

17 (2) Upon the motion of any person who believes that an agency has
18 not made a reasonable estimate of the time that the agency requires to
19 respond to a public record request, the superior court in the county in

1 which a record is maintained may require the responsible agency to show
2 that the estimate it provided is reasonable. The burden of proof shall
3 be on the agency to show that the estimate it provided is reasonable.

4 (3) Judicial review of all agency actions taken or challenged under
5 RCW 42.56.030 through 42.56.520 shall be de novo. Courts shall take
6 into account the policy of this chapter that free and open examination
7 of public records is in the public interest, even though such
8 examination may cause inconvenience or embarrassment to public
9 officials or others. Courts may examine any record in camera in any
10 proceeding brought under this section. The court may conduct a hearing
11 based solely on affidavits.

12 (4) Any person who prevails against an agency in any action in the
13 courts seeking the right to inspect or copy any public record or the
14 right to receive a response to a public record request within a
15 reasonable amount of time shall be awarded all costs, including
16 reasonable attorney fees, incurred in connection with such legal
17 action. In addition, it shall be within the discretion of the court to
18 award such person an amount not less than five dollars and not to
19 exceed one hundred dollars for each day that he or she was denied the
20 right to inspect or copy said public record.

21 (5) A court shall not award penalties under subsection (4) of this
22 section in any action where the request for public records was made by
23 or on behalf of a person serving a criminal sentence in a state, local,
24 or privately operated correctional facility.

25 (6) For actions under this section against counties, the venue
26 provisions of RCW 36.01.050 apply.

27 ~~((+6))~~ (7) Actions under this section must be filed within one
28 year of the agency's claim of exemption or the last production of a
29 record on a partial or installment basis.

30 NEW SECTION. Sec. 2. This act applies to all actions brought
31 under RCW 42.56.550 in which final judgment has not been entered as of
32 the effective date of this act.

33 NEW SECTION. Sec. 3. This act is necessary for the immediate
34 preservation of the public peace, health, or safety, or support of the

1 state government and its existing public institutions, and takes effect
2 immediately.

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