

SHB 1298 - S COMM AMD

By Committee on Governmental Operations

NOT CONSIDERED

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 13.34.100 and 2010 c 180 s 2 are each amended to read
4 as follows:

5 (1) The court shall appoint a guardian ad litem for a child who is
6 the subject of an action under this chapter, unless a court for good
7 cause finds the appointment unnecessary. The requirement of a guardian
8 ad litem may be deemed satisfied if the child is represented by
9 independent counsel in the proceedings. The court shall attempt to
10 match a child with special needs with a guardian ad litem who has
11 specific training or education related to the child's individual needs.

12 (2) If the court does not have available to it a guardian ad litem
13 program with a sufficient number of volunteers, the court may appoint
14 a suitable person to act as guardian ad litem for the child under this
15 chapter. Another party to the proceeding or the party's employee or
16 representative shall not be so appointed.

17 (3) Each guardian ad litem program shall maintain a background
18 information record for each guardian ad litem in the program.
19 Information obtained pursuant to this subsection (3) must be made
20 available for public inspection and copying, subject to the court's
21 discretion. The background information record shall include, but is
22 not limited to, the following information:

- 23 (a) Level of formal education;
24 (b) General training related to the guardian ad litem's duties;
25 (c) Specific training related to issues potentially faced by
26 children in the dependency system;
27 (d) Specific training or education related to child disability or
28 developmental issues;
29 (e) Connection with an organization or association involved in the

1 placement of children including a membership, referrals, contracts, or
2 other financial dealings;

3 (f) Number of years' experience as a guardian ad litem;

4 ~~((+f))~~ (g) Number of appointments as a guardian ad litem and the
5 county or counties of appointment, and number of appointments as a
6 guardian ad litem or court-appointed special advocate in other states
7 with the location and duration of the appointments in other states;

8 ~~((+g))~~ (h) The names of any counties in Washington or other states
9 in which the person was removed from a guardian ad litem registry
10 pursuant to a grievance action, and the name of the court and the cause
11 number of any case in which the court has removed the person for cause;

12 ~~((+h))~~ (i) Any complaint made to a court or to a guardian ad litem
13 program or court-appointed special advocate program, or request for
14 review under subsection (9) of this section, unless proven false;

15 (j) Founded allegations of abuse or neglect as defined in RCW
16 26.44.020;

17 ~~((+i))~~ (k) The results of an examination of state and national
18 criminal identification data. The examination shall consist of a
19 background check as allowed through the Washington state criminal
20 records privacy act under RCW 10.97.050, the Washington state patrol
21 criminal identification system under RCW 43.43.832 through 43.43.834,
22 and the federal bureau of investigation. The background check shall be
23 done through the Washington state patrol criminal identification
24 section and must include a national check from the federal bureau of
25 investigation based on the submission of fingerprints; and

26 ~~((+j))~~ (l) Criminal history, as defined in RCW 9.94A.030, for the
27 period covering ten years prior to the appointment.

28 The background information record shall be updated annually. As a
29 condition of appointment, the guardian ad litem's background
30 information record shall be made available to the court. If the
31 appointed guardian ad litem is not a member of a guardian ad litem
32 program a suitable person appointed by the court to act as guardian ad
33 litem shall provide the background information record to the court.

34 Upon appointment, the guardian ad litem, or guardian ad litem
35 program, shall provide the parties or their attorneys with a copy of
36 the background information record. ~~((The portion of the background~~
37 ~~information record containing the results of the criminal background~~
38 ~~check and the criminal history shall not be disclosed to the parties or~~

1 ~~their attorneys.~~) The background information record shall not include
2 identifying information that may be used to harm a guardian ad litem,
3 such as home addresses and home telephone numbers, and for volunteer
4 guardians ad litem the court may allow the use of maiden names or
5 pseudonyms as necessary for their safety.

6 (4) The appointment of the guardian ad litem shall remain in effect
7 until the court discharges the appointment or no longer has
8 jurisdiction, whichever comes first. The guardian ad litem may also be
9 discharged upon entry of an order of guardianship.

10 (5) A guardian ad litem through counsel, or as otherwise authorized
11 by the court, shall have the right to present evidence, examine and
12 cross-examine witnesses, and to be present at all hearings. A guardian
13 ad litem shall receive copies of all pleadings and other documents
14 filed or submitted to the court, and notice of all hearings according
15 to court rules. The guardian ad litem shall receive all notice
16 contemplated for a parent or other party in all proceedings under this
17 chapter.

18 (6)(a) Pursuant to this subsection, the department or supervising
19 agency and the child's guardian ad litem shall each notify a child of
20 his or her right to request counsel and shall ask the child whether he
21 or she wishes to have counsel. The department or supervising agency
22 and the child's guardian ad litem shall notify the child and make this
23 inquiry immediately after:

24 (i) The date of the child's twelfth birthday;

25 (ii) Assignment of a case involving a child age twelve or older; or

26 (iii) July 1, 2010, for a child who turned twelve years old before
27 July 1, 2010.

28 (b) The department or supervising agency and the child's guardian
29 ad litem shall repeat the notification and inquiry at least annually
30 and upon the filing of any motion or petition affecting the child's
31 placement, services, or familial relationships.

32 (c) The notification and inquiry is not required if the child has
33 already been appointed counsel.

34 (d) The department or supervising agency shall note in the child's
35 individual service and safety plan, and the guardian ad litem shall
36 note in his or her report to the court, that the child was notified of
37 the right to request counsel and indicate the child's position
38 regarding appointment of counsel.

1 (e) At the first regularly scheduled hearing after:

2 (i) The date of the child's twelfth birthday;

3 (ii) The date that a dependency petition is filed pursuant to this
4 chapter on a child age twelve or older; or

5 (iii) July 1, 2010, for a child who turned twelve years old before
6 July 1, 2010;

7 the court shall inquire whether the child has received notice of his or
8 her right to request legal counsel from the department or supervising
9 agency and the child's guardian ad litem. The court shall make an
10 additional inquiry at the first regularly scheduled hearing after the
11 child's fifteenth birthday. No inquiry is necessary if the child has
12 already been appointed counsel.

13 (f) If the child requests legal counsel and is age twelve or older,
14 or if the guardian ad litem or the court determines that the child
15 needs to be independently represented by counsel, the court may appoint
16 an attorney to represent the child's position.

17 (7) For the purposes of child abuse prevention and treatment act
18 (42 U.S.C. Secs. 5101 et seq.) grants to this state under P.L. 93-247,
19 or any related state or federal legislation, a person appointed
20 pursuant to this section shall be deemed a guardian ad litem to
21 represent the best interests of the minor in proceedings before the
22 court.

23 (8) When a court-appointed special advocate or volunteer guardian
24 ad litem is requested on a case, the program shall give the court the
25 name of the person it recommends. The program shall attempt to match
26 a child with special needs with a guardian ad litem who has specific
27 training or education related to the child's individual needs. The
28 court shall immediately appoint the person recommended by the program.

29 (9) If a party in a case reasonably believes the court-appointed
30 special advocate or volunteer guardian ad litem is inappropriate or
31 unqualified, the party may request a review of the appointment by the
32 program. The program must complete the review within five judicial
33 days and remove any appointee for good cause. If the party seeking the
34 review is not satisfied with the outcome of the review, the party may
35 file a motion with the court for the removal of the court-appointed
36 special advocate or volunteer guardian ad litem on the grounds the
37 advocate or volunteer is inappropriate or unqualified.

1 **Sec. 2.** RCW 42.56.230 and 2011 c 350 s 2 and 2011 c 173 s 1 are
2 each reenacted and amended to read as follows:

3 The following personal information is exempt from public inspection
4 and copying under this chapter:

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

8 (2) Personal information(~~(7)~~) including, but not limited to,
9 addresses, telephone numbers, personal electronic mail addresses,
10 social security numbers, emergency contact and date of birth
11 information for a participant in a public or nonprofit program serving
12 or pertaining to children, adolescents, or students, including but not
13 limited to early learning or child care services, parks and recreation
14 programs, youth development programs, and after-school programs.
15 Emergency contact information may be provided to appropriate
16 authorities and medical personnel for the purpose of treating the
17 individual during an emergency situation;

18 (3) Personal information in files maintained for employees,
19 appointees, or elected officials of any public agency to the extent
20 that disclosure would violate their right to privacy;

21 (4) Information required of any taxpayer in connection with the
22 assessment or collection of any tax if the disclosure of the
23 information to other persons would: (a) Be prohibited to such persons
24 by RCW 84.08.210, 82.32.330, 84.40.020, 84.40.340, or any ordinance
25 authorized under RCW 35.102.145; or (b) violate the taxpayer's right to
26 privacy or result in unfair competitive disadvantage to the taxpayer;

27 (5) Credit card numbers, debit card numbers, electronic check
28 numbers, card expiration dates, or bank or other financial (~~account~~
29 ~~numbers~~) information as defined in RCW 9.35.005 including social
30 security numbers, except when disclosure is expressly required by or
31 governed by other law;

32 (6) Personal and financial information related to a small loan or
33 any system of authorizing a small loan in RCW 31.45.093; and

34 (7)(a) Documents and related materials and scanned images of
35 documents and related materials used to prove identity, age,
36 residential address, social security number, or other personal
37 information required to apply for a driver's license or identicard.

1 (b) Information provided under RCW 46.20.111 that indicates that an
2 applicant declined to register with the selective service system.

3 **Sec. 3.** RCW 42.56.240 and 2012 c 88 s 1 are each amended to read
4 as follows:

5 The following investigative, law enforcement, and crime victim
6 information is exempt from public inspection and copying under this
7 chapter:

8 (1) Specific intelligence information and specific investigative
9 records compiled by investigative, law enforcement, and penology
10 agencies, and state agencies vested with the responsibility to
11 discipline members of any profession, the nondisclosure of which is
12 essential to effective law enforcement or for the protection of any
13 person's right to privacy;

14 (2) Information revealing the identity of persons who are witnesses
15 to or victims of crime or who file complaints with investigative, law
16 enforcement, or penology agencies, other than the commission, if
17 disclosure would endanger any person's life, physical safety, or
18 property. If at the time a complaint is filed the complainant, victim,
19 or witness indicates a desire for disclosure or nondisclosure, such
20 desire shall govern. However, all complaints filed with the commission
21 about any elected official or candidate for public office must be made
22 in writing and signed by the complainant under oath;

23 (3) Any records of investigative reports prepared by any state,
24 county, municipal, or other law enforcement agency pertaining to sex
25 offenses contained in chapter 9A.44 RCW or sexually violent offenses as
26 defined in RCW 71.09.020, which have been transferred to the Washington
27 association of sheriffs and police chiefs for permanent electronic
28 retention and retrieval pursuant to RCW 40.14.070(2)(b);

29 (4) License applications under RCW 9.41.070; copies of license
30 applications or information on the applications may be released to law
31 enforcement or corrections agencies;

32 (5) Information revealing the identity of child victims of sexual
33 assault who are under age eighteen. Identifying information (~~means~~)
34 includes, but is not limited to the child victim's name, address,
35 location, photograph, and in cases in which the child victim is a
36 relative or stepchild of the alleged perpetrator, identification of the
37 relationship between the child and the alleged perpetrator;

1 (6) Information contained in a local or regionally maintained gang
2 database as well as the statewide gang database referenced in RCW
3 43.43.762;

4 (7) Data from the electronic sales tracking system established in
5 RCW 69.43.165;

6 (8) Information submitted to the statewide unified sex offender
7 notification and registration program under RCW 36.28A.040(6) by a
8 person for the purpose of receiving notification regarding a registered
9 sex offender, including the person's name, residential address, and e-
10 mail address; and

11 (9) Personally identifying information collected by law enforcement
12 agencies pursuant to local security alarm system programs and vacation
13 crime watch programs. Nothing in this subsection shall be interpreted
14 so as to prohibit the legal owner of a residence or business from
15 accessing information regarding his or her residence or business.

16 **Sec. 4.** RCW 70.148.060 and 2005 c 274 s 341 are each amended to
17 read as follows:

18 (1) All (~~examination and proprietary reports and~~) information
19 except for proprietary reports or information obtained by the director
20 and the director's staff in soliciting bids from insurers and in
21 monitoring the insurer selected by the director shall not be made
22 public or otherwise disclosed to any person, firm, corporation, agency,
23 association, governmental body, or other entity.

24 (2) Subsection (1) of this section notwithstanding, the director
25 may furnish all or part of examination reports prepared by the director
26 or by any person, firm, corporation, association, or other entity
27 preparing the reports on behalf of the director to:

28 (a) The Washington state insurance commissioner;

29 (b) A person or organization officially connected with the insurer
30 as officer, director, attorney, auditor, or independent attorney or
31 independent auditor; and

32 (c) The attorney general in his or her role as legal advisor to the
33 director.

34 (3) Subsection (1) of this section notwithstanding, the director
35 may furnish all or part of the examination or proprietary reports or
36 information obtained by the director to:

37 (a) The Washington state insurance commissioner; and

1 (b) A person, firm, corporation, association, governmental body, or
2 other entity with whom the director has contracted for services
3 necessary to perform his or her official duties.

4 (4) (~~Examination reports and~~) Proprietary information obtained by
5 the director and the director's staff (~~are~~) is not subject to public
6 disclosure under chapter 42.56 RCW.

7 (5) A person who violates any provision of this section is guilty
8 of a gross misdemeanor.

9 **Sec. 5.** RCW 40.14.100 and 1971 ex.s. c 102 s 2 are each amended to
10 read as follows:

11 As used in RCW 40.14.010 and 40.14.100 through 40.14.180, unless
12 the context requires otherwise, "legislative records" shall be defined
13 as correspondence, amendments, reports, and minutes of meetings made by
14 or submitted to legislative policy, fiscal, or operational committees
15 or subcommittees and transcripts or other records of hearings or
16 supplementary written testimony or data thereof filed with legislative
17 policy, fiscal, or operational committees or subcommittees in
18 connection with the exercise of legislative or investigatory functions,
19 but does not include the records of an official act of the legislature
20 kept by the secretary of state, bills and their copies, published
21 materials, digests, or multi-copied matter which are routinely retained
22 and otherwise available at the state library or in a public repository,
23 or reports or correspondence made or received by or in any way under
24 the personal control of the individual members of the legislature.

25 **Sec. 6.** RCW 42.56.140 and 2007 c 198 s 2 are each amended to read
26 as follows:

27 (1)(a) The public records exemptions accountability committee is
28 created to review exemptions from public disclosure, with thirteen
29 members as provided in this subsection.

30 (i) The governor shall appoint two members, one of whom represents
31 the governor and one of whom represents local government.

32 (ii) The attorney general shall appoint two members, one of whom
33 represents the attorney general and one of whom represents a statewide
34 media association.

35 (iii) The state auditor shall appoint one member.

1 (iv) The president of the senate shall appoint one member from each
2 of the two largest caucuses of the senate.

3 (v) The speaker of the house of representatives shall appoint one
4 member from each of the two largest caucuses of the house of
5 representatives.

6 (vi) The governor shall appoint four members of the public, with
7 consideration given to diversity of viewpoint and geography.

8 (b) The governor shall select the chair of the committee from among
9 its membership.

10 (c) Terms of the members shall be four years and shall be
11 staggered, beginning August 1, 2007.

12 (2) The purpose of the public records exemptions accountability
13 committee is to review public disclosure exemptions and provide
14 recommendations pursuant to subsection (7)(d) of this section. The
15 committee shall develop and publish criteria for review of public
16 exemptions.

17 (3) All meetings of the committee shall be open to the public.

18 (4) The committee must consider input from interested parties.

19 (5) The office of the attorney general and the office of financial
20 management shall provide staff support to the committee.

21 (6) Legislative members of the committee shall be reimbursed for
22 travel expenses in accordance with RCW 44.04.120. Nonlegislative
23 members, except those representing an employer or organization, are
24 entitled to be reimbursed for travel expenses in accordance with RCW
25 43.03.050 and 43.03.060.

26 (7)(a) Beginning August 1, 2007, the code reviser shall provide the
27 committee by August 1st of each year with a list of all public
28 disclosure exemptions in the Revised Code of Washington.

29 (b) The committee shall develop a schedule to accomplish a review
30 of each public disclosure exemption. The committee shall publish the
31 schedule and publish any revisions made to the schedule.

32 (c) The chair shall convene an initial meeting of the committee by
33 September 1, 2007. The committee shall meet at least once a quarter
34 and may hold additional meetings at the call of the chair or by a
35 majority vote of the members of the committee.

36 (d) For each public disclosure exemption, the committee shall
37 provide a recommendation as to whether the exemption should be
38 continued without modification, modified, scheduled for sunset review

1 at a future date, or terminated. By November 15th of each year, the
2 committee shall transmit its recommendations to the governor, the
3 attorney general, and the appropriate committees of the house of
4 representatives and the senate.

5 (8) The committee and its powers and duties terminate August 1,
6 2013.

7 **Sec. 7.** RCW 42.56.250 and 2010 c 257 s 1 and 2010 c 128 s 9 are
8 each reenacted and amended to read as follows:

9 The following employment and licensing information is exempt from
10 public inspection and copying under this chapter:

11 (1) Test questions, scoring keys, and other examination data used
12 to administer a license, employment, or academic examination;

13 (2) All applications for public employment, including the names of
14 applicants, resumes, and other related materials submitted with respect
15 to an applicant, subject to the following exceptions:

16 (a) The applications of finalists applying for the highest
17 management position in a public agency, county, or local government
18 department with confidential reference information removed or redacted
19 is not exempt from inspection and copying; and

20 (b) Application materials not exempt from inspection and copying
21 must be available to the public after the finalists are selected, but
22 before the agency, county, or local government makes its decision;

23 (3) The residential addresses, residential telephone numbers,
24 personal wireless telephone numbers, personal electronic mail
25 addresses, social security numbers, and emergency contact information
26 of employees or volunteers of a public agency, and the names, dates of
27 birth, residential addresses, residential telephone numbers, personal
28 wireless telephone numbers, personal electronic mail addresses, social
29 security numbers, and emergency contact information of dependents of
30 employees or volunteers of a public agency that are held by any public
31 agency in personnel records, public employment related records, or
32 volunteer rosters, or are included in any mailing list of employees or
33 volunteers of any public agency. For purposes of this subsection,
34 "employees" includes independent provider home care workers as defined
35 in RCW 74.39A.240;

36 (4) Information that identifies a person who, while an agency
37 employee: (a) Seeks advice, under an informal process established by

1 the employing agency, in order to ascertain his or her rights in
2 connection with a possible unfair practice under chapter 49.60 RCW
3 against the person; and (b) requests his or her identity or any
4 identifying information not be disclosed;

5 (5) Investigative records compiled by an employing agency
6 conducting an active and ongoing investigation of a possible unfair
7 practice under chapter 49.60 RCW or of a possible violation of other
8 federal, state, or local laws prohibiting discrimination in employment;

9 (6) Criminal history records checks for board staff finalist
10 candidates conducted pursuant to RCW 43.33A.025;

11 (7) Except as provided in RCW 47.64.220, salary and benefit
12 information for maritime employees collected from private employers
13 under RCW 47.64.220(1) and described in RCW 47.64.220(2); and

14 (8) Photographs and month and year of birth in the personnel files
15 of employees and workers of criminal justice agencies as defined in RCW
16 10.97.030. The news media, as defined in RCW 5.68.010(5), shall have
17 access to the photographs and full date of birth. For the purposes of
18 this subsection, news media does not include any person or organization
19 of persons in the custody of a criminal justice agency as defined in
20 RCW 10.97.030.

21 **Sec. 8.** RCW 42.56.330 and 2012 c 68 s 4 are each amended to read
22 as follows:

23 The following information relating to public utilities and
24 transportation is exempt from disclosure under this chapter:

25 (1) Records filed with the utilities and transportation commission
26 or attorney general under RCW 80.04.095 that a court has determined are
27 confidential under RCW 80.04.095;

28 (2) The residential addresses and residential telephone numbers of
29 the customers of a public utility contained in the records or lists
30 held by the public utility of which they are customers, except that
31 this information may be released to the division of child support or
32 the agency or firm providing child support enforcement for another
33 state under Title IV-D of the federal social security act, for the
34 establishment, enforcement, or modification of a support order;

35 (3) The names, residential addresses, residential telephone
36 numbers, and other individually identifiable records held by an agency
37 in relation to a vanpool, carpool, or other ride-sharing program or

1 service(~~(; however, these records)~~). Participants' names, general
2 locations, and e-mail addresses may be disclosed to other persons who
3 apply for ride-matching services and who need that information in order
4 to identify potential riders or drivers with whom to share rides;

5 (4) The personally identifying information of current or former
6 participants or applicants in a paratransit or other transit service
7 operated for the benefit of persons with disabilities or elderly
8 persons;

9 (5) The personally identifying information of persons who acquire
10 and use transit passes or other fare payment media including, but not
11 limited to, stored value smart cards and magnetic strip cards, except
12 that an agency may disclose personally identifying information to a
13 person, employer, educational institution, or other entity that is
14 responsible, in whole or in part, for payment of the cost of acquiring
15 or using a transit pass or other fare payment media for the purpose of
16 preventing fraud(~~(, or to the news media when reporting on public~~
17 ~~transportation or public safety)~~). As used in this subsection,
18 "personally identifying information" includes acquisition or use
19 information pertaining to a specific, individual transit pass or fare
20 payment media.

21 (a) Information regarding the acquisition or use of transit passes
22 or fare payment media may be disclosed in aggregate form if the data
23 does not contain any personally identifying information.

24 (b) Personally identifying information may be released to law
25 enforcement agencies if the request is accompanied by a court order;

26 (6) Any information obtained by governmental agencies that is
27 collected by the use of a motor carrier intelligent transportation
28 system or any comparable information equipment attached to a truck,
29 tractor, or trailer; however, the information may be given to other
30 governmental agencies or the owners of the truck, tractor, or trailer
31 from which the information is obtained. As used in this subsection,
32 "motor carrier" has the same definition as provided in RCW 81.80.010;

33 (7) The personally identifying information of persons who acquire
34 and use transponders or other technology to facilitate payment of
35 tolls. This information may be disclosed in aggregate form as long as
36 the data does not contain any personally identifying information. For
37 these purposes aggregate data may include the census tract of the
38 account holder as long as any individual personally identifying

1 information is not released. Personally identifying information may be
2 released to law enforcement agencies only for toll enforcement
3 purposes. Personally identifying information may be released to law
4 enforcement agencies for other purposes only if the request is
5 accompanied by a court order; and

6 (8) The personally identifying information of persons who acquire
7 and use a driver's license or identicard that includes a radio
8 frequency identification chip or similar technology to facilitate
9 border crossing. This information may be disclosed in aggregate form
10 as long as the data does not contain any personally identifying
11 information. Personally identifying information may be released to law
12 enforcement agencies only for United States customs and border
13 protection enforcement purposes. Personally identifying information
14 may be released to law enforcement agencies for other purposes only if
15 the request is accompanied by a court order.

16 **Sec. 9.** RCW 42.56.400 and 2012 2nd sp.s. c 3 s 8 are each amended
17 to read as follows:

18 The following information relating to insurance and financial
19 institutions is exempt from disclosure under this chapter:

20 (1) Records maintained by the board of industrial insurance appeals
21 that are related to appeals of crime victims' compensation claims filed
22 with the board under RCW 7.68.110;

23 (2) Information obtained and exempted or withheld from public
24 inspection by the health care authority under RCW 41.05.026, whether
25 retained by the authority, transferred to another state purchased
26 health care program by the authority, or transferred by the authority
27 to a technical review committee created to facilitate the development,
28 acquisition, or implementation of state purchased health care under
29 chapter 41.05 RCW;

30 (3) The names and individual identification data of either all
31 owners or all insureds, or both, received by the insurance commissioner
32 under chapter 48.102 RCW;

33 (4) Information provided under RCW 48.30A.045 through 48.30A.060;

34 (5) Information provided under RCW 48.05.510 through 48.05.535,
35 48.43.200 through 48.43.225, 48.44.530 through 48.44.555, and 48.46.600
36 through 48.46.625;

1 (6) Examination reports and information obtained by the department
2 of financial institutions from banks under RCW 30.04.075, from savings
3 banks under RCW 32.04.220, from savings and loan associations under RCW
4 33.04.110, from credit unions under RCW 31.12.565, from check cashers
5 and sellers under RCW 31.45.030(3), and from securities brokers and
6 investment advisers under RCW 21.20.100, all of which is confidential
7 and privileged information;

8 (7) Information provided to the insurance commissioner under RCW
9 48.110.040(3);

10 (8) Documents, materials, or information obtained by the insurance
11 commissioner under RCW 48.02.065, all of which are confidential and
12 privileged;

13 (9) Confidential proprietary and trade secret information provided
14 to the commissioner under RCW 48.31C.020 through 48.31C.050 and
15 48.31C.070;

16 (10) (~~Data filed under RCW 48.140.020, 48.140.030, 48.140.050, and~~
17 ~~7.70.140 that, alone or in combination with any other data, may reveal~~
18 ~~the identity of a claimant, health care provider, health care facility,~~
19 ~~insuring entity, or self-insurer involved in a particular claim or a~~
20 ~~collection of claims. For the purposes of this subsection:~~

21 ~~(a) "Claimant" has the same meaning as in RCW 48.140.010(2).~~

22 ~~(b) "Health care facility" has the same meaning as in RCW~~
23 ~~48.140.010(6).~~

24 ~~(c) "Health care provider" has the same meaning as in RCW~~
25 ~~48.140.010(7).~~

26 ~~(d) "Insuring entity" has the same meaning as in RCW 48.140.010(8).~~

27 ~~(e) "Self-insurer" has the same meaning as in RCW 48.140.010(11);~~

28 ~~(11))~~ Documents, materials, or information obtained by the
29 insurance commissioner under RCW 48.135.060;

30 ~~((12))~~ (11) Documents, materials, or information obtained by the
31 insurance commissioner under RCW 48.37.060;

32 ~~((13))~~ (12) Confidential and privileged documents obtained or
33 produced by the insurance commissioner and identified in RCW 48.37.080;

34 ~~((14))~~ (13) Documents, materials, or information obtained by the
35 insurance commissioner under RCW 48.37.140;

36 ~~((15))~~ (14) Documents, materials, or information obtained by the
37 insurance commissioner under RCW 48.17.595;

1 (~~(16)~~) (15) Documents, materials, or information obtained by the
2 insurance commissioner under RCW 48.102.051(1) and 48.102.140 (3) and
3 (7)(a)(ii);

4 (~~(17)~~) (16) Documents, materials, or information obtained by the
5 insurance commissioner in the commissioner's capacity as receiver under
6 RCW 48.31.025 and 48.99.017, which are records under the jurisdiction
7 and control of the receivership court. The commissioner is not
8 required to search for, log, produce, or otherwise comply with the
9 public records act for any records that the commissioner obtains under
10 chapters 48.31 and 48.99 RCW in the commissioner's capacity as a
11 receiver, except as directed by the receivership court;

12 (~~(18)~~) (17) Documents, materials, or information obtained by the
13 insurance commissioner under RCW 48.13.151;

14 (~~(19)~~) (18) Data, information, and documents provided by a
15 carrier pursuant to section 1, chapter 172, Laws of 2010;

16 (~~(20)~~) (19) Information in a filing of usage-based insurance
17 about the usage-based component of the rate pursuant to RCW
18 48.19.040(5)(b); and

19 (~~(21)~~) (20) Data, information, and documents, other than those
20 described in RCW 48.02.210(2), that are submitted to the office of the
21 insurance commissioner by an entity providing health care coverage
22 pursuant to RCW 28A.400.275 and 48.02.210.

23 **Sec. 10.** RCW 48.37.060 and 2011 1st sp.s. c 43 s 460 are each
24 amended to read as follows:

25 (1) When the commissioner determines that other market conduct
26 actions identified in RCW 48.37.040(4)(a) have not sufficiently
27 addressed issues raised concerning company activities in Washington
28 state, the commissioner has the discretion to conduct market conduct
29 examinations in accordance with the NAIC market conduct uniform
30 examination procedures and the NAIC market regulation handbook.

31 (2)(a) In lieu of an examination of an insurer licensed in this
32 state, the commissioner shall accept an examination report of another
33 state, unless the commissioner determines that the other state does not
34 have laws substantially similar to those of this state, or does not
35 have a market oversight system that is comparable to the market conduct
36 oversight system set forth in this law.

1 (b) The commissioner's determination under (a) of this subsection
2 is discretionary with the commissioner and is not subject to appeal.

3 (c) If the insurer to be examined is part of an insurance holding
4 company system, the commissioner may also seek to simultaneously
5 examine any affiliates of the insurer under common control and
6 management which are licensed to write the same lines of business in
7 this state.

8 (3) Before commencement of a market conduct examination, market
9 conduct oversight personnel shall prepare a work plan consisting of the
10 following:

11 (a) The name and address of the insurer being examined;

12 (b) The name and contact information of the examiner-in-charge;

13 (c) The name of all market conduct oversight personnel initially
14 assigned to the market conduct examination;

15 (d) The justification for the examination;

16 (e) The scope of the examination;

17 (f) The date the examination is scheduled to begin;

18 (g) Notice of any noninsurance department personnel who will assist
19 in the examination;

20 (h) A time estimate for the examination;

21 (i) A budget for the examination if the cost of the examination is
22 billed to the insurer; and

23 (j) An identification of factors that will be included in the
24 billing if the cost of the examination is billed to the insurer.

25 (4)(a) Within ten days of the receipt of the information contained
26 in subsection (3) of this section, insurers may request the
27 commissioner's discretionary review of any alleged conflict of
28 interest, pursuant to RCW 48.37.090(2), of market conduct oversight
29 personnel and noninsurance department personnel assigned to a market
30 conduct examination. The request for review shall specifically
31 describe the alleged conflict of interest in the proposed assignment of
32 any person to the examination.

33 (b) Within five business days of receiving a request for
34 discretionary review of any alleged conflict of interest in the
35 proposed assignment of any person to a market conduct examination, the
36 commissioner or designee shall notify the insurer of any action
37 regarding the assignment of personnel to a market conduct examination
38 based on the insurer's allegation of conflict of interest.

1 (5) Market conduct examinations shall, to the extent feasible, use
2 desk examinations and data requests before an on-site examination.

3 (6) Market conduct examinations shall be conducted in accordance
4 with the provisions set forth in the NAIC market regulation handbook
5 and the NAIC market conduct uniform examinations procedures, subject to
6 the precedence of the provisions of chapter 82, Laws of 2007.

7 (7) The commissioner shall use the NAIC standard data request.

8 (8) Announcement of the examination shall be sent to the insurer
9 and posted on the NAIC's examination tracking system as soon as
10 possible but in no case later than sixty days before the estimated
11 commencement of the examination, except where the examination is
12 conducted in response to extraordinary circumstances as described in
13 RCW 48.37.050(2)(a). The announcement sent to the insurer shall
14 contain the examination work plan and a request for the insurer to name
15 its examination coordinator.

16 (9) If an examination is expanded significantly beyond the original
17 reasons provided to the insurer in the notice of the examination
18 required by subsection (3) of this section, the commissioner shall
19 provide written notice to the insurer, explaining the expansion and
20 reasons for the expansion. The commissioner shall provide a revised
21 work plan if the expansion results in significant changes to the items
22 presented in the original work plan required by subsection (3) of this
23 section.

24 (10) The commissioner shall conduct a preexamination conference
25 with the insurer examination coordinator and key personnel to clarify
26 expectations at least thirty days before commencement of the
27 examination, unless otherwise agreed by the insurer and the
28 commissioner.

29 (11) Before the conclusion of the field work for market conduct
30 examination, the examiner-in-charge shall review examination findings
31 to date with insurer personnel and schedule an exit conference with the
32 insurer, in accordance with procedures in the NAIC market regulation
33 handbook.

34 (12)(a) No later than sixty days after completion of each market
35 conduct examination, the commissioner shall make a full written report
36 of each market conduct examination containing only facts ascertained
37 from the accounts, records, and documents examined and from the sworn

1 testimony of individuals, and such conclusions and recommendations as
2 may reasonably be warranted from such facts.

3 (b) The report shall be certified by the commissioner or by the
4 examiner-in-charge of the examination, and shall be filed in the
5 commissioner's office subject to (c) of this subsection.

6 (c) The commissioner shall furnish a copy of the market conduct
7 examination report to the person examined not less than ten days and,
8 unless the time is extended by the commissioner, not more than thirty
9 days prior to the filing of the report for public inspection in the
10 commissioner's office. If the person so requests in writing within
11 such period, the commissioner shall hold a hearing to consider
12 objections of such person to the report as proposed, and shall not so
13 file the report until after such hearing and until after any
14 modifications in the report deemed necessary by the commissioner have
15 been made.

16 (d) Within thirty days of the end of the period described in (c) of
17 this subsection, unless extended by order of the commissioner, the
18 commissioner shall consider the report, together with any written
19 submissions or rebuttals and any relevant portions of the examiner's
20 work papers and enter an order:

21 (i) Adopting the market conduct examination report as filed or with
22 modification or corrections. If the market conduct examination report
23 reveals that the company is operating in violation of any law, rule, or
24 order of the commissioner, the commissioner may order the company to
25 take any action the commissioner considers necessary and appropriate to
26 cure that violation;

27 (ii) Rejecting the market conduct examination report with
28 directions to the examiners to reopen the examination for purposes of
29 obtaining additional data, documentation, or information, and refiling
30 under this subsection; or

31 (iii) Calling for an investigatory hearing with no less than twenty
32 days' notice to the company for purposes of obtaining additional
33 documentation, data, information, and testimony.

34 (e) All orders entered under (d) of this subsection must be
35 accompanied by findings and conclusions resulting from the
36 commissioner's consideration and review of the market conduct
37 examination report, relevant examiner work papers, and any written
38 submissions or rebuttals. The order is considered a final

1 administrative decision and may be appealed under the administrative
2 procedure act, chapter 34.05 RCW, and must be served upon the company
3 by certified mail or certifiable electronic means, together with a copy
4 of the adopted examination report. A copy of the adopted examination
5 report must be sent by certified mail or certifiable electronic means
6 to each director at the director's residential address or to a personal
7 e-mail account.

8 (f)(i) Upon the adoption of the market conduct examination report
9 under (d) of this subsection, the commissioner shall continue to hold
10 the content of the examination report as private and confidential
11 information for a period of five days except that the order may be
12 disclosed to the person examined. Thereafter, the commissioner (~~may~~)
13 must open the report for public inspection so long as no court of
14 competent jurisdiction has stayed its publication.

15 (ii) If the commissioner determines that regulatory action is
16 appropriate as a result of any market conduct examination, he or she
17 may initiate any proceedings or actions as provided by law.

18 (iii) Nothing contained in this subsection requires the
19 commissioner to disclose any information or records that would indicate
20 or show the existence or content of any investigation or activity of a
21 criminal justice agency.

22 (g) The insurer's response shall be included in the commissioner's
23 order adopting the final report as an exhibit to the order. The
24 insurer is not obligated to submit a response.

25 (13) Except as provided in subsection (12)(f)(i) of this section,
26 the commissioner may withhold from public inspection any examination or
27 investigation report for so long as he or she deems it advisable.

28 (14)(a) Market conduct examinations within this state of any
29 insurer domiciled or having its home offices in this state, other than
30 a title insurer, made by the commissioner or the commissioner's
31 examiners and employees shall, except as to fees, mileage, and expense
32 incurred as to witnesses, be at the expense of the state.

33 (b) Every other examination, whatsoever, or any part of the market
34 conduct examination of any person domiciled or having its home offices
35 in this state requiring travel and services outside this state, shall
36 be made by the commissioner or by examiners designated by the
37 commissioner and shall be at the expense of the person examined; but a

1 domestic insurer shall not be liable for the compensation of examiners
2 employed by the commissioner for such services outside this state.

3 (c) When making a market conduct examination under this chapter,
4 the commissioner may contract, in accordance with applicable state
5 contracting procedures, for qualified attorneys, appraisers,
6 independent certified public accountants, contract actuaries, and other
7 similar individuals who are independently practicing their professions,
8 even though those persons may from time to time be similarly employed
9 or retained by persons subject to examination under this chapter, as
10 examiners as the commissioner deems necessary for the efficient conduct
11 of a particular examination. The compensation and per diem allowances
12 paid to such contract persons shall be reasonable in the market and
13 time incurred, shall not exceed one hundred twenty-five percent of the
14 compensation and per diem allowances for examiners set forth in the
15 guidelines adopted by the national association of insurance
16 commissioners, unless the commissioner demonstrates that one hundred
17 twenty-five percent is inadequate under the circumstances of the
18 examination, and subject to the provisions of (a) of this subsection.

19 (d)(i) The person examined and liable shall reimburse the state
20 upon presentation of an itemized statement thereof, for the actual
21 travel expenses of the commissioner's examiners, their reasonable
22 living expenses allowance, and their per diem compensation, including
23 salary and the employer's cost of employee benefits, at a reasonable
24 rate approved by the commissioner, incurred on account of the
25 examination. Per diem, salary, and expenses for employees examining
26 insurers domiciled outside the state of Washington shall be established
27 by the commissioner on the basis of the national association of
28 insurance commissioner's recommended salary and expense schedule for
29 zone examiners, or the salary schedule established by the human
30 resources director and the expense schedule established by the office
31 of financial management, whichever is higher. A domestic title insurer
32 shall pay the examination expense and costs to the commissioner as
33 itemized and billed by the commissioner.

34 (ii) The commissioner or the commissioner's examiners shall not
35 receive or accept any additional emolument on account of any
36 examination.

37 (iii) Market conduct examination fees subject to being reimbursed

1 by an insurer shall be itemized and bills shall be provided to the
2 insurer on a monthly basis for review prior to submission for payment,
3 or as otherwise provided by state law.

4 (e) Nothing contained in this chapter limits the commissioner's
5 authority to terminate or suspend any examination in order to pursue
6 other legal or regulatory action under the insurance laws of this
7 state. Findings of fact and conclusions made pursuant to any
8 examination are prima facie evidence in any legal or regulatory action.

9 (f) The commissioner shall maintain active management and oversight
10 of market conduct examination costs, including costs associated with
11 the commissioner's own examiners, and with retaining qualified contract
12 examiners necessary to perform an examination. Any agreement with a
13 contract examiner shall:

14 (i) Clearly identify the types of functions to be subject to
15 outsourcing;

16 (ii) Provide specific timelines for completion of the outsourced
17 review;

18 (iii) Require disclosure to the insurer of contract examiners'
19 recommendations;

20 (iv) Establish and use a dispute resolution or arbitration
21 mechanism to resolve conflicts with insurers regarding examination
22 fees; and

23 (v) Require disclosure of the terms of the contracts with the
24 outside consultants that will be used, specifically the fees and/or
25 hourly rates that can be charged.

26 (g) The commissioner, or the commissioner's designee, shall review
27 and affirmatively endorse detailed billings from the qualified contract
28 examiner before the detailed billings are sent to the insurer."

SHB 1298 - S COMM AMD

By Committee on Governmental Operations

NOT CONSIDERED

29 On page 1, line 2 of the title, after "committee;" strike the
30 remainder of the title and insert "amending RCW 13.34.100, 42.56.240,

1 70.148.060, 40.14.100, 42.56.140, 42.56.330, 42.56.400, and 48.37.060;
2 and reenacting and amending RCW 42.56.230 and 42.56.250."

EFFECT: Removes the prohibition on disclosure of guardian ad litem FBI criminal background check and criminal history to parties and their attorneys. Requires that the background information record for each guardian ad litem be made available for public inspection and copying, subject to the court's discretion. Requires that additional information be included in the guardian ad litem background information record. Eliminates the exemption from public inspection and copying for the applications of finalists for the highest management position in a public agency, county, or local government, except for confidential reference information. Eliminates the exemption from public inspection and copying of data on closed medical malpractice claims that may reveal the identity of a claimant, health care provider or facility, insurer, or self-insurer. Requires that market conduct examination reports be open to public inspection and copying five days after adoption by the Insurance Commissioner unless a court stays publication. Clarifies that records of legislative operational committees are public records open to inspection and copying. Terminates the public records exemptions accountability committee on August 1, 2013.

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