CERTIFICATION OF ENROLLMENT

ENGROSSED SUBSTITUTE HOUSE BILL 1980

Chapter 224, Laws of 2015

(partial veto)

64th Legislature 2015 Regular Session

SUNSHINE COMMITTEE--RECOMMENDATIONS

EFFECTIVE DATE: 7/24/2015

Passed by the House April 23, 2015 Yeas 87 Nays 11

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 9, 2015 Yeas 44 Nays 0

BRAD OWEN

President of the Senate

Approved May 11, 2015 2:10 PM, with the exception of Section 1, which is vetoed.

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is ENGROSSED SUBSTITUTE HOUSE BILL 1980 as passed by House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

May 12, 2015

JAY INSLEE

Governor of the State of Washington

Secretary of State State of Washington

ENGROSSED SUBSTITUTE HOUSE BILL 1980

AS AMENDED BY THE SENATE

Passed Legislature - 2015 Regular Session

State of Washington 64th Legislature 2015 Regular Session

By House State Government (originally sponsored by Representative Springer)

READ FIRST TIME 02/20/15.

- 1 AN ACT Relating to implementing recommendations of the sunshine
- 2 committee; amending RCW 13.34.100, 42.56.230, and 70.148.060;
- 3 reenacting and amending RCW 42.56.240 and 42.56.330; and adding new
- 4 sections to chapter 38.52 RCW.

individual needs.

- 5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:
- *Sec. 1. RCW 13.34.100 and 2014 c 108 s 2 are each amended to read as follows:
- (1) The court shall appoint a guardian ad litem for a child who is the subject of an action under this chapter, unless a court for good cause finds the appointment unnecessary. The requirement of a guardian ad litem may be deemed satisfied if the child is represented by an independent attorney in the proceedings. The court shall attempt to match a child with special needs with a guardian ad litem who has specific training or education related to the child's
- 16 (2) If the court does not have available to it a guardian ad 17 litem program with a sufficient number of volunteers, the court may 18 appoint a suitable person to act as guardian ad litem for the child 19 under this chapter. Another party to the proceeding or the party's 20 employee or representative shall not be so appointed.

- (3) Each guardian ad litem program shall maintain a background information record for each guardian ad litem in the program. The background information record shall include, but is not limited to, the following information:
 - (a) Level of formal education;

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- (b) General training related to the guardian ad litem's duties;
- (c) Specific training related to issues potentially faced by children in the dependency system;
- (d) Specific training or education related to child disability or developmental issues;
 - (e) Number of years' experience as a guardian ad litem;
- 12 (f) Number of appointments as a guardian ad litem and the county 13 or counties of appointment;
 - (g) The names of any counties in which the person was removed from a guardian ad litem registry pursuant to a grievance action, and the name of the court and the cause number of any case in which the court has removed the person for cause;
 - (h) Founded allegations of abuse or neglect as defined in RCW 26.44.020;
 - (i) The results of an examination of state and national criminal identification data. The examination shall consist of a background check as allowed through the Washington state criminal records privacy act under RCW 10.97.050, the Washington state patrol criminal identification system under RCW 43.43.832 through 43.43.834, and the federal bureau of investigation. The background check shall be done through the Washington state patrol criminal identification section and must include a national check from the federal bureau of investigation based on the submission of fingerprints; and
- 29 (j) Criminal history, as defined in RCW 9.94A.030, for the period 30 covering ten years prior to the appointment.
 - The background information record shall be updated annually. As a condition of appointment, the guardian ad litem's background information record shall be made available to the court. If the appointed guardian ad litem is not a member of a guardian ad litem program a suitable person appointed by the court to act as guardian ad litem shall provide the background information record to the court.
- 38 Upon appointment, the guardian ad litem, or guardian ad litem 39 program, shall provide the parties or their attorneys with a copy of 40 the background information record containing the results of the

background check conducted through the Washington state patrol criminal identification system under RCW 43.43.832 through 43.43.834. The portion of the background information record containing the results of the criminal background check and the criminal history from the federal bureau of investigation shall not be disclosed to the parties or their attorneys. The background information record shall not include identifying information that may be used to harm a guardian ad litem, such as home addresses and home telephone numbers, and for volunteer guardians ad litem the court may allow the use of

maiden names or pseudonyms as necessary for their safety.

- (4) The appointment of the guardian ad litem shall remain in effect until the court discharges the appointment or no longer has jurisdiction, whichever comes first. The guardian ad litem may also be discharged upon entry of an order of guardianship.
- (5) A guardian ad litem through an attorney, or as otherwise authorized by the court, shall have the right to present evidence, examine and cross-examine witnesses, and to be present at all hearings. A guardian ad litem shall receive copies of all pleadings and other documents filed or submitted to the court, and notice of all hearings according to court rules. The guardian ad litem shall receive all notice contemplated for a parent or other party in all proceedings under this chapter.
- (6)(a) The court must appoint an attorney for a child in a dependency proceeding six months after granting a petition to terminate the parent and child relationship pursuant to RCW 13.34.180 and when there is no remaining parent with parental rights.
- The court must appoint an attorney for a child when there is no remaining parent with parental rights for six months or longer prior to July 1, 2014, if the child is not already represented.
- The court may appoint one attorney to a group of siblings, unless there is a conflict of interest, or such representation is otherwise inconsistent with the rules of professional conduct.
- (b) Legal services provided by an attorney appointed pursuant to (a) of this subsection do not include representation of the child in any appellate proceedings relative to the termination of the parent and child relationship.
- (c)(i) Subject to the availability of amounts appropriated for this specific purpose, the state shall pay the costs of legal services provided by an attorney appointed pursuant to (a) of this subsection, if the legal services are provided in accordance with the

standards of practice, voluntary training, and caseload limits developed and recommended by the statewide children's representation work group pursuant to section 5, chapter 180, Laws of 2010. Caseload limits must be calculated pursuant to (c)(ii) of this subsection.

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- (ii) Counties are encouraged to set caseloads as low as possible 5 6 and to account for the individual needs of the children in care. 7 Notwithstanding the caseload limits developed and recommended by the 8 statewide children's representation work group pursuant to section 5, 9 chapter 180, Laws of 2010, when one attorney represents a sibling 10 group, the first child is counted as one case, and each child 11 thereafter is counted as one-half case to determine compliance with 12 the caseload standards pursuant to (c)(i) of this subsection and RCW 13 2.53.045.
- (iii) The office of civil legal aid is responsible for implementation of (c)(i) and (ii) of this subsection as provided in RCW 2.53.045.
- (7)(a) The court may appoint an attorney to represent the child's position in any dependency action on its own initiative, or upon the request of a parent, the child, a guardian ad litem, a caregiver, or the department.
- (b)(i) If the court has not already appointed an attorney for a child, or the child is not represented by a privately retained attorney:
 - (A) The child's caregiver, or any individual, may refer the child to an attorney for the purposes of filing a motion to request appointment of an attorney at public expense; or
 - (B) The child or any individual may retain an attorney for the child for the purposes of filing a motion to request appointment of an attorney at public expense.
- (ii) Nothing in this subsection (7)(b) shall be construed to change or alter the confidentiality provisions of RCW 13.50.100.
 - (c) Pursuant to this subsection, the department or supervising agency and the child's guardian ad litem shall each notify a child of his or her right to request an attorney and shall ask the child whether he or she wishes to have an attorney. The department or supervising agency and the child's guardian ad litem shall notify the child and make this inquiry immediately after:
 - (i) The date of the child's twelfth birthday;
- (ii) Assignment of a case involving a child age twelve or older;

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- 1 (iii) July 1, 2010, for a child who turned twelve years old 2 before July 1, 2010.
 - (d) The department or supervising agency and the child's guardian ad litem shall repeat the notification and inquiry at least annually and upon the filing of any motion or petition affecting the child's placement, services, or familial relationships.
 - (e) The notification and inquiry is not required if the child has already been appointed an attorney.
 - (f) The department or supervising agency shall note in the child's individual service and safety plan, and the guardian ad litem shall note in his or her report to the court, that the child was notified of the right to request an attorney and indicate the child's position regarding appointment of an attorney.
 - (g) At the first regularly scheduled hearing after:
 - (i) The date of the child's twelfth birthday;

- 16 (ii) The date that a dependency petition is filed pursuant to 17 this chapter on a child age twelve or older; or
- 18 (iii) July 1, 2010, for a child who turned twelve years old 19 before July 1, 2010;
 - the court shall inquire whether the child has received notice of his or her right to request an attorney from the department or supervising agency and the child's guardian ad litem. The court shall make an additional inquiry at the first regularly scheduled hearing after the child's fifteenth birthday. No inquiry is necessary if the child has already been appointed an attorney.
 - (8) For the purposes of child abuse prevention and treatment act (42 U.S.C. Secs. 5101 et seq.) grants to this state under P.L. 93-247, or any related state or federal legislation, a person appointed pursuant to this section shall be deemed a guardian ad litem.
 - (9) When a court-appointed special advocate or volunteer guardian ad litem is requested on a case, the program shall give the court the name of the person it recommends. The program shall attempt to match a child with special needs with a guardian ad litem who has specific training or education related to the child's individual needs. The court shall immediately appoint the person recommended by the program.
 - (10) If a party in a case reasonably believes the court-appointed special advocate or volunteer guardian ad litem is inappropriate or unqualified, the party may request a review of the appointment by the

- 1 program. The program must complete the review within five judicial
- 2 days and remove any appointee for good cause. If the party seeking
- 3 the review is not satisfied with the outcome of the review, the party
- 4 may file a motion with the court for the removal of the court-
- 5 appointed special advocate or volunteer guardian ad litem on the
- 6 grounds the advocate or volunteer is inappropriate or unqualified.
 - *Sec. 1 was vetoed. See message at end of chapter.
- 7 **Sec. 2.** RCW 42.56.230 and 2014 c 142 s 1 are each amended to 8 read as follows:
- 9 The following personal information is exempt from public 10 inspection and copying under this chapter:
- 11 (1) Personal information in any files maintained for students in 12 public schools, patients or clients of public institutions or public 13 health agencies, or welfare recipients;
 - (2)(a) Personal information:

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- 15 (i) For a child enrolled in licensed child care in any files 16 maintained by the department of early learning; or
- 17 (ii) For a child enrolled in a public or nonprofit program
 18 serving or pertaining to children, adolescents, or students,
 19 including but not limited to early learning or child care services,
 20 parks and recreation programs, youth development programs, and after21 school programs.
 - (b) Emergency contact information under this subsection (2) may be provided to appropriate authorities and medical personnel for the purpose of treating the individual during an emergency situation;
 - (3) Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy;
 - (4) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would: (a) Be prohibited to such persons by RCW 84.08.210, 82.32.330, 84.40.020, 84.40.340, or any ordinance authorized under RCW 35.102.145; or (b) violate the taxpayer's right to privacy or result in unfair competitive disadvantage to the taxpayer;
- 35 (5) Credit card numbers, debit card numbers, electronic check 36 numbers, card expiration dates, or bank or other financial ((account 37 numbers)) information as defined in RCW 9.35.005 including social

1 security numbers, except when disclosure is expressly required by or
2 governed by other law;

- (6) Personal and financial information related to a small loan or any system of authorizing a small loan in RCW 31.45.093;
- (7)(a) Any record used to prove identity, age, residential address, social security number, or other personal information required to apply for a driver's license or identicard.
- (b) Information provided under RCW 46.20.111 that indicates that an applicant declined to register with the selective service system.
 - (c) Any record pertaining to a vehicle license plate, driver's license, or identicard issued under RCW 46.08.066 that, alone or in combination with any other records, may reveal the identity of an individual, or reveal that an individual is or was, performing an undercover or covert law enforcement, confidential public health work, public assistance fraud, or child support investigative activity. This exemption does not prevent the release of the total number of vehicle license plates, drivers' licenses, or identicards that, under RCW 46.08.066, an agency or department has applied for, been issued, denied, returned, destroyed, lost, and reported for misuse.
 - (d) Any record pertaining to a vessel registration issued under RCW 88.02.330 that, alone or in combination with any other records, may reveal the identity of an individual, or reveal that an individual is or was, performing an undercover or covert law enforcement activity. This exemption does not prevent the release of the total number of vessel registrations that, under RCW 88.02.330, an agency or department has applied for, been issued, denied, returned, destroyed, lost, and reported for misuse; and
 - (8) All information related to individual claims resolution structured settlement agreements submitted to the board of industrial insurance appeals under RCW 51.04.063, other than final orders from the board of industrial insurance appeals.
 - Upon request by the legislature, the department of licensing shall provide a report to the legislature containing all of the information in subsection (7)(c) and (d) of this section that is subject to public disclosure.
- 37 (9) Voluntarily submitted information contained in a database
 38 that is part of or associated with enhanced 911 emergency
 39 communications systems, or information contained or used in emergency
 40 notification systems as provided under sections 6 and 7 of this act.

Sec. 3. RCW 42.56.240 and 2013 c 315 s 2, 2013 c 190 s 7, and 2 2013 c 183 s 1 are each reenacted and amended to read as follows:

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

- (1) Specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy;
- witnesses to or victims of crime or who file complaints with investigative, law enforcement, or penology agencies, other than the commission, if disclosure would endanger any person's life, physical safety, or property. If at the time a complaint is filed the complainant, victim, or witness indicates a desire for disclosure or nondisclosure, such desire shall govern. However, all complaints filed with the commission about any elected official or candidate for public office must be made in writing and signed by the complainant under oath;
- (3) Any records of investigative reports prepared by any state, county, municipal, or other law enforcement agency pertaining to sex offenses contained in chapter 9A.44 RCW or sexually violent offenses as defined in RCW 71.09.020, which have been transferred to the Washington association of sheriffs and police chiefs for permanent electronic retention and retrieval pursuant to RCW 40.14.070(2)(b);
- (4) License applications under RCW 9.41.070; copies of license applications or information on the applications may be released to law enforcement or corrections agencies;
- (5) Information revealing the identity of child victims of sexual assault who are under age eighteen. Identifying information means the child victim's name, address, location, photograph, and in cases in which the child victim is a relative or stepchild of the alleged perpetrator, identification of the relationship between the child and the alleged perpetrator;
- 37 (6) <u>Information contained in a local or regionally maintained</u>
 38 <u>gang database as well as the statewide gang database referenced in</u>
 39 RCW 43.43.762;

1 (7) Data from the electronic sales tracking system established in 2 RCW 69.43.165;

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- (8) Information submitted to the statewide unified sex offender notification and registration program under RCW 36.28A.040(6) by a person for the purpose of receiving notification regarding a registered sex offender, including the person's name, residential address, and email address;
- (9) Personally identifying information collected enforcement agencies pursuant to local security alarm system programs and vacation crime watch programs. Nothing in this subsection shall be interpreted so as to prohibit the legal owner of a residence or business from accessing information regarding his or her residence or business; ((and))
- (10) The felony firearm offense conviction database of felony 14 firearm offenders established in RCW 43.43.822; ((and)) 15
- (11) The identity of a state employee or officer who has in good 17 faith filed a complaint with an ethics board, as provided in RCW 42.52.410, or who has in good faith reported improper governmental 18 action, as defined in RCW 42.40.020, to the auditor or other public 19 official, as defined in RCW 42.40.020; and 20
 - (12) The following security threat group information collected and maintained by the department of corrections pursuant to RCW 72.09.745: (a) Information that could lead to the identification of a person's security threat group status, affiliation, or activities; (b) information that reveals specific security threats associated with the operation and activities of security threat groups; and (c) information that identifies the number of security threat group members, affiliates, or associates.
- 29 **Sec. 4.** RCW 42.56.330 and 2014 c 170 s 2 and 2014 c 33 s 1 are 30 each reenacted and amended to read as follows:
- 31 The following information relating to public utilities and transportation is exempt from disclosure under this chapter: 32
- (1)filed with the utilities and 33 Records transportation commission or attorney general under RCW 80.04.095 or 81.77.210 that 34 a court has determined are confidential under RCW 80.04.095 or 35 81.77.210; 36
- 37 (2) The addresses, telephone numbers, electronic information, and customer-specific utility 38 usage and information in increments less than a billing cycle of the customers 39

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of a public utility contained in the records or lists held by the public utility of which they are customers, except that this information may be released to the division of child support or the agency or firm providing child support enforcement for another state under Title IV-D of the federal social security act, for the establishment, enforcement, or modification of a support order;

- (3) The names, residential addresses, residential telephone numbers, and other individually identifiable records held by an agency in relation to a vanpool, carpool, or other ride-sharing program or service((; however, these records)). Participant's names, general locations, and point of contact may be disclosed to other persons who apply for ride-matching services and who need that information in order to identify potential riders or drivers with whom to share rides;
- (4) The personally identifying information of current or former participants or applicants in a paratransit or other transit service operated for the benefit of persons with disabilities or elderly persons;
- (5) The personally identifying information of persons who acquire and use transit passes or other fare payment media including, but not limited to, stored value smart cards and magnetic strip cards, except that an agency may disclose personally identifying information to a person, employer, educational institution, or other entity that is responsible, in whole or in part, for payment of the cost of acquiring or using a transit pass or other fare payment media for the purpose of preventing fraud((, or to the news media when reporting on public transportation or public safety)). As used in this subsection, "personally identifying information" includes acquisition or use information pertaining to a specific, individual transit pass or fare payment media.
- (a) Information regarding the acquisition or use of transit passes or fare payment media may be disclosed in aggregate form if the data does not contain any personally identifying information.
- (b) Personally identifying information may be released to law enforcement agencies if the request is accompanied by a court order;
- (6) Any information obtained by governmental agencies that is collected by the use of a motor carrier intelligent transportation system or any comparable information equipment attached to a truck, tractor, or trailer; however, the information may be given to other governmental agencies or the owners of the truck, tractor, or trailer

from which the information is obtained. As used in this subsection, "motor carrier" has the same definition as provided in RCW 81.80.010;

- (7) The personally identifying information of persons who acquire and use transponders or other technology to facilitate payment of tolls. This information may be disclosed in aggregate form as long as the data does not contain any personally identifying information. For these purposes aggregate data may include the census tract of the account holder as long as any individual personally identifying information is not released. Personally identifying information may be released to law enforcement agencies only for toll enforcement purposes. Personally identifying information may be released to law enforcement agencies for other purposes only if the request is accompanied by a court order; and
- (8) The personally identifying information of persons who acquire and use a driver's license or identicard that includes a radio frequency identification chip or similar technology to facilitate border crossing. This information may be disclosed in aggregate form as long as the data does not contain any personally identifying information. Personally identifying information may be released to law enforcement agencies only for United States customs and border protection enforcement purposes. Personally identifying information may be released to law enforcement agencies for other purposes only if the request is accompanied by a court order.
- **Sec. 5.** RCW 70.148.060 and 2005 c 274 s 341 are each amended to 25 read as follows:
 - (1) All ((examination and proprietary reports and)) information except for proprietary reports or information obtained by the director and the director's staff in soliciting bids from insurers and in monitoring the insurer selected by the director shall ((not)) be made public or otherwise disclosed to any person, firm, corporation, agency, association, governmental body, or other entity.
 - (2) Subsection (1) of this section notwithstanding, the director may furnish all or part of examination reports prepared by the director or by any person, firm, corporation, association, or other entity preparing the reports on behalf of the director to:
 - (a) The Washington state insurance commissioner;
- 37 (b) A person or organization officially connected with the 38 insurer as officer, director, attorney, auditor, or independent 39 attorney or independent auditor; and

- 1 (c) The attorney general in his or her role as legal advisor to the director.
- 3 (3) Subsection (1) of this section notwithstanding, the director 4 may furnish all or part of the examination or proprietary reports or 5 information obtained by the director to:
 - (a) The Washington state insurance commissioner; and

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- 7 (b) A person, firm, corporation, association, governmental body, 8 or other entity with whom the director has contracted for services 9 necessary to perform his or her official duties.
- 10 (4) ((Examination reports and)) Proprietary information obtained 11 by the director and the director's staff ((are)) is not subject to 12 public disclosure under chapter 42.56 RCW.
- 13 (5) A person who violates any provision of this section is guilty 14 of a gross misdemeanor.
- NEW SECTION. Sec. 6. A new section is added to chapter 38.52 16 RCW to read as follows:
- (1) Information contained in an automatic number identification or automatic location identification database that is part of a county enhanced 911 emergency communications system as defined in RCW 82.14B.020 and intended for display at a public safety answering point with incoming 911 voice or data is exempt from public inspection and copying under chapter 42.56 RCW.
 - (2) Information voluntarily submitted to be contained in a database that is part of or associated with a county enhanced 911 emergency communications system as defined in RCW 82.14B.020 and intended for the purpose of display at a public safety answering point with incoming 911 voice or data is exempt from public inspection and copying under chapter 42.56 RCW.
 - (3) This section shall not be interpreted to prohibit:
- 30 (a) Display of information at a public safety answering point;
- 31 (b) Dissemination of information by the public safety answering 32 point to police, fire, or emergency medical responders for display on 33 a device used by police, fire, or emergency medical responders for 34 the purpose of handling or responding to emergency calls or for 35 training;
 - (c) Maintenance of the database by a county;
- 37 (d) Dissemination of information by a county to local agency 38 personnel for inclusion in an emergency notification system that

- 1 makes outgoing calls to telephone numbers to provide notification of 2 a community emergency event;
- 3 (e) Inspection or copying by the subject of the information or an 4 authorized representative; or
- (f) The public disclosure of information prepared, retained, disseminated, transmitted, or recorded, for the purpose of handling or responding to emergency calls, unless disclosure of any such information is otherwise exempted under chapter 42.56 RCW or other law.
- NEW SECTION. Sec. 7. A new section is added to chapter 38.52
 RCW to read as follows:

Information obtained from an automatic number identification or automatic location identification database or voluntarily submitted to a local agency for inclusion in an emergency notification system is exempt from public inspection and copying under chapter 42.56 RCW. This section shall not be interpreted to prohibit:

- 17 (1) Making outgoing calls to telephone numbers to provide 18 notification of a community emergency event;
 - (2) Maintenance of the database by a local agency; or
- 20 (3) Inspection or copying by the subject of the information or an 21 authorized representative.

Passed by the House April 23, 2015. Passed by the Senate April 9, 2015.

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Approved by the Governor May 11, 2015, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 12, 2015.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Section 1, Engrossed Substitute House Bill No. 1980 entitled:

"AN ACT Relating to implementing recommendations of the sunshine committee."

Guardian Ad Litems undergo a rigorous evaluation of their backgrounds and qualifications, which include background checks that are required by law. There is no need for this information to be distributed to parties. I believe that enactment of this law would have a chilling effect on GAL programs and their ability to recruit volunteers if this information were shared with parties in dependency actions.

For these reasons I have vetoed Section 1 of Engrossed Substitute House Bill No. 1980.

With the exception of Section 1, Engrossed Substitute House Bill No. 1980 is approved."