

ESHB 1956 - S COMM AMD

By Committee on State Government & Elections

ADOPTED 03/02/2022

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

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 42.56
4 RCW to read as follows:

5 (1) The following information or records created or maintained by
6 the department of corrections is exempt from public inspection and
7 copying under this chapter:

8 (a) Body scanner images from any system designed to detect and
9 visualize contraband hidden in body cavities or beneath clothing,
10 including backscatter X-ray, millimeter wave, and transmission X-ray
11 systems;

12 (b) The following information and records created or maintained
13 pursuant to the federal prison rape elimination act, 34 U.S.C. Sec.
14 30301 et seq., and its regulations:

15 (i) Risk assessments, risk indicators, and monitoring plans;

16 (ii) Reports of sexual abuse or sexual harassment, as defined
17 under 28 C.F.R. 115.6;

18 (iii) Records of open prison rape elimination act investigations;
19 and

20 (iv) The identities of individuals other than department of
21 corrections staff, contractors, and volunteers, in closed prison rape
22 elimination act investigation reports and related investigative
23 materials; however, the identity of an accused individual is not
24 exempt if the allegation is determined to have been substantiated;
25 and

26 (c) Health information in records other than an incarcerated
27 individual's medical, mental health, or dental files.

28 (2) The exemption of information or records described under
29 subsection (1)(b) and (c) of this section does not apply to requests
30 by the incarcerated individual who is the subject of the information,
31 a requestor with the written permission of the incarcerated

1 individual who is the subject of the information, or a personal
2 representative of an incarcerated individual who is the subject of
3 the information. In response to such requests, the department of
4 corrections may withhold information revealing the identity of other
5 incarcerated individuals.

6 (3) An agency refusing, in whole or in part, inspection of a
7 public record containing information listed in subsection (1)(c) of
8 this section may cite to subsection (1)(c) of this section, without
9 further explanation, when providing the brief explanation required by
10 RCW 42.56.210(3), and shall also identify the number of pages
11 withheld, if any pages are withheld in their entirety.

12 (4) For purposes of this section:

13 (a) "Health information" means any information that identifies or
14 can readily be associated with the identity of an incarcerated
15 individual and directly relates to the following: Medical, mental
16 health, or dental diagnoses or conditions; medical, mental health, or
17 dental services, treatments, or procedures, including requests for or
18 complaints about such services, treatments, or procedures;
19 transgender, intersex, nonbinary, or gender nonconforming status;
20 sexual orientation; genital anatomy; or gender-affirming care or
21 accommodations other than an incarcerated individual's preferred
22 name, pronouns, and gender marker.

23 (b) The following information is not "health information" under
24 this section: (i) Health care information subject to RCW 42.56.360(2)
25 and chapter 70.02 RCW; and (ii) information related to injuries,
26 other than injuries related to medical procedures or genital anatomy,
27 contained in incident reports, infraction records, or use of force
28 reports, prepared by department of corrections staff other than
29 health care providers.

30 (c) "Incarcerated individual" has the same meaning as "inmate"
31 under RCW 72.09.015 and includes currently or formerly incarcerated
32 individuals.

33 NEW SECTION. **Sec. 2.** This act is remedial, curative, and
34 retroactive, and the exemptions in section 1 of this act apply
35 retroactively to any public records request made prior to the
36 effective date of this section for which disclosure of records has
37 not already occurred.

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

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5 On page 1, line 3 of the title, after "safety;" strike the
6 remainder of the title and insert "adding a new section to chapter
7 42.56 RCW; creating a new section; and declaring an emergency."

EFFECT: (1) Specifies categories of records created or maintained pursuant to the Prison Rape Elimination Act which are exempt from public disclosure requirements.

(2) Specifies information relating to medical, mental health, or dental services as health information exempt from public disclosure requirements under the bill.

(3) Removes references to programming and information related to death, coma, or persistent vegetative state from exceptions to the definition of health information.

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