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**SUBSTITUTE HOUSE BILL 1956**

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**State of Washington**

**67th Legislature**

**2022 Regular Session**

**By** House State Government & Tribal Relations (originally sponsored by Representatives Hackney, Valdez, Davis, Simmons, Goodman, Peterson, Dolan, and Macri)

1       AN ACT Relating to exempting from public disclosure sensitive  
2 records pertaining to current and formerly incarcerated individuals'  
3 dignity and safety; adding a new section to chapter 42.56 RCW;  
4 creating a new section; and declaring an emergency.

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

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

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

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

15       (b) Records or information created or maintained pursuant to the  
16 federal prison rape elimination act, 34 U.S.C. Sec. 30301 et seq.,  
17 and its regulations, about an incarcerated individual other than  
18 referrals to law enforcement or information contained in a violation  
19 or infraction record; and

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

1 (2) Information exempt under subsection (1) of this section must  
2 be made available for inspection and copying to the incarcerated  
3 individual who is the subject of the information, a requestor with  
4 the written permission of the incarcerated individual who is the  
5 subject of the information, or a personal representative of an  
6 incarcerated individual who is the subject of the information. For  
7 records disclosed pursuant to this subsection, the department of  
8 corrections may withhold information revealing the identity of other  
9 incarcerated individuals.

10 (3) An agency refusing, in whole or in part, inspection of a  
11 public record containing information listed in subsection (1)(c) of  
12 this section may identify the number of such pages withheld and cite  
13 to subsection (1)(c) of this section without further explanation when  
14 providing a brief explanation of how the exemption applies to the  
15 record withheld.

16 (4) Jail records maintained by the department of corrections in  
17 the course of operating a jail as described in RCW 70.48.100, and  
18 department of corrections' records maintained by a jail as described  
19 in RCW 70.48.100, are subject to RCW 70.48.100.

20 (5) For purposes of this section:

21 (a) "Health information" means any information that identifies or  
22 can readily be associated with the identity of an incarcerated  
23 individual and relates to the following: Medical or mental health  
24 diagnoses, conditions, or PULHES codes; treatment or programming  
25 provided, overseen, or coordinated by a health care provider,  
26 including requests for or complaints about such treatment or  
27 programming; transgender, intersex, nonbinary, or gender  
28 nonconforming status; sexual orientation; genital anatomy; or gender-  
29 affirming care or accommodations other than an incarcerated  
30 individual's preferred name, pronouns, and gender marker.

31 (b) The following information is not "health information" under  
32 this section: Health care information subject to RCW 42.56.360(2) and  
33 chapter 70.02 RCW; whether an incarcerated individual participated  
34 in, failed to participate in, was terminated from, or satisfactorily  
35 completed court-ordered treatment or programming eligible for earned  
36 release time as determined by the department of corrections pursuant  
37 to RCW 9.94A.729; images or descriptions of an injury contained in a  
38 violation or infraction record; or information related to the death,  
39 irreversible coma, or persistent vegetative state of an incarcerated  
40 individual.

1 (c) "Incarcerated individual" has the same meaning as "inmate"  
2 under RCW 72.09.015 and includes currently or formerly incarcerated  
3 individuals.

4 NEW SECTION. **Sec. 2.** This act is remedial, curative, and  
5 retroactive, and the exemptions in section 1 of this act apply  
6 retroactively to any public records request made prior to the  
7 effective date of this section for which disclosure of records has  
8 not already occurred.

9 NEW SECTION. **Sec. 3.** This act is necessary for the immediate  
10 preservation of the public peace, health, or safety, or support of  
11 the state government and its existing public institutions, and takes  
12 effect immediately.

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