
ENGROSSED SUBSTITUTE HOUSE BILL 1956

AS AMENDED BY THE SENATE

Passed Legislature - 2022 Regular Session

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)

READ FIRST TIME 01/31/22.

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) The following information and records created or maintained
16 pursuant to the federal prison rape elimination act, 34 U.S.C. Sec.
17 30301 et seq., and its regulations:

18 (i) Risk assessments, risk indicators, and monitoring plans;
19 (ii) Reports of sexual abuse or sexual harassment, as defined
20 under 28 C.F.R. 115.6;

1 (iii) Records of open prison rape elimination act investigations;
2 and

3 (iv) The identities of individuals other than department of
4 corrections staff, contractors, and volunteers, in closed prison rape
5 elimination act investigation reports and related investigative
6 materials; however, the identity of an accused individual is not
7 exempt if the allegation is determined to have been substantiated;
8 and

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

11 (2) The exemption of information or records described under
12 subsection (1)(b) and (c) of this section does not apply to requests
13 by the incarcerated individual who is the subject of the information,
14 a requestor with the written permission of the incarcerated
15 individual who is the subject of the information, or a personal
16 representative of an incarcerated individual who is the subject of
17 the information. In response to such requests, the department of
18 corrections may withhold information revealing the identity of other
19 incarcerated individuals.

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

26 (4) For purposes of this section:

27 (a) "Health information" means any information that identifies or
28 can readily be associated with the identity of an incarcerated
29 individual and directly relates to the following: Medical, mental
30 health, or dental diagnoses or conditions; medical, mental health, or
31 dental services, treatments, or procedures, including requests for or
32 complaints about such services, treatments, or procedures;
33 transgender, intersex, nonbinary, or gender nonconforming status;
34 sexual orientation; genital anatomy; or gender-affirming care or
35 accommodations other than an incarcerated individual's preferred
36 name, pronouns, and gender marker.

37 (b) The following information is not "health information" under
38 this section: (i) Health care information subject to RCW 42.56.360(2)
39 and chapter 70.02 RCW; and (ii) information related to injuries,
40 other than injuries related to medical procedures or genital anatomy,

1 contained in incident reports, infraction records, or use of force
2 reports, prepared by department of corrections staff other than
3 health care providers.

4 (c) "Incarcerated individual" has the same meaning as "inmate"
5 under RCW 72.09.015 and includes currently or formerly incarcerated
6 individuals.

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

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

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