
SENATE BILL 5098

State of Washington

67th Legislature

2021 Regular Session

By Senator Hunt; by
Accountability Committee

request of Public

Records Exemptions

Prefiled 01/06/21.

1 AN ACT Relating to certain reports; amending RCW 10.27.090 and
2 43.22.290; reenacting and amending RCW 4.24.250; and repealing RCW
3 18.32.040.

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

5 **Sec. 1.** RCW 4.24.250 and 2005 c 291 s 1 and 2005 c 33 s 5 are
6 each reenacted and amended to read as follows:

7 (1) Any health care provider as defined in RCW 7.70.020 (1) and
8 (2) who, in good faith, files charges or presents evidence against
9 another member of their profession based on the claimed incompetency
10 or gross misconduct of such person before a regularly constituted
11 review committee or board of a professional society or hospital whose
12 duty it is to evaluate the competency and qualifications of members
13 of the profession, including limiting the extent of practice of such
14 person in a hospital or similar institution, or before a regularly
15 constituted committee or board of a hospital whose duty it is to
16 review and evaluate the quality of patient care and any person or
17 entity who, in good faith, shares any information or documents with
18 one or more other committees, boards, or programs under subsection
19 (2) of this section, shall be immune from civil action for damages
20 arising out of such activities. For the purposes of this section,
21 sharing information is presumed to be in good faith. However, the

1 presumption may be rebutted upon a showing of clear, cogent, and
2 convincing evidence that the information shared was knowingly false
3 or deliberately misleading. (~~The proceedings, reports, and written~~
4 ~~records of such committees or boards, or of a member, employee, staff~~
5 ~~person, or investigator of such a committee or board,~~) Records
6 created by or specifically for and maintained by such committees or
7 boards are not subject to review or disclosure, or subpoena or
8 discovery proceedings in any civil action, except actions arising out
9 of the recommendations of such committees or boards involving the
10 restriction or revocation of the clinical or staff privileges of a
11 health care provider as defined in RCW 7.70.020 (1) and (2).

12 (2) A coordinated quality improvement program maintained in
13 accordance with RCW 43.70.510 or 70.41.200, a quality assurance
14 committee maintained in accordance with RCW 18.20.390 or 74.42.640,
15 or any committee or board under subsection (1) of this section may
16 share information and documents, including complaints and incident
17 reports, created specifically for, and collected and maintained by, a
18 coordinated quality improvement committee or committees or boards
19 under subsection (1) of this section, with one or more other
20 coordinated quality improvement programs or committees or boards
21 under subsection (1) of this section for the improvement of the
22 quality of health care services rendered to patients and the
23 identification and prevention of medical malpractice. The privacy
24 protections of chapter 70.02 RCW and the federal health insurance
25 portability and accountability act of 1996 and its implementing
26 regulations apply to the sharing of individually identifiable patient
27 information held by a coordinated quality improvement program. Any
28 rules necessary to implement this section shall meet the requirements
29 of applicable federal and state privacy laws. Information and
30 documents disclosed by one coordinated quality improvement program or
31 committee or board under subsection (1) of this section to another
32 coordinated quality improvement program or committee or board under
33 subsection (1) of this section and any information and documents
34 created or maintained as a result of the sharing of information and
35 documents shall not be subject to the discovery process and
36 confidentiality shall be respected as required by subsection (1) of
37 this section and by RCW 43.70.510(4), 70.41.200(3), 18.20.390 (6) and
38 (8), and 74.42.640 (7) and (9).

1 **Sec. 2.** RCW 10.27.090 and 2010 c 8 s 1021 are each amended to
2 read as follows:

3 (1) Every member of the grand jury shall keep secret whatever he,
4 she, or any other grand juror has said, and how he, she, or any other
5 grand juror has voted, except for disclosure of indictments, if any,
6 as provided in RCW 10.27.150.

7 (2) No grand juror shall be permitted to state or testify in any
8 court how he, she, or any other grand juror voted on any question
9 before them or what opinion was expressed by himself, herself, or any
10 other grand juror regarding such question.

11 (3) No grand juror, public or private attorney, city attorney or
12 corporation counsel, reporter, interpreter or public servant who held
13 a witness in custody before a grand jury or special inquiry judge, or
14 witness, principal or other person shall disclose the testimony of a
15 witness examined before the grand jury or special inquiry judge or
16 other evidence received by it, (~~except when required by the court to~~
17 ~~disclose the testimony of the witness examined before the grand jury~~
18 ~~or special inquiry judge for the purpose of ascertaining whether it~~
19 ~~is consistent with that of the witness given before the court, or to~~
20 ~~disclose his or her testimony given before the grand jury or special~~
21 ~~inquiry judge by any person upon a charge against such person for~~
22 ~~perjury in giving his or her testimony or upon trial therefor, or~~
23 ~~when permitted by the court in furtherance of justice)) when such
24 disclosure is prohibited by the court.~~

25 (4) The public attorney shall have access to all grand jury and
26 special inquiry judge evidence and may introduce such evidence before
27 any other grand jury or any trial in which the same may be relevant.

28 (5) The court upon a showing of good cause may make any or all
29 grand jury or special inquiry judge evidence available to any other
30 public attorney, prosecuting attorney, city attorney or corporation
31 counsel upon proper application and with the concurrence of the
32 public attorney attending such grand jury. Any witness' testimony,
33 given before a grand jury or a special inquiry judge and relevant to
34 any subsequent proceeding against the witness, shall be made
35 available to the witness upon proper application to the court. The
36 court may also, upon proper application and upon a showing of good
37 cause, make available to a defendant in a subsequent criminal
38 proceeding other testimony or evidence:

39 (a) When given or presented before a special inquiry judge, if
40 doing so is in the furtherance of justice; or

1 (b) When given or presented before a grand jury, if the court
2 finds that doing so is necessary to prevent an injustice and that
3 there is no reason to believe that doing so would endanger the life
4 or safety of any witness or his or her family. The cost of any such
5 transcript made available shall be borne by the applicant.

6 **Sec. 3.** RCW 43.22.290 and 2011 c 96 s 28 are each amended to
7 read as follows:

8 Every owner, operator, or manager of a factory, workshop, mill,
9 mine, or other establishment where labor is employed, shall make to
10 the department, upon blanks furnished by it, such reports and returns
11 as the department may require, for the purpose of compiling such
12 labor statistics as are authorized by this chapter, and the owner or
13 business manager shall make such reports and returns within the time
14 prescribed therefor by the director, and shall certify to the
15 correctness thereof.

16 In the reports of the department no use shall be made of the
17 names of individuals, firms, or corporations supplying the
18 information called for by this section, such information being deemed
19 confidential(~~(, and not for the purpose of disclosing personal~~
20 ~~affairs, and any officer, agent, or employee of the department~~
21 ~~violating this provision shall be fined a sum not exceeding five~~
22 ~~hundred dollars, or be imprisoned for up to three hundred sixty-four~~
23 ~~days)).~~

24 NEW SECTION. **Sec. 4.** RCW 18.32.040 (Requirements for licensure)
25 and 2017 c 100 s 1 are each repealed.

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