

CERTIFICATION OF ENROLLMENT
SUBSTITUTE SENATE BILL 5130

61st Legislature
2009 Regular Session

Passed by the Senate March 20, 2009
YEAS 43 NAYS 0

President of the Senate

Passed by the House March 18, 2009
YEAS 94 NAYS 2

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5130** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5130

AS AMENDED BY THE HOUSE

Passed Legislature - 2009 Regular Session

State of Washington 61st Legislature 2009 Regular Session

By Senate Human Services & Corrections (originally sponsored by Senators Carrell, Hargrove, Swecker, Hatfield, Holmquist, Brandland, Sheldon, Tom, King, Hobbs, McCaslin, Stevens, and Marr; by request of Attorney General)

READ FIRST TIME 02/12/09.

1 AN ACT Relating to access to public records by persons serving
2 criminal sentences in correctional facilities; adding a new section to
3 chapter 42.56 RCW; and declaring an emergency.

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

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

7 (1) The inspection or copying of any nonexempt public record by
8 persons serving criminal sentences in state, local, or privately
9 operated correctional facilities may be enjoined pursuant to this
10 section.

11 (a) The injunction may be requested by: (i) An agency or its
12 representative; (ii) a person named in the record or his or her
13 representative; or (iii) a person to whom the requests specifically
14 pertains or his or her representative.

15 (b) The request must be filed in: (i) The superior court in which
16 the movant resides; or (ii) the superior court in the county in which
17 the record is maintained.

18 (c) In order to issue an injunction, the court must find that:

1 (i) The request was made to harass or intimidate the agency or its
2 employees;

3 (ii) Fulfilling the request would likely threaten the security of
4 correctional facilities;

5 (iii) Fulfilling the request would likely threaten the safety or
6 security of staff, inmates, family members of staff, family members of
7 other inmates, or any other person; or

8 (iv) Fulfilling the request may assist criminal activity.

9 (2) In deciding whether to enjoin a request under subsection (1) of
10 this section, the court may consider all relevant factors including,
11 but not limited to:

12 (a) Other requests by the requestor;

13 (b) The type of record or records sought;

14 (c) Statements offered by the requestor concerning the purpose for
15 the request;

16 (d) Whether disclosure of the requested records would likely harm
17 any person or vital government interest;

18 (e) Whether the request seeks a significant and burdensome number
19 of documents;

20 (f) The impact of disclosure on correctional facility security and
21 order, the safety or security of correctional facility staff, inmates,
22 or others; and

23 (g) The deterrence of criminal activity.

24 (3) The motion proceeding described in this section shall be a
25 summary proceeding based on affidavits or declarations, unless the
26 court orders otherwise. Upon a showing by a preponderance of the
27 evidence, the court may enjoin all or any part of a request or
28 requests. Based on the evidence, the court may also enjoin, for a
29 period of time the court deems reasonable, future requests by:

30 (a) The same requestor; or

31 (b) An entity owned or controlled in whole or in part by the same
32 requestor.

33 (4) An agency shall not be liable for penalties under RCW
34 42.56.550(4) for any period during which an order under this section is
35 in effect, including during an appeal of an order under this section,
36 regardless of the outcome of the appeal.

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

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