

SSB 5130 - H AMD 430

By Representative Armstrong

ADOPTED 3/18/2009

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

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

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

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

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

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

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

20 (ii) Fulfilling the request would likely threaten the security of
21 correctional facilities;

22 (iii) Fulfilling the request would likely threaten the safety or
23 security of staff, inmates, family members of staff, family members of
24 other inmates, or any other person; or

25 (iv) Fulfilling the request may assist criminal activity.
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1 (2) In deciding whether to enjoin a request under subsection (1)
2 of this section, the court may consider all relevant factors
3 including, but not limited to:

4 (a) Other requests by the requestor;

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

6 (c) Statements offered by the requestor concerning the purpose for
7 the request;

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

10 (e) Whether the request seeks a significant and burdensome number
11 of documents;

12 (f) The impact of disclosure on correctional facility security and
13 order, the safety or security of correctional facility staff, inmates,
14 or others; and

15 (g) The deterrence of criminal activity.

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

22 (a) The same requestor; or

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

25 (4) An agency shall not be liable for penalties under RCW
26 42.56.550(4) for any period during which an order under this section
27 is in effect, including during an appeal of an order under this
28 section, regardless of the outcome of the appeal.

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

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Correct the title.

EFFECT: Allows representatives of persons named in the record or to whom the record specifically pertains to seek an injunction. Clarifies under what circumstances a judge may enjoin a public record request by an incarcerated person.

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