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SENATE BILL 5130

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State of Washington

61st Legislature

2009 Regular Session

By Senators Carrell, Hargrove, Swecker, Hatfield, Holmquist, Brandland, Sheldon, Tom, King, Hobbs, McCaslin, Stevens, and Marr; by request of Attorney General

Read first time 01/14/09. Referred to Committee on Human Services & Corrections.

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

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 if, upon motion by an  
10 agency or its representative or a person named in the record or to whom  
11 the request specifically pertains, the superior court for the county in  
12 which the movant resides or in which the record is maintained, finds  
13 that the request was made to harass or intimidate the agency, its  
14 employees, or any person, or that disclosure of the record would likely  
15 undermine a legitimate penological interest, including the secure and  
16 orderly operation of correctional facilities, the safety or security of  
17 staff, inmates, or others, or the deterrence of criminal activity.

18 (2) In deciding whether to enjoin a request under subsection (1) of  
19 this section, the court may consider all relevant factors, including,

1 but not limited to: Other requests by the requestor; the type of  
2 record or records sought; statements offered by the requestor  
3 concerning the purpose for the request; whether disclosure of the  
4 requested records would likely harm any person or vital government  
5 interest; whether the request seeks a significant and burdensome number  
6 of documents; and the impact of disclosure on correctional facility  
7 security and order, the safety or security of correctional facility  
8 staff, inmates, or others, and the deterrence of criminal activity.

9 (3) The motion proceeding described in this section shall be a  
10 summary proceeding based on affidavits or declarations, unless the  
11 court orders otherwise. The court may enjoin all or any part of the  
12 request or requests, and may enjoin future requests by the same  
13 requestor, or by another person or entity on behalf of the requestor,  
14 for such period as the court deems reasonable. An agency shall not be  
15 liable for penalties under RCW 42.56.550(4) for any period during which  
16 an order under this section is in effect, including during an appeal of  
17 an order under this section, regardless of the outcome of the appeal.

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