

MINUTES
Public Records Exemptions Accountability Committee
("Sunshine Committee")
John A. Cherberg Building - Conference Room ABC - Olympia, WA

October 23, 2018

Members Present: Michael Schwab, Sara Di Vittorio, Kathy George, Hon. Pete Holmes, Lynn Kessler, Rep. Larry Springer, Rowland Thompson, Tip Wonhoff, Jennifer Steele and David Zeeck

Members Absent: Sen. Maralyn Chase, Sen. Mark Miloscia and Rep. Luanne Van Werven

Staff Present: Assistant Attorney General Lisa Petersen, Committee Counsel; Elaine Ganga and Ann Armstrong, Committee Staff

1) Call to Order

1.1 Introduction / Roll Call and Establishment of Quorum

Chair Michael Schwab called the meeting of the Sunshine Committee (Committee) to order at 9:03 a.m., October 23, 2018 at the Cherberg Building, Conference Room ABC, Olympia, Washington.

Nine out of 13 members were present at the beginning of the meeting. A quorum was established.

1.2 Adoption of Agenda for October 23, 2018

Motion: To adopt the October 23, 2018 agenda. Moved by Sara Di Vittorio, seconded by Pete Holmes. Approved unanimously. Chair Schwab mentioned the CAFOs and wolf depredation topics will be discussed at the February 2019 meeting, and would not be part of the October 23rd agenda.

1.3 Review and Approval of August 21, 2018 Meeting Minutes

Motion: To adopt the August 21, 2018 meeting minutes. Moved by Sara Di Vittorio, seconded by Pete Holmes. Approved unanimously.

2) Schedule of Review

Jennifer Steele and Ann Armstrong are updating the Schedule of Review to include the 2018 report from the Code Reviser's Office.

Kathy George joined the meeting at 9:13 a.m.

3) 2019 Legislative Session

3.1 Sunshine Committee Recommendation Bills – HB 1160/SB 5418

Chair Schwab discussed the recommendation bills from the previous legislative session. Chair Schwab will continue to work on these recommendation bills in hopes of getting them passed by the Legislature, as well as a new bill created to include the committee's 2017 recommendations.

3.2 Public Records Task Force

Rep. Larry Springer discussed the Public Records Task Force. The Public Records Task Force consists of 15 members and is co-chaired by Sen. Curtis King and Rep. Larry Springer. The Task Force has met several times and there will be a final meeting in December. The Task Force will prepare a report for the Legislature.

4) Old Business

4.1 Voter and Election Information – RCW 29A.08.710; RCW 29A.08.720; RCW 29A.20.191 [recodified in 2013 as RCW 29A.56.670; RCW 29A.32.100] (Nos. 308-311 on Schedule of Review)

Motion: To recommend the Legislature amend RCW 29A.92.100(3) to read "*The plaintiff's constitutional right to the secrecy of the plaintiff's vote is preserved and is not waived by the filing of an action pursuant to this act, and the vote is not subject to discovery or disclosure.*" Moved by Kathy George, seconded by Pete Holmes. Approved unanimously.

Pete Holmes will contact Sen. Rebecca Saldaña to follow-up on the letter she sent the Sunshine Committee dated September 20, 2018.

Motion: To strike the last sentence of RCW 29A.56.670 which reads "*Nominating petitions shall not be available for public inspection or copying.*" Moved by Kathy George, seconded by David Zeeck. Approved unanimously.

Motion: To recommend the Sunshine Committee authorize the Sunshine Committee Chair to write a letter to the appropriate legislative committee chairs indicating that the Sunshine Committee is concerned about RCW 29A.08.710(2)(b) and invite their involvement in a discussion about this exemption. Moved by Kathy George, seconded by Lynn Kessler. Approved unanimously. The concern expressed by the committee involves whether there should be increased access to public records involving juveniles who have registered to become voters.

4.2 Juvenile Victim/Witness Exemptions – RCW 7.69A.020(8); RCW 7.69A.030(4); RCW 10.97.130; RCW 42.56.240(5) (Nos. 135, 226, 246, 250, 252 and 253 on Schedule of Review)

Sara Di Vittorio shared her proposal regarding these exemptions. She divided the juvenile exemptions on the committee's Schedule of Review into four categories and chose to start with the victim/witness category in preparing a proposal. Cathy Munoz, LEIRA Director and Ify Canfield, Prosecutor with the City of Kent both agree with Sara Di Vittorio's proposal.

Motion: To adopt Sara Di Vittorio's amendments (*see below*) regarding RCW 7.69A.020(8), RCW 7.69A.030(4), RCW 10.97.130 and RCW 42.56.240(5).

RCW 7.69A.020(8):

(8) "Identifying information" [of living child victims or witnesses includes:] means the child's name, address, [telephone number, email address, social media identifier, image, location of child (except the location of the assault when not the child's address), and the surname of the child's parent if it is the same as the child's and the parent is not the alleged perpetrator. In cases where the child victim is a victim of sexual assault, "identifying information" also includes the relationship between the child and the alleged perpetrator when the alleged perpetrator is a relative or step-relative of the child victim.] ~~location, and photograph, and in cases in which the child is a relative or stepchild of the alleged perpetrator, identification of the relationship between the child and the alleged perpetrator.~~

RCW 7.69A.030(4):

To [exempt from public disclosure under chapter 42.56 RCW, identifying information as defined by RCW 7.69A.020(8), of] ~~not have the names, addresses, nor photographs of the living child victim or witness [and to not have identifying information]~~ disclosed by any law enforcement agency, prosecutor's office, or state agency without the permission of the child victim, child witness, parents, or legal guardians to anyone except another law enforcement agency, prosecutor, defense counsel, or private or governmental agency that provides services to the child victim or witness.

RCW 10.97.130:

Information identifying child victims under age eighteen who are victims of sexual assaults is confidential and not subject to release to the press or public without the permission of the child victim or the child's legal guardian. Identifying information [is defined in RCW 7.69A.020(8)] ~~includes the child victim's name, addresses, location, photographs, and in cases in which the child victim is a relative or stepchild of the alleged perpetrator, identification of the relationship between the child and the alleged perpetrator.~~ Information identifying the child victim of sexual assault may be released to law enforcement, prosecutors, judges, defense attorneys, or private or governmental agencies that provide services to the child victim of sexual assault. Prior to release of any criminal history record information, the releasing agency shall delete any information identifying a child victim of sexual assault from the information except as provided in this section.

RCW 42.56.240(5):

[Identifying] information [, as defined by RCW 7.69A.020(8), of child victims and witnesses] revealing the identity of child victims of sexual assault who are under age eighteen. Identifying information means the child victim's name, address, location, photograph, and in cases in which the child victim is a relative or stepchild of the alleged perpetrator, identification of the relationship between the child and the alleged perpetrator;

Moved by Sara Di Vittorio, seconded by Rep. Larry Springer. Approved unanimously.

Sara Di Vittorio also stated that she does not recommend any changes to RCW 13.40.150 and RCW 13.40.215 and RCW 13.40.217 (Schedule of Review Nos. 252 and 253).

5) New Business

5.1 Religious Affiliation Exemption – RCW 42.56.235 (No. 534 on Schedule of Review)

This is a new exemption created by the Legislature in 2018. The committee will address this issue in 2019.

6) Public Comment

There was no additional public comment.

7) Adjourn

7.1 Committee Meeting Schedule for 2019

The meetings for 2019 are as follows: February 26th; May 14th; August 20th; and October 22nd.

7.2 2018 Annual Report

Chair Schwab will begin working on the 2018 Annual Report.

The Committee adjourned at 10:52 a.m.



Seattle
City Attorney's Office

Peter S. Holmes, City Attorney

Peter S. Holmes
Seattle City Attorney
(206) 684-8288
peter.holmes@seattle.gov

October 31, 2018

Via U.S. Mail and E-Mail

The Honorable Rebecca Saldana
Senator, 37th Washington Legislative District
230 John A. Cherberg Building
P.O. Box 40437
Olympia WA 98504-0437
Rebecca.saldana@leg.wa.gov

Subject: Public Records Exemption Accountability Committee/RCW
29A.92.100

Dear Senator Saldana:

As both a member of the State "Sunshine Committee" and one of your proud constituents, I was tasked at our last scheduled Committee hearing last week to respond to your September 20 letter to our Chair, Judge (ret.) Michael E. Schwab. I am happy to report that the Committee unanimously approved your suggestion to include in our proposed legislation for 2019 the following amendment to Sec. 402(3) of the Washington Voting Rights Act, RCW 29A.92.100:

"The plaintiff's constitutional right to the secrecy of the plaintiff's vote is preserved and is not waived by the filing of an action pursuant to the act, and the filing vote is not subject to discovery or disclosure."

Your letter prompted considerable debate, as you can see for yourself by accessing the streamed entire meeting at <https://www.atg.wa.gov/sunshine-meetings-2018>. Although the Committee unanimously approved your proposed language, during our discussion some alternative wording choices were identified. For instance, although you propose substituting "vote" for "filing" in the RCW, the language you quoted in your letter from Art. VI, Sec. 6 of the Washington State Constitution uses the word "ballot" as entitled to absolute secrecy. Accordingly, "ballot" could also be a substitute for "filing". This alternative might also be considered by the Legislature.

In closing, every member of the Committee appreciated the interest in our work reflected in your letter. We invite you to attend any of our scheduled meetings:

October 31, 2018

Page 2

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[s3bucket.s3.amazonaws.com/uploadedfiles/Home/About_the_Office/Open_Government/Sunshine_Committee/Materials/2019/2019%20Meeting%20Schedule.pdf](https://agportal-s3bucket.s3.amazonaws.com/uploadedfiles/Home/About_the_Office/Open_Government/Sunshine_Committee/Materials/2019/2019%20Meeting%20Schedule.pdf). I'm also happy to discuss public records—or any other issue—at your convenience.

Very truly yours,

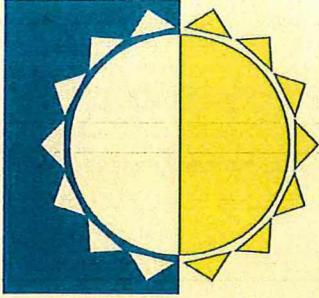


PETER S. HOLMES
Seattle City Attorney

Cc:

The Hon. Michael Schwab
Superior Court Judge, Yakima County (ret.)
3518 Fremont Avenue North #122
Seattle, WA 98103
schwabmichael@hotmail.com

Rowland Thompson
Allied Daily Newspapers of Washington
P.O. Box 29
Olympia WA 98507-0029
anewspaper@aol.com



PUBLIC RECORDS EXEMPTIONS ACCOUNTABILITY COMMITTEE
"SUNSHINE COMMITTEE"

PO Box 40100 • Olympia, WA 98504 • 360-753-6200 • www.atg.wa.gov/sunshine-committee

December 4, 2018

The Honorable Zack Hudgins
Chair, State Government, Elections
and Information Technology Committee
438A Legislative Building
P.O. Box 40600
Olympia, WA 98504

Committee Members

Michael E. Schwab (Chair)
Lynn Kessler (Vice Chair)
Sen. Mark Miloscia (R)
Sen. Maralyn Chase (D)
Rep. Luanne Van Werven (R)
Rep. Larry Springer (D)
Taylor (Tip) Wonhoff
Rowland Thompson
David Zeeck
Hon. Pete Holmes
Sara Di Vittorio
Kathy George
Jennifer Steele

RE: RCW 29A.08.710(2)(b)

Dear Representative Hudgins:

I am writing to you on behalf of the Public Records Exemptions Accountability Committee (Sunshine Committee) with regard to RCW 29A.08.710(2)(b). This statute was enacted in 2018 to become effective July 1, 2019. The bill originated in your committee. The statute reads as follows:

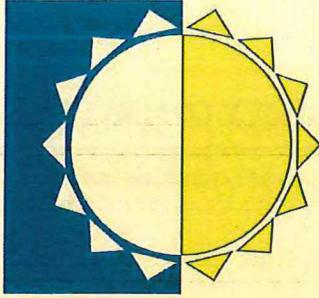
(b) The personally identifiable information of individuals who are under the age of eighteen are exempt from public inspection and copying until the subject of the record is eighteen years of age, except for the purpose of processing and delivering ballots.

Our committee discussed this statute at length and received input from various interested parties and stakeholders. It is the unanimous opinion of the Sunshine Committee that the Legislature should reconsider this statutory exemption and permit increased access to public records involving juveniles who have registered to become voters. The purpose of the increased access to this group of juveniles is to increase the information available to them so they can become well-informed and well-educated voters.

Please let us know if you have any questions in this regard and if you would like a member of our committee to meet with your committee to continue this discussion.

Thank you,

Michael E. Schwab
Chair



PUBLIC RECORDS EXEMPTIONS ACCOUNTABILITY COMMITTEE
"SUNSHINE COMMITTEE"

PO Box 40100 • Olympia, WA 98504 • 360-753-6200 • www.atg.wa.gov/sunshine-committee

December 4, 2018

The Honorable Sam Hunt
Chair, State Government, Tribal
Relations and Elections Committee
405 Legislative Building
P.O. Box 40422
Olympia, WA 98504

RE: RCW 29A.08.710(2)(b)

Dear Senator Hunt:

I am writing to you on behalf of the Public Records Exemptions Accountability Committee (Sunshine Committee) with regard to RCW 29A.08.710(2)(b). This statute was enacted in 2018 to become effective July 1, 2019. The statute reads as follows:

(b) The personally identifiable information of individuals who are under the age of eighteen are exempt from public inspection and copying until the subject of the record is eighteen years of age, except for the purpose of processing and delivering ballots.

Our committee discussed this statute at length and received input from various interested parties and stakeholders. It is the unanimous opinion of the Sunshine Committee that the Legislature should reconsider this statutory exemption and permit increased access to public records involving juveniles who have registered to become voters. The purpose of the increased access to this group of juveniles is to increase the information available to them so they can become well-informed and well-educated voters.

Please let us know if you have any questions in this regard and if you would like a member of our committee to meet with your committee to continue this discussion.

Thank you,

Michael E. Schwab
Chair

Committee Members

Michael E. Schwab (Chair)
Lynn Kessler (Vice Chair)
Sen. Mark Miloscia (R)
Sen. Maralyn Chase (D)
Rep. Luanne Van Werven (R)
Rep. Larry Springer (D)
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