

1 AN ACT Relating to archival public records; amending RCW 40.14.020,
2 40.14.030, and 40.14.040; adding a new section to chapter 40.14 RCW;
3 and adding a new section to chapter 42.56 RCW.

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

5 **Sec. 1.** RCW 40.14.020 and 2011 1st sp.s. c 43 s 727 are each
6 amended to read as follows:

7 All public records shall be and remain the property of the state of
8 Washington. They shall be delivered by outgoing officials and
9 employees to their successors and shall be preserved, stored,
10 transferred, destroyed or disposed of, and otherwise managed, only in
11 accordance with the provisions of this chapter. In order to insure the
12 proper management and safeguarding of public records, the division of
13 archives and records management is established in the office of the
14 secretary of state. The state archivist, who shall administer the
15 division and have reasonable access to all public records, wherever
16 kept, for purposes of information, surveying, or cataloguing, shall
17 undertake the following functions, duties, and responsibilities:

18 (1) To manage the archives of the state of Washington;

1 (2) To provide access to the state archives in accordance with the
2 public records act, chapter 42.56 RCW;

3 (3) To centralize the archives of the state of Washington, to make
4 them available for reference and scholarship, and to insure their
5 proper preservation;

6 (~~(3)~~) (4) To inspect, inventory, catalog, and arrange retention
7 and transfer schedules on all record files of all state departments and
8 other agencies of state government;

9 (~~(4)~~) (5) To insure the maintenance and security of all state
10 public records and to establish safeguards against unauthorized removal
11 or destruction;

12 (~~(5)~~) (6) To establish and operate such state record centers as
13 may from time to time be authorized by appropriation, for the purpose
14 of preserving, servicing, screening and protecting all state public
15 records which must be preserved temporarily or permanently, but which
16 need not be retained in office space and equipment;

17 (~~(6)~~) (7) To adopt rules under chapter 34.05 RCW:

18 (a) Setting standards for the durability and permanence of public
19 records maintained by state and local agencies;

20 (b) Governing procedures for the creation, maintenance,
21 transmission, cataloging, indexing, storage, or reproduction of
22 photographic, optical, electronic, or other images of public documents
23 or records in a manner consistent with current standards, policies, and
24 procedures of the office of the chief information officer for the
25 acquisition of information technology;

26 (c) Governing the accuracy and durability of, and facilitating
27 access to, photographic, optical, electronic, or other images used as
28 public records; or

29 (d) To carry out any other provision of this chapter;

30 (~~(7)~~) (8) To gather and disseminate to interested agencies
31 information on all phases of records management and current practices,
32 methods, procedures, techniques, and devices for efficient and
33 economical management and preservation of records;

34 (~~(8)~~) (9) To operate a central microfilming bureau which will
35 microfilm, at cost, records approved for filming by the head of the
36 office of origin and the archivist; to approve microfilming projects
37 undertaken by state departments and all other agencies of state
38 government; and to maintain proper standards for this work;

1 ~~((9))~~ (10) To maintain necessary facilities for the review of
2 records approved for destruction and for their economical disposition
3 by sale or burning; directly to supervise such destruction of public
4 records as shall be authorized by the terms of this chapter;

5 ~~((10))~~ (11) To assist and train state and local agencies in the
6 proper methods of creating, maintaining, cataloging, indexing,
7 transmitting, storing, and reproducing photographic, optical,
8 electronic, or other images used as public records;

9 ~~((11))~~ (12) To solicit, accept, and expend donations as provided
10 in RCW 43.07.037 for the purpose of the archive program. These
11 purposes include, but are not limited to, acquisition, accession,
12 interpretation, and display of archival materials. Donations that do
13 not meet the criteria of the archive program may not be accepted.

14 **Sec. 2.** RCW 40.14.030 and 2011 c 336 s 817 are each amended to
15 read as follows:

16 (1)(a) All public records, not required in the current operation of
17 the office where they are made or kept, and all records of every
18 agency, commission, committee, or any other activity of state
19 government (~~which~~) that may be abolished or discontinued, shall be
20 transferred to the state archives so that the valuable historical
21 records of the state may be centralized, made more widely available,
22 and insured permanent preservation: PROVIDED, That this section shall
23 have no application to public records approved for destruction under
24 the subsequent provisions of this chapter.

25 (b) Records that have restricted access based on confidential or
26 exempt information must be clearly labeled or designated as such by the
27 originating agency, including the statutory authority for the limited
28 access, before transfer to the state archives. There shall be a
29 presumption that records not marked as exempt or confidential are
30 subject to public inspection and copying. Neither the state archives
31 nor any of its employees are liable, nor does any cause of action
32 exist, for any loss or damage based upon the release of a confidential
33 or exempt public record if the record is not clearly labeled as such
34 before transfer to the state archives.

35 (c) When transferred to the state archives, records exempt under
36 chapter 42.56 RCW remain exempt to the same extent and for the same
37 duration as the original exemption.

1 (d) Confidential records of the judicial branch retain their
2 confidential nature in accordance with section 5 of this act.

3 ~~((When so transferred,))~~ (2)(a) Copies of ((the)) public records
4 ~~((concerned shall))~~ transferred to the state archives under this
5 section must be made and certified by the archivist, which
6 certification ~~((shall have))~~ has the same force and effect as though
7 made by the officer originally in charge of them.

8 (b) Fees may be charged to cover the cost of reproduction.

9 (3) In turning over the archives of his or her office, the officer
10 in charge thereof, or his or her successor, thereby loses none of his
11 or her rights of access to them, without charge, whenever necessary.

12 ~~((2) Records that are confidential, privileged, or exempt from~~
13 ~~public disclosure under state or federal law while in the possession of~~
14 ~~the originating agency, commission, board, committee, or other entity~~
15 ~~of state or local government retain their confidential, privileged, or~~
16 ~~exempt status after transfer to the state archives unless the~~
17 ~~archivist, with the concurrence of the originating jurisdiction,~~
18 ~~determines that the records must be made accessible to the public~~
19 ~~according to proper and reasonable rules adopted by the secretary of~~
20 ~~state, in which case the records may be open to inspection and~~
21 ~~available for copying after the expiration of seventy five years from~~
22 ~~creation of the record. If the originating jurisdiction is no longer~~
23 ~~in existence, the archivist shall make the determination of~~
24 ~~availability according to such rules. If, while in the possession of~~
25 ~~the originating agency, commission, board, committee, or other entity,~~
26 ~~any record is determined to be confidential, privileged, or exempt from~~
27 ~~public disclosure under state or federal law for a period of less than~~
28 ~~seventy five years, then the record, with the concurrence of the~~
29 ~~originating jurisdiction, must be made accessible to the public upon~~
30 ~~the expiration of the shorter period of time according to proper and~~
31 ~~reasonable rules adopted by the secretary of state.))~~ (4) The state
32 archivist may allow inspection, but not copying, of confidential,
33 privileged, or exempt records for research purposes in accordance with
34 chapter 42.48 RCW.

35 **Sec. 3.** RCW 40.14.040 and 2011 c 336 s 818 are each amended to
36 read as follows:

37 (1) Each department or other agency of the state government shall

1 designate a records officer to supervise its records program and to
2 represent the office in all contacts with the records committee,
3 hereinafter created, and the division of archives and records
4 management. The records officer shall:

5 ((+1)) (a) Coordinate all aspects of the records management
6 program((-))i

7 ((+2)) (b) Inventory, or manage the inventory, of all public
8 records at least once during a biennium for disposition scheduling and
9 transfer action, in accordance with procedures prescribed by the state
10 archivist and state records committee: PROVIDED, That essential
11 records shall be inventoried and processed in accordance with chapter
12 40.10 RCW at least annually((-))i

13 ((+3)) (c) Consult with any other personnel responsible for
14 maintenance of specific records within his or her state organization
15 regarding any information subject to exemptions to public inspection
16 and copying under chapter 42.56 RCW, and records retention and transfer
17 recommendations((-))i

18 ((+4)) (d) Analyze records inventory data, examine and compare
19 divisional or unit inventories for duplication of records, and
20 recommend to the state archivist and state records committee minimal
21 retentions for all copies commensurate with legal, financial, and
22 administrative needs((-))i

23 ((+5)) (e) Approve all records inventory and destruction requests
24 which are submitted to the state records committee((-))i

25 ((+6)) (f) Review established records retention schedules at least
26 annually to insure that they are complete and current((-))i

27 ((+7)) (g) Exercise internal control over the acquisition of
28 filming and file equipment.

29 (2) If a particular agency or department does not wish to transfer
30 records at a time previously scheduled therefor, the records officer
31 shall, within thirty days, notify the archivist and request a change in
32 such previously set schedule, including his or her reasons therefor.

33 NEW SECTION. Sec. 4. A new section is added to chapter 40.14 RCW
34 to read as follows:

35 The time periods in section 5 of this act establishing the duration
36 of exemptions from public inspection and copying apply to archival

1 records in the state archives. After the expiration of these time
2 periods, the public may inspect and copy any formerly exempt archival
3 records in the possession of the state archives.

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

6 (1) Except as otherwise specifically provided in this chapter, the
7 time periods provided in this subsection (1) limit the duration of
8 exemptions from public inspection and copying under this chapter.

9 (a) For general government records and other records not
10 specifically provided for in this section, the exemption from public
11 inspection and copying is twenty-five years after creation of the
12 record. As used in this subsection, "general government records" are
13 public records that are not vital records as defined in RCW 70.58.005,
14 and that do not contain personal information that would invade or
15 violate a person's privacy as described in RCW 42.56.050.

16 (b) For birth records, the exemption from public inspection and
17 copying is one hundred years after creation of the original birth
18 record or after the person's death, whichever is later.

19 (c) If a law requires nondisclosure for types or categories of
20 information that contain personal information that would invade or
21 violate a person's privacy as described in RCW 42.56.050, the
22 information remains exempt until one hundred years after the creation
23 of the record.

24 (2) Access to social security numbers for the purpose of inspection
25 and copying is in accordance with federal and state laws. Under 42
26 U.S.C. Sec. 405, social security numbers are available to the public
27 after a person's death. The United States social security
28 administration maintains a master death file that is used to verify
29 death and prevent fraud. The master death file is available to the
30 public and it discloses the person's name, dates of birth and death,
31 social security number, last place of residence, and the location where
32 the social security number was issued.

33 (3) If a law designating a record's confidentiality sets a time
34 period shorter than the period set forth in subsection (1) of this
35 section, the public shall have access to the record after the shorter
36 period expires.

1 (4) The time periods in this section apply to all public records
2 exempt from public inspection and copying with a designated archival
3 value, including those exempt records that are maintained by
4 originating agencies but are not transferred to the state archives.

5 (5) Confidential records of the judicial branch remain confidential
6 indefinitely, including after being transferred to the state archives,
7 until such time as the judicial branch determines otherwise.

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