

Exemptions Criteria Worksheet

1. Exemption: RCW 42.56.360(1)(f) **2. Session Law:** Laws of 1992, chapter 179

3. Category: health care **4. Cross-ref.:** 70.05.170 **5. Date Enacted:** 1992

6. (Text of exemption) Except for published statistical compilations and reports relating to the infant mortality review studies that do not identify individual cases and sources of information, any records or documents obtained, prepared, or maintained by the local health department for the purposes of an infant mortality review conducted by the department of health under RCW 70.05.170

7. Exemption protects: ☐ Safety ☒ Privacy ☐ Financial ☐ Other (explain):

8. Purpose (including purpose of accompanying legislation if applicable):

The potential for release of private medical records could compromise a researcher's ability to acquire information.

9. Information covered: ☐ About gov't function ☐ Collected/held by gov't
☐ Public funds ☐ Public official ☐ Vital gov't Interest ☒ Confidential/private ☐ Other

Describe: Mortality review is a process for the local health department to examine medical and hospital records and to interview caregivers to determine factors that contributed to the deaths of infants and children.

10. Stakeholders:

- | | |
|--|--|
| 1. WA Assoc of Local Public Health Officials | Contacted: <input checked="" type="checkbox"/> yes <input type="checkbox"/> no |
| 2. WA Assoc of Coroners | Contacted: <input checked="" type="checkbox"/> yes <input type="checkbox"/> no |
| 3. WA Assoc of Prosecuting Attorneys | Contacted: <input checked="" type="checkbox"/> yes <input type="checkbox"/> no |
| 4. WA State Hospital Assoc | Contacted: <input checked="" type="checkbox"/> yes <input type="checkbox"/> no |

11. Add'l bill

Information: Floor debate: ☐ yes ☒ no Bill Reports: ☒ yes ☐ no

12. Comments (including significant court decisions; related WACs sections, or other).

Bill reports are attached

Staff Member: Jean Wilkinson

SubCommittee:

Notes:

1. **Exemption.** RCW citation for exemption.
2. **Category.** Category of exceptions based on RCW 42.56.230 - .610.
3. **Session Law.** List session law for exemption and any amendments.
4. **Cross-reference.** List any other statute that also addresses this exemption.
5. **Date Enacted.** Enactment date and date of any amendments.
6. **Text.** Inset complete text of exemption.
7. **Exemption Protects.** These are broad categories of the types of interests the exemption is designed to protect. The mere fact that an exception falls into one of these categories is not meant to suggest it's legitimate or a proper exemption. More detail would be provided in the "purpose" section.
 - "Safety" would including information that, if disclosed, would put an individual or the general public at risk. Example: .240(3) witness identities in criminal investigations.
 - Privacy" would including public employees' privacy and the privacy of citizens and businesses that provide information to public agencies. Example: .250(3) addresses/ phone numbers of public employees.
 - "Financial" would include financial information for citizens or businesses that is provided to a public agency, but the provider would not give to a competitor or the general public. Many of these exemption are contained in section .270 and .400.
 - "Other" would be for exemptions serving other purposes.
8. **Purpose** (including purpose of complete legislation if applicable). This provides details about specific purpose of the exemption and the interests it protects. This would come for the enacting legislation, the legislative history and testimony from the exemption's supporters. This also allows us to evaluate the harms that will be caused if the information is released. For example, the purpose of the real estate appraisal exemption is to prevent the public from having to pay more for property than they would in a standard arms-length transaction.
9. **Information covered.** This category helps us know what information is being withheld so we can know the public's interest in knowing this information. The description would provide details, such as whether the exempt material are applications or statistical information or communications or reports. There can of course be multiple types of information the is covered.
 - "About gov't function." Record provides insight into the function of government.
 - "Collected/held by gov't." Records reflect information collected by the public agency and/or are the actual materials collected by the agency from third parties or employees.
 - "Public funds." Records reflect expenditure of public funds.
 - "Public official." Record reflects actions of public official.
 - "Vital gov't interest." Record reflects information related to a vital government interest that if disclosed, would jeopardize that interest the public's detriment.
 - "Confidential/private." Records contain confidential or private information.
10. **Stakeholders.** The Act requires that we consider input from stakeholders.
11. **Add'l bill information.** Provided to assist in finding additional legislative history.
12. **Comments.** Place for miscellaneous comments including significant court decisions, related sections of the Washington Administrative Code, or other comments.

RCW 42.56.360

Health care.

*** CHANGE IN 2007 *** (SEE 5930-S2.SL) ***

*** CHANGE IN 2007 *** (SEE 1106-S2.SL) ***

*** CHANGE IN 2007 *** (SEE 1414-S.SL) ***

(1) The following health care information is exempt from disclosure under this chapter:

(a) Information obtained by the board of pharmacy as provided in RCW 69.45.090;

(b) Information obtained by the board of pharmacy or the department of health and its representatives as provided in RCW 69.41.044, 69.41.280, and 18.64.420;

(c) Information and documents created specifically for, and collected and maintained by a quality improvement committee under RCW 43.70.510 or 70.41.200, or by a peer review committee under RCW 4.24.250, or by a quality assurance committee pursuant to RCW 74.42.640 or 18.20.390, and notifications or reports of adverse events or incidents made under RCW 70.56.020 or 70.56.040, regardless of which agency is in possession of the information and documents;

(d)(i) Proprietary financial and commercial information that the submitting entity, with review by the department of health, specifically identifies at the time it is submitted and that is provided to or obtained by the department of health in connection with an application for, or the supervision of, an antitrust exemption sought by the submitting entity under RCW 43.72.310;

(ii) If a request for such information is received, the submitting entity must be notified of the request. Within ten business days of receipt of the notice, the submitting entity shall provide a written statement of the continuing need for confidentiality, which shall be provided to the requester. Upon receipt of such notice, the department of health shall continue to treat information designated under this subsection (1)(d) as exempt from disclosure;

(iii) If the requester initiates an action to compel disclosure under this chapter, the submitting entity must be joined as a party to demonstrate the continuing need for confidentiality;

(e) Records of the entity obtained in an action under RCW 18.71.300 through 18.71.340;

(f) Except for published statistical compilations and reports relating to the infant mortality review studies that do not identify individual cases and sources of information, any records or documents obtained, prepared, or maintained by the local health department for the purposes of an infant mortality review conducted by the department of health under RCW 70.05.170; and

(g) Complaints filed under chapter 18.130 RCW after July 27, 1997, to the extent provided in RCW 18.130.095(1).

(2) Chapter 70.02 RCW applies to public inspection and copying of health care information of patients.

[2006 c 209 § 9; 2006 c 8 § 112; 2005 c 274 § 416.]

Notes:

Reviser's note: This section was amended by 2006 c 8 § 112 and by 2006 c 209 § 9, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date -- 2006 c 8 §§ 112 and 210: "Sections 112 and 210 of this act take effect July 1, 2006." [2006 c 8 § 405.]

Findings -- Intent -- Part headings and subheadings not law -- Severability -- 2006 c 8: See notes following RCW 5.64.010.

Basic health plan -- Confidentiality: RCW 70.47.150.

RCW 70.05.170
Child mortality review.

(1)(a) The legislature finds that the mortality rate in Washington state among infants and children less than eighteen years of age is unacceptably high, and that such mortality may be preventable. The legislature further finds that, through the performance of child mortality reviews, preventable causes of child mortality can be identified and addressed, thereby reducing the infant and child mortality in Washington state.

(b) It is the intent of the legislature to encourage the performance of child death reviews by local health departments by providing necessary legal protections to the families of children whose deaths are studied, local health department officials and employees, and health care professionals participating in child mortality review committee activities.

(2) As used in this section, "child mortality review" means a process authorized by a local health department as such department is defined in RCW 70.05.010 for examining factors that contribute to deaths of children less than eighteen years of age. The process may include a systematic review of medical, clinical, and hospital records; home interviews of parents and caretakers of children who have died; analysis of individual case information; and review of this information by a team of professionals in order to identify modifiable medical, socioeconomic, public health, behavioral, administrative, educational, and environmental factors associated with each death.

(3) Local health departments are authorized to conduct child mortality reviews. In conducting such reviews, the following provisions shall apply:

(a) All medical records, reports, and statements procured by, furnished to, or maintained by a local health department pursuant to chapter 70.02 RCW for purposes of a child mortality review are confidential insofar as the identity of an individual child and his or her adoptive or natural parents is concerned. Such records may be used solely by local health departments for the purposes of the review. This section does not prevent a local health department from publishing statistical compilations and reports related to the child mortality review, if such compilations and reports do not identify individual cases and sources of information.

(b) Any records or documents supplied or maintained for the purposes of a child mortality review are not subject to discovery or subpoena in any administrative, civil, or criminal proceeding related to the death of a child reviewed. This provision shall not restrict or limit the discovery or subpoena from a health care provider of records or documents maintained by such health care provider in the ordinary course of business, whether or not such records or documents may have been supplied to a local health department pursuant to this section.

(c) Any summaries or analyses of records, documents, or records of interviews prepared exclusively for purposes of a child mortality review are not subject to discovery, subpoena, or introduction into evidence in any administrative, civil, or criminal proceeding related to the death of a child reviewed.

(d) No local health department official or employee, and no members of technical committees established to perform case reviews of selected child deaths may be examined in any administrative, civil, or criminal proceeding as to the existence or contents of documents assembled, prepared, or maintained for purposes of a child mortality review.

(e) This section shall not be construed to prohibit or restrict any person from reporting suspected child abuse or neglect under chapter 26.44 RCW nor to limit access to or use of any records, documents, information, or testimony in any civil or criminal action arising out of any report made pursuant to chapter 26.44 RCW.

[1993 c 41 § 1; 1992 c 179 § 1.]

1992

SESSION LAWS

OF THE

STATE OF WASHINGTON

REGULAR SESSION

FIFTY-SECOND LEGISLATURE

Convened January 13, 1992. Adjourned March 12, 1992.



Published at Olympia by the Statute Law Committee under
Chapter 6, Laws of 1969.

DENNIS W. COOPER
Code Reviser

documents may have been supplied to a local health department pursuant to this section.

(c) Any summaries or analyses of records, documents, or records of interviews prepared exclusively for purposes of an infant mortality review are not subject to discovery, subpoena, or introduction into evidence in any administrative, civil, or criminal proceeding related to the death of an infant reviewed.

(d) No local health department official or employee, and no members of technical committees established to perform case reviews of selected infant deaths may be examined in any administrative, civil, or criminal proceeding as to the existence or contents of documents assembled, prepared, or maintained for purposes of an infant mortality review.

(e) This section shall not be construed to prohibit or restrict any person from reporting suspected child abuse or neglect under chapter 26.44 RCW nor to limit access to or use of any records, documents, information, or testimony in any civil or criminal action arising out of any report made pursuant to chapter 26.44 RCW.

NEW SECTION. Sec. 2. A new section is added to chapter 42.17 RCW to read as follows:

Notwithstanding the provisions of RCW 42.17.250 through 42.17.340, no local health department may be required under this chapter to make available for public inspection or copying any records or documents obtained, prepared, or maintained by the local health department for the purposes of an infant mortality review conducted by the department pursuant to section 1 of this act. This section shall not apply to published statistical compilations and reports relating to the infant mortality review studies that do not identify individual cases and sources of information.

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

Passed the Senate March 8, 1992.

Passed the House March 4, 1992.

Approved by the Governor April 1, 1992.

Filed in Office of Secretary of State April 1, 1992.

CHAPTER 180

[Substitute House Bill 2551]

SPECIAL EDUCATION SERVICES DEMONSTRATION PROJECTS--REVISIONS

Effective Date: 4/1/92

AN ACT Relating to special educational services demonstration projects; amending RCW 28A.630.820 and 28A.630.840; adding a new section to chapter 28A.630 RCW; providing an expiration date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 28A.630.820 and 1991 c 265 s 1 are each amended to read as follows:

It is the intent of the legislature to (1) encourage school districts, individually and cooperatively, to develop innovative special services demonstration projects that use resources efficiently and increase student learning; (2) promote noncategorical approaches to special services program design, funding, and administration; (3) develop efficient and cost-effective means for identifying students as specific learning disabled, in order to increase the proportion of resources devoted to classroom instruction; ~~((and))~~ (4) avoid unnecessary labeling of students while still providing state funding for needed services; and (5) provide a means to grant waivers from state rules.

Sec. 2. RCW 28A.630.840 and 1991 c 265 s 5 are each amended to read as follows:

(1) Project funding may include state, federal, and local funds, as specified by the district in its approved project ~~((est))~~ proposal. ~~((The superintendent of public instruction shall include all project funding for a participating district in a project contract and disburse the funds as contract payments.))~~

(2) As a general guideline, subject to refinements in the district ~~((est))~~ proposal and approval by the superintendent of public instruction, the portion of state handicapped funding included as project funding shall be determined as follows:

(a) If the district serves specific learning disabled students in the project, the portion of the handicapped allocation attributed to specific learning disabled students shall be included, with proportional adjustments if the project serves only part of the district's specific learning disabled population;

(b) If other handicapped students are served in the project, the portions of the handicapped allocation attributed to those students shall be included, with proportional adjustments if the project serves only part of the district's population in those categories of handicapped students.

(3) State handicapped allocations shall be calculated for project districts according to the handicapped funding formula in use for other districts, ~~((but))~~ except for the provisions of section 3 of this act and with the following changes:

(a) ~~((Except as provided in (b) of this subsection, funding in each school year for specific learning disabled and other handicapped students served in a project shall be based on the average percentage of the kindergarten through~~

FINAL BILL REPORT

SB 6296

C 179 L 92

SYNOPSIS AS ENACTED

Brief Description: Authorizing infant mortality reviews.

SPONSORS: Senators West, Niemi, Amondson, Stratton, Newhouse, M. Kreidler, Wojahn, Gaspard and Pelz

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

HOUSE COMMITTEE ON HEALTH CARE

BACKGROUND:

It is felt that the rate of infant mortality is unacceptably high in Washington. Infant mortality reviews may help identify preventable causes of infant mortality so that the causes may be addressed. Legal protections for the family of the infant, local health department officials and employees, and health care professionals participating in the reviews are likely to encourage the performance of such reviews.

SUMMARY:

All medical records, reports, statements, documents or summaries or analyses of such information used for the purpose of infant mortality reviews authorized by local health departments are confidential as to the identity of the infant and the infant's adoptive or natural parents. The information cannot be discovered or subpoenaed from the local health department in any administrative, civil or criminal proceeding related to the death of the infant, but it can be discovered or subpoenaed from a health care provider. No local health department official or employee may be examined as to the existence of the documents assembled for an infant mortality review. This information is also protected from statutory public disclosure requirements. However, nothing in the act is to be construed to prohibit or restrict existing child abuse and neglect reporting requirements.

The local health department may publish statistical compilations and reports of infant mortality reviews if the reports do not identify the infants or parents. These compilations and reports are subject to public disclosure requirements.

VOTES ON FINAL PASSAGE:

Senate	45	0	
House	95	0	(House amended)
Senate	47	0	(Senate concurred)

EFFECTIVE: April 1, 1992

HOUSE BILL REPORT

SB 6296

*As Passed House - Amended
March 4, 1992*

Title: An act relating to infant mortality reviews by local health departments.

Brief Description: Authorizing infant mortality reviews.

Sponsor(s): By Senators West, Niemi, Amondson, Stratton, Newhouse, M. Kreidler, Wojahn, Gaspard and Pelz.

Brief History:

Reported by House Committee on:
Health Care, February 27, 1992, DPA;
Passed House, March 4, 1992, 95-0.

HOUSE COMMITTEE ON HEALTH CARE

Majority Report: *Do pass as amended.* Signed by 11 members: Representatives Braddock, Chair; Day, Vice Chair; Moyer, Ranking Minority Member; Casada, Assistant Ranking Minority Member; Cantwell; Edmondson; Franklin; Morris; Paris; Prentice; and Sprenkle.

Staff: Bill Hagens (786-7131).

Background: Occurrences of infant mortality in Seattle and King County are a major concern of the public health and medical community of that area. To address this problem, the local health department has instituted an infant mortality review process to: understand the circumstances surrounding the infant deaths; identify factors contributing to the deaths; and identify effective interventions.

A major concern in the conduct of infant mortality reviews is the potentiality of inappropriate release of private medical records obtained through the review process. Such a pall could compromise researcher's ability to acquire complete and candid interview information.

Summary of Bill: "Infant mortality review" is defined. All information and records obtained for an infant mortality review is deemed confidential and is protected from discovery and subpoena. Examination of any person involved in a review in any legal proceeding as to the existence or

content of information relating to an infant mortality review is proscribed. Requiring a local health department to release review data is prohibited. It is made clear that nothing in this bill affects existing child abuse and neglect reporting requirements.

Fiscal Note: Not requested.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Testimony For: The bill is needed to study the cause of infant mortality.

Testimony Against: None.

Witnesses: Elizabeth Ward, Department of Health (pro); Bea Kelleigh and Audrey Dickson, Seattle/King County Department of Health (pro); Fred Johnson, Washington Association of Prosecuting Attorneys (pro); Diana Roberts, Department of Social and Health Services (pro); Dr. Barbara Andersen, Washington Association of Coroners and Medical Examiners (pro); and Beverly Jacobson, Washington State Hospital Association (pro).

SENATE BILL REPORT

SB 6296

AS PASSED SENATE, FEBRUARY 12, 1992

Brief Description: Authorizing infant mortality reviews.

SPONSORS: Senators West, Niemi, Amondson, Stratton, Newhouse, M. Kreidler, Wojahn, Gaspard and Pelz

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

Majority Report: Do pass.

Signed by Senators West, Chairman; L. Smith, Vice Chairman; Amondson, M. Kreidler, Newhouse, Niemi, and Wojahn.

Staff: Martin Lovinger (786-7443)

Hearing Dates: February 5, 1992; February 6, 1992

HOUSE COMMITTEE ON HEALTH CARE

BACKGROUND:

It is felt that the rate of infant mortality is unacceptably high in Washington. Infant mortality reviews may help identify preventable causes of infant mortality so that the causes may be addressed. Legal protections for the family of the infant, local health department officials and employees, and health care professionals participating in the reviews are likely to encourage the performance of such reviews.

SUMMARY:

All medical records, reports, statements, documents or summaries or analyses of such information used for the purpose of infant mortality reviews are confidential as to the identity of the infant and the infant's parents. The information cannot be discovered or subpoenaed from the local health department in any administrative, civil or criminal proceeding related to the death of the infant, but it can be discovered or subpoenaed from a health care provider. No local health department official or employee may be examined as to the existence of the documents assembled for an infant mortality review. This information is also protected from statutory public disclosure requirements.

The local health department may publish statistical compilations and reports of infant mortality reviews if the reports do not identify the infants or parents. These compilations and reports are subject to the public disclosure requirements.

Appropriation: none

Revenue: none

Fiscal Note: none requested

Effective Date: The bill contains an emergency clause and takes effect immediately.

TESTIMONY FOR:

This procedure can help prevent infant mortality by helping to obtain infant mortality reviews, which will provide more information as to the causes of infant mortality. The protection this bill offers is necessary.

TESTIMONY AGAINST: None

TESTIFIED: E. Russell Alexander, M.D., Chief of Epidemiology, Seattle-King County Dept. of Public Health; Elizabeth Ward, Dept. of Health; Kathleen Eussen, Washington State Association of Local Public Health; Beverly Jacobson, Washington State Hospital Association

HOUSE AMENDMENT(S) :

Language is added to clarify that the provisions apply to the reviews authorized by local health departments. It is clarified that the protection of confidentiality applies to both adoptive and natural parents. Language is added to clarify that nothing in this bill affects existing child abuse and neglect reporting requirements.