Title 40
PUBLIC DOCUMENTS, RECORDS, AND PUBLICATIONS

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Chapter 40.04 RCW
PUBLIC DOCUMENTS

Sections
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Supreme court reports, publication: Chapter 2.32 RCW.

40.04.031 Session laws—Publication, distribution, sale, exchange. The statute law committee, after each legislative session, shall distribute, sell, or exchange session laws as required under this section.

(1) The statute law committee, in its discretion, may provide for provision of free copies in digital or print format of the session laws to selected federal, state, and local agencies. Special consideration shall be given to correctional institutions where internet access is not allowed and to public libraries and other public agencies where internet access is limited or not available.

(2) Surplus paper sets of the session laws shall be sold and delivered by the statute law committee, in which case the price of the paper sets shall be sufficient to cover costs.

All money received from sale of the session laws shall be paid into the statute law committee publications account.

(3) The statute law committee may exchange session law sets for similar laws or legal materials of other states, territories, and governments, and make such other distribution of the sets as in its judgment seems proper.

(4)(a) The statute law committee, in its discretion, may publish the official copy of the session laws in a digital format on the code reviser or legislative web site.

(b) The code reviser shall provide a paper copy of any individual session law or the compiled session laws of any session upon request. The code reviser may charge a minimal fee sufficient to cover costs of printing and mailing the paper copy. [2011 c 156 § 5; 2007 c 456 § 1; 2006 c 46 § 3.]

Purpose—Finding—Intent—2011 c 156: See note following RCW 1.08.080.

40.04.090 Legislative journals—Distribution, sale, exchange. The house and senate journals shall be distributed and sold by the chief clerk of the house of representatives and the secretary of the senate as follows:

(1) Subject to subsection (5) of this section, sets shall be distributed as follows: One to each requesting official whose office is created by the Constitution, and one to each requesting state department director; two copies to the state library; ten copies to the state law library; two copies to the University of Washington library; one to the King county law library; one to the Washington State University library; one to the library of each of the regional universities and to The Evergreen State College; one each to the law library of any accredited law school in this state; and one to each free public library in the state that requests it.

(2) House and senate journals of the preceding regular session during an odd- or even-numbered year, and of any intervening special session, shall be provided for use of legislators and legislative staff in such numbers as directed by the chief clerk of the house of representatives and secretary of the senate.

(3) Surplus sets of the house and senate journals shall be sold and delivered by the chief clerk of the house of representatives and the secretary of the senate at a price set by them after consulting with the state printer to determine reasonable costs associated with the production of the journals, and the proceeds therefrom shall be paid to the state treasurer for the general fund.

(4) The chief clerk of the house of representatives and the secretary of the senate may exchange copies of the house and senate journals for similar journals of other states, territories, and governments, and for other legal materials, and make such other and further distribution of them as in their judgment seems proper.

(2018 Ed.)
(5) Periodically the chief clerk of the house of representatives and the secretary of the senate may canvas those entitled to receive copies under this section, and may reduce or eliminate the number of copies distributed to anyone who so concurs. [1995 c 24 § 4; 1993 c 169 § 1; 1982 1st ex.s. c 32 § 2; 1980 c 87 § 13; 1977 ex.s. c 169 § 95; 1973 c 33 § 2; 1941 c 150 § 5; Rem. Supp. 1941 § 8217-5.]

Additional notes found at www.leg.wa.gov

40.06.100 Definitions. As used in this chapter:

(1) "Electronic repository" means a collection of publicly accessible electronic publications stored in a secure digital environment with redundant backup to preserve the collection.

(2) "Format" includes any media used in the publication of state information including electronic, print, audio, visual, and microfilm.

(3) "State agency" includes every state office, officer, department, division, bureau, board, commission and agency of the state, and, where applicable, all subdivisions of each.

(4) "State publication" means information published by state agencies, regardless of format, intended for distribution to state government or the public. Examples may include annual, biennial, and special reports required by law, state agency newsletters, periodicals, and magazines, and other informational material intended for general dissemination to state agencies, the public, or the legislature. [2006 c 199 § 3; 1977 ex.s. c 232 § 8; 1963 c 233 § 1.]

Findings—2006 c 199: See note following RCW 27.04.045.

40.06.020 Center created as division of state library—Depository library system—Rules. There is hereby created as a division of the state library, and under the direction of the state librarian, a state publications distribution center. The center shall utilize the depository library system to permit citizens economical and convenient access to state publications, regardless of format. To this end the secretary of state shall make such rules as may be deemed necessary to carry out the provisions of this chapter. [2006 c 199 § 4; 2002 c 342 § 5; 1977 ex.s. c 232 § 9; 1963 c 233 § 2.]

Findings—2006 c 199: See note following RCW 27.04.045.

Additional notes found at www.leg.wa.gov

40.06.030 Deposits by state agencies—Exemptions.

(a) For state publications available only in print format, each state agency shall deposit, at a minimum, two copies of each of its publications with the state library. For the purposes of broad public access, state agencies may deposit additional copies with the state library for distribution to additional depository libraries.

(b) For state publications available only in electronic format, each state agency shall deposit one copy of each of its publications with the state library.

(c) For state publications available in both print and electronic format, each state agency shall deposit two print copies and one electronic copy of the publication with the state library.

(2) Annually, each state agency shall provide the state library with a listing of all its publications made available to state government and the public during the preceding year, including those published in electronic form. The secretary of state shall, by rule, establish the annual date by which state agencies must provide the list of its publications to the state library.

(3) In the interest of economy and efficiency, the state librarian may specifically or by general rule exempt a given state publication or class of publications from the require-
Management and Control of State Publications

Definitions.

Reports—Where filed—Review of state publications—Duties of agency head with respect to publications—Guidelines for publications—Director's duties.

Duties of the governor.

Notification—Removal from mailing lists, exceptions—Mailing rates.

Advertising in state publications—Prerequisites for advertisers.

Interlibrary depository contracts—Repository of electronic publications. (1) To provide economical public access to state publications, the center may enter into depository contracts with any free public library, The Evergreen State College, regional university, or state university library, or, if needed, the library of any privately incorporated college or university in this state. The requirements for eligibility to contract as a depository library shall be established by the secretary of state upon recommendations of the state librarian. The standards shall include and take into consideration the type of library, available housing and space for the publications, the number and qualifications of personnel, and availability for public use. The center may also contract with public, out-of-state libraries for the exchange of state and other publications on a reciprocal basis. Any state publication to be distributed to the public and the legislature shall be mailed at the lowest available postal rate.

(2) The office of the secretary of state through the state librarian shall preserve and make accessible state agency electronic publications deposited with the state library through an electronic repository. [2006 c 199 § 6; 2002 c 342 § 6; 1981 c 260 § 8. Prior: 1977 ex.s. c 232 § 11; 1977 ex.s. c 169 § 96; 1963 c 233 § 4.]

Center to publish list of publications and other descriptive matter. The center shall publish and distribute regularly a list of available state publications, and may publish and distribute such other descriptive matter as will facilitate the distribution of and access to state publications. [2006 c 199 § 7; 1963 c 233 § 5.]

Agencies to furnish lists to center. Upon request by the center, issuing state agencies shall furnish the center with a complete list of its current state publications and a copy of its mailing and/or exchange lists. [1963 c 233 § 6.]

Exemptions. This chapter shall not apply to nor affect the duties concerning publications distributed by, or officers of:

(1) The state law library; and
(2) The statute law committee and the code reviser. [1983 c 3 § 83; 1963 c 233 § 7.]

Effective date—1963 c 233. The effective date of this chapter shall be July 1, 1963. [1963 c 233 § 8.]

Chapter 40.07 RCW
MANAGEMENT AND CONTROL OF STATE PUBLICATIONS

Sections
40.07.010 Legislative declaration.
(2018 Ed.)
interoffice memoranda. [1989 c 175 § 86; 1979 c 151 § 50; 1977 ex.s. c 232 § 2.]

Additional notes found at www.leg.wa.gov

40.07.030 Reports—Where filed—Review of state publications—Duties of agency head with respect to publications—Guidelines for publications—Director's duties.

(1) Any annual, biennial, or special report required to be made by any state officer, board, agency, department, commissioner, regents, trustees, or institution to the governor or to the legislature may be typewritten and a copy shall be filed with the governor, or the governor's designee, and the legislature as the law may require. An additional copy shall be filed with the state library as a public record.

(2) The director or the director's designee may selectively review state publications in order to determine if specific state publications are economically and effectively contributing to the accomplishment of state agency program objectives. The director or the director's designee shall provide general guidelines as to the number of copies to be printed for use or distribution by the issuing agency and any public or other distribution under chapter 40.06 RCW as now or hereafter amended, or other applicable directives.

(3) No agency head shall recommend a state publication for printing and distribution, other than those required by law, unless the benefits from the publication and distribution thereof to the citizens and taxpayers of this state clearly exceed the costs of preparation, printing, and distribution.

(4) The director, after consultation with affected agencies, shall prepare and publish guidelines for use by state agencies in determining and evaluating the benefits and costs of current and proposed state publications. All state agencies shall evaluate each new state publication they propose and shall annually evaluate each continuing state publication they produce in accordance with the guidelines published by the director.

(5) The director shall, after consultation with affected state agencies, also provide by general rules and regulations for overall control of the quality of the printing of state publications. Necessary publications are to be prepared and printed in the most economic manner consistent with effectiveness and achievement of program objectives. [1977 ex.s. c 232 § 3.]

40.07.040 Duties of the governor. (1) The governor or the governor's designee shall take such other action as may be necessary to maximize the economy, efficiency, and effectiveness of state publications and to do so may eliminate, consolidate, or simplify state agency publications.

(2) Nothing in this chapter shall be construed in any way as restricting public access to public records or the public right to copy such records as provided by chapter 42.56 RCW. [2005 c 274 § 276; 1977 ex.s. c 232 § 4.]

40.07.060 Notification—Removal from mailing lists, exceptions—Mailing rates. Each state agency shall at least once each biennium notify the addressees of each state publication in or with that publication that they may be removed from the mailing list by notifying the originating agency. Mailings required by a state or federal statute, rule, or regulation, those maintained by an institution of higher education for official fund-raising or curriculum offerings, bulk mailings addressed to “occupant” or a similar designation, and paid subscriptions are excluded from the provisions of this paragraph.

All publications shall be distributed or mailed at the lowest available rate. [1977 ex.s. c 232 § 6.]

40.07.070 Advertising in state publications—Prerequisites for advertisers. A state agency may not accept advertising for placement in a state publication unless the advertiser: (1) Has obtained a certificate of registration from the department of revenue under chapter 82.32 RCW; and (2) if the advertiser is not otherwise obligated to collect and remit Washington retail sales tax or use tax, the advertiser either (a) agrees to voluntarily collect and remit the Washington use tax upon all sales to Washington consumers, or (b) agrees to provide to the department of revenue, no less frequently than quarterly, a listing of the names and addresses of Washington customers to whom sales were made. This section does not apply to advertising that does not offer items for sale or to advertising that does not solicit orders for sales. [1993 c 74 § 1.]

Additional notes found at www.leg.wa.gov

Chapter 40.10 RCW

MICROFILMING OF RECORDS TO PROVIDE CONTINUITY OF CIVIL GOVERNMENT

Sections
40.10.020 Essential records—Reproduction and storage—Coordination of protection program—Fees.

40.10.010 Essential records—Designation—List—Security and protection—Reproduction. In order to provide for the continuity and preservation of civil government, each elected and appointed officer of the state shall designate those public documents which are essential records of his or her office and needed in an emergency and for the reestablishment of normal operations after any such emergency. A list of such records shall be forwarded to the state archivist on forms prescribed by the state archivist. This list shall be reviewed at least annually by the elected or appointed officer to insure its completeness. Any changes or revisions following this review shall be forwarded to the state archivist. Each such elected and appointed officer of state government shall insure that the security of essential records of his or her office is by the most economical means commensurate with adequate protection. Protection of essential records may be by vaulting, planned or natural dispersal of copies, or any other method approved by the state archivist. Reproductions of essential records may be by photo copy, magnetic tape, microfilm, or other method approved by the state archivist. Local government offices may coordinate the protection of their essential records with the state archivist as necessary to provide continuity of local government under emergency conditions. [2011 c 336 § 816; 1982 c 36 § 1; 1973 c 54 § 1; 1963 c 241 § 1.]

Additional notes found at www.leg.wa.gov

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Chapter 40.14 RCW

PRESERVATION AND DESTRUCTION OF PUBLIC RECORDS

Sections

40.10.020 Definition and classification of public records.
40.10.020 Division of archives and records management—State archivist—Powers and duties—Duties of public officials.
40.10.022 Division of archives and records management—State archivist—Powers and duties—Duties of public officials.
40.10.024 Division of archives and records management—Local government archives account.
40.10.025 Division of archives and records management—Local government archives account.
40.10.026 Division of archives and records management—Local government archives account.
40.10.027 Division of archives and records management—Local government archives account.
40.10.030 Transfer to state archives—Certified copies, cost—Public disclosure.
40.10.040 Records officers—Designation—Powers and duties.
40.10.050 Records officers—Designation—Powers and duties.
40.10.060 Destruction, disposition of official public records or office files and memoranda—Record retention schedules.
40.10.070 Destruction, disposition, donation of local government records—Preservation for historical interest—Local records committee duties—Record retention schedules—Sealed records.
40.10.080 Chapter not to affect other laws.
40.10.100 Legislative records—Defined.
40.10.110 Legislative records—Defined.
40.10.120 Legislative records—Defined.
40.10.130 Legislative records—Defined.
40.10.140 Legislative records—Defined.
40.10.150 Legislative records—Defined.
40.10.160 Legislative records—Defined.
40.10.170 Legislative records—Defined.
40.10.180 Legislative records—Defined.

Preservation and Destruction of Public Records

40.10.020 Definition and classification of public records. As used in this chapter, the term "public records" shall include all original vouchers, receipts, and other documents necessary to isolate and prove the validity of every transaction relating to the receipt, use, and disposition of all public property and public income from all sources whatsoever; all agreements and contracts to which the state of Washington or any agency thereof may be a party; all fidelity, surety, and performance bonds; all claims filed against the state of Washington or any agency thereof; all records or documents required by law to be filed with or kept by any agency of the state of Washington; all legislative records as defined in RCW 40.14.100; and all other documents or records determined by the records committee, created in RCW 40.14.050, to be official public records.

(2) Office files and memoranda include such records as correspondence, exhibits, drawings, maps, completed forms, or documents not above defined and classified as official public records; duplicate copies of official public records filed with any agency of the state of Washington; documents and reports made for the internal administration of the office to which they pertain but not required by law to be filed or kept with such agency; and other documents or records as determined by the records committee to be office files and memoranda. [1996 c 71 § 1; 1982 c 36 § 3; 1981 c 32 § 4; 1971 ex.s. c 102 § 1; 1957 c 246 § 1.]

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

(1) To manage the archives of the state of Washington;
(2) To centralize the archives of the state of Washington, to make them available for reference and scholarship, and to insure their proper preservation;
(3) To inspect, inventory, catalog, and arrange retention and transfer schedules on all record files of all state departments and other agencies of state government;

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

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

(6) To adopt rules under chapter 34.05 RCW:
   (a) Setting standards for the durability and permanence of public records maintained by state and local agencies;
   (b) Governing procedures for the creation, maintenance, transmission, cataloging, indexing, storage, or reproduction of photographic, optical, electronic, or other images of public documents or records in a manner consistent with current standards, policies, and procedures of the office of the chief information officer for the acquisition of information technology;
   (c) Governing the accuracy and durability of, and facilitating access to, photographic, optical, electronic, or other images used as public records; or
   (d) To carry out any other provision of this chapter;

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

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

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

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

(11) To solicit, accept, and expend donations as provided in RCW 43.07.037 for the purpose of the archive program. These purposes include, but are not limited to, acquisition, accession, interpretation, and display of archival materials. Donations that do not meet the criteria of the archive program may not be accepted. [2011 1st sp.s. c 43 § 727; 2002 c 358 § 4; 1995 c 326 § 1. Prior: 1991 c 237 § 4; 1991 c 184 § 1; 1986 c 275 § 1; 1983 c 84 § 1; 1981 c 115 § 1; 1957 c 246 § 2.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Additional notes found at www.leg.wa.gov

40.14.022 Division of archives and records management—Imaging account. The imaging account is created in the custody of the state treasurer. All receipts collected under RCW 40.14.020(8) for contract imaging, micrographics, reproduction, and duplication services provided by the division of archives and records management must be deposited into the account, and expenditures from the account may be used only for these purposes. Only the secretary of state or the secretary's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. [2003 c 163 § 2.]

40.14.024 Division of archives and records management—Local government archives account. The local government archives account is created in the state treasury. All receipts collected by the county auditors under RCW 40.14.027 and 36.22.175 for local government services, such as providing records schedule compliance, security microfilm inspection and storage, archival preservation, cataloging, and indexing for local government records and digital data and access to those records and data through the regional branch archives of the division of archives and records management, must be deposited into the account, and expenditures from the account may be used only for these purposes. Any amounts deposited in the account in accordance with RCW 36.22.175(4) may only be expended for the purposes authorized under that provision as follows: No more than fifty percent of funding may be used for the attorney general's consultation program and the state archivist's training services, and the remainder is to be used for the competitive grant program. [2017 c 303 § 5; 2008 c 328 § 6005; 2003 c 163 § 3.]

Part headings not law—Severability—Effective date—2008 c 328: See notes following RCW 43.155.050.

40.14.025 Division of archives and records management—Allocation of costs of services—Public records efficiency, preservation, and access account. (1) The secretary of state and the director of financial management shall jointly establish a procedure and formula for allocating the costs of services provided by the division of archives and records management to state agencies. The total amount allotted for services to state agencies shall not exceed the appropriation to the *archives and records management account during any allotment period.

(2) There is created the public records efficiency, preservation, and access account in the state treasury which shall consist of all fees and charges collected under this section. The account shall be appropriated exclusively for the payment of costs and expenses incurred in the operation of the division of archives and records management as specified by law. [2011 1st sp.s. c 50 § 932; 2003 c 163 § 1; 1996 c 245 § 3; 1991 sp.s. c 13 § 5; 1985 c 57 § 22; 1981 c 115 § 4.]

*Reviser's note: The "archives and records management account" was changed to the "public records efficiency, preservation, and access account" by 2011 1st sp.s. c 50 § 932.

Effective dates—2011 1st sp.s. c 50: See note following RCW 15.76.115.

Additional notes found at www.leg.wa.gov

40.14.026 Division of archives and records management—Competitive grant program to improve technology information systems for public records and related
training—Review of program and training services—Public records request log—Agency reporting requirements—Duties of the joint legislative audit and review committee. (1) The division of archives and records management in the office of the secretary of state must establish and administer a competitive grant program for local agencies to improve technology information systems for public record retention, management, and disclosure, and any related training. The division of archives and records management may use up to six percent of amounts appropriated for the program for administration of the grant program. The program in this subsection ceases to exist June 30, 2020.

(2) Any local agency may apply to the grant program. The division of archives and records management in the office of the secretary of state must award grants annually. The division of archives and records management must consult with the chief information officer to develop the criteria for grant recipient selection with a preference given to small local governmental agencies based on the applicant agency’s need and ability to improve its information technology systems for public record retention, management, and disclosure. The division of archives and records management may award grants for specific hardware, software, equipment, technology services management and training needs, indexing for local records and digital data, and other resources for improving information technology systems. To the extent possible, information technology systems, processes, training, and other resources for improving information technology systems for records retention and distribution may be replicated and shared with other governmental entities. Grants are provided for one-time investments and are not an ongoing source of revenue for operation or management costs. A grantee may not supplant local funding with grant funding provided by the office of the secretary of state. The program in this subsection ceases to exist June 30, 2020.

(3) The joint legislative audit and review committee must conduct a review of the attorney general’s consultation program and the state archivist’s training services created under section 4, chapter 303, Laws of 2017, and the local government competitive grant program created under this section. The review must include:

(a) The number of local governments served, the types of consultation and training provided, and the implementation of any practices adopted from the attorney general’s consultation program and the state archivist’s training services; and

(b) The effectiveness of the consultation program and the training services in providing assistance for local governments; and

(ii) The effectiveness of the grant program in improving local government technology information systems for public records retention, management, disclosure, and training.

(4) Each agency shall maintain a log of public records requests submitted to and processed by the agency, which shall include but not be limited to the following information for each request: The identity of the requestor if provided by the requestor, the date the request was received, the text of the original request, a description of the records produced in response to the request, a description of the records redacted or withheld and the reasons therefor, and the date of the final disposition of the request. The log must be retained by the agency in accordance with the relevant record retention schedule established under this chapter, and shall be a public record subject to disclosure under chapter 42.56 RCW.

(5) To improve best practices for dissemination of public records, each agency with actual staff and legal costs associated with fulfilling public records requests of at least one hundred thousand dollars during the prior fiscal year must, and each agency with such estimated costs of less than one hundred thousand dollars during the prior fiscal year may, report to the joint legislative audit and review committee by July 1st of each subsequent year the following metrics, measured over the preceding year:

(a) An identification of leading practices and processes for records management and retention, including technological upgrades, and what percentage of those leading practices and processes were implemented by the agency;

(b) The average length of time taken to acknowledge receipt of a public records request;

(c) The proportion of requests where the agency provided the requested records within five days of receipt of the request compared to the proportion of requests where the agency provided an estimate of an anticipated response time beyond five days of receipt of the request;

(d) A comparison of the agency’s average initial estimate provided for full disclosure of responsive records with the actual time when all responsive records were fully disclosed, including whether the agency sent subsequent estimates of an anticipated response time;

(e) The number of requests where the agency formally sought additional clarification from the requestor;

(f) The number of requests denied and the most common reasons for denying requests;

(g) The number of requests abandoned by requestors;

(h) To the extent the information is known by the agency, requests by type of requestor, including individuals, law firms, organizations, insurers, governments, incarcerated persons, the media, anonymous requestors, current or former employees, and others;

(i) Which portion of requests were fulfilled electronically compared to requests fulfilled by physical records;

(j) The number of requests where the agency was required to scan physical records electronically to fulfill disclosure;

(k) The estimated agency staff time spent on each individual request;

(l) The estimated costs incurred by the agency in fulfilling records requests, including costs for staff compensation and legal review, and a measure of the average cost per request;

(m) The number of claims filed alleging a violation of chapter 42.56 RCW or other public records statutes in the past year involving the agency, categorized by type and exemption at issue, if applicable;

(n) The costs incurred by the agency litigating claims alleging a violation of chapter 42.56 RCW or other public
records statutes in the past year, including any penalties imposed on the agency; 

(o) The costs incurred by the agency with managing and retaining records, including staff compensation and purchases of equipment, hardware, software, and services to manage and retain public records or otherwise assist in the fulfillment of public records requests; 

(p) Expenses recovered by the agency from requestors for fulfilling public records requests, including any customized service charges; and 

(q) Measures of requestor satisfaction with agency responses, communication, and processes relating to the fulfillment of public records requests. 

(6) The joint legislative audit and review committee must consult with state and local agencies to develop a reporting method and clearly define standardized metrics in accordance with this section. 

(7) By December 1, 2019, the joint legislative audit and review committee must report to the legislature on its findings from the review, including recommendations on whether the competitive grant program, the attorney general’s consultation program, and the state archivist’s training services should continue or be allowed to expire. [2017 c 303 § 6.]

40.14.027 Local government archives and records management services—Judgment debtor surcharge. 

State agencies shall collect a surcharge of twenty dollars from the judgment debtor upon the satisfaction of a warrant filed in superior court for unpaid taxes or liabilities. The surcharge is imposed on the judgment debtor in the form of a penalty in addition to the filing fee provided in RCW 36.18.012(10). The surcharge revenue shall be transmitted to the state treasurer for deposit in the public records efficiency, preservation, and access account. 

Surcharge revenue deposited in the local government archives account under RCW 40.14.024 shall be expended by the secretary of state exclusively for disaster recovery, essential records protection services, and records management training for local government agencies by the division of archives and records management. The secretary of state shall, with local government representatives, establish a committee to advise the state archivist on the local government archives and records management program. [2011 1st sp.s. c 50 § 933; 2003 c 163 § 4; 2001 c 146 § 4; 1996 c 245 § 4; 1995 c 292 § 17; 1994 c 193 § 2.]

Effective dates—2011 1st sp.s. c 50: See note following RCW 15.76.115.

Findings—1994 c 193: "The legislature finds that: (1) Accountability for and the efficient management of local government records are in the public interest and that compliance with public records management requirements significantly affects the cost of local government administration; (2) the secretary of state is responsible for insuring the preservation of local government archives and may assist local government compliance with public records statutes; (3) as provided in RCW 40.14.025, all archives and records management services provided by the secretary of state are funded exclusively by a schedule of fees and charges established jointly by the secretary of state and the director of financial management; (4) the secretary of state's costs for preserving and providing public access to local government archives and providing records management assistance to local government agencies have been funded by fees paid by state government agencies; (5) local government agencies are responsible for costs associated with managing, protecting, and providing public access to the records in their custody; (6) local government should help fund the secretary of state's local government archives and records management services; (7) the five dollar fee collected by county clerks for processing warrants for unpaid taxes or liabilities filed by the state of Washington is not sufficient to cover processing costs and is far below filing fees commonly charged for similar types of minor civil actions; (8) a surcharge of twenty dollars would bring the filing fee for warrants for the collection of unpaid taxes and liabilities up to a level comparable to other minor civil filings and should be applied to the support of the secretary of state’s local government archives and records services without placing an undue burden on local government; and (9) the process of collecting and transmitting surcharge revenue should not have an undue impact on the operations of the state agencies that file warrants for the collection of unpaid taxes and liabilities or the clerks of superior court who process them." [1994 c 193 § 1.]

Additional notes found at www.leg.wa.gov

40.14.030 Transfer to state archives—Certified copies, cost—Public disclosure. (1) All public records, not required in the current operation of the office where they are made or kept, and all records of every agency, commission, committee, or any other activity of state government which may be abolished or discontinued, shall be transferred to the state archives so that the valuable historical records of the state may be centralized, made more widely available, and insured permanent preservation: PROVIDED, That this section shall have no application to public records approved for destruction under the subsequent provisions of this chapter.

When so transferred, copies of the public records concerned shall be made and certified by the archivist, which certification shall have the same force and effect as though made by the officer originally in charge of them. Fees may be charged to cover the cost of reproduction. In turning over the archives of his or her office, the officer in charge thereof, or his or her successor, thereby loses none of his or her rights of access to them, without charge, whenever necessary.

(2) Records that are confidential, privileged, or exempt from public disclosure under state or federal law while in the possession of the originating agency, commission, board, committee, or other entity of state or local government retain their confidential, privileged, or exempt status after transfer to the state archives unless the archivist, with the concurrence of the originating jurisdiction, determines that the records must be made accessible to the public according to proper and reasonable rules adopted by the secretary of state, in which case the records may be open to inspection and available for copying after the expiration of seventy-five years from creation of the record. If the originating jurisdiction is no longer in existence, the archivist shall make the determination of availability according to such rules. If, while in the possession of the originating agency, commission, board, committee, or other entity, any record is determined to be confidential, privileged, or exempt from public disclosure under state or federal law for a period of less than seventy-five years, then the record, with the concurrence of the originating jurisdiction, must be made accessible to the public upon the expiration of the shorter period of time according to proper and reasonable rules adopted by the secretary of state. [2011 c 336 § 817; 2003 c 305 § 1; 1957 c 246 § 3.]

Columbia River boundary compact, transfer of records to division of archives: RCW 43.58.070.

40.14.040 Records officers—Designation—Powers and duties. Each department or other agency of the state government shall designate a records officer to supervise its records program and to represent the office in all contacts
with the records committee, hereinafter created, and the division of archives and records management. The records officer shall:

1. Coordinate all aspects of the records management program.
2. Inventory, or manage the inventory, of all public records at least once during a biennium for disposition scheduling and transfer action, in accordance with procedures prescribed by the state archivist and state records committee: PROVIDED, That essential records shall be inventoried and processed in accordance with chapter 40.10 RCW at least annually.
3. Consult with any other personnel responsible for maintenance of specific records within his or her state organization regarding records retention and transfer recommendations.
4. Analyze records inventory data, examine and compare divisional or unit inventories for duplication of records, and recommend to the state archivist and state records committee minimal retentions for all copies commensurate with legal, financial, and administrative needs.
5. Approve all records inventory and destruction requests which are submitted to the state records committee.
6. Review established records retention schedules at least annually to insure that they are complete and current.
7. Exercise internal control over the acquisition of filming and file equipment.

If a particular agency or department does not wish to transfer records at a time previously scheduled therefor, the records officer shall, within thirty days, notify the archivist and request a change in such previously set schedule, including his or her reasons therefor. [2011 c 336 § 818; 1982 c 36 § 4; 1979 c 151 § 51; 1973 c 54 § 3; 1957 c 246 § 4.]

### 40.14.050 Records committee—Composition, travel expenses, meetings, powers and duties—Retention schedules

There is created a committee, to be known as the records committee, composed of the archivist, an appointee of the state auditor, an appointee of the attorney general, and an appointee of the director of financial management. Committee members shall serve without additional salary, but shall be entitled to travel expenses incurred in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. Such expenses shall be paid from the appropriations made for operation of their respective departments or offices.

The records committee shall meet at least once every quarter or oftener as business dictates. Action by the committee shall be by majority vote and records shall be kept of all committee business.

It shall be the duty of the records committee to approve, modify or disapprove the recommendations on retention schedules of all files of public records and to act upon requests to destroy any public records: PROVIDED, That any modification of a request or recommendation must be approved by the head of the agency originating the request or recommendation.

The division of archives and records management shall provide forms, approved by the records committee, upon which it shall prepare recommendations to the committee in cooperation with the records officer of the department or other agency whose records are involved. [1985 c 192 § 1; 1975-76 2nd ex.s. c 34 § 83; 1957 c 246 § 5.]

Additional notes found at www.leg.wa.gov

### 40.14.060 Destruction, disposition of official public records or office files and memoranda—Record retention schedules

1. Any destruction of official public records shall be pursuant to a schedule approved under RCW 40.14.050. Official public records shall not be destroyed unless:
   a. Except as provided under RCW 40.14.070(2)(b), the records are six or more years old;
   b. The department of origin of the records has made a satisfactory showing to the state records committee that the retention of the records for a minimum of six years is both unnecessary and uneconomical, particularly if lesser federal retention periods for records generated by the state under federal programs have been established; or
   c. The originals of official public records less than six years old have been copied or reproduced by any photographic or other process approved by the state archivist which accurately reproduces or forms a durable medium for so reproducing the original.

2. Any lesser term of retention than six years must have the additional approval of the director of financial management, the state auditor and the attorney general, except when records have federal retention guidelines the state records committee may adjust the retention period accordingly. An automatic reduction of retention periods from seven to six years for official public records on record retention schedules existing on June 10, 1982, shall not be made, but the same shall be reviewed individually by the state records committee for approval or disapproval of the change to a retention period of six years.

Recommendations for the destruction or disposition of office files and memoranda shall be submitted to the records committee upon approved forms prepared by the records officer of the agency concerned and the archivist. The committee shall determine the period of time that any office file or memorandum shall be preserved and may authorize the division of archives and records management to arrange for its destruction or disposition. [1999 c 326 § 1; 1982 c 36 § 5; 1979 c 151 § 52; 1973 c 54 § 4; 1957 c 246 § 6.]

### 40.14.070 Destruction, disposition, donation of local government records—Preservation for historical interest—Local records committee, duties—Record retention schedules—Sealed records

1. (a) County, municipal, and other local government agencies may request authority to destroy noncurrent public records having no further administrative or legal value by submitting to the division of archives and records management lists of such records on forms prepared by the division. The archivist, a representative appointed by the state auditor, and a representative appointed by the attorney general shall constitute a committee, known as the local records committee, which shall review such lists and which may veto the destruction of any or all items contained therein.
   b. A local government agency, as an alternative to submitting lists, may elect to establish a records control program based on recurring disposition schedules recommended by
the agency to the local records committee. The schedules are
to be submitted on forms provided by the division of archives
and records management to the local records committee,
which may either veto, approve, or amend the schedule.
Approval of such schedule or amended schedule shall be by
unanimous vote of the local records committee. Upon such
approval, the schedule shall constitute authority for the local
government agency to destroy the records listed thereon, after
the required retention period, on a recurring basis until the
schedule is either amended or revised by the committee.

(2)(a) Except as otherwise provided by law, no public
records shall be destroyed until approved for destruction by
the local records committee. Official public records shall not
be destroyed unless:

(i) The records are six or more years old;
(ii) The department of origin of the records has made a
satisfactory showing to the state records committee that the
retention of the records for a minimum of six years is both
unnecessary and uneconomical, particularly where lesser fed-
eral retention periods for records generated by the state under
federal programs have been established; or
(iii) The originals of official public records less than six
years old have been copied or reproduced by any photo-
graphic, photostatic, microfilm, miniature photographic, or
other process approved by the state archivist which accur-
ately reproduces or forms a durable medium for so reproduc-
ing the original.

An automatic reduction of retention periods from seven
to six years for official public records on record retention
schedules existing on June 10, 1982, shall not be made, but
the same shall be reviewed individually by the local records
committee for approval or disapproval of the change to a
retention period of six years.

The state archivist may furnish appropriate information,
suggestions, and guidelines to local government agencies for
their assistance in the preparation of lists and schedules or
any other matter relating to the retention, preservation, or
destruction of records under this chapter. The local records
committee may adopt appropriate regulations establishing
procedures to be followed in such matters.

Records of county, municipal, or other local government
agencies, designated by the archivist as of primarily historical
interest, may be transferred to a recognized depository
agency.

(b)(i) Records of investigative reports prepared by any
state, county, municipal, or other law enforcement agency
pertaining to sex offenders contained in chapter 9A.44 RCW
or sexually violent offenses as defined in RCW 71.09.020
that are not required in the current operation of the law
enforcement agency or for pending judicial proceedings
shall, following the expiration of the applicable schedule of
the law enforcement agency's retention of the records, be
transferred to the Washington association of sheriffs and
police chiefs for permanent electronic retention and retrieval.
Upon electronic retention of any document, the association
shall be permitted to destroy the paper copy of the document.

(ii) Any sealed record transferred to the Washington
association of sheriffs and police chiefs for permanent elec-
tronic retention and retrieval, including records sealed after
transfer, shall be electronically retained in such a way that the
record is clearly marked as sealed.

(iii) The Washington association of sheriffs and police
chiefs shall be permitted to destroy both the paper copy and
electronic record of any offender verified as deceased.

(c) Any record transferred to the Washington association
of sheriffs and police chiefs pursuant to (b) of this subsection
shall be deemed to no longer constitute a public record pursu-
ant to RCW 42.56.010 and shall be exempt from public disclo-
sure. Such records shall be disseminated only to criminal
justice agencies as defined in RCW 10.97.030 for the purpose
of determining if a sex offender met the criteria of a sexually
violent predator as defined in chapter 71.09 RCW and the
end-of-sentence review committee as defined by RCW
72.09.345 for the purpose of fulfilling its duties under RCW
71.09.025 and 9.95.420.

Electronic records marked as sealed shall only be acces-
sible by criminal justice agencies as defined in RCW
10.97.030 who would otherwise have access to a sealed paper
copy of the document, the end-of-sentence review committee
as defined by RCW 72.09.345 for the purpose of fulfilling its
duties under RCW 71.09.025 and 9.95.420, and the system
administrator for the purposes of system administration and
maintenance.

(3) Except as otherwise provided by law, county, munic-
ipal, and other local government agencies may, as an alterna-
tive to destroying noncurrent public records having no further
administrative or legal value, donate the public records to the
state library, local library, historical society, genealogical
society, or similar society or organization.

Public records may not be donated under this subsection
unless:

(a) The records are seventy years old or more;
(b) The local records committee has approved the
destruction of the public records; and
(c) The state archivist has determined that the public
records have no historic interest. [2011 c 60 § 18; 2005 c 227
§ 1; 2003 c 240 § 1; 1999 c 326 § 2; 1995 c 301 § 71; 1982 c
36 § 6; 1973 c 54 § 5; 1971 ex.s. c 10 § 1; 1957 c 246 § 7.]

Effective date—2011 c 60: See RCW 42.17A.919.

Copying, preserving, and indexing of documents recorded by county audi-
tor: RCW 36.22.160 through 36.22.190.

Destruction and reproduction of court records: RCW 36.23.065 through
36.23.070.

40.14.080  Chapter not to affect other laws. The pro-
visions of this chapter shall not be construed as repealing or
modifying any other acts or parts of acts authorizing the
destruction of public records save for those specifically
named in *section 9 of this act; nor shall this chapter affect
the provisions of chapter 40.07 RCW requiring the deposit of
all state publications in the state library. [1983 c 3 § 84; 1957
c 246 § 8.]

*Reviser's note: "section 9 of this act" refers to 1957 c 246 § 9, which
repealed RCW 40.08.010 through 40.08.050 and 40.12.010 through
40.12.110.

40.14.100  Legislative records—Defined. As used in
RCW 40.14.010 and 40.14.100 through 40.14.180, unless the
context requires otherwise, "legislative records" shall be
defined as correspondence, amendments, reports, and min-
utes of meetings made by or submitted to legislative commit-
tees or subcommittees and transcripts or other records of
hearing or supplementary written testimony or data thereof filed with committees or subcommittees in connection with
the exercise of legislative or investigatory functions, but does
not include the records of an official act of the legislature
kept by the secretary of state, bills and their copies, published
materials, digests, or multi-copied matter which are routinely
retained and otherwise available at the state library or in a
public repository, or reports or correspondence made or
received by or in any way under the personal control of the
individual members of the legislature. [1971 ex.s. c 102 § 2.]

40.14.110 Legislative records—Contribution of
papers by legislators and employees. Nothing in RCW
40.14.010 and 40.14.100 through 40.14.180 shall prohibit a
legislator or legislative employee from contributing his or her
personal papers to any private library, public library, or the
state archives. The state archivist is authorized to receive
papers of legislators and legislative employees and is directed
to encourage the donation of such personal records to the
state. The state archivist is authorized to establish such guide-
lines and procedures for the collection of personal papers and
correspondence relating to the legislature as he or she sees fit.
Legislators and legislative employees are encouraged to con-
tribute their personal papers to the state for preservation.
[2011 c 336 § 819; 1971 ex.s. c 102 § 3.]

40.14.120 Legislative records—"Clerk," "secretary"
defined. As used in RCW 40.14.010 and 40.14.100 through
40.14.180 "clerk" means clerk of the Washington state house
of representatives and "secretary" means the secretary of the
Washington state senate. [1971 ex.s. c 102 § 4.]

40.14.130 Legislative records—Duties of legislative
officials, employees and state archivist—Delivery of
records—Custody—Availability. The legislative commit-
teep, chair, subcommittee chair, committee member, or
employed personnel of the state legislature having possession
of legislative records that are not required for the regular per-
formance of official duties shall, within ten days after the
adjournment sine die of a regular or special session, deliver
all such legislative records to the clerk of the house or the sec-
retary of the senate.

The clerk of the house and the secretary of the senate are
charged to include requirements and responsibilities for
keeping committee minutes and records as part of their
instructions to committee chairs and employees.

The clerk or the secretary, with the assistance of the state
archivist, shall classify and arrange the legislative records
delivered to the clerk or secretary in a manner that he or she
considers best suited to carry out the efficient and economical
utilization, maintenance, preservation, and disposition of the
records. The clerk or the secretary may deliver to the state
archivist all legislative records in his or her possession when
such records have been classified and arranged and are no
longer needed by either house. The state archivist shall there-
after be custodian of the records so delivered, but shall
deliver such records back to either the clerk or secretary upon
his or her request.

The chair, member, or employee of a legislative interim
committee responsible for maintaining the legislative records
of that committee shall, on a scheduled basis agreed upon by

40.14.140 Legislative records—Party caucuses to be
advised—Information and instructions. It shall be the
duty of the clerk and the secretary to advise the party cau-
cuses in each house concerning the necessity to keep public
records. The state archivist or his or her representative shall
work with the clerk and secretary to provide information and
instructions on the best method for keeping legislative
records. [2011 c 336 § 821; 1971 ex.s. c 102 § 6.]

40.14.150 Legislative records—Use for research.
Committee records may be used by legislative employees for
research at the discretion of the clerk or the secretary. [1971
ex.s. c 102 § 7.]

40.14.160 Legislative records—Rules for access to
records. The clerk or the secretary shall, with advice of the
state archivist, prescribe rules for access to records more than
three years old when such records have been delivered to the
state archives for preservation and maintenance. [1971 ex.s.
c 102 § 8.]

40.14.170 Legislative records—Sound recordings.
Any sound recording of debate in the house or senate made
by legislative employees shall be preserved by the chief clerk
of the house and by the secretary of the senate, respectively,
for two years from the end of the session at which made, and
thereafter shall be transmitted to the state archivist. The chief
clerk and the secretary shall catalogue or index the recordings
in their custody according to a uniform system, in order to
allow easy access to the debate on specific questions before
either house, and shall make available to any court of record,
at the cost of reproduction, such portions of the recordings as
the court may request. [1971 ex.s. c 102 § 9.]

40.14.180 Legislative records—Construction—Con-
fidentiality of bill drafting records. The provisions of
RCW 40.14.010 and 40.14.100 through 40.14.180 shall not
be construed as repealing or modifying any other acts or parts
of acts authorizing the retention or destruction of public
records nor shall RCW 40.14.010 and 40.14.100 through
40.14.180 affect the provisions of chapter 40.07 RCW requir-
ing the deposit of all state publications in the state library nor
shall it affect the confidentiality of the bill drafting records of
the code reviser's office. [1983 c 3 § 85; 1971 ex.s. c 102 § 10.]

Chapter 40.16 RCW

PENAL PROVISIONS

Sections
40.16.010 Injury to public record.
40.16.020 Injury to and misappropriation of record.
40.16.030 Offering false instrument for filing or record.
40.16.010 Injury to public record. Every person who shall willfully and unlawfully remove, alter, mutilate, destroy, conceal, or obliterate a record, map, book, paper, document, or other thing filed or deposited in a public office, or with any public officer, by authority of law, is guilty of a class C felony and shall be punished by imprisonment in a state correctional facility for not more than five years, or by a fine of not more than one thousand dollars, or by both. [2003 c 53 § 215; 1992 c 7 § 34; 1909 c 249 § 95; RRS § 2347.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

40.16.020 Injury to and misappropriation of record. Every officer who shall mutilate, destroy, conceal, erase, obliterate, or falsify any record or paper appertaining to the officer's office, or who shall fraudulently appropriate to the officer's own use or to the use of another person, or secrete with intent to appropriate to such use, any money, evidence of debt or other property intrusted to the officer by virtue of the officer's office, is guilty of a class B felony and shall be punished by imprisonment in a state correctional facility for not more than ten years, or by a fine of not more than five thousand dollars, or by both. [2003 c 53 § 215; 1992 c 7 § 35; 1909 c 249 § 96; RRS § 2348.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

40.16.030 Offering false instrument for filing or record. Every person who shall knowingly procure or offer any false or forged instrument to be filed, registered, or recorded in any public office, which instrument, if genuine, might be filed, registered or recorded in such office under any law of this state or of the United States, is guilty of a class C felony and shall be punished by imprisonment in a state correctional facility for not more than five years, or by a fine of not more than five thousand dollars, or by both. [2003 c 53 § 216; 1992 c 7 § 36; 1909 c 249 § 97; RRS § 2349.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Chapter 40.20 RCW
REPRODUCED RECORDS FOR GOVERNMENTS AND BUSINESS

Sections
40.20.010 "Business" defined.
40.20.020 Reproduction by film or photograph.
40.20.030 Use as original.

Court records, destruction and reproduction: RCW 36.23.065 through 36.23.070.

Materials specifically authorized to be printed and distributed by secretary of state: RCW 43.07.140.

Uniform business records as evidence act: Chapter 5.45 RCW.
Uniform photographic copies of business and public records as evidence act: Chapter 5.46 RCW.

40.20.010 "Business" defined. For the purpose of this chapter, the term "business" shall mean and include business, industry, profession, occupation and calling of every kind. [1949 c 223 § 3; Rem. Supp. 1949 § 1257-6.]

40.20.020 Reproduction by film or photograph. The head of any business or the head of any state, county or municipal department, commission, bureau or board may cause any or all records required or authorized by law to be made or kept by such official, department, commission, bureau, board, or business to be photographed, microphotographed, reproduced on film, or photocopied for all purposes of recording documents, plats, files or papers, or copying or reproducing such records. Such film or reproducing material shall be of permanent material and the device used to reproduce such records on such film or material shall be such as to accurately reproduce and perpetuate the original records in all details, and shall be approved for the intended purpose: PROVIDED, That the state archivist shall approve such material for state records use: PROVIDED, FURTHER, That the state auditor shall approve such material for use by local governmental subdivisions. [1981 c 32 § 5; 1973 c 95 § 1; 1949 c 223 § 1; Rem. Supp. 1949 § 1257-4.]

40.20.030 Use as original. Such photostatic copy, photograph, microphotograph or photographic film record, or copy of the original records shall be deemed to be an original record for all purposes, and shall be admissible in evidence in all courts or administrative agencies. A facsimile, exemplification or certified copy thereof shall, for all purposes recited herein, be deemed to be a transcript, exemplification or certified copy of the original. [1949 c 223 § 2; Rem. Supp. 1949 § 1257-5.]

Chapter 40.24 RCW
ADDRESS CONFIDENTIALITY FOR VICTIMS OF DOMESTIC VIOLENCE, SEXUAL ASSAULT, AND STALKING

Sections
40.24.010 Findings—Purpose.
40.24.020 Definitions.
40.24.030 Address confidentiality program—Application—Certification.
40.24.040 Certification cancellation.
40.24.050 Agency use of designated address.
40.24.060 Voting by program participant—Use of name or address by county auditor.
40.24.070 Disclosure of records prohibited—Exceptions.
40.24.075 Court order for address confidentiality program participant information.
40.24.080 Assistance for program applicants.
40.24.090 Adoption of rules.

40.24.010 Findings—Purpose. The legislature finds that persons attempting to escape from actual or threatened domestic violence, sexual assault, trafficking, or stalking frequently establish new addresses in order to prevent their assailants or probable assailants from finding them. The purpose of this chapter is to enable state and local agencies to respond to requests for public records without disclosing the location of a victim of domestic violence, sexual assault, trafficking, or stalking, to enable interagency cooperation with the secretary of state in providing address confidentiality for
victims of domestic violence, sexual assault, trafficking, or stalking, and to enable state and local agencies to accept a program participant's use of an address designated by the secretary of state as a substitute mailing address. [2008 c 312 § 1; 2001 c 28 § 1; 1998 c 138 § 1; 1991 c 23 § 1.]

40.24.020 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Address" means a residential street address, school address, or work address of an individual, as specified on the individual's application to be a program participant under this chapter.

(2) "Domestic violence" means an act as defined in RCW 10.99.020 and includes a threat of such acts committed against an individual in a domestic situation, regardless of whether these acts or threats have been reported to law enforcement officers.

(3) "Program participant" means a person certified as a program participant under RCW 40.24.030.

(4) "Stalking" means an act defined in RCW 9A.46.110 and includes a threat of such acts committed against an individual, regardless of whether these acts or threats have been reported to law enforcement officers.

(5) "Trafficking" means an act as defined in RCW 9A.40.100 or an act recognized as a severe form of trafficking under 22 U.S.C. Sec. 7102(8) as it existed on June 12, 2008, or such subsequent date as may be provided by the secretary of state by rule, consistent with the purposes of this subsection, regardless of whether the act has been reported to law enforcement officers.

40.24.030 Address confidentiality program—Application—Certification. (1)(a) An adult person, a parent or guardian acting on behalf of a minor, or a guardian acting on behalf of an incapacitated person, as defined in RCW 11.88.010, and (b) any criminal justice participant as defined in RCW 9A.46.020 who is a target for threats or harassment prohibited under RCW 9A.46.020(2)(b) (iii) or (iv), or any family members residing with him or her, shall be punished under RCW 40.16.030 or a guardian acting on behalf of a minor or incapacitated person on whose behalf the application is made, or (b) the safety of any criminal justice participant as defined in RCW 9A.46.020 who is a target for threats or harassment prohibited under RCW 9A.46.020(2)(b) (iii) or (iv), and any family members residing with him or her, shall be punished under RCW 40.16.030 or other applicable statutes. [2011 c 64 § 2. Prior: 2008 c 312 § 3; 2008 c 18 § 1; 1998 c 138 § 2; 1991 c 23 § 3.]

40.24.040 Certification cancellation. (1) If the program participant obtains a legal change of identity, he or she loses certification as a program participant.

(2) The secretary of state may cancel a program participant's certification if there is a change in the residential address, unless the program participant provides the secretary of state with at least two days' prior notice in writing of the change of address.

(3) The secretary of state may cancel certification of a program participant if mail forwarded by the secretary to the program participant's address is returned as nondeliverable, refused, or unclaimed.

(4) The secretary of state shall cancel certification of a program participant who uses an address designated by the secretary of state as his or her mailing address. [2008 c 312 § 1; 2001 c 28 § 1; 1998 c 138 § 1; 1991 c 23 § 1.]

40.24.050 Agency use of designated address. (1) A program participant may request that state and local agencies use the address designated by the secretary of state as his or
her address. When creating a new public record, state and local agencies shall accept the address designated by the secretary of state as a program participant's substitute address, unless the secretary of state has determined that:

(a) The agency has a bona fide statutory or administrative requirement for the use of the address which would otherwise be confidential under this chapter; and

(b) This address will be used only for those statutory and administrative purposes.

(2) A program participant may use the address designated by the secretary of state as his or her work address.

(3) The office of the secretary of state shall forward all first-class mail to the appropriate program participants. [1991 c 23 § 5.]

40.24.060 Voting by program participant—Use of name or address by county auditor. The county auditor shall mail a ballot to a program participant qualified and registered at the mailing address provided. Neither the name nor the address of a program participant shall be included in any list of registered voters available to the public. [2011 c 10 § 81; 2008 c 18 § 4; 1991 c 23 § 6.]

Notice to registered poll voters—Elections by mail—2011 c 10: See note following RCW 29A.04.008.

40.24.070 Disclosure of records prohibited—Exceptions. The secretary of state may not make any records in a program participant's file available for inspection or copying, other than the address designated by the secretary of state, except under the following circumstances:

(1) If requested by a law enforcement agency, to the law enforcement agency; and

(a) The participant's application contains no indication that he or she has been a victim of domestic violence, sexual assault, or stalking perpetrated by a law enforcement employee; and

(b) The request is in accordance with official law enforcement duties and is in writing on official law enforcement letterhead stationery and signed by the law enforcement agency's chief officer, or his or her designee; or

(2) If directed by a court order, to a person identified in the order; and

(a) The request is made by a nonlaw enforcement agency; or

(b) The participant's file indicates he or she has reason to believe he or she is a victim of domestic violence, sexual assault, or stalking perpetrated by a law enforcement employee.

(3) To the Washington state patrol solely for the use authorized in RCW 80.36.570, provided that participant information must clearly distinguish between those participants requesting disclosure to a law enforcement agency of the location of a telecommunications device and call information of the user, and those participants who request nondisclosure to a law enforcement agency of the location of a telecommunications device and call information of the user.

The Washington state patrol may not use the information or make the information available for inspection and copying for any other purpose than authorized in RCW 80.36.570. The secretary of state may adopt rules to make available the information required for the purposes of this section and RCW 80.36.570. The secretary of state and the secretary of state's officers, employees, or custodian, are not liable, nor shall a cause of action exist, for any loss or damage based upon the release of information, or the nondisclosure of information, from the address confidentiality program to the Washington state patrol if the agency, officer, employee, or custodian acted in good faith in attempting to comply with the provisions of this section and RCW 80.36.570. [2015 c 190 § 2; 2008 c 18 § 5; 1999 c 53 § 1; 1998 c 138 § 3; 1991 c 23 § 7.]

Short title—2015 c 190: See note following RCW 80.36.570.

Additional notes found at www.leg.wa.gov

40.24.075 Court order for address confidentiality program participant information. A court order for address confidentiality program participant information may only be issued upon a probable cause finding by a judicial officer that release of address confidentiality program participant information is legally necessary:

(1) In the course of a criminal investigation or prosecution; or

(2) To prevent immediate risk to a minor and meet the statutory requirements of the Washington child welfare system.

Any court order so issued will prohibit the release of the information to any other agency or person not a party to the order. [2008 c 18 § 6.]

40.24.080 Assistance for program applicants. The secretary of state shall designate state and local agencies and nonprofit agencies that provide counseling and shelter services to victims of domestic violence, sexual assault, trafficking, or stalking to assist persons applying to be program participants. Any assistance and counseling rendered by the office of the secretary of state or its designees to applicants shall in no way be construed as legal advice. [2008 c 312 § 4; 2001 c 28 § 3; 1998 c 138 § 4; 1991 c 23 § 8.]

40.24.090 Adoption of rules. The secretary of state may adopt rules to facilitate the administration of this chapter by state and local agencies. [1991 c 23 § 9.]

Chapter 40.26 RCW
BIOMETRIC IDENTIFIERS

Sections
40.26.010 Finding.

40.26.010 Finding. The legislature finds that the collection and use of personal information has been a practice of virtually all state agencies and programs. Advances in technology have given rise to new forms of data, such as email and internet protocol (IP) addresses, which can be easily collected and stored along with traditional types of data such as names and dates of birth. One new form of personally identifiable information is biometric identifiers. The unique nature of this new type of personal data calls for additional guidance regarding its use by state agencies. [2017 c 306 § 1.]

(1) Unless authorized by law, an agency may not collect, capture, purchase, or otherwise obtain a biometric identifier without first providing notice and obtaining the individual's consent, as follows:

(a) The notice provided must clearly specify the purpose and use of the biometric identifier; and

(b) The consent obtained must be specific to the terms of the notice, and must be recorded and maintained by the agency for the duration of the retention of the biometric identifier.

(2) Any biometric identifier obtained by an agency:

(a) May not be sold;

(b) May only be used consistent with the terms of the notice and consent obtained under subsection (1) of this section, or as authorized by law; and

(c) May be shared, including with other state agencies or local governments, only:

(i) As needed to execute the purposes of the collection, consistent with the notice and consent obtained under subsection (1) of this section, or as authorized by law; or

(ii) If such sharing is specified within the original consent.

(3) An agency that collects, purchases, or otherwise obtains biometric identifiers must:

(a) Establish security policies that ensure the integrity and appropriate confidentiality of the biometric identifiers;

(b) Address biometric identifiers in the agency's privacy policies;

(c) Only retain biometric identifiers necessary to fulfill the original purpose and use, as specified in the notice and consent obtained under subsection (1) of this section, or as authorized by law;

(d) Set record retention schedules tailored to the original purpose of the collection of biometric identifiers;

(e) Otherwise minimize the review and retention of the biometric identifiers, consistent with state record retention requirements; and

(f) Design a biometric policy to ensure that the agency is minimizing the collection of biometric identifiers to the fewest number necessary to accomplish the agency mission.

(4) The use and storage of biometric identifiers obtained by an agency must comply with all other applicable state and federal laws and regulations, including the health insurance portability and accountability act (HIPAA), the family educational rights and privacy act (FERPA), regulations regarding data breach notifications and individual privacy protections, and any policies or standards published by the office of the chief information officer.

(5) Biometric identifiers may not be disclosed under the public records act, chapter 42.56 RCW.

(6) Agency policies, regulations, guidance, and retention schedules regarding biometric identifiers must be reviewed annually to incorporate any new technology, as appropriate, and respond to citizen complaints.

(7) The definitions in this subsection apply throughout this section unless the context requires otherwise.

(a) "Agency" means every state office, department, division, bureau, board, commission, or other state agency.

(b) "Biometric identifier" means any information, regardless of how it is captured, converted, stored, or shared, based on an individual's retina or iris scan, fingerprint, voiceprint, DNA, or scan of hand or face geometry, except when such information is derived from:

(i) Writing samples, written signatures, photographs, human biological samples used for valid scientific testing or screening, demographic data, tattoo descriptions, or physical descriptions such as height, weight, hair color, or eye color;

(ii) Donated organ tissues or parts, or blood or serum stored on behalf of recipients or potential recipients of living or cadaveric transplants and obtained or stored by a federally designated organ procurement agency;

(iii) Information captured from a patient in a health care setting or information collected, used, or stored for health care treatment, payment, or operations under the federal health insurance portability and accountability act of 1996; or

(iv) X-ray, roentgen process, computed tomography, magnetic resonance imaging (MRI), positron emission tomography (PET) scan, mammography, or other image or film of the human anatomy used to diagnose, develop a prognosis for, or treat an illness or other medical condition or to further validate scientific testing or screening.

(8) Subsection (1) of this section does not apply to general authority Washington law enforcement agencies, as defined under RCW 10.93.020.

(9)(a) For purposes of the restrictions and obligations in subsection (1) of this section, "biometric identifier" does not include fingerprints or DNA for the following:

(i) Limited authority Washington law enforcement agencies, as defined under RCW 10.93.020;

(ii) Agencies authorized by statute to confine a person involuntarily, or to petition for such confinement; and

(iii) The attorney general's office when obtaining or using biometric identifiers is necessary for law enforcement, legal advice, or legal representation.

(b) When an agency listed under (a) of this subsection has a need to collect, capture, purchase, or otherwise obtain a biometric identifier other than a fingerprint or DNA to fulfill a purpose authorized by law, for either an individual circumstance or a categorical circumstance, the requirements of subsection (1) of this section are waived upon such agency providing prompt written notice to the state's chief privacy officer and to the appropriate committees of the legislature, stating the type of biometric identifier at issue and the general circumstances requiring the waiver. [2017 2nd sp.s. c 1 § 1; 2017 c 306 § 2.]

Effective date—2017 2nd sp.s. c 1: "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 takes effect on the date that Substitute House Bill No. 1717 takes effect [July 23, 2017]." [2017 2nd sp.s. c 1 § 2.]