

RCW 42.56.475 Department of corrections and private detention facilities. (1) The following information or records created or maintained by the department of corrections or a private detention facility is exempt from public inspection and copying under this chapter:

(a) Body scanner images from any system designed to detect and visualize contraband hidden in body cavities or beneath clothing, including backscatter X-ray, millimeter wave, and transmission X-ray systems;

(b) The following information and records created or maintained pursuant to the federal prison rape elimination act, 34 U.S.C. Sec. 30301 et seq., and its regulations:

(i) Risk assessments, risk indicators, and monitoring plans;

(ii) Reports of sexual abuse or sexual harassment, as defined under 28 C.F.R. 115.6;

(iii) Records of open prison rape elimination act investigations; and

(iv) The identities of individuals other than department of corrections or private detention facility staff, contractors, and volunteers, in closed prison rape elimination act investigation reports and related investigative materials; however, the identity of an accused individual is not exempt if the allegation is determined to have been substantiated; and

(c) Health information in records other than an incarcerated individual's or detained individual's medical, mental health, or dental files.

(2) The exemption of information or records described under subsection (1)(b) and (c) of this section does not apply to requests by the incarcerated individual or detained individual who is the subject of the information, a requestor with the written permission of the incarcerated individual or detained individual who is the subject of the information, or a personal representative of an incarcerated individual or detained individual who is the subject of the information. In response to such requests, the department of corrections or private detention facility may withhold information revealing the identity of other incarcerated or detained individuals.

(3) An agency refusing, in whole or in part, inspection of a public record containing information listed in subsection (1)(c) of this section may cite to subsection (1)(c) of this section, without further explanation, when providing the brief explanation required by RCW 42.56.210(3), and shall also identify the number of pages withheld, if any pages are withheld in their entirety.

(4) For purposes of this section:

(a) "Health information" means any information that identifies or can readily be associated with the identity of an incarcerated individual or detained individual and directly relates to the following: Medical, mental health, or dental diagnoses or conditions; medical, mental health, or dental services, treatments, or procedures, including requests for or complaints about such services, treatments, or procedures; transgender, intersex, nonbinary, or gender nonconforming status; sexual orientation; genital anatomy; or gender-affirming care or accommodations other than an incarcerated individual's or detained individual's preferred name, pronouns, and gender marker.

(b) The following information is not "health information" under this section: (i) Health care information subject to RCW 42.56.360(2) and chapter 70.02 RCW; and (ii) information related to injuries, other

than injuries related to medical procedures or genital anatomy, contained in incident reports, infraction records, or use of force reports, prepared by department of corrections or private detention facility staff other than health care providers.

(c) "Incarcerated individual" has the same meaning as "inmate" under RCW 72.09.015 and includes currently or formerly incarcerated individuals.

(d) "Detained individual" means a person confined in a private detention facility.

(e) "Private detention facility" has the same meaning as in RCW 70.395.020.

(5) A private detention facility operating pursuant to a contract with a state or local agency is subject to the requirements of this chapter. [2023 c 419 s 1; 2022 c 272 s 1.]

Effective date—2023 c 419: "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 immediately [May 11, 2023]." [2023 c 419 s 11.]

Construction—2023 c 419: "This act shall be construed liberally for the accomplishment of the purposes thereof." [2023 c 419 s 12.]

Retroactive application—2022 c 272: "This act is remedial, curative, and retroactive, and the exemptions in section 1 of this act apply retroactively to any public records request made prior to March 31, 2022, for which disclosure of records has not already occurred." [2022 c 272 s 2.]

Effective date—2022 c 272: "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 immediately [March 31, 2022]." [2022 c 272 s 3.]