

03-2-06879-4 20113326 ST 12-05-03

FILED  
IN COUNTY CLERK'S OFFICE

A.M. DEC 04 2003 P.M.  
PIERCE COUNTY, WASHINGTON  
KEVIN STOCK, County Clerk  
BY \_\_\_\_\_ DEPUTY

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR PIERCE COUNTY

Jane Doe,  
Plaintiff,

Civil No. 03-2-06879-4

v.  
Pierce County, a political subdivision  
of the State of Washington, and its  
subsidiaries, including the Pierce  
County Prosecuting Attorney's Office,  
and Gerald A. Home, in his capacity  
as Prosecuting Attorney,  
Defendants.

STATEMENT OF ADDITIONAL  
AUTHORITIES WITHOUT  
ARGUMENT

1. House Bill Report, cited Testimony, and Certification of Enrollment and approval  
by governor of RCW 42.17.310(1)(ee), cited by Plaintiff's counsel.

Respectfully submitted December 4, 2003.

Christopher W. Bawn, WSBA #13417

Attorney for Plaintiff

ORIGINAL

# HOUSE BILL REPORT

## HB 2583

As Reported By House Committee On:  
State Government

**Title:** An act relating to disclosure of records.

**Brief Description:** Concerning documents that are exempt from public inspection.

**Sponsors:** Representatives Veloria, Reams, Anderson, J. Kohl, Wood and Campbell.

**Brief History:**

Reported by House Committee on:  
State Government, February 2, 1994, DP.

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### HOUSE COMMITTEE ON STATE GOVERNMENT

**Majority Report:** Do pass. Signed by 9 members:  
Representatives Anderson, Chair; Veloria, Vice Chair; Reams,  
Ranking Minority Member; L. Thomas, Assistant Ranking  
Minority Member; Campbell; Conway; Dyer; King and Pruitt.

**Staff:** Bonnie Austin (786-7135).

**Background:** Under the Public Disclosure Act (PDA), client records maintained by domestic violence programs are exempt from public disclosure to the extent that disclosure would violate personal privacy or vital governmental interests. Additionally, these client records are only subject to discovery in judicial proceedings by court order. However, the definition of "domestic violence program" is limited to those agencies that provide shelter, advocacy, and counseling for domestic violence victims. Many local programs provide some, but not all, of these services. Specifically, many local programs do not provide shelter, and thus their client records are subject to discovery and public disclosure.

The PDA does not provide a clear exemption for an employing agency's internal disciplinary investigations. For instance, in sexual harassment cases, both the accused and the accuser could obtain access to the investigatory file while the investigation is being conducted. Current law does exempt from disclosure pending investigations conducted by law enforcement agencies and civil rights agencies.

**Summary of Bill:** Client records maintained by domestic violence programs that provide shelter, advocacy, or counseling are subject to discovery only by court order and are exempt from disclosure under the Public Disclosure Act to the extent that disclosure would violate personal privacy or vital governmental interests.

Investigative records compiled by an employing agency conducting a current investigation of a violation of the Law Against Discrimination or other federal, state, or local laws prohibiting employment discrimination are exempt from disclosure to the extent that disclosure would violate personal privacy or vital governmental interests.

**Fiscal Note:** Requested January 25, 1994.

**Effective Date:** The bill takes effect July 1, 1994.

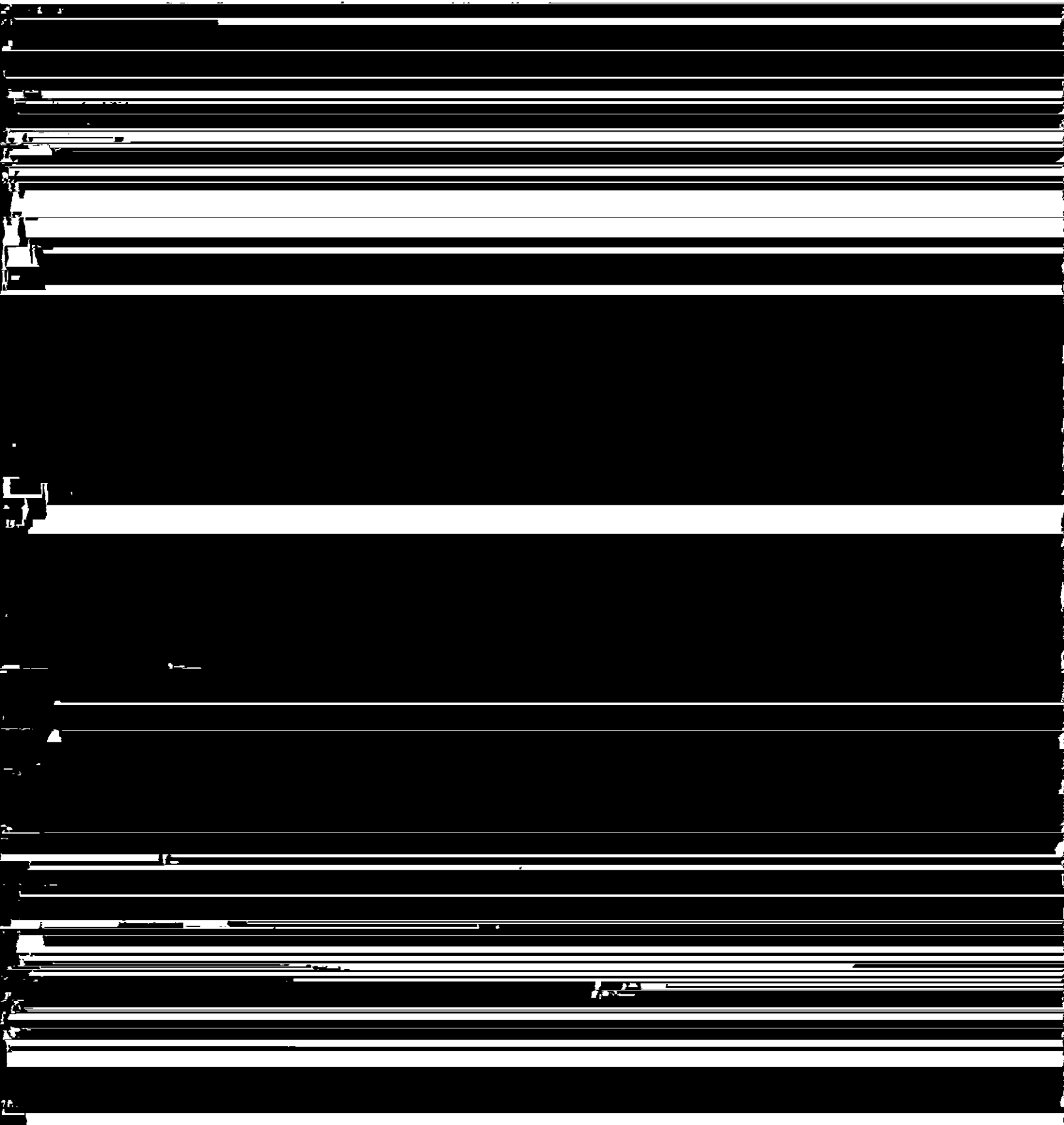
**Testimony For:** Some local domestic violence programs are not covered under the current exemption. This places these advocates and victims in a difficult and even potentially dangerous situation if disclosure of files is requested.

Files should not be open to the public during the course of a sexual harassment investigation, because there is less opportunity for witnesses to collaborate their testimony, or to change it to correspond to what another witness has said. Also, requests for disclosure disrupt the investigatory process. Many witnesses will not speak openly without protection from disclosure. Disclosure after the investigation is complete is more appropriate, and corresponds to the law enforcement and civil rights department investigatory exemption.

**Testimony Against:** None.

**Witnesses:** Shelly F. Cohen, Seattle Human Rights Department (pro); Sara DeGo, Family Violence Project and Seattle Law Department (pro); and Rowland Thompson, Allied Daily Newspapers (pro).

**TESTIMONY OF**  
**SHELLY F. COHEN, LEGAL COUNSEL**  
**SEATTLE HUMAN RIGHTS DEPARTMENT**  
**IN SUPPORT OF HB 2583**  
**BEFORE THE HOUSE**  
**COMMITTEE ON STATE GOVERNMENT**  
**JANUARY 31, 1994**



the investigator and interferes with the investigator's progress; repeated requests for disclosure become harassing. Our agency would not be able to conduct an effective investigation if we had to operate without the exemption; it is hard to believe that an employer's internal investigation could be effective without similar safeguards.

Although both state and local laws forbid retaliation against someone who opposes a discriminatory practice or who cooperates with an investigation, many of our witnesses will agree to speak freely only because we can provide them additional protections in the form of the public disclosure exemptions. For example, their employers are not able to read their witness statements and pressure them to change the statement in order to change the outcome of the case. In addition, although HB 2583 would apply only to "current investigations," the law enforcement exemptions apply even after the investigation is completed if necessary to protect a person's right to privacy or if disclosure would endanger any person's life, physical safety, or property. This is important in situations where witnesses have been physically threatened, which sometimes happens, or when the case involves sexual harassment, which can be very embarrassing, if not traumatic, for the individuals involved.

HB 2583 does not eliminate all public inspection of agency internal investigative files. It only delays public inspection until after the sensitive process of investigation is completed. This will allow public employers in the state to be more effective in remedying, and even preventing, discrimination. The result will be a healthier work environment for public employees, with the side benefit to all taxpayers of reducing potential liability. It is good

public policy to encourage resolution of all forms of discrimination, including sexual harassment, at the stage of internal investigations, and good public policy to allow the investigations to proceed unimpeded.

**CERTIFICATION OF ENROLLMENT**

**HOUSE BILL 2583**

**Chapter 233, Laws of 1994**

**53rd Legislature  
1994 Regular Session**

**RECORDS--DOMESTIC VIOLENCE PROGRAMS--UNFAIR  
PRACTICE INVESTIGATIONS CONFIDENTIALITY**

**EFFECTIVE DATE: 7/1/94**

**Passed by the House March 5, 1994  
Yeas 95 Nays 0**

**BRIAN EBERSOLE**

**Speaker of the  
House of Representatives**

**Passed by the Senate March 3, 1994  
Yeas 46 Nays 0**

**JOEL PRITCHARD**

**President of the Senate**

**Approved April 1, 1994**

**MIKE LOWRY**

**Governor of the State of Washington**

**CERTIFICATE**

I, Marilyn Showalter, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is HOUSE BILL 2583 as passed by the House of Representatives and the Senate on the dates hereon set forth.

**MARILYN SHOWALTER**

**Chief Clerk**

**FILED**

**April 1, 1994 - 10:28 a.m.**

**Secretary of State  
State of Washington**

SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

JANE DOE,

Plaintiff/Petitioner,

vs

No.  
DECLARATION OF  
FAXED DOCUMENT  
(DCLR)

PIERCE COUNTY et al,

Defendant/Respondent.

Pursuant to the provisions of GR 17, I declare as follows:

1. I am the party who received the foregoing facsimile transmission for filing.
2. My address is: 943 Tacoma Ave. S.
3. My phone number is (253) 383-1791
4. The facsimile number where I received the document is (253) 272-9359
5. I have examined the foregoing document, determined that it consists of 8 pages, including this Declaration page.

I certify under the penalty of perjury under the laws of the State of Washington that the above is true and correct.

Dated: 12/04/03at Tacoma, Washington.

Signature:



Print Name: Doug Christensen