

HOUSE BILL REPORT

HB 1187

As Reported by House Committee On:
State Government

Title: An act relating to the public disclosure of specific and unique information related to criminal acts of terrorism.

Brief Description: Exempting certain information on criminal acts from public disclosure.

Sponsors: Representatives Haigh, Miloscia, Darneille, McMorris, Lambert, Reardon, Dunshee, O'Brien, Delvin, Talcott, Campbell, G. Chandler, Quall, Anderson, Alexander, Schoesler, Esser and D. Schmidt ; by request of Military Department.

Brief History:

Committee Activity:

State Government: 2/7/01, 2/23/01 [DPS].

Brief Summary of Substitute Bill

- Exempts from public inspection and copying vulnerability assessments and response plans intended to prevent or mitigate criminal terrorist acts.

HOUSE COMMITTEE ON STATE GOVERNMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives McMorris, Republican Co-Chair; Romero, Democratic Co-Chair; Miloscia, Democratic Vice Chair; Schindler, Republican Vice Chair; Haigh, Lambert, McDermott and D. Schmidt.

Staff: Catherine Blinn (786-7114).

Background:

The Public Disclosure Act (PDA) requires agencies to make available for public inspection and copying all public records, unless the record falls within a specific exemption. The PDA is liberally construed, and its exemptions narrowly construed, to promote a public policy of keeping the public informed and allowing the public to maintain control of state agencies. The current exemptions are specific, and generally focus on personal privacy, personal safety, or vital governmental interests. The list of

exemptions includes:

- Intelligence and information compiled by investigative, law enforcement, and penal agencies where confidentiality is essential to effective law enforcement or to the protection of a person's right to privacy;
- Information revealing the identities of witnesses or victims of crime, or identities of persons who file complaints with investigative, law enforcement or penal agencies, where disclosure would endanger any person's life, physical safety, or property; and
- Records, maps, or other information identifying the location of archaeological sites in order to avoid the looting or depredation of such sites.

A terrorist act is an act intended to: (a) intimidate or coerce a civilian population; (b) influence the policy of a branch or level of government by intimidation or coercion; (c) affect the conduct of a branch or level of government by intimidation or coercion; or (d) retaliate against a branch or level of government for a policy or conduct of the government.

Summary of Substitute Bill:

Exempt from public inspection and copying are those portions of records containing specific and unique vulnerability assessments or specific and unique response plans, either of which is intended to prevent or mitigate criminal terrorist acts, if their public disclosure would have a substantial likelihood of threatening public safety.

Substitute Bill Compared to Original Bill:

The substitute bill changes "acts of terrorism" to "terrorist act", which is already defined by statute. The specific language, "specific and unique vulnerability assessments or response plans intended to prevent or mitigate criminal acts of terrorism" is broadened to "specific and unique vulnerability assessments or specific and unique response plans, either of which is intended to prevent or mitigate criminal terrorist acts as defined in RCW 70.74.285." "Public release" is changed to "public disclosure" to be more consistent with the language of the PDA.

Appropriation: None.

Fiscal Note: Not Requested.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: (Original bill) County and state emergency management agencies cannot adequately assess and prepare against potential terrorist targets when they are forced to reveal those targets. Public safety is paramount, and county emergency managements realized that listing vulnerability assessments regarding potential terrorist and bio-terrorist targets would make already vulnerable sites even more vulnerable. Such information is an invitation for terrorists. Frequently, terrorism most harms the first to respond to the scene. Emergency personnel who respond to disasters are local personnel, including police, fire and medical aid, and usually establish a response plan at the scene. Epidemiologists are aware that many biological, chemical and nuclear weapons, and other weapons of mass destruction, have an incubation period. This incubation period will most harm the local emergency response personnel first to arrive.

(In support with concerns, original bill) An intent section may be inappropriate in the PDA. The exemption should not be limited to "terrorism", but should include "act of potential substantial harm." There is no statutory permission allowing agencies to share information; the bill should be linked to a statute that empowers emergency planning and response agencies to share information.

Testimony Against: None.

Testified: (In support, original bill) Representative Haigh, prime sponsor; Tom Green, Washington State Emergency Management Council Committee on Terrorism; Roger Serra, Washington State Emergency Managers Association; Bob Johnson, Washington State Association of Fire Chiefs; Bill Edstrom, Washington State Association of Public Health Officials; Sheriff Steve Tomson, Whitman County Sheriff, Washington Association of Sheriffs and Police Chiefs, Emergency Management Council Committee on Terrorism; Major General Tim Lowenberg, Department of the Military; Chief Robert Leichner, Washington State Patrol; and Mary Jo Cady, Washington State Emergency Management Council Committee on Terrorism.

(In support with concerns, original bill) Rowland Thompson, Allied Daily Newspapers.