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HOUSE BILL 2622

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State of Washington

54th Legislature

1996 Regular Session

By Representatives Hymes, Cody, Murray, Dyer, Brumsickle, Crouse, Skinner and Backlund

Read first time 01/15/96. Referred to Committee on Health Care.

1 AN ACT Relating to public disclosure of complaints filed under the  
2 uniform disciplinary act; amending RCW 42.17.310; and adding a new  
3 section to chapter 18.130 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 18.130 RCW  
6 to read as follows:

7 Written complaints submitted to a disciplining authority under this  
8 chapter are not subject to disclosure under chapter 42.17 RCW until the  
9 disciplining authority files a statement of charge or charges under RCW  
10 18.130.090. Reports of complaints for which statements of charges have  
11 not been filed are exempt from disclosure under chapter 42.17 RCW, but  
12 must be maintained in the records and tracking system of the  
13 department.

14 **Sec. 2.** RCW 42.17.310 and 1995 c 267 s 6 are each amended to read  
15 as follows:

16 (1) The following are exempt from public inspection and copying:

1 (a) Personal information in any files maintained for students in  
2 public schools, patients or clients of public institutions or public  
3 health agencies, or welfare recipients.

4 (b) Personal information in files maintained for employees,  
5 appointees, or elected officials of any public agency to the extent  
6 that disclosure would violate their right to privacy.

7 (c) Information required of any taxpayer in connection with the  
8 assessment or collection of any tax if the disclosure of the  
9 information to other persons would (i) be prohibited to such persons by  
10 RCW 82.32.330 or (ii) violate the taxpayer's right to privacy or result  
11 in unfair competitive disadvantage to the taxpayer.

12 (d) Specific intelligence information and specific investigative  
13 records compiled by investigative, law enforcement, and penology  
14 agencies, and state agencies vested with the responsibility to  
15 discipline members of any profession, the nondisclosure of which is  
16 essential to effective law enforcement or for the protection of any  
17 person's right to privacy.

18 (e) Information revealing the identity of persons who are witnesses  
19 to or victims of crime or who file complaints with investigative, law  
20 enforcement, or penology agencies, other than the public disclosure  
21 commission, if disclosure would endanger any person's life, physical  
22 safety, or property. If at the time a complaint is filed the  
23 complainant, victim or witness indicates a desire for disclosure or  
24 nondisclosure, such desire shall govern. However, all complaints filed  
25 with the public disclosure commission about any elected official or  
26 candidate for public office must be made in writing and signed by the  
27 complainant under oath.

28 (f) Test questions, scoring keys, and other examination data used  
29 to administer a license, employment, or academic examination.

30 (g) Except as provided by chapter 8.26 RCW, the contents of real  
31 estate appraisals, made for or by any agency relative to the  
32 acquisition or sale of property, until the project or prospective sale  
33 is abandoned or until such time as all of the property has been  
34 acquired or the property to which the sale appraisal relates is sold,  
35 but in no event shall disclosure be denied for more than three years  
36 after the appraisal.

37 (h) Valuable formulae, designs, drawings, and research data  
38 obtained by any agency within five years of the request for disclosure  
39 when disclosure would produce private gain and public loss.

1 (i) Preliminary drafts, notes, recommendations, and intra-agency  
2 memorandums in which opinions are expressed or policies formulated or  
3 recommended except that a specific record shall not be exempt when  
4 publicly cited by an agency in connection with any agency action.

5 (j) Records which are relevant to a controversy to which an agency  
6 is a party but which records would not be available to another party  
7 under the rules of pretrial discovery for causes pending in the  
8 superior courts.

9 (k) Records, maps, or other information identifying the location of  
10 archaeological sites in order to avoid the looting or depredation of  
11 such sites.

12 (l) Any library record, the primary purpose of which is to maintain  
13 control of library materials, or to gain access to information, which  
14 discloses or could be used to disclose the identity of a library user.

15 (m) Financial information supplied by or on behalf of a person,  
16 firm, or corporation for the purpose of qualifying to submit a bid or  
17 proposal for (i) a ferry system construction or repair contract as  
18 required by RCW 47.60.680 through 47.60.750 or (ii) highway  
19 construction or improvement as required by RCW 47.28.070.

20 (n) Railroad company contracts filed prior to July 28, 1991, with  
21 the utilities and transportation commission under RCW 81.34.070, except  
22 that the summaries of the contracts are open to public inspection and  
23 copying as otherwise provided by this chapter.

24 (o) Financial and commercial information and records supplied by  
25 private persons pertaining to export services provided pursuant to  
26 chapter 43.163 RCW and chapter 53.31 RCW.

27 (p) Financial disclosures filed by private vocational schools under  
28 chapter 28C.10 RCW.

29 (q) Records filed with the utilities and transportation commission  
30 or attorney general under RCW 80.04.095 that a court has determined are  
31 confidential under RCW 80.04.095.

32 (r) Financial and commercial information and records supplied by  
33 businesses or individuals during application for loans or program  
34 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,  
35 or during application for economic development loans or program  
36 services provided by any local agency.

37 (s) Membership lists or lists of members or owners of interests of  
38 units in timeshare projects, subdivisions, camping resorts,  
39 condominiums, land developments, or common-interest communities

1 affiliated with such projects, regulated by the department of  
2 licensing, in the files or possession of the department.

3 (t) All applications for public employment, including the names of  
4 applicants, resumes, and other related materials submitted with respect  
5 to an applicant.

6 (u) The residential addresses and residential telephone numbers of  
7 employees or volunteers of a public agency which are held by the agency  
8 in personnel records, employment or volunteer rosters, or mailing lists  
9 of employees or volunteers.

10 (v) The residential addresses and residential telephone numbers of  
11 the customers of a public utility contained in the records or lists  
12 held by the public utility of which they are customers.

13 (w)(i) The federal social security number of individuals governed  
14 under chapter 18.130 RCW maintained in the files of the department of  
15 health, except this exemption does not apply to requests made directly  
16 to the department from federal, state, and local agencies of  
17 government, and national and state licensing, credentialing,  
18 investigatory, disciplinary, and examination organizations; (ii) the  
19 current residential address and current residential telephone number of  
20 a health care provider governed under chapter 18.130 RCW maintained in  
21 the files of the department, if the provider requests that this  
22 information be withheld from public inspection and copying, and  
23 provides to the department an accurate alternate or business address  
24 and business telephone number. On or after January 1, 1995, the  
25 current residential address and residential telephone number of a  
26 health care provider governed under RCW 18.130.140 maintained in the  
27 files of the department shall automatically be withheld from public  
28 inspection and copying if the provider has provided the department with  
29 an accurate alternative or business address and telephone number.

30 (x) Information obtained by the board of pharmacy as provided in  
31 RCW 69.45.090.

32 (y) Information obtained by the board of pharmacy or the department  
33 of health and its representatives as provided in RCW 69.41.044,  
34 69.41.280, and 18.64.420.

35 (z) Financial information, business plans, examination reports, and  
36 any information produced or obtained in evaluating or examining a  
37 business and industrial development corporation organized or seeking  
38 certification under chapter 31.24 RCW.

1 (aa) Financial and commercial information supplied to the state  
2 investment board by any person when the information relates to the  
3 investment of public trust or retirement funds and when disclosure  
4 would result in loss to such funds or in private loss to the providers  
5 of this information.

6 (bb) Financial and valuable trade information under RCW 51.36.120.

7 (cc) Client records maintained by an agency that is a domestic  
8 violence program as defined in RCW 70.123.020 or 70.123.075 or a rape  
9 crisis center as defined in RCW 70.125.030.

10 (dd) Information that identifies a person who, while an agency  
11 employee: (i) Seeks advice, under an informal process established by  
12 the employing agency, in order to ascertain his or her rights in  
13 connection with a possible unfair practice under chapter 49.60 RCW  
14 against the person; and (ii) requests his or her identity or any  
15 identifying information not be disclosed.

16 (ee) Investigative records compiled by an employing agency  
17 conducting a current investigation of a possible unfair practice under  
18 chapter 49.60 RCW or of a possible violation of other federal, state,  
19 or local laws prohibiting discrimination in employment.

20 (ff) Business related information protected from public inspection  
21 and copying under RCW 15.86.110.

22 (gg) Financial, commercial, operations, and technical and research  
23 information and data submitted to or obtained by the clean Washington  
24 center in applications for, or delivery of, program services under  
25 chapter 70.95H RCW.

26 (hh) Information and documents created specifically for, and  
27 collected and maintained by a quality improvement committee pursuant to  
28 RCW 43.70.510, regardless of which agency is in possession of the  
29 information and documents.

30 (ii) Written complaints filed under chapter 18.130 RCW that are  
31 exempt from disclosure under section 1 of this act.

32 (2) Except for information described in subsection (1)(c)(i) of  
33 this section and confidential income data exempted from public  
34 inspection pursuant to RCW 84.40.020, the exemptions of this section  
35 are inapplicable to the extent that information, the disclosure of  
36 which would violate personal privacy or vital governmental interests,  
37 can be deleted from the specific records sought. No exemption may be  
38 construed to permit the nondisclosure of statistical information not  
39 descriptive of any readily identifiable person or persons.

1           (3) Inspection or copying of any specific records exempt under the  
2 provisions of this section may be permitted if the superior court in  
3 the county in which the record is maintained finds, after a hearing  
4 with notice thereof to every person in interest and the agency, that  
5 the exemption of such records is clearly unnecessary to protect any  
6 individual's right of privacy or any vital governmental function.

7           (4) Agency responses refusing, in whole or in part, inspection of  
8 any public record shall include a statement of the specific exemption  
9 authorizing the withholding of the record (or part) and a brief  
10 explanation of how the exemption applies to the record withheld.

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