

2 **ESHB 2453** - S AMD 758
3 By Senator Haugen

4 ADOPTED 03/08/02

5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. **Sec. 1.** The protection from identity theft for
8 veterans who choose to file their discharge papers with the county
9 auditor is a matter of gravest concern. At the same time, the
10 integrity of the public record of each county is a matter of utmost
11 importance to the economic life of this state and to the right of each
12 citizen to be secure in his or her ownership of real property and other
13 rights and obligations of our citizens that rely upon the public record
14 for their proof. Likewise the integrity of the public record is
15 essential for the establishment of ancestral ties that may be of
16 interest to this and future generations. While the public record as
17 now kept by the county auditors is sufficient by itself for the
18 accomplishment of these and many other public and private purposes, the
19 proposed use of the public record for purposes that in their nature and
20 intent are not public, so as to keep the veterans' discharge papers
21 from disclosure to those of ill intent, causes concern among many
22 segments of the population of this state.

23 In order to voice these concerns effectively and thoroughly, a
24 working group may be convened by the joint committee on veterans' and
25 military affairs to develop a means to preserve the integrity of the
26 public record while protecting those veterans from identity theft.

27 **Sec. 2.** RCW 42.17.310 and 2001 c 278 s 1, 2001 c 98 s 2, and 2001
28 c 70 s 1 are each reenacted and amended to read as follows:

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

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

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

1 (c) Information required of any taxpayer in connection with the
2 assessment or collection of any tax if the disclosure of the
3 information to other persons would (i) be prohibited to such persons by
4 RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the
5 taxpayer's right to privacy or result in unfair competitive
6 disadvantage to the taxpayer.

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

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

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

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

32 (h) Valuable formulae, designs, drawings, computer source code or
33 object code, and research data obtained by any agency within five years
34 of the request for disclosure when disclosure would produce private
35 gain and public loss.

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

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

5 (k) Records, maps, or other information identifying the location of
6 archaeological sites in order to avoid the looting or depredation of
7 such sites.

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

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

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

20 (o) Financial and commercial information and records supplied by
21 private persons pertaining to export services provided pursuant to
22 chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to
23 export projects pursuant to RCW 43.23.035.

24 (p) Financial disclosures filed by private vocational schools under
25 chapters 28B.85 and 28C.10 RCW.

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

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

34 (s) Membership lists or lists of members or owners of interests of
35 units in timeshare projects, subdivisions, camping resorts,
36 condominiums, land developments, or common-interest communities
37 affiliated with such projects, regulated by the department of
38 licensing, in the files or possession of the department.

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

4 (u) The residential addresses or residential telephone numbers of
5 employees or volunteers of a public agency which are held by any public
6 agency in personnel records, public employment related records, or
7 volunteer rosters, or are included in any mailing list of employees or
8 volunteers of any public agency.

9 (v) The residential addresses and residential telephone numbers of
10 the customers of a public utility contained in the records or lists
11 held by the public utility of which they are customers, except that
12 this information may be released to the division of child support or
13 the agency or firm providing child support enforcement for another
14 state under Title IV-D of the federal social security act, for the
15 establishment, enforcement, or modification of a support order.

16 (w)(i) The federal social security number of individuals governed
17 under chapter 18.130 RCW maintained in the files of the department of
18 health, except this exemption does not apply to requests made directly
19 to the department from federal, state, and local agencies of
20 government, and national and state licensing, credentialing,
21 investigatory, disciplinary, and examination organizations; (ii) the
22 current residential address and current residential telephone number of
23 a health care provider governed under chapter 18.130 RCW maintained in
24 the files of the department, if the provider requests that this
25 information be withheld from public inspection and copying, and
26 provides to the department an accurate alternate or business address
27 and business telephone number. On or after January 1, 1995, the
28 current residential address and residential telephone number of a
29 health care provider governed under RCW 18.130.040 maintained in the
30 files of the department shall automatically be withheld from public
31 inspection and copying unless the provider specifically requests the
32 information be released, and except as provided for under RCW
33 42.17.260(9).

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

36 (y) Information obtained by the board of pharmacy or the department
37 of health and its representatives as provided in RCW 69.41.044,
38 69.41.280, and 18.64.420.

1 (z) Financial information, business plans, examination reports, and
2 any information produced or obtained in evaluating or examining a
3 business and industrial development corporation organized or seeking
4 certification under chapter 31.24 RCW.

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

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

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

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

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

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

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

30 (hh) Information and documents created specifically for, and
31 collected and maintained by a quality improvement committee pursuant to
32 RCW 43.70.510 or 70.41.200, or by a peer review committee under RCW
33 4.24.250, regardless of which agency is in possession of the
34 information and documents.

35 (ii) Personal information in files maintained in a data base
36 created under RCW 43.07.360.

37 (jj) Financial and commercial information requested by the public
38 stadium authority from any person or organization that leases or uses
39 the stadium and exhibition center as defined in RCW 36.102.010.

1 (kk) Names of individuals residing in emergency or transitional
2 housing that are furnished to the department of revenue or a county
3 assessor in order to substantiate a claim for property tax exemption
4 under RCW 84.36.043.

5 (ll) The names, residential addresses, residential telephone
6 numbers, and other individually identifiable records held by an agency
7 in relation to a vanpool, carpool, or other ride-sharing program or
8 service. However, these records may be disclosed to other persons who
9 apply for ride-matching services and who need that information in order
10 to identify potential riders or drivers with whom to share rides.

11 (mm) The personally identifying information of current or former
12 participants or applicants in a paratransit or other transit service
13 operated for the benefit of persons with disabilities or elderly
14 persons.

15 (nn) The personally identifying information of persons who acquire
16 and use transit passes and other fare payment media including, but not
17 limited to, stored value smart cards and magnetic strip cards, except
18 that an agency may disclose this information to a person, employer,
19 educational institution, or other entity that is responsible, in whole
20 or in part, for payment of the cost of acquiring or using a transit
21 pass or other fare payment media, or to the news media when reporting
22 on public transportation or public safety. This information may also
23 be disclosed at the agency's discretion to governmental agencies or
24 groups concerned with public transportation or public safety.

25 (oo) Proprietary financial and commercial information that the
26 submitting entity, with review by the department of health,
27 specifically identifies at the time it is submitted and that is
28 provided to or obtained by the department of health in connection with
29 an application for, or the supervision of, an antitrust exemption
30 sought by the submitting entity under RCW 43.72.310. If a request for
31 such information is received, the submitting entity must be notified of
32 the request. Within ten business days of receipt of the notice, the
33 submitting entity shall provide a written statement of the continuing
34 need for confidentiality, which shall be provided to the requester.
35 Upon receipt of such notice, the department of health shall continue to
36 treat information designated under this section as exempt from
37 disclosure. If the requester initiates an action to compel disclosure
38 under this chapter, the submitting entity must be joined as a party to
39 demonstrate the continuing need for confidentiality.

1 (pp) Records maintained by the board of industrial insurance
2 appeals that are related to appeals of crime victims' compensation
3 claims filed with the board under RCW 7.68.110.

4 (qq) Financial and commercial information supplied by or on behalf
5 of a person, firm, corporation, or entity under chapter 28B.95 RCW
6 relating to the purchase or sale of tuition units and contracts for the
7 purchase of multiple tuition units.

8 (rr) Any records of investigative reports prepared by any state,
9 county, municipal, or other law enforcement agency pertaining to sex
10 offenses contained in chapter 9A.44 RCW or sexually violent offenses as
11 defined in RCW 71.09.020, which have been transferred to the Washington
12 association of sheriffs and police chiefs for permanent electronic
13 retention and retrieval pursuant to RCW 40.14.070(2)(b).

14 (ss) Credit card numbers, debit card numbers, electronic check
15 numbers, card expiration dates, or bank or other financial account
16 numbers supplied to an agency for the purpose of electronic transfer of
17 funds, except when disclosure is expressly required by law.

18 (tt) Financial information, including but not limited to account
19 numbers and values, and other identification numbers supplied by or on
20 behalf of a person, firm, corporation, limited liability company,
21 partnership, or other entity related to an application for a liquor
22 license, gambling license, or lottery retail license.

23 (uu) Records maintained by the employment security department and
24 subject to chapter 50.13 RCW if provided to another individual or
25 organization for operational, research, or evaluation purposes.

26 (vv) Individually identifiable information received by the work
27 force training and education coordinating board for research or
28 evaluation purposes.

29 (ww) Those portions of records containing specific and unique
30 vulnerability assessments or specific and unique response plans, either
31 of which is intended to prevent or mitigate criminal terrorist acts as
32 defined in RCW 70.74.285, the public disclosure of which would have a
33 substantial likelihood of threatening public safety.

34 (xx) Commercial fishing catch data from logbooks required to be
35 provided to the department of fish and wildlife under RCW 77.12.047,
36 when the data identifies specific catch location, timing, or
37 methodology and the release of which would result in unfair competitive
38 disadvantage to the commercial fisher providing the catch data.

1 However, this information may be released to government agencies
2 concerned with the management of fish and wildlife resources.

3 (yy) Sensitive wildlife data obtained by the department of fish and
4 wildlife. However, sensitive wildlife data may be released to
5 government agencies concerned with the management of fish and wildlife
6 resources. Sensitive wildlife data includes:

7 (i) The nesting sites or specific locations of endangered species
8 designated under RCW 77.12.020, or threatened or sensitive species
9 classified by rule of the department of fish and wildlife;

10 (ii) Radio frequencies used in, or locational data generated by,
11 telemetry studies; or

12 (iii) Other location data that could compromise the viability of a
13 specific fish or wildlife population, and where at least one of the
14 following criteria are met:

15 (A) The species has a known commercial or black market value;

16 (B) There is a history of malicious take of that species; or

17 (C) There is a known demand to visit, take, or disturb, and the
18 species behavior or ecology renders it especially vulnerable or the
19 species has an extremely limited distribution and concentration.

20 (zz) The personally identifying information of persons who acquire
21 recreational licenses under RCW 77.32.010 or commercial licenses under
22 chapter 77.65 or 77.70 RCW, except name, address of contact used by the
23 department, and type of license, endorsement, or tag. However, the
24 department of fish and wildlife may disclose personally identifying
25 information to:

26 (i) Government agencies concerned with the management of fish and
27 wildlife resources;

28 (ii) The department of social and health services, child support
29 division, and to the department of licensing in order to implement RCW
30 77.32.014 and 46.20.291; and

31 (iii) Law enforcement agencies for the purpose of firearm
32 possession enforcement under RCW 9.41.040.

33 (aaa)(i) Discharge papers of a veteran of the armed forces of the
34 United States filed at the office of the county auditor before July 1,
35 2002, that have not been commingled with other recorded documents.
36 These records will be available only to the veteran, the veteran's next
37 of kin, a deceased veteran's properly appointed personal representative
38 or executor, a person holding that veteran's general power of attorney,

1 or to anyone else designated in writing by that veteran to receive the
2 records.

3 (ii) Discharge papers of a veteran of the armed forces of the
4 United States filed at the office of the county auditor before July 1,
5 2002, that have been commingled with other records, if the veteran has
6 recorded a "request for exemption from public disclosure of discharge
7 papers" with the county auditor. If such a request has been recorded,
8 these records may be released only to the veteran filing the papers,
9 the veteran's next of kin, a deceased veteran's properly appointed
10 personal representative or executor, a person holding the veteran's
11 general power of attorney, or anyone else designated in writing by the
12 veteran to receive the records.

13 (iii) Discharge papers of a veteran filed at the office of the
14 county auditor after June 30, 2002, are not public records, but will be
15 available only to the veteran, the veteran's next of kin, a deceased
16 veteran's properly appointed personal representative or executor, a
17 person holding the veteran's general power of attorney, or anyone else
18 designated in writing by the veteran to receive the records.

19 (iv) For the purposes of this subsection (1)(aaa), next of kin of
20 deceased veterans have the same rights to full access to the record.
21 Next of kin are the veteran's widow or widower who has not remarried,
22 son, daughter, father, mother, brother, and sister.

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

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

37 (4) Agency responses refusing, in whole or in part, inspection of
38 any public record shall include a statement of the specific exemption

1 authorizing the withholding of the record (or part) and a brief
2 explanation of how the exemption applies to the record withheld.

3 **Sec. 3.** RCW 73.04.030 and 1989 c 50 s 1 are each amended to read
4 as follows:

5 Each county auditor of the several counties of the state of
6 Washington shall record upon presentation without expense, in a
7 suitable permanent record the discharge of any veteran of the armed
8 forces of the United States who is residing in the state of Washington.

9 The department of veterans affairs, in consultation with the
10 association of county auditors, shall develop and distribute to county
11 auditors the form referred to in RCW 42.17.310(1)(aaa) entitled
12 "request for exemption from public disclosure of discharge papers."

13 The county auditor may charge a basic recording fee and
14 preservation fee that together shall not exceed a total of seven
15 dollars for the recording of the "request for exemption from public
16 disclosure of discharge papers."

17 County auditors shall develop a form for requestors of military
18 discharge papers (form DD214) to verify that the requestor is
19 authorized to receive or view the military discharge paper.

20 NEW SECTION. **Sec. 4.** Section 1 of this act is necessary for the
21 immediate preservation of the public peace, health, or safety, or
22 support of the state government and its existing public institutions,
23 and takes effect immediately."

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25 By Senator Haugen

26 ADOPTED 03/08/02

27 On page 1, line 1 of the title, after "inspection;" strike the
28 remainder of the title and insert "amending RCW 73.04.030; reenacting
29 and amending RCW 42.17.310; creating a new section; and declaring an
30 emergency."

--- END ---