

SENATE BILL REPORT

SHB 2778

As Reported by Senate Committee On:
State Government, Tribal Relations & Elections, February 23, 2018

Title: An act relating to protecting personal information from disclosure for persons who make claims of sexual harassment.

Brief Description: Protecting personal information regarding sexual harassment claims.

Sponsors: House Committee on State Govt, Elections & IT (originally sponsored by Representatives Jinkins, Stambaugh, Fitzgibbon, Gregerson, Caldier, Kilduff, Tharinger, Hansen, Orwall, Wylie, Stonier, Bergquist, Clibborn, Dolan, McBride, Kraft, Macri, Senn, Reeves, Haler, Riccelli, Valdez, Sawyer, Tarleton, Frame, Doglio, Fey, Robinson, Pollet, Kloba, Stanford and Santos).

Brief History: Passed House: 2/07/18, 98-0.

Committee Activity: State Government, Tribal Relations & Elections: 2/21/18, 2/23/18 [DP].

Brief Summary of Bill

- Exempts the identity or identifying information of an agency employee who makes a sexual harassment claim and requests confidentiality from public disclosure requirements unless the employee received a monetary settlement from the agency.
- Subjects a person to civil liability who uses requested identity or identifying information of an agency employee who makes a sexual harassment claim to harass, stalk, threaten, or intimidate the employee.
- Requires the Public Records Exemptions Accountability Committee to recommend whether to continue the exemption.

SENATE COMMITTEE ON STATE GOVERNMENT, TRIBAL RELATIONS & ELECTIONS

Majority Report: Do pass.

Signed by Senators Hunt, Chair; Kuderer, Vice Chair; Miloscia, Ranking Member; Saldaña and Zeiger.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Staff: Samuel Brown (786-7470)

Background: Public Records Act (PRA). The PRA, enacted in 1972 as part of Initiative 276, requires that all state and local government agencies make all public records available for public inspection and copying unless certain statutory exemptions apply. Over 500 specific references in the PRA or other statutes remove certain information from application of the PRA, provide exceptions to the public disclosure and copying of certain information, or designate certain information as confidential. The provisions requiring public records disclosure must be interpreted liberally while the exemptions are interpreted narrowly to effectuate the general policy favoring disclosure.

Records About Public Employees. Personal information in files maintained for employees, appointees, or elected officials of any public agency is exempt from public inspection and copying to the extent that disclosure would violate the employee's right to privacy. A court must find two elements to determine that a person's right to privacy is invaded: (1) the disclosure would be highly offensive to a reasonable person; and (2) the disclosure is not of legitimate concern to the public. Numerous court decisions have held that certain information in files maintained for public employees is of legitimate public concern and therefore not exempt from disclosure under the PRA.

Various types of employment information are exempt from public disclosure requirements, including the residential addresses, phone numbers, email addresses, social security numbers, and emergency contact information of public agency employees or volunteers.

Summary of Bill: Exemption From Disclosure. The identity or any identifying information of an agency employee who made a sexual harassment claim with their employing agency and has requested that the employee's identity or identifying information may not be disclosed without the employee's consent. The agency must notify the employee that the employee may request that their identity or identifying information not be disclosed. The name of the agency employee is subject to disclosure if the employee received a monetary settlement from the agency from the sexual harassment claim.

Improper Use of Information. A person who requests and obtains the identity or identifying information of an agency employee who made a claim of sexual harassment and uses the information to harass, stalk, threaten, or intimidate the employee is subject to civil liability of up to \$1,000 for each record used, in addition to reasonable attorney's fees. Any aggrieved party, the attorney general, or prosecuting attorney may file suit.

Report to the Legislature. The Public Records Exemptions Accountability Committee must submit a report to the Legislature by January 1, 2013, recommending whether the exemption of the identity or identifying information of an agency employee who makes a sexual harassment claim from disclosure requirements should continue.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony: PRO: This came from a constituent who had been sexually harassed, reported it to her agency, and her harasser made numerous requests for information to continue to harass her. Someone who has reported an incident should get notice if requests are being made. It was shocking learning how many victims would not come forward and testify in support of this bill because of concerns about what their harasser would do after the bill was filed.

Persons Testifying: PRO: Representative Laurie Jenkins, Prime Sponsor.

Persons Signed In To Testify But Not Testifying: No one.