
**State Government & Tribal Relations
Committee**

HB 1692

Brief Description: Protecting information concerning agency employees who have filed a claim of harassment or stalking.

Sponsors: Representatives Jinkins, Caldier, Fitzgibbon, Doglio, Cody, Macri, Gregerson, Riccelli, Kilduff, Bergquist, Dolan, Appleton, Davis, Ryu, Robinson, Morgan, Blake, Stanford, Frame, Ormsby, Tarleton, Tharinger, Fey, Kloba, Valdez, Orwall, Callan, Harris, Kirby, Ortiz-Self, Senn, Goodman, Peterson and Reeves.

Brief Summary of Bill

- Exempts from public disclosure certain records concerning agency employees who have made a claim of harassment or stalking if the requestor is the person alleged in the claim to have harassed or stalked the employee and the agency reasonably believes the alleged act occurred.
- Authorizes an agency employee who has made a claim of harassment or stalking to enjoin, by court order, the disclosure of certain records concerning that agency employee.
- Subjects a person to civil liability who requests and obtains such a record and uses it, or provides it to someone who uses it, to harass, stalk, threaten, or intimidate that agency employee.

Hearing Date: 2/5/19

Staff: Desiree Omli (786-7105).

Background:

The Public Records Act (PRA) requires state and local agencies to make their written records available to the public for inspection and copying upon request, unless the information fits into one of the various specific exemptions under the PRA or as otherwise provided in law. The

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stated policy of the PRA favors disclosure and requires narrow application of the listed exemptions.

Certain employment information is exempt from public inspection and copying, including information held by an agency in personnel records, public employment related records, volunteer rosters, or information included in any mailing list of employees or volunteers of any public agency. Examples include:

- examination data such as test questions or scoring keys;
- applications for public employment;
- residential addresses, personal phone numbers or email addresses, Social Security numbers, driver's license or identification card numbers, and emergency contacts of the employee or volunteer; and
- information relating to an active investigation of a possible unfair practice claim.

In addition, certain personal information is exempt from public inspection and copying, such as personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy.

A person's "right to privacy" is invaded or violated if disclosure of information about the person: (1) would be highly offensive to a reasonable person, and (2) is not of legitimate concern to the public.

Summary of Bill:

Records Exempt.

Unless by court order, an agency is prohibited from disclosing records concerning an agency employee who has made a claim of harassment or stalking with the employing agency, if the record is requested by a person alleged in the claim to have harassed or stalked the agency employee and the agency reasonably believes that the alleged act occurred. A "record concerning an agency employee" does not include work product created by the agency employee as part of his or her official duties. The court order authorizing disclosure must be based on a finding by the court that, in consideration of the totality of the circumstances, disclosure would not violate the agency employee's right to privacy.

Action for Injunction.

Upon any request for records concerning an agency employee who has made a claim with the employing agency of harassment or stalking, the agency must immediately notify the agency employee of the request. The agency employee may enjoin disclosure if:

- the agency employee brings an action within the required five day period for agencies to respond to PRA requests;
- notifying the agency upon filing an action for an injunction; and
- obtaining a court ordered injunction, after a court finds that, in consideration of the totality of the circumstances, disclosure would violate the agency employee's right to privacy.

The time for agencies to respond to PRA requests is suspended during the pendency of the action filed by the agency employee for an injunction.

For both court orders, the right to privacy standards carries a presumption that it is highly offensive to a reasonable person to disclose, directly or indirectly, records concerning an agency employee who has made a claim of harassment or stalking with the agency to persons alleged in the claim to have harassed or stalked the agency employee.

Civil Liability.

Any person who requests and obtains a record concerning an agency employee who has made a claim with the employing agency of harassment or stalking is subject to civil liability if he or she uses the record or the information in the record to harass, stalk, threaten, or intimidate that agency employee. Such a person is also liable if he or she provides the record or information in the record to a person who uses it to harass, stalk, threaten, or intimidate that agency employee.

An aggrieved party, the Attorney General, or a prosecuting attorney may sue in superior court for violation of this provision. The Court may order an appropriate civil remedy, including up to \$1,000 for each record used in violation of this provision, as well as costs and reasonable attorney's fees.

Appropriation: None.

Fiscal Note: Requested on February 3, 2019.

Effective Date: The bill contains an emergency clause and takes effect immediately.