

FINAL BILL REPORT

2SHB 1888

C 106 L 20
Synopsis as Enacted

Brief Description: Protecting employee information from public disclosure.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Hudgins and Valdez).

House Committee on State Government & Tribal Relations
House Committee on Appropriations
Senate Committee on State Government, Tribal Relations & Elections
Senate Committee on Ways & Means

Background:

The Public Records Act (PRA) requires all state and local governmental entities to make available to the public all public records, which are records prepared or retained by a governmental entity that relate to the conduct of government or the performance of governmental or proprietary functions. Records are to be disclosed regardless of the form they take unless a specific exemption applies. The PRA specifies that it is to be liberally construed; any exemptions to the disclosure requirement must be interpreted narrowly.

There are several statutory exemptions for records related to employment and licensing information. These exemptions include information held by a government agency in personnel and volunteer records, such as residential addresses, telephone numbers, electronic mail addresses, and social security numbers.

Photographs and month and year of birth of employees and workers of criminal justice agencies in personnel files are exempt from public disclosure. However, the news media have access to photographs and full dates of birth.

A court may enjoin the release of a record if it determines that examination of the record would clearly not be in the public interest and would substantially and irreparably damage a person or vital government functions. A governmental agency is generally given the option to notify persons named in the record or to whom the record pertains that the release of a record has been requested, unless the agency is required to do so by law.

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.

In October 2019 the Washington Supreme Court held that public records containing birth dates of state employees are not exempt from disclosure under the PRA, and their release does not violate the Washington Constitution's guarantee of privacy.

Summary:

Month and year of birth and photographs of public agency employees in personnel files are exempt from public disclosure. The news media are permitted to have access to full dates of birth and photographs. Payroll deduction information of public agency employees or volunteers contained in certain records held by agencies is exempt from disclosure. Personal demographic details of individual state employees that are voluntarily submitted to and maintained by a state agency or higher education institution are also exempt from disclosure.

A state or local government agency that receives a request for information located exclusively in an employee's personnel, payroll, supervisor, or training file must provide notice to the employee, any union representing the employee, and the requestor. This notice must include:

- the date of the request;
- the nature of the record that has been requested;
- a statement that the agency will release nonexempt information at least 10 days after the notice is made; and
- a statement that the employee may seek to enjoin release of the record under procedures provided by state law.

Votes on Final Passage:

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|--------|----|----|-------------------|
| House | 91 | 7 | |
| Senate | 36 | 10 | (Senate amended) |
| House | 91 | 5 | (House concurred) |

Effective: June 11, 2020