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**SENATE BILL 5421**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** Senators Conway and Van De Wege

AN ACT Relating to exempting benefit enrollment information collected and maintained by the health care authority from public inspection and copying under the public records act; and amending RCW 42.56.250.

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

**Sec.**  RCW 42.56.250 and 2020 c 106 s 1 are each amended to read as follows:

(1) The following employment and licensing information is exempt from public inspection and copying under this chapter:

((~~(1)~~)) (a) Test questions, scoring keys, and other examination data used to administer a license, employment, or academic examination;

((~~(2)~~)) (b) All applications for public employment other than for vacancies in elective office, including the names of applicants, resumes, and other related materials submitted with respect to an applicant;

((~~(3)~~)) (c) Professional growth plans (PGPs) in educator license renewals submitted through the eCert system in the office of the superintendent of public instruction;

((~~(4)~~)) (d) The following information held by any public agency in personnel records, public employment related records, volunteer rosters, or included in any mailing list of employees or volunteers of any public agency: Residential addresses, residential telephone numbers, personal wireless telephone numbers, personal email addresses, social security numbers, driver's license numbers, identicard numbers, payroll deductions including the amount and identification of the deduction, and emergency contact information of employees or volunteers of a public agency, and the names, dates of birth, residential addresses, residential telephone numbers, personal wireless telephone numbers, personal email addresses, social security numbers, and emergency contact information of dependents of employees or volunteers of a public agency. For purposes of this subsection (1)(d), "employees" includes independent provider home care workers as defined in RCW 74.39A.240;

((~~(5)~~)) (e) Information that identifies a person who, while an agency employee: ((~~(a)~~)) (i) Seeks advice, under an informal process established by the employing agency, in order to ascertain his or her rights in connection with a possible unfair practice under chapter 49.60 RCW against the person; and ((~~(b)~~)) (ii) requests his or her identity or any identifying information not be disclosed;

((~~(6)~~)) (f) Investigative records compiled by an employing agency in connection with an investigation of a possible unfair practice under chapter 49.60 RCW or of a possible violation of other federal, state, or local laws or an employing agency's internal policies prohibiting discrimination or harassment in employment. Records are exempt in their entirety while the investigation is active and ongoing. After the agency has notified the complaining employee of the outcome of the investigation, the records may be disclosed only if the names of complainants, other accusers, and witnesses are redacted, unless a complainant, other accuser, or witness has consented to the disclosure of his or her name. The employing agency must inform a complainant, other accuser, or witness that his or her name will be redacted from the investigation records unless he or she consents to disclosure;

((~~(7)~~)) (g) Criminal history records checks for board staff finalist candidates conducted pursuant to RCW 43.33A.025;

((~~(8)~~)) (h) Photographs and month and year of birth in the personnel files of employees or volunteers of a public agency, including employees and workers of criminal justice agencies as defined in RCW 10.97.030. The news media, as defined in RCW 5.68.010(5), shall have access to the photographs and full date of birth. For the purposes of this subsection (1)(h), news media does not include any person or organization of persons in the custody of a criminal justice agency as defined in RCW 10.97.030;

((~~(9)~~)) (i) The global positioning system data that would indicate the location of the residence of a public employee or volunteer using the global positioning system recording device;

((~~(10)~~)) (j) Until the person reaches eighteen years of age, information, otherwise disclosable under chapter 29A.08 RCW, that relates to a future voter, except for the purpose of processing and delivering ballots; ((~~and~~

~~(11)~~)) (k) Voluntarily submitted information collected and maintained by a state agency or higher education institution that identifies an individual state employee's personal demographic details. "Personal demographic details" means race or ethnicity, sexual orientation as defined by RCW 49.60.040((~~(26)~~)) (27), immigration status, national origin, or status as a person with a disability. This exemption does not prevent the release of state employee demographic information in a deidentified or aggregate format; and

(l) Benefit enrollment information collected and maintained by the health care authority through its authority as director of the public employees' benefits board and school employees' benefits board programs as authorized by chapter 41.05 RCW. This subsection (1)(l) does not prevent the release of benefit enrollment information in a deidentified or aggregate format. "Benefit enrollment information" means:

(i) Information listed in (d) of this subsection;

(ii) Personal demographic details as defined in (k) of this subsection;

(iii) Benefit elections;

(iv) Date of birth;

(v) Documents provided for verification of dependency, such as tax returns or marriage or birth certificates;

(vi) Marital status;

(vii) Primary language spoken;

(viii) Tobacco use status; and

(ix) Tribal affiliation.

((~~(12)~~)) (2) Upon receipt of a request for information located exclusively in an employee's personnel, payroll, supervisor, or training file, the agency must provide notice to the employee, to any union representing the employee, and to the requestor. The notice must state:

(a) The date of the request;

(b) The nature of the requested record relating to the employee;

(c) That the agency will release any information in the record which is not exempt from the disclosure requirements of this chapter at least ten days from the date the notice is made; and

(d) That the employee may seek to enjoin release of the records under RCW 42.56.540.

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