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**SUBSTITUTE HOUSE BILL 1692**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** House State Government & Tribal Relations (originally sponsored by 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)

READ FIRST TIME 02/22/19.

1 AN ACT Relating to protecting information concerning agency  
2 employees who have filed a claim of harassment or stalking; adding  
3 new sections to chapter 42.56 RCW; creating a new section;  
4 prescribing penalties; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that state agency  
7 employees operate in unique work environments in which there is a  
8 higher level of transparency surrounding their daily work activities.  
9 The legislature finds that we must act to protect the health and  
10 safety of state employees, but even more so when employees become the  
11 victims of sexual harassment or stalking. The legislature finds that  
12 when a state agency employee is the target of sexual harassment or  
13 stalking, there is a significant risk to the employee's physical  
14 safety and well-being. The legislature finds that workplace safety is  
15 of paramount importance and that the state has an interest in  
16 protecting against the inappropriate use of public resources to carry  
17 out actions of sexual harassment or stalking.

18 NEW SECTION. **Sec. 2.** A new section is added to chapter 42.56  
19 RCW to read as follows:

1 (1) Except as provided in this section, an agency may not  
2 disclose records concerning an agency employee who has made a claim  
3 of workplace sexual harassment or stalking with the employing agency,  
4 if the record is requested by a person alleged in the claim to have  
5 harassed or stalked the agency employee and the agency reasonably  
6 believes, after conducting an investigation, that the alleged act  
7 occurred. The agency may not disclose such records unless ordered by  
8 a court of competent jurisdiction after finding that, in  
9 consideration of the totality of the circumstances, disclosure would  
10 not violate the agency employee's right to privacy under RCW  
11 42.56.050.

12 (2) Upon any request for records concerning an agency employee  
13 who has made a claim with the employing agency of workplace sexual  
14 harassment or stalking, the agency must immediately notify the agency  
15 employee of the request. The agency employee may bring an action in a  
16 court of competent jurisdiction within the time required for agencies  
17 to respond under RCW 42.56.520 to enjoin the agency from disclosing  
18 the records. The agency employee shall immediately notify the agency  
19 upon filing an action under this subsection. The time to respond  
20 under RCW 42.56.520 shall be suspended during the pendency of an  
21 action filed under this subsection. Upon notice of an action filed  
22 under this subsection, the agency may not disclose such records  
23 unless by an order of a court of competent jurisdiction after a  
24 finding that, in consideration of the totality of the circumstances,  
25 disclosure would not violate the agency employee's right to privacy  
26 under RCW 42.56.050.

27 (3) For the purposes of this section, it is presumed to be highly  
28 offensive to a reasonable person under RCW 42.56.050 to disclose,  
29 directly or indirectly, records concerning an agency employee who has  
30 made a claim of workplace sexual harassment or stalking with the  
31 agency to persons alleged in the claim, and who the agency reasonably  
32 believes after having conducted an investigation, to have sexually  
33 harassed or stalked the agency employee.

34 (4) For the purposes of this section, "records concerning an  
35 agency employee" do not include work product created by the agency  
36 employee as part of his or her official duties.

37 NEW SECTION. **Sec. 3.** A new section is added to chapter 42.56  
38 RCW to read as follows:

1 (1) Any person who requests and obtains a record concerning an  
2 agency employee, as described in section 2 of this act, who has made  
3 a claim with the employing agency of workplace sexual harassment or  
4 stalking is subject to civil liability if he or she uses the record  
5 or information in the record to harass, stalk, threaten, or  
6 intimidate that agency employee, or provides the record or  
7 information in the record to a person who uses it to harass, stalk,  
8 threaten, or intimidate that agency employee.

9 (2) Any person liable under subsection (1) of this section may be  
10 sued in superior court by any aggrieved party, or in the name of the  
11 state by the attorney general or the prosecuting authority of any  
12 political subdivision. The court may order an appropriate civil  
13 remedy. The plaintiff may recover up to one thousand dollars for each  
14 record used in violation of this section, as well as costs and  
15 reasonable attorneys' fees.

16 (3) For the purposes of this section, "record concerning an  
17 agency employee" does not include work product created by the agency  
18 employee as part of his or her official duties.

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

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