

ESHB 1533 - S COMM AMD

By Committee on State Government & Elections

ADOPTED AS AMENDED 04/07/2023

1 Strike everything after the enacting clause and insert the  
2 following:

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

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

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

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

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

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

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

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

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

23       ~~((8))~~ (h) Photographs and month and year of birth in the  
24 personnel files of employees or volunteers of a public agency,  
25 including employees and workers of criminal justice agencies as  
26 defined in RCW 10.97.030. The news media, as defined in RCW  
27 5.68.010(5), shall have access to the photographs and full date of  
28 birth. For the purposes of this subsection, news media does not  
29 include any person or organization of persons in the custody of a  
30 criminal justice agency as defined in RCW 10.97.030;

31       ~~((9))~~ (i) (i) Any employee's name or other personally identifying  
32 information, including but not limited to birthdate, job title,  
33 addresses of work stations and locations, work email address, work  
34 phone number, bargaining unit, or other similar information,  
35 maintained by an agency in personnel-related records or systems, or  
36 responsive to a request for a list of individuals subject to the  
37 commercial purpose prohibition under RCW 42.56.070(8), if the  
38 employee has provided:

39       (A) A sworn statement, signed under penalty of perjury and  
40 verified by the director of the employing agency or director's

1 designee, that the employee or a dependent of the employee is a  
2 survivor of domestic violence as defined in RCW 10.99.020 or  
3 7.105.010, sexual assault as defined in RCW 70.125.030 or sexual  
4 abuse as defined in RCW 7.105.010, stalking as described in RCW  
5 9A.46.110 or defined in RCW 7.105.010, or harassment as described in  
6 RCW 9A.46.020 or defined in RCW 7.105.010, and notifying the agency  
7 as to why the employee has a reasonable basis to believe that the  
8 risk of domestic violence, sexual assault, sexual abuse, stalking, or  
9 harassment continues to exist. A sworn statement under this  
10 subsection expires after two years, but may be subsequently renewed  
11 by providing a new sworn statement to the employee's employing  
12 agency; or

13 (B) Provides proof to the employing agency of the employee's  
14 participation or the participation of a dependent in the address  
15 confidentiality program under chapter 40.24 RCW.

16 (ii) Any documentation maintained by an agency to administer this  
17 subsection (1)(i) is exempt from disclosure under this chapter and is  
18 confidential and may not be disclosed without consent of the employee  
19 who submitted the documentation. Agencies may provide information to  
20 their employees on how to submit a request to anonymize their work  
21 email address.

22 (iii) The following definitions apply to this subsection (1)(i):

23 (A) "Employee" means a state agency employee or an employee of a  
24 public school serving any of grades kindergarten through 12.

25 (B) "Agency" means a state agency or a public school serving any  
26 of grades kindergarten through 12.

27 (C) "Verified" means that the director of the employing agency or  
28 director's designee confirmed that the sworn statement identifies the  
29 alleged perpetrator or perpetrators by name and, if possible, image  
30 or likeness, or that the director or designee obtained from the  
31 employee a police report, protection order petition, or other  
32 documentation of allegations related to the domestic violence, sexual  
33 assault or abuse, stalking, or harassment.

34 (iv) The exemption in this subsection (1)(i) does not apply to  
35 public records requests from the news media as defined in RCW  
36 5.68.010(5);

37 (j) The global positioning system data that would indicate the  
38 location of the residence of a public employee or volunteer using the  
39 global positioning system recording device;

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

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

14       (~~(12)~~) (2) Upon receipt of a request for information located  
15 exclusively in an employee's personnel, payroll, supervisor, or  
16 training file, the agency must provide notice to the employee, to any  
17 union representing the employee, and to the requestor. The notice  
18 must state:

19       (a) The date of the request;

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

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

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

26       NEW SECTION.   **Sec. 2.** (1) By May 1, 2025, the joint legislative  
27 audit and review committee must analyze the impacts of section 1 of  
28 this act and must submit a report summarizing its analysis to the  
29 legislature. In preparing the report, the joint legislative audit and  
30 review committee must consult survivors with direct lived experience  
31 of domestic violence, sexual assault or abuse, stalking, or  
32 harassment. The report must include, at a minimum:

33       (a) Whether the exemption created in section 1 of this act, and  
34 exceptions to the exemption, effectively protects public employees  
35 and dependents who are survivors of domestic violence, sexual assault  
36 or abuse, stalking, or harassment by protecting their personal  
37 information while maintaining public transparency and oversight of  
38 governmental operations; and

1 (b) Whether the exemption created in section 1 of this act, and  
2 exceptions to the exemption, should be maintained or modified to  
3 ensure the protection of public employees and dependents who are  
4 survivors of domestic violence, sexual assault or abuse, stalking, or  
5 harassment by protecting their personal information while maintaining  
6 public transparency and oversight of governmental operations.

7 (2) This section expires June 30, 2025.

8 NEW SECTION. **Sec. 3.** This act is necessary for the immediate  
9 preservation of the public peace, health, or safety, or support of  
10 the state government and its existing public institutions, and takes  
11 effect immediately."

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12 On page 1, line 3 of the title, after "stalking;" strike the  
13 remainder of the title and insert "amending RCW 42.56.250; creating a  
14 new section; providing an expiration date; and declaring an  
15 emergency."

EFFECT: (1) Creates an exception to the exemption from disclosure  
created in the act for disclosure to the news media.

(2) Requires that the director or director's designee of the  
employee's agency verify an employee's sworn statement by confirming  
that it identifies a perpetrator or perpetrators or by obtaining a  
police report, protection order petition, or other documentation.

(3) Requires that the sworn statement notify the agency why the  
employee has a reasonable basis for believing that the risk of  
domestic violence, sexual assault, sexual abuse, stalking, or  
harassment continues to exist.

(4) Allows employees to consent to disclosure of documentation  
submitted to support the request for exemption from disclosure  
requirements.

(5) Requires that the joint legislative audit and review  
committee submit a report analyzing the exemption created in the act  
to the legislature by May 1, 2025.

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