
HOUSE BILL 2718

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By Representatives Hurst, Esser, Lantz, Delvin, Lovick, O'Brien, Ruderman, Kirby, Simpson, Darneille, Anderson, Haigh, McIntire, Pflug and Nixon

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1 AN ACT Relating to protection of personal information about law
2 enforcement officers and their families; and reenacting and amending
3 RCW 42.17.310.

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

5 **Sec. 1.** RCW 42.17.310 and 2001 c 278 s 1, 2001 c 98 s 2, and 2001
6 c 70 s 1 are each reenacted and amended to read as follows:

7 (1) The following are exempt from public inspection and copying:

8 (a) Personal information in any files maintained for students in
9 public schools, patients or clients of public institutions or public
10 health agencies, or welfare recipients.

11 (b) Personal information in files maintained for employees,
12 appointees, or elected officials of any public agency to the extent
13 that disclosure would violate their right to privacy.

14 (c) Information required of any taxpayer in connection with the
15 assessment or collection of any tax if the disclosure of the
16 information to other persons would (i) be prohibited to such persons by
17 RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the
18 taxpayer's right to privacy or result in unfair competitive
19 disadvantage to the taxpayer.

1 (d) Specific intelligence information and specific investigative
2 records compiled by investigative, law enforcement, and penology
3 agencies, and state agencies vested with the responsibility to
4 discipline members of any profession, the nondisclosure of which is
5 essential to effective law enforcement or for the protection of any
6 person's right to privacy. Information that is personal to a law
7 enforcement officer or his or her family, or both, or information that
8 could easily lead to the discovery of personal information about a law
9 enforcement officer or his or her family, or both, and that is
10 necessary for the effective operation of a law enforcement agency is
11 also exempt from public inspection and copying. This information
12 includes, but is not limited to, residential addresses, residential
13 telephone numbers, financial information other than the public salary
14 paid to the officer, property and tax records, or contents of the
15 public employment record.

16 (e) Information revealing the identity of persons who are witnesses
17 to or victims of crime or who file complaints with investigative, law
18 enforcement, or penology agencies, other than the public disclosure
19 commission, if disclosure would endanger any person's life, physical
20 safety, or property. If at the time a complaint is filed the
21 complainant, victim or witness indicates a desire for disclosure or
22 nondisclosure, such desire shall govern. However, all complaints filed
23 with the public disclosure commission about any elected official or
24 candidate for public office must be made in writing and signed by the
25 complainant under oath.

26 (f) Test questions, scoring keys, and other examination data used
27 to administer a license, employment, or academic examination.

28 (g) Except as provided by chapter 8.26 RCW, the contents of real
29 estate appraisals, made for or by any agency relative to the
30 acquisition or sale of property, until the project or prospective sale
31 is abandoned or until such time as all of the property has been
32 acquired or the property to which the sale appraisal relates is sold,
33 but in no event shall disclosure be denied for more than three years
34 after the appraisal.

35 (h) Valuable formulae, designs, drawings, computer source code or
36 object code, and research data obtained by any agency within five years
37 of the request for disclosure when disclosure would produce private
38 gain and public loss.

1 (i) Preliminary drafts, notes, recommendations, and intra-agency
2 memorandums in which opinions are expressed or policies formulated or
3 recommended except that a specific record shall not be exempt when
4 publicly cited by an agency in connection with any agency action.

5 (j) Records which are relevant to a controversy to which an agency
6 is a party but which records would not be available to another party
7 under the rules of pretrial discovery for causes pending in the
8 superior courts.

9 (k) Records, maps, or other information identifying the location of
10 archaeological sites in order to avoid the looting or depredation of
11 such sites.

12 (l) Any library record, the primary purpose of which is to maintain
13 control of library materials, or to gain access to information, which
14 discloses or could be used to disclose the identity of a library user.

15 (m) Financial information supplied by or on behalf of a person,
16 firm, or corporation for the purpose of qualifying to submit a bid or
17 proposal for (i) a ferry system construction or repair contract as
18 required by RCW 47.60.680 through 47.60.750 or (ii) highway
19 construction or improvement as required by RCW 47.28.070.

20 (n) Railroad company contracts filed prior to July 28, 1991, with
21 the utilities and transportation commission under RCW 81.34.070, except
22 that the summaries of the contracts are open to public inspection and
23 copying as otherwise provided by this chapter.

24 (o) Financial and commercial information and records supplied by
25 private persons pertaining to export services provided pursuant to
26 chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to
27 export projects pursuant to RCW 43.23.035.

28 (p) Financial disclosures filed by private vocational schools under
29 chapters 28B.85 and 28C.10 RCW.

30 (q) Records filed with the utilities and transportation commission
31 or attorney general under RCW 80.04.095 that a court has determined are
32 confidential under RCW 80.04.095.

33 (r) Financial and commercial information and records supplied by
34 businesses or individuals during application for loans or program
35 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,
36 or during application for economic development loans or program
37 services provided by any local agency.

38 (s) Membership lists or lists of members or owners of interests of
39 units in timeshare projects, subdivisions, camping resorts,

1 condominiums, land developments, or common-interest communities
2 affiliated with such projects, regulated by the department of
3 licensing, in the files or possession of the department.

4 (t) All applications for public employment, including the names of
5 applicants, resumes, and other related materials submitted with respect
6 to an applicant.

7 (u) The residential addresses or residential telephone numbers of
8 employees or volunteers of a public agency which are held by any public
9 agency in personnel records, public employment related records, or
10 volunteer rosters, or are included in any mailing list of employees or
11 volunteers of any public agency.

12 (v) The residential addresses and residential telephone numbers of
13 the customers of a public utility contained in the records or lists
14 held by the public utility of which they are customers, except that
15 this information may be released to the division of child support or
16 the agency or firm providing child support enforcement for another
17 state under Title IV-D of the federal social security act, for the
18 establishment, enforcement, or modification of a support order.

19 (w)(i) The federal social security number of individuals governed
20 under chapter 18.130 RCW maintained in the files of the department of
21 health, except this exemption does not apply to requests made directly
22 to the department from federal, state, and local agencies of
23 government, and national and state licensing, credentialing,
24 investigatory, disciplinary, and examination organizations; (ii) the
25 current residential address and current residential telephone number of
26 a health care provider governed under chapter 18.130 RCW maintained in
27 the files of the department, if the provider requests that this
28 information be withheld from public inspection and copying, and
29 provides to the department an accurate alternate or business address
30 and business telephone number. On or after January 1, 1995, the
31 current residential address and residential telephone number of a
32 health care provider governed under RCW 18.130.040 maintained in the
33 files of the department shall automatically be withheld from public
34 inspection and copying unless the provider specifically requests the
35 information be released, and except as provided for under RCW
36 42.17.260(9).

37 (x) Information obtained by the board of pharmacy as provided in
38 RCW 69.45.090.

1 (y) Information obtained by the board of pharmacy or the department
2 of health and its representatives as provided in RCW 69.41.044,
3 69.41.280, and 18.64.420.

4 (z) Financial information, business plans, examination reports, and
5 any information produced or obtained in evaluating or examining a
6 business and industrial development corporation organized or seeking
7 certification under chapter 31.24 RCW.

8 (aa) Financial and commercial information supplied to the state
9 investment board by any person when the information relates to the
10 investment of public trust or retirement funds and when disclosure
11 would result in loss to such funds or in private loss to the providers
12 of this information.

13 (bb) Financial and valuable trade information under RCW 51.36.120.

14 (cc) Client records maintained by an agency that is a domestic
15 violence program as defined in RCW 70.123.020 or 70.123.075 or a rape
16 crisis center as defined in RCW 70.125.030.

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

23 (ee) Investigative records compiled by an employing agency
24 conducting a current investigation of a possible unfair practice under
25 chapter 49.60 RCW or of a possible violation of other federal, state,
26 or local laws prohibiting discrimination in employment.

27 (ff) Business related information protected from public inspection
28 and copying under RCW 15.86.110.

29 (gg) Financial, commercial, operations, and technical and research
30 information and data submitted to or obtained by the clean Washington
31 center in applications for, or delivery of, program services under
32 chapter 70.95H RCW.

33 (hh) Information and documents created specifically for, and
34 collected and maintained by a quality improvement committee pursuant to
35 RCW 43.70.510 or 70.41.200, or by a peer review committee under RCW
36 4.24.250, regardless of which agency is in possession of the
37 information and documents.

38 (ii) Personal information in files maintained in a data base
39 created under RCW 43.07.360.

1 (jj) Financial and commercial information requested by the public
2 stadium authority from any person or organization that leases or uses
3 the stadium and exhibition center as defined in RCW 36.102.010.

4 (kk) Names of individuals residing in emergency or transitional
5 housing that are furnished to the department of revenue or a county
6 assessor in order to substantiate a claim for property tax exemption
7 under RCW 84.36.043.

8 (ll) The names, residential addresses, residential telephone
9 numbers, and other individually identifiable records held by an agency
10 in relation to a vanpool, carpool, or other ride-sharing program or
11 service. However, these records may be disclosed to other persons who
12 apply for ride-matching services and who need that information in order
13 to identify potential riders or drivers with whom to share rides.

14 (mm) The personally identifying information of current or former
15 participants or applicants in a paratransit or other transit service
16 operated for the benefit of persons with disabilities or elderly
17 persons.

18 (nn) The personally identifying information of persons who acquire
19 and use transit passes and other fare payment media including, but not
20 limited to, stored value smart cards and magnetic strip cards, except
21 that an agency may disclose this information to a person, employer,
22 educational institution, or other entity that is responsible, in whole
23 or in part, for payment of the cost of acquiring or using a transit
24 pass or other fare payment media, or to the news media when reporting
25 on public transportation or public safety. This information may also
26 be disclosed at the agency's discretion to governmental agencies or
27 groups concerned with public transportation or public safety.

28 (oo) Proprietary financial and commercial information that the
29 submitting entity, with review by the department of health,
30 specifically identifies at the time it is submitted and that is
31 provided to or obtained by the department of health in connection with
32 an application for, or the supervision of, an antitrust exemption
33 sought by the submitting entity under RCW 43.72.310. If a request for
34 such information is received, the submitting entity must be notified of
35 the request. Within ten business days of receipt of the notice, the
36 submitting entity shall provide a written statement of the continuing
37 need for confidentiality, which shall be provided to the requester.
38 Upon receipt of such notice, the department of health shall continue to
39 treat information designated under this section as exempt from

1 disclosure. If the requester initiates an action to compel disclosure
2 under this chapter, the submitting entity must be joined as a party to
3 demonstrate the continuing need for confidentiality.

4 (pp) Records maintained by the board of industrial insurance
5 appeals that are related to appeals of crime victims' compensation
6 claims filed with the board under RCW 7.68.110.

7 (qq) Financial and commercial information supplied by or on behalf
8 of a person, firm, corporation, or entity under chapter 28B.95 RCW
9 relating to the purchase or sale of tuition units and contracts for the
10 purchase of multiple tuition units.

11 (rr) Any records of investigative reports prepared by any state,
12 county, municipal, or other law enforcement agency pertaining to sex
13 offenses contained in chapter 9A.44 RCW or sexually violent offenses as
14 defined in RCW 71.09.020, which have been transferred to the Washington
15 association of sheriffs and police chiefs for permanent electronic
16 retention and retrieval pursuant to RCW 40.14.070(2)(b).

17 (ss) Credit card numbers, debit card numbers, electronic check
18 numbers, card expiration dates, or bank or other financial account
19 numbers supplied to an agency for the purpose of electronic transfer of
20 funds, except when disclosure is expressly required by law.

21 (tt) Financial information, including but not limited to account
22 numbers and values, and other identification numbers supplied by or on
23 behalf of a person, firm, corporation, limited liability company,
24 partnership, or other entity related to an application for a liquor
25 license, gambling license, or lottery retail license.

26 (uu) Records maintained by the employment security department and
27 subject to chapter 50.13 RCW if provided to another individual or
28 organization for operational, research, or evaluation purposes.

29 (vv) Individually identifiable information received by the work
30 force training and education coordinating board for research or
31 evaluation purposes.

32 (ww) Those portions of records containing specific and unique
33 vulnerability assessments or specific and unique response plans, either
34 of which is intended to prevent or mitigate criminal terrorist acts as
35 defined in RCW 70.74.285, the public disclosure of which would have a
36 substantial likelihood of threatening public safety.

37 (xx) Commercial fishing catch data from logbooks required to be
38 provided to the department of fish and wildlife under RCW 77.12.047,
39 when the data identifies specific catch location, timing, or

1 methodology and the release of which would result in unfair competitive
2 disadvantage to the commercial fisher providing the catch data.
3 However, this information may be released to government agencies
4 concerned with the management of fish and wildlife resources.

5 (yy) Sensitive wildlife data obtained by the department of fish and
6 wildlife. However, sensitive wildlife data may be released to
7 government agencies concerned with the management of fish and wildlife
8 resources. Sensitive wildlife data includes:

9 (i) The nesting sites or specific locations of endangered species
10 designated under RCW 77.12.020, or threatened or sensitive species
11 classified by rule of the department of fish and wildlife;

12 (ii) Radio frequencies used in, or locational data generated by,
13 telemetry studies; or

14 (iii) Other location data that could compromise the viability of a
15 specific fish or wildlife population, and where at least one of the
16 following criteria are met:

17 (A) The species has a known commercial or black market value;

18 (B) There is a history of malicious take of that species; or

19 (C) There is a known demand to visit, take, or disturb, and the
20 species behavior or ecology renders it especially vulnerable or the
21 species has an extremely limited distribution and concentration.

22 (zz) The personally identifying information of persons who acquire
23 recreational licenses under RCW 77.32.010 or commercial licenses under
24 chapter 77.65 or 77.70 RCW, except name, address of contact used by the
25 department, and type of license, endorsement, or tag. However, the
26 department of fish and wildlife may disclose personally identifying
27 information to:

28 (i) Government agencies concerned with the management of fish and
29 wildlife resources;

30 (ii) The department of social and health services, child support
31 division, and to the department of licensing in order to implement RCW
32 77.32.014 and 46.20.291; and

33 (iii) Law enforcement agencies for the purpose of firearm
34 possession enforcement under RCW 9.41.040.

35 (2) Except for information described in subsection (1)(c)(i) of
36 this section and confidential income data exempted from public
37 inspection pursuant to RCW 84.40.020, the exemptions of this section
38 are inapplicable to the extent that information, the disclosure of
39 which would violate personal privacy or vital governmental interests,

1 can be deleted from the specific records sought. No exemption may be
2 construed to permit the nondisclosure of statistical information not
3 descriptive of any readily identifiable person or persons.

4 (3) Inspection or copying of any specific records exempt under the
5 provisions of this section may be permitted if the superior court in
6 the county in which the record is maintained finds, after a hearing
7 with notice thereof to every person in interest and the agency, that
8 the exemption of such records is clearly unnecessary to protect any
9 individual's right of privacy or any vital governmental function.

10 (4) Agency responses refusing, in whole or in part, inspection of
11 any public record shall include a statement of the specific exemption
12 authorizing the withholding of the record (or part) and a brief
13 explanation of how the exemption applies to the record withheld.

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