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**SUBSTITUTE SENATE BILL 5718**

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**State of Washington**

**58th Legislature**

**2003 Regular Session**

**By** Senate Committee on Financial Services, Insurance & Housing (originally sponsored by Senators Winsley, Prentice, Roach, Fairley, Kastama, Fraser, Keiser, Kline, Shin, Kohl-Welles, Thibaudeau, Regala, B. Sheldon, Reardon, Brown, Hargrove, Franklin, Spanel, McAuliffe, Jacobsen, Haugen, Rasmussen, Doumit and Schmidt)

READ FIRST TIME 03/03/03.

1 AN ACT Relating to exempting bank account, social security, and  
2 credit card numbers from public disclosure; reenacting and amending RCW  
3 42.17.310; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that crimes arising  
6 from theft of consumer financial information have escalated, as  
7 criminals obtain and use account and credit card information. Some  
8 public records may contain some personal account, credit card, or other  
9 financial information that was obtained by a state agency for  
10 legitimate reasons. However, this information should not be accessible  
11 to others, who can misuse it to commit fraud and identity theft.

12 In order to prevent financial fraud and identity theft crimes, the  
13 legislature intends to exempt credit and debit card numbers, electronic  
14 check numbers, card expiration dates, bank or other financial account  
15 numbers, and federal social security numbers from public records  
16 disclosure requirements, except in cases where such disclosure is  
17 expressly required by law or governed by other law.

1       **Sec. 2.** RCW 42.17.310 and 2002 c 335 s 1, 2002 c 224 s 2, 2002 c  
2 205 s 4, and 2002 c 172 s 1 are each reenacted and amended to read as  
3 follows:

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

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

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

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

17       (d) Specific intelligence information and specific investigative  
18 records compiled by investigative, law enforcement, and penology  
19 agencies, and state agencies vested with the responsibility to  
20 discipline members of any profession, the nondisclosure of which is  
21 essential to effective law enforcement or for the protection of any  
22 person's right to privacy.

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

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

35       (g) Except as provided by chapter 8.26 RCW, the contents of real  
36 estate appraisals, made for or by any agency relative to the  
37 acquisition or sale of property, until the project or prospective sale  
38 is abandoned or until such time as all of the property has been

1 acquired or the property to which the sale appraisal relates is sold,  
2 but in no event shall disclosure be denied for more than three years  
3 after the appraisal.

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

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

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

16 (k) Records, maps, or other information identifying the location of  
17 archaeological sites in order to avoid the looting or depredation of  
18 such sites.

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

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

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

31 (o) Financial and commercial information and records supplied by  
32 private persons pertaining to export services provided pursuant to  
33 chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to  
34 export projects pursuant to RCW 43.23.035.

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

37 (q) Records filed with the utilities and transportation commission

1 or attorney general under RCW 80.04.095 that a court has determined are  
2 confidential under RCW 80.04.095.

3 (r) Financial and commercial information and records supplied by  
4 businesses or individuals during application for loans or program  
5 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,  
6 or during application for economic development loans or program  
7 services provided by any local agency.

8 (s) Membership lists or lists of members or owners of interests of  
9 units in timeshare projects, subdivisions, camping resorts,  
10 condominiums, land developments, or common-interest communities  
11 affiliated with such projects, regulated by the department of  
12 licensing, in the files or possession of the department.

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

16 (u) The residential addresses or residential telephone numbers of  
17 employees or volunteers of a public agency which are held by any public  
18 agency in personnel records, public employment related records, or  
19 volunteer rosters, or are included in any mailing list of employees or  
20 volunteers of any public agency.

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

28 (w)(i) The federal social security number of individuals governed  
29 under chapter 18.130 RCW maintained in the files of the department of  
30 health, except this exemption does not apply to requests made directly  
31 to the department from federal, state, and local agencies of  
32 government, and national and state licensing, credentialing,  
33 investigatory, disciplinary, and examination organizations; (ii) the  
34 current residential address and current residential telephone number of  
35 a health care provider governed under chapter 18.130 RCW maintained in  
36 the files of the department, if the provider requests that this  
37 information be withheld from public inspection and copying, and  
38 provides to the department an accurate alternate or business address

1 and business telephone number. On or after January 1, 1995, the  
2 current residential address and residential telephone number of a  
3 health care provider governed under RCW 18.130.040 maintained in the  
4 files of the department shall automatically be withheld from public  
5 inspection and copying unless the provider specifically requests the  
6 information be released, and except as provided for under RCW  
7 42.17.260(9).

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

10 (y) Information obtained by the board of pharmacy or the department  
11 of health and its representatives as provided in RCW 69.41.044,  
12 69.41.280, and 18.64.420.

13 (z) Financial information, business plans, examination reports, and  
14 any information produced or obtained in evaluating or examining a  
15 business and industrial development corporation organized or seeking  
16 certification under chapter 31.24 RCW.

17 (aa) Financial and commercial information supplied to the state  
18 investment board by any person when the information relates to the  
19 investment of public trust or retirement funds and when disclosure  
20 would result in loss to such funds or in private loss to the providers  
21 of this information.

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

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

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

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

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

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

5 (hh) Information and documents created specifically for, and  
6 collected and maintained by a quality improvement committee pursuant to  
7 RCW 43.70.510 or 70.41.200, or by a peer review committee under RCW  
8 4.24.250, regardless of which agency is in possession of the  
9 information and documents.

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

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

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

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

25 (mm) The personally identifying information of current or former  
26 participants or applicants in a paratransit or other transit service  
27 operated for the benefit of persons with disabilities or elderly  
28 persons.

29 (nn) The personally identifying information of persons who acquire  
30 and use transit passes and other fare payment media including, but not  
31 limited to, stored value smart cards and magnetic strip cards, except  
32 that an agency may disclose this information to a person, employer,  
33 educational institution, or other entity that is responsible, in whole  
34 or in part, for payment of the cost of acquiring or using a transit  
35 pass or other fare payment media, or to the news media when reporting  
36 on public transportation or public safety. This information may also  
37 be disclosed at the agency's discretion to governmental agencies or  
38 groups concerned with public transportation or public safety.

1 (oo) Proprietary financial and commercial information that the  
2 submitting entity, with review by the department of health,  
3 specifically identifies at the time it is submitted and that is  
4 provided to or obtained by the department of health in connection with  
5 an application for, or the supervision of, an antitrust exemption  
6 sought by the submitting entity under RCW 43.72.310. If a request for  
7 such information is received, the submitting entity must be notified of  
8 the request. Within ten business days of receipt of the notice, the  
9 submitting entity shall provide a written statement of the continuing  
10 need for confidentiality, which shall be provided to the requester.  
11 Upon receipt of such notice, the department of health shall continue to  
12 treat information designated under this section as exempt from  
13 disclosure. If the requester initiates an action to compel disclosure  
14 under this chapter, the submitting entity must be joined as a party to  
15 demonstrate the continuing need for confidentiality.

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

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

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

29 (ss) Credit card numbers, debit card numbers, electronic check  
30 numbers, card expiration dates, ~~((or))~~ bank or other financial account  
31 numbers ~~((supplied to an agency for the purpose of electronic transfer  
32 of funds))~~, or federal social security numbers, supplied to an agency,  
33 except when disclosure is expressly required by or governed by other  
34 law, or when a request for a document including a federal social  
35 security number is made by a credit reporting agency, or its authorized  
36 representative, or financial institution, or funeral director regulated  
37 under chapter 18.39 RCW and disclosure is authorized by other law.

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

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

9 (vv) Individually identifiable information received by the work  
10 force training and education coordinating board for research or  
11 evaluation purposes.

12 (ww) Those portions of records assembled, prepared, or maintained  
13 to prevent, mitigate, or respond to criminal terrorist acts, which are  
14 acts that significantly disrupt the conduct of government or of the  
15 general civilian population of the state or the United States and that  
16 manifest an extreme indifference to human life, the public disclosure  
17 of which would have a substantial likelihood of threatening public  
18 safety, consisting of:

19 (i) Specific and unique vulnerability assessments or specific and  
20 unique response or deployment plans, including compiled underlying data  
21 collected in preparation of or essential to the assessments, or to the  
22 response or deployment plans; and

23 (ii) Records not subject to public disclosure under federal law  
24 that are shared by federal or international agencies, and information  
25 prepared from national security briefings provided to state or local  
26 government officials related to domestic preparedness for acts of  
27 terrorism.

28 (xx) Commercial fishing catch data from logbooks required to be  
29 provided to the department of fish and wildlife under RCW 77.12.047,  
30 when the data identifies specific catch location, timing, or  
31 methodology and the release of which would result in unfair competitive  
32 disadvantage to the commercial fisher providing the catch data.  
33 However, this information may be released to government agencies  
34 concerned with the management of fish and wildlife resources.

35 (yy) Sensitive wildlife data obtained by the department of fish and  
36 wildlife. However, sensitive wildlife data may be released to  
37 government agencies concerned with the management of fish and wildlife  
38 resources. Sensitive wildlife data includes:



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

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

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

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

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

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

14 (zz) The personally identifying information of persons who acquire  
15 recreational licenses under RCW 77.32.010 or commercial licenses under  
16 chapter 77.65 or 77.70 RCW, except name, address of contact used by the  
17 department, and type of license, endorsement, or tag. However, the  
18 department of fish and wildlife may disclose personally identifying  
19 information to:

20 (i) Government agencies concerned with the management of fish and  
21 wildlife resources;

22 (ii) The department of social and health services, child support  
23 division, and to the department of licensing in order to implement RCW  
24 77.32.014 and 46.20.291; and

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

27 (aaa)(i) Discharge papers of a veteran of the armed forces of the  
28 United States filed at the office of the county auditor before July 1,  
29 2002, that have not been commingled with other recorded documents.  
30 These records will be available only to the veteran, the veteran's next  
31 of kin, a deceased veteran's properly appointed personal representative  
32 or executor, a person holding that veteran's general power of attorney,  
33 or to anyone else designated in writing by that veteran to receive the  
34 records.

35 (ii) Discharge papers of a veteran of the armed forces of the  
36 United States filed at the office of the county auditor before July 1,  
37 2002, that have been commingled with other records, if the veteran has  
38 recorded a "request for exemption from public disclosure of discharge

1 papers" with the county auditor. If such a request has been recorded,  
2 these records may be released only to the veteran filing the papers,  
3 the veteran's next of kin, a deceased veteran's properly appointed  
4 personal representative or executor, a person holding the veteran's  
5 general power of attorney, or anyone else designated in writing by the  
6 veteran to receive the records.

7 (iii) Discharge papers of a veteran filed at the office of the  
8 county auditor after June 30, 2002, are not public records, but will be  
9 available only to the veteran, the veteran's next of kin, a deceased  
10 veteran's properly appointed personal representative or executor, a  
11 person holding the veteran's general power of attorney, or anyone else  
12 designated in writing by the veteran to receive the records.

13 (iv) For the purposes of this subsection (1)(aaa), next of kin of  
14 deceased veterans have the same rights to full access to the record.  
15 Next of kin are the veteran's widow or widower who has not remarried,  
16 son, daughter, father, mother, brother, and sister.

17 (bbb) Those portions of records containing specific and unique  
18 vulnerability assessments or specific and unique emergency and escape  
19 response plans at a city, county, or state adult or juvenile  
20 correctional facility, the public disclosure of which would have a  
21 substantial likelihood of threatening the security of a city, county,  
22 or state adult or juvenile correctional facility or any individual's  
23 safety.

24 (ccc) Information compiled by school districts or schools in the  
25 development of their comprehensive safe school plans pursuant to RCW  
26 28A.320.125, to the extent that they identify specific vulnerabilities  
27 of school districts and each individual school.

28 (ddd) Information regarding the infrastructure and security of  
29 computer and telecommunications networks, consisting of security  
30 passwords, security access codes and programs, access codes for secure  
31 software applications, security and service recovery plans, security  
32 risk assessments, and security test results to the extent that they  
33 identify specific system vulnerabilities.

34 (2) Except for information described in subsection (1)(c)(i) of  
35 this section and confidential income data exempted from public  
36 inspection pursuant to RCW 84.40.020, the exemptions of this section  
37 are inapplicable to the extent that information, the disclosure of  
38 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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