

# HOUSE BILL REPORT

## HB 2778

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### As Passed House:

February 7, 2018

**Title:** An act relating to protecting personal information from disclosure for persons who make claims of sexual harassment.

**Brief Description:** Protecting personal information regarding sexual harassment claims.

**Sponsors:** Representatives Jinkins, Stambaugh, Fitzgibbon, Gregerson, Caldier, Kilduff, Tharinger, Hansen, Orwall, Wylie, Stonier, Bergquist, Clibborn, Dolan, McBride, Kraft, Macri, Senn, Reeves, Haler, Riccelli, Valdez, Sawyer, Tarleton, Frame, Doglio, Fey, Robinson, Pollet, Kloba, Stanford and Santos.

### Brief History:

#### Committee Activity:

State Government, Elections & Information Technology: 1/30/18, 1/31/18 [DPS].

#### Floor Activity:

Passed House: 2/7/18, 98-0.

### Brief Summary of Bill

- Expands the public records exemptions to include the identity or identifying information of an agency employee who makes a sexual harassment claim and requests that their information not be disclosed, with exception.
- Subjects a person to civil liability who requests and obtains the identity or identifying information of an agency employee who makes a sexual harassment claim if the requestor uses the information to harass, stalk, threaten, or intimidate the employee.
- Requires the Public Records Exemptions Accountability Committee to submit a report with recommendations on the continuation of the exemption.

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## HOUSE COMMITTEE ON STATE GOVERNMENT, ELECTIONS & INFORMATION TECHNOLOGY

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Hudgins, Chair; Dolan, Vice Chair; McDonald,

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Ranking Minority Member; Kraft, Assistant Ranking Minority Member; Appleton, Gregerson, Irwin, Johnson and Pellicciotti.

**Staff:** Desiree Omli (786-7105).

**Background:**

The Public Records Act (PRA) requires that all state and local government agencies make all public records available for public inspection and copying unless the record falls within an enumerated statutory exemption. The provisions requiring public records disclosure must be interpreted liberally and the exemptions narrowly in order to effectuate a general policy favoring disclosure.

Certain employment and licensing information contained in the files of an agency is exempt from public inspection and copying under the PRA. Examples include:

- examination data such as test questions or scoring keys;
- applications for public employment;
- residential addresses, personal phone numbers or email addresses, Social Security numbers, driver's license or identification card numbers, and emergency contacts of the employee or volunteer; and
- information relating to an active investigation of a possible unfair practice claim.

**Summary of Bill:**

The PRA exemptions for employment and licensing information is expanded to include the identity or any identifying information of an agency employee who made a sexual harassment claim with the employing agency and has requested that his or her identity or identifying information not be disclosed without his or her consent. The agency must notify the employee that he or she may request that their identity or identifying information not be disclosed. An exception to this exemption is created, which makes the name of the agency employee who made the claim subject to public inspection and copying if that person receives a monetary settlement from the agency arising out of the claim of sexual harassment.

A person who requests and obtains the identity or identifying information of an agency employee who made a claim of sexual harassment and uses the information to harass, stalk, threaten, or intimidate the claimant employee is subject to civil liability. The aggrieved party may sue such a person in superior court, or the Attorney General or prosecuting attorney may bring an action against the person. The court may order an appropriate civil remedy, and the plaintiff may recover up to \$1,000 for each record used to harass, stalk, threaten, or intimidate, in addition to reasonable attorney fees.

By January 1, 2023, the Public Records Exemptions Accountability Committee (Committee) must prepare and submit a report to the Legislature that includes recommendations on whether the exemption of the identity or identifying information of an agency employee who makes a sexual harassment claim with the employing agency from disclosure should continue.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) The issue this bill addresses was raised by a constituent who filed a harassment claim. The person doing the harassing started requesting public records for all information about the person who filed the claim. The constituent was told that she needed a legislative fix to address this issue. State workers who are victims of harassment face horrifying experiences when their harasser seeks to get their information through the PRA. This bill will protect their privacy and ensure that people will feel safe coming forward with harassment claims. It will also ensure their information will not be disclosed. Threats to state employees are real, and although the state strives to serve everyone without discrimination, at times that service comes with a risk to personal safety. There is a need to create a culture to protect safety without fear of reprisal or risk.

(Opposed) None.

(Other) The underlying bill is similar to the whistleblower statute, and in that sense there is no issue. However, if the bill is fully implemented, it will run afoul of the practice of disclosure in tort claims. The justice system does not allow for anonymous filing of lawsuits, and when there is a tort claim and economic damages are sought and awarded there is a name on the check that is issued. If it's purely a personnel matter, where there is a termination or action is taken, the non-disclosure of the name is not an issue. But if financial damages are sought through a tort claim, it changes things dramatically.

**Persons Testifying:** (In support) Representative Jinkins, prime sponsor; David Ward, Legal Voice; and Dennis Eagle, Washington Federation of State Employees.

(Other) Rowland Thompson, Allied Daily Newspapers of Washington.

**Persons Signed In To Testify But Not Testifying:** None.