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**State Government & Tribal Relations  
Committee**

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**HB 2020**

**Brief Description:** Exempting the disclosure of names in employment investigation records.

**Sponsors:** Representatives Dolan, Kretz, Doglio, Stanford, Slatter, Klippert, Davis, Hudgins, Macri, Jinkins, Morgan, Frame and Ormsby.

**Brief Summary of Bill**

- Expands the public disclosure exemption for records compiled by an employer-agency in an ongoing and active investigation of employment discrimination to include the names of complainants, other accusers, and witnesses after the investigation is complete.

**Hearing Date:** 2/20/19

**Staff:** Jason Zolle (786-7124).

**Background:**

The Washington Law Against Discrimination (WLAD) prohibits discrimination based on a protected characteristic in employment, public accommodations, and real estate, credit, or insurance transactions. With respect to employment, it is an "unfair practice" under the WLAD to:

- refuse to hire;
- discharge or bar from employment;
- discriminate in compensation or other terms or conditions of employment; or
- include limitations in employment advertisements or inquiries

because of a person's protected characteristics. Protected characteristics under the WLAD are race, creed, color, national origin, sex, veteran or military status, sexual orientation, and disability.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

The primary federal law that prohibits employment discrimination is Title VII of the Civil Rights Act of 1964, which precludes employers from refusing to hire, discharging, or otherwise discriminating in compensation or other terms or conditions of employment because of an employee's protected characteristics. Title VII also prohibits employers from limiting, segregating, or classifying employees or applicants in a way that deprives an individual of employment opportunities or otherwise adversely affects an employee's status because of protected characteristics. Protected characteristics under Title VII are race, color, religion, sex, or national origin. Federal law also prohibits discrimination in employment under the Age Discrimination in Employment Act and the Americans With Disabilities Act.

In 1985 the Washington Supreme Court held in *Glasgow v. Georgia-Pacific Corporation* that sexual harassment in the workplace is an unfair practice prohibited by the WLAD when it affects the terms or conditions of employment and is imputed to the employer. Harassment is imputed to the employer when an owner, manager, partner, or corporate officer personally participates in it, or when the employer knew or should have known of the harassment and failed to take prompt and adequate corrective action. Similarly, the United States Supreme Court held in *Meritor Savings Bank v. Vinson* in 1986 that sexual harassment in the workplace is discrimination because of sex in violation of Title VII when it creates a hostile or abusive work environment.

State agencies in Washington are required to develop and disseminate their own policies to define and prohibit sexual harassment among their employees. Agencies must also include procedures that describe how the agency will address concerns, including appropriate sanctions and disciplinary action.

The Public Records Act (PRA) generally requires state and local agencies to make many government records available to the public upon request. There are, however, over 500 statutory exemptions for certain records or information contained in records.

One exemption to disclosure is for investigative records compiled by a state or local agency, acting as an employer, in connection with an investigation of an unfair employment practice or a violation of federal, state, or local laws prohibiting employment discrimination. This exemption is temporary, however; information is exempt from disclosure only while the investigation is active and ongoing.

**Summary of Bill:**

After an employer-agency has notified the complaining employee of the outcome of the investigation, records of the investigation may be disclosed under the PRA only if the names of complainants, other accusers, and witnesses are redacted.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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