
ENGROSSED SUBSTITUTE HOUSE BILL 1692

State of Washington

66th Legislature

2019 Regular Session

By House State Government & Tribal Relations (originally sponsored by Representatives Jinkins, Caldier, Fitzgibbon, Doglio, Cody, Macri, Gregerson, Riccelli, Kilduff, Bergquist, Dolan, Appleton, Davis, Ryu, Robinson, Morgan, Blake, Stanford, Frame, Ormsby, Tarleton, Tharinger, Fey, Kloba, Valdez, Orwall, Callan, Harris, Kirby, Ortiz-Self, Senn, Goodman, Peterson, and Reeves)

READ FIRST TIME 02/22/19.

1 AN ACT Relating to protecting information concerning agency
2 employees who have filed a claim of harassment or stalking; adding
3 new sections to chapter 42.56 RCW; creating a new section;
4 prescribing penalties; and providing an effective date.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that state agency
7 employees operate in unique work environments in which there is a
8 higher level of transparency surrounding their daily work activities.
9 The legislature finds that we must act to protect the health and
10 safety of state employees, but even more so when employees become the
11 victims of sexual harassment or stalking. The legislature finds that
12 when a state agency employee is the target of sexual harassment or
13 stalking, there is a significant risk to the employee's physical
14 safety and well-being. The legislature finds that workplace safety is
15 of paramount importance and that the state has an interest in
16 protecting against the inappropriate use of public resources to carry
17 out actions of sexual harassment or stalking.

18 NEW SECTION. **Sec. 2.** A new section is added to chapter 42.56
19 RCW to read as follows:

1 (1) Except by court order issued pursuant to subsection (3) of
2 this section, an agency may not disclose as a response to a public
3 records request made pursuant to this chapter records concerning an
4 agency employee if:

5 (a) The requestor is a person alleged in the claim to have
6 harassed or stalked the agency employee who is named as the victim in
7 the claim; and

8 (b) After conducting an investigation, the agency issued
9 discipline resulting from the claim of workplace sexual harassment or
10 stalking to the requestor described under (a) of this subsection.

11 (2)(a) The agency must immediately notify an agency employee upon
12 any public records request for records concerning that agency
13 employee if the agency conducted an investigation of the claim of
14 workplace sexual harassment or stalking involving the agency employee
15 and the agency issued discipline resulting from the claim.

16 (b) Upon notice provided in accordance with (a) of this
17 subsection, the agency employee may bring an action in a court of
18 competent jurisdiction to enjoin the agency from disclosing the
19 records. The agency employee shall immediately notify the agency upon
20 filing an action under this subsection. Except for the five-day
21 notification required under RCW 42.56.520, the time for the employing
22 agency to process a request for records is suspended during the
23 pendency of an action filed under this subsection. Upon notice of an
24 action filed under this subsection, the agency may not disclose such
25 records unless by an order issued in accordance with subsection (3)
26 of this section.

27 (3)(a) A court of competent jurisdiction, following sufficient
28 notice to the employing agency, may order the release of some or all
29 of the records described in subsections (1) and (2) of this section
30 after finding that, in consideration of the totality of the
31 circumstances, disclosure would not violate the right to privacy
32 under RCW 42.56.050 for the agency employee. An agency that is
33 ordered in accordance with this subsection to disclose records is not
34 liable for penalties, attorneys' fees, or costs under RCW 42.56.550
35 if the agency has complied with this section.

36 (b) For the purposes of this section, it is presumed to be highly
37 offensive to a reasonable person under RCW 42.56.050 to disclose,
38 directly or indirectly, records concerning an agency employee who has
39 made a claim of workplace sexual harassment or stalking with the
40 agency, or is named as a victim in the claim, to persons alleged in

1 the claim to have sexually harassed or stalked the agency employee
2 named as the victim and where the agency issued discipline resulting
3 from the claim after conducting an investigation.

4 (4) Nothing in this section restricts access to records described
5 under subsections (1) and (2) of this section where the agency
6 employee consents in writing to disclosure.

7 (5) For the purposes of this section:

8 (a) "Agency" means a state agency, including every state office,
9 department, division, bureau, board, commission, or other state
10 agency.

11 (b) "Agency employee" means a state agency employee who has made
12 a claim of workplace sexual harassment or stalking with the employing
13 agency, or is named as the victim in the claim.

14 (c) "Records concerning an agency employee" do not include work
15 product created by the agency employee as part of his or her official
16 duties.

17 NEW SECTION. **Sec. 3.** A new section is added to chapter 42.56
18 RCW to read as follows:

19 (1) Any person who requests and obtains a record concerning an
20 agency employee, as described in section 2 of this act, is subject to
21 civil liability if he or she uses the record or information in the
22 record to harass, stalk, threaten, or intimidate that agency
23 employee, or provides the record or information in the record to a
24 person who uses it to harass, stalk, threaten, or intimidate that
25 agency employee.

26 (2) Any person liable under subsection (1) of this section may be
27 sued in superior court by any aggrieved party, or in the name of the
28 state by the attorney general or the prosecuting authority of any
29 political subdivision. The court may order an appropriate civil
30 remedy. The plaintiff may recover up to one thousand dollars for each
31 record used in violation of this section, as well as costs and
32 reasonable attorneys' fees.

33 (3) For the purposes of this section:

34 (a) "Agency" means a state agency, including every state office,
35 department, division, bureau, board, commission, or other state
36 agency.

37 (b) "Agency employee" means a state agency employee who has made
38 a claim of workplace sexual harassment or stalking with the employing
39 agency, or is named as the victim in the claim.

1 (c) "Record concerning an agency employee" does not include work
2 product created by the agency employee as part of his or her official
3 duties.

4 NEW SECTION. **Sec. 4.** A new section is added to chapter 42.56
5 RCW to read as follows:

6 By January 1, 2020, the attorney general, in consultation with
7 state agencies, shall create model policies for the implementation of
8 this act.

9 NEW SECTION. **Sec. 5.** A new section is added to chapter 42.56
10 RCW to read as follows:

11 A state agency may not disclose lists of the names of agency
12 employees, as defined under section 2 of this act, maintained by the
13 agency in order to administer section 2 of this act.

14 NEW SECTION. **Sec. 6.** This act takes effect July 1, 2020.

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