

# HOUSE BILL REPORT

## HB 1328

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**As Passed House:**

March 8, 2021

**Title:** An act relating to exempting information gathered for controlling diseases from public inspecting requirements.

**Brief Description:** Exempting information gathered for controlling diseases from public inspecting requirements.

**Sponsors:** Representatives Pollet and Ryu; by request of Department of Health.

**Brief History:**

**Committee Activity:**

State Government & Tribal Relations: 2/1/21, 2/4/21 [DP].

**Floor Activity:**

Passed House: 3/8/21, 81-17.

**Brief Summary of Bill**

- Exempts from public disclosure under the Public Records Act personal information which may reveal the identity of an individual and that is submitted to or obtained by an agency for the purpose of investigating, controlling, preventing, or protecting the public from any disease, notifiable condition, or condition constituting a threat to the public health.

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**HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL RELATIONS**

**Majority Report:** Do pass. Signed by 4 members: Representatives Valdez, Chair; Lekanoff, Vice Chair; Dolan and Gregerson.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Volz, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Graham.

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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 part of the legislation nor does it constitute a statement of legislative intent.*

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

**Background:**

Traditional Contact Tracing.

Case investigation and contact tracing are core public health strategies used to reduce the spread of communicable diseases such as COVID-19, a novel acute respiratory syndrome coronavirus. Case investigation is the identification and investigation of patients with confirmed and probable diagnoses of a disease, which involves working with the patient who has been diagnosed with the disease to identify other people who may have been infected through exposure to the patient. Contact tracing is the subsequent identification, monitoring, and support of those contacts who have been exposed to, and possibly infected with, the virus. In Washington, local health departments, with the support of the Department of Health (DOH), are responsible for performing case investigations and contact tracing.

Uniform Health Care Information Act.

The state Uniform Health Care Information Act (UHCIA) governs the disclosure of health care information by health care providers and their agents or employees. The UHCIA provides that a health care provider may not disclose health care information about a patient unless there is a statutory exception or written authorization by the patient. Some exceptions include disclosures to persons who require health care information for the provision of planning, legal, actuarial, and administrative services. A health care provider may also disclose health care information to any person if the health care provider or health care facility believes that the use or disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public. A health care provider must disclose health care information, with exceptions, to certain governmental entities for specified reasons. Disclosures to these entities are exempt from the Public Records Act (PRA). A health care provider must also disclose health care information when needed to protect the public health.

Public Records Act.

The PRA requires state and local agencies to make all public records available for public inspection and copying, unless a record falls within an exemption under the PRA or another statute that exempts or prohibits disclosure of specific information or records. The PRA is liberally construed and its exemptions interpreted narrowly. To the extent necessary to prevent an unreasonable invasion of personal privacy, an agency must delete identifying details from the records sought when it makes a record available. A person's right to privacy is violated only if disclosure would be highly offensive to a reasonable person and is not of legitimate concern to the public. Exemptions under the PRA are permissive, meaning that an agency, although not required to disclose, has the discretion to provide an exempt record.

Personal information in any files maintained for patients or clients of public institutions or

public health entities are exempt from disclosure under the PRA. Certain health care information is exempt from disclosure under the PRA, such as health information obtained under specified circumstances by the Pharmacy Quality Assurance Commission, the DOH, quality improvement committee, and health information created for and collected and maintained by a quality improvement committee, quality assurance committee, hospital, or for reporting of certain healthcare-associated infections.

**Summary of Bill:**

Health-related personal information is exempt from disclosure under the PRA if that information, alone or in combination with any other information, may reveal the identity of an individual that is submitted to or obtained by an agency for the purpose of investigating, controlling, preventing, or protecting the public from any disease, notifiable or provisionally notifiable condition as defined by the DOH, or condition constituting a threat to the public health.

Exempt information includes: name; birth month, day, or year; place of birth; telephone number; street or mailing address or other location information; email address or other contact information; place of employment; photograph of an individual; and information about an individual's physical characteristics that is submitted to or obtained by an agency for the purpose of investigating, controlling, preventing, or protecting the public from any disease, notifiable condition, or condition constituting a threat to the public health.

**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) Case investigation and contact tracing is a long-standing public health strategy that can save lives. It is crucial in preventing outbreaks, as this strategy allows medical professionals to identify disease transmission by linking cases to care services, and ensuring close contact for monitoring and management.

Personal health information is exempt under the PRA. However, people are failing to respond to contact tracers for fear that the information provided would be subject to public disclosure. This act provides a specific exemption and absolute clarity to assure the public that their personal information stays within the contact tracing agency or the local health department and only used for the purpose of contact tracing. This specification is crucial to provide public confidence and encourage the public to participate in contact tracing, especially now to help effectively protect against the spread of COVID-19. This bill will

enable local health departments to be effective health practitioners.

It would be helpful for the Legislature to clarify that it is the intent of the Legislature that the name of an employer where an outbreak has occurred would be public, so that a person could determine whether they had been exposed to the disease.

(Opposed) None.

**Persons Testifying:** Representative Pollet, prime sponsor; Cynthia Harry, Washington State Department of Health; Rowland Thompson, Allied Daily Newspapers of Washington; Jaime Bodden, Washington State Association of Local Public Health Officials.

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