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**SUBSTITUTE HOUSE BILL 2778**

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**State of Washington**

**65th Legislature**

**2018 Regular Session**

**By** House State Government, Elections & Information Technology (originally sponsored by Representatives Jenkins, 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)

1 AN ACT Relating to protecting personal information from  
2 disclosure for persons who make claims of sexual harassment;  
3 reenacting and amending RCW 42.56.250; and adding new sections to  
4 chapter 42.56 RCW.

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

6 **Sec. 1.** RCW 42.56.250 and 2017 c 38 s 1 and 2017 c 16 s 1 are  
7 each reenacted and amended to read as follows:

8 The following employment and licensing information is exempt from  
9 public inspection and copying under this chapter:

10 (1) Test questions, scoring keys, and other examination data used  
11 to administer a license, employment, or academic examination;

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

15 (3) Professional growth plans (PGPs) in educator license renewals  
16 submitted through the eCert system in the office of the  
17 superintendent of public instruction;

18 (4) The following information held by any public agency in  
19 personnel records, public employment related records, volunteer  
20 rosters, or included in any mailing list of employees or volunteers  
21 of any public agency: Residential addresses, residential telephone

1 numbers, personal wireless telephone numbers, personal email  
2 addresses, social security numbers, driver's license numbers,  
3 identicard numbers, and emergency contact information of employees or  
4 volunteers of a public agency, and the names, dates of birth,  
5 residential addresses, residential telephone numbers, personal  
6 wireless telephone numbers, personal email addresses, social security  
7 numbers, and emergency contact information of dependents of employees  
8 or volunteers of a public agency. For purposes of this subsection,  
9 "employees" includes independent provider home care workers as  
10 defined in RCW 74.39A.240;

11 (5) Information that identifies a person who, while an agency  
12 employee: (a) Seeks advice, under an informal process established by  
13 the employing agency, in order to ascertain his or her rights in  
14 connection with a possible unfair practice under chapter 49.60 RCW  
15 against the person; and (b) requests his or her identity or any  
16 identifying information not be disclosed;

17 (6) Investigative records compiled by an employing agency  
18 conducting an active and ongoing investigation of a possible unfair  
19 practice under chapter 49.60 RCW or of a possible violation of other  
20 federal, state, or local laws prohibiting discrimination in  
21 employment;

22 (7) Criminal history records checks for board staff finalist  
23 candidates conducted pursuant to RCW 43.33A.025;

24 (8) Except as provided in RCW 47.64.220, salary and benefit  
25 information for maritime employees collected from private employers  
26 under RCW 47.64.220(1) and described in RCW 47.64.220(2);

27 (9) Photographs and month and year of birth in the personnel  
28 files of employees and workers of criminal justice agencies as  
29 defined in RCW 10.97.030. The news media, as defined in RCW  
30 5.68.010(5), shall have access to the photographs and full date of  
31 birth. For the purposes of this subsection, news media does not  
32 include any person or organization of persons in the custody of a  
33 criminal justice agency as defined in RCW 10.97.030; ~~((and))~~

34 (10) The global positioning system data that would indicate the  
35 location of the residence of a public employee or volunteer using the  
36 global positioning system recording device; and

37 (11) Information that identifies an agency employee who has made  
38 a claim with the employing agency of sexual harassment and has  
39 requested that his or her identity or any identifying information not  
40 be disclosed without his or her consent, except for the name of the

1 agency employee who made the claim and receives a monetary settlement  
2 from the agency arising out of the claim of sexual harassment. The  
3 agency must notify the employee who makes a claim of sexual  
4 harassment that the employee may request that his or her identity or  
5 any identifying information not be disclosed.

6 NEW SECTION. Sec. 2. A new section is added to chapter 42.56  
7 RCW to read as follows:

8 (1) Any person who requests and obtains the identity or  
9 identifying information of an agency employee that has made a claim  
10 of sexual harassment and uses such information to harass, stalk,  
11 threaten, or intimidate that employee, is subject to civil liability.

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

19 NEW SECTION. Sec. 3. A new section is added to chapter 42.56  
20 RCW to read as follows:

21 By January 1, 2023, the public records exemptions accountability  
22 committee, in addition to its duties in RCW 42.56.140, must prepare  
23 and submit a report to the legislature that includes recommendations  
24 on whether the exemption created in section 1, chapter . . ., Laws of  
25 2018 (section 1 of this act) should be continued, modified, or  
26 terminated, in accordance with its authority under RCW 42.56.140.

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