PUBLIC EMPLOYEE PRIVACY & SAFETY

Washington State Labor Council, AFL-CIO

The 2020 Legislature must protect public employee privacy and safety with **HB 1888**

HB 1888 would protect the safety and privacy of public employees and their families. Sponsored by Rep. Zack Hudgins (D-Tukwila), HB 1888 exempts government employees' birth dates from public disclosure.

WHY IT'S NECESSARY

Washington's Public Records Act explicitly aims to protect the privacy and safety of public employees while creating greater government transparency. In 1972, supporters of the PRA (Initiative 276) assured voters, "Certain records are exempted to protect individual privacy."[1] That is why personal information about public employees is exempted from public disclosure, including home addresses, Social Security numbers, and personal phone numbers.

That privacy and safety are now at risk. In a narrow (5-4) ruling in October 2019, the State Supreme Court reversed a Court of Appeals decision and ruled that public employees' birth dates are subject to disclosure. That means anyone can request a public employee's date of birth as a matter of public record — a significant breach of personal privacy and safety.

In 2020, access to a name and birth date make it easy to find home addresses online. That's why online security experts advise individuals not to give their full birth dates on social media or elsewhere. This endangers public employees who are victims of domestic abuse or violent crime, increases

risk of identity theft and doxxing (where personal identifying data is maliciously posted online), and puts families' safety at risk. If you've been involved in a confidential adoption, or are being stalked by a former partner, or for any number of reasons, your employer should not be mandated to release private information that jeopardizes your safety and peace of mind. This upends the assurance of privacy that was promised in the Public Records Act.

It's up to the Legislature to update the PRA. Although State Supreme Court justices expressed sympathy with the privacy and safety concerns of public employees, the court ruled, "We cannot judicially expand the PRA's narrow exemptions beyond the boundaries set by the legislature."[2] As dissenting Supreme Court Justice Steven Gonzalez wrote in his response to the ruling:

> "Disturbing results will follow if this personal information is not protected by our state agencies. Criminals need not hack the

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government's servers to get personal information when all they need to do is submit a [Public Records Act] request. Their victims will be none the wiser."

The PRA was approved by voters nearly 50 years ago and must be updated. The PRA was approved long before the Internet made it easy to maliciously track and harm people by using their personal information. If exempting home addresses was considered a necessary protection in 1972, exempting birth dates is necessary in 2020 -- because supplying birth dates puts home addresses just a few keystrokes away.

Other states have acknowledged their duty to protect public employees' birth dates. Oregon[3] and California[4], for example, include public employees' birth dates among the private personal information exempted from public disclosure.

Newspapers and journalists can still do their jobs under HB 1888. Some of them have argued that HB 1888 would "weaken" the Public Records Act because when they investigate wrongdoing, birth dates makes it easier to identify and locate public employees. Exactly. It also makes it easier for people with malicious intent to threaten and harm public employees and their families.

Journalists in Oregon, California and other states that exempt birth dates from public disclosure still manage to do their jobs. *Public employers should not be forced to put their workers' privacy and safety at risk just to make journalists' jobs easier.*

Bottom line: **HB 1888 would protect the privacy and safety of Washington's public employees and their families**, as intended in the voter-approved Public Records Act, and it would do so without harming government openness and accountability. The PRA needs to be updated to account for modern technology that makes it easy to harass, threaten and harm public employees. That means adding birth dates to the list of personal data exempted from disclosure.

Opponents of HB 1888 are dismissive of the legitimate safety and privacy concerns raised by public employees. They also exaggerate the impact of HB 1888 on their ability to do investigative reporting. Their counterparts in other states that protect this personal information manage to do their jobs just fine.

Please approve HB 1888 in the 2020 session.

1. Official Voters' Pamphlet for the 1972 General Election (washingtoncog.org/wp-content/uploads/2017/04/I-276-VotersPamphlet1972.pdf) 2. Washington State Supreme Court case #95262-1 (www.courts.wa.gov/opinions/pdf/952621.pdf) 3. ORS 192.355 - Oregon public records exempt from disclosure
4. California Government Code Section 6254.3

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In addition to HB 1888, the Washington State Labor Council, AFL-CIO is supporting a range of issues that address economic opportunity and justice. Learn more at **www.wslc.org** or **www.TheStand.org**.

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