



June 8, 2023

# Implementation of ESHB 1533

Exempts from disclosure under the Public Records Act certain information of agency employees if they or their dependents are survivors of domestic violence, sexual assault, harassment, or stalking if certain conditions are met. The exemption does not apply to news media.

**OFM**

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# OVERVIEW

ESHB 1533 was signed into law and became effective on May 15, 2023.

The new law:

- Exempts from disclosure under the Public Records Act certain information of agency employees if they or their dependents are survivors of domestic violence, sexual assault, harassment, or stalking if certain conditions are met. The exemption does not apply to news media.
- Requires the employee provide to their employing agency either (1) proof of participation in the Secretary of State's Address Confidentiality Program (ACP); or (2) a sworn statement that must be renewed every two years.
- The exemption does not apply to public records requests from the news media as defined in RCW 75.68.010(5).
- The new exemption applies only to requests under the Public Records Act. When it comes to union information requests, there is no similar exemption. Connect with the agency assigned State HR Labor Relations Negotiator for guidance.

## IMPLEMENTATION – SWORN STATEMENT

The Attorney General’s Office has provided a template affidavit for employee sworn statements. The template is posted in the [HR Professional Portal](#) for agency HR professional staff to download.

Per the law:

- The sworn statement must be signed under penalty of perjury and verified by the agency director or designee.
- The statement must attest that the employee or the employee's dependent is a survivor of domestic violence, sexual assault, sexual abuse, stalking, or harassment, as those terms are defined by law, and state why the employee has a reasonable basis to believe that the risk of domestic violence, sexual assault, sexual abuse, stalking, or harassment continues to exist.
- The statement must identify the alleged perpetrator by name, and include a likeness if possible, or be supported by documentation such as a police report or protection order petition. The statement expires after two years and must be renewed to maintain the exemption.

# IMPLEMENTATION – HRMS REDACTION INDICATOR USAGE

The HRMS Redaction Indicator definition and other resource materials are being updated to comply with new legal requirements. The definition changes have undergone legal review.

## Critical Notes:

- The Redaction Indicator is a flag and will not automatically redact records.
- The Redaction Indicator does not mean an employee's information is categorically exempt under the Public Records Act.
  - OFM uses the Redaction Indicator to identify employee records that may need to be exempted from statewide employee data public record requests.
- It is the agency's responsibility to redact data from reports as necessary and as permitted by law.
- Use of the Redaction Indicator indicates only that the agency should inquire further before releasing identifying information about an employee.
- Each agency will need to determine on a case-by-case basis what information, if any, may be released, depending on the type of data request and the employee's particular circumstances.

## REVISED HRMS REDACTION INDICATOR DEFINITION

**Definition:** Use Redaction Indicator to indicate an agency should inquire further before releasing the employee's personally identifying information outside the agency. The Redaction Indicator should only be used under the following conditions:

- Employee has provided a sworn statement in accordance with ESHB 1533.
- Employee has provided proof of participation in the Secretary of State's Address Confidentiality Program (ACP) in accordance with ESHB 1533.
- Employee has otherwise been identified by the agency as being at risk due to stalking, harassment, or domestic violence.
- Employee is an undercover law enforcement officer.
- Employee is in a position that falls under Sensitive Security Information as defined in 49 C.F.R. 1520 (Washington State Department of Transportation Marine Division).

Employees who have otherwise been identified by the agency as being at risk due to stalking, harassment, or domestic violence (third bullet above) should provide their agency's HR Office appropriate documentation prior to receiving designation. The agency is responsible for ensuring each instance where it uses the indicator is supported by sufficient documentation.

## IMPLEMENTATION – AGENCY BUSINESS PROCESS

Agencies should assess existing internal business process and modify as necessary for documenting the exemption of employee information from public disclosure.

- Any documentation maintained by an agency to administer the exemption is confidential and may not be disclosed.
- The director may verify the sworn statement by confirming that the sworn statement identifies the alleged perpetrator by name and, if possible, image or likeness, or by obtaining a copy of the policy report, protection order petition, or other documentation of the allegations.
- Agencies are permitted to provide information to their employees on how to anonymize their work email address.
- Agencies are responsible for internal tracking:
  - Distinguish those employees who meet the specific criteria of ESHB 1533 from other uses of the redaction indicator.
  - Monitoring two-year time frame for employee sworn statements.
- For further guidance on implementation of ESHB 1533, agencies should consult with their assigned counsel in the Attorney General's Office.



# FOR MORE INFORMATION:

Submit HRMS Redaction Indicator  
Questions to [StrategicHR@ofm.wa.gov](mailto:StrategicHR@ofm.wa.gov)



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