

# Public records exemption for survivors of domestic violence, sexual abuse, stalking, or harassment

## Legislative Auditor's conclusion

State and local agencies use the survivor's exemption. More guidance would help ensure all at-risk employees receive intended protections.

### Key points

- The survivor's exemption makes some information about at-risk public employees exempt from disclosure. The Legislature passed it in 2023.
- Employees request and agencies use the exemption infrequently. Some at-risk employees may be unaware this exemption is available.
- Some protected employee data may be at greater risk of disclosure because agencies differ in how they implement the exemption and interpret statutory terms.
- Most agencies report the exemption gives affected employees added protections with minimal effect on public access to records.
- The Office of the Attorney General and other entities provide guidance about Public Records Act implementation.

#### What is an exemption?

Under the Public Records Act, public agencies must release records upon request.

An exemption is a law that allows agencies to withhold certain information.

Read the full report: [leg.wa.gov/jlarc/audits](https://leg.wa.gov/jlarc/audits)

## Recommendations

1. The Legislature should keep the survivor's exemption.
  - a. By law, JLARC must recommend whether the Legislature should keep or change the exemption.
2. The Office of the Attorney General should provide more guidance and training to public agencies on how to implement the exemption.
  - a. In doing so, it should seek input from other organizations that advise public agencies about records and human resources issues.

## Contact us

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### About the survivor's exemption

- Employees must certify that they or their dependent are at continuing risk of domestic violence, sexual assault, sexual abuse, harassment, or stalking.
- Protects information including name, work location, work phone number, and "other similar information."
- Information must be in "personnel-related files."

*RCW 42.56.250(1)(i)*

## Employees request and agencies use the exemption infrequently

**141 out of 87,000**

state employees asked for the exemption since it went into effect in 2023

**71 public agencies (state and non-state)**

reported having at least one employee who asked for the exemption

## Some public employees may be unaware of the exemption

Half of the agencies interviewed do not tell their employees about the exemption until they receive a records request for affected data

*Sources: State human resources management system data, JLARC staff survey of non-state agencies, interviews with 28 affected agencies*

## Agencies differ in how they implement the exemption and interpret statutory terms, so some protected employee data may be at greater risk of disclosure

- Some protect information such as work hours. They consider it "other similar information," which the law protects but does not specifically define. Others do not.
- Agencies differ in what they consider "personnel-related files."
- Some had not considered the need to protect data they share with other public agencies.
- More than half of the agencies that responded to the JLARC staff survey had not adopted policies and procedures to implement the exemption.

## Agencies receive training and guidance from the Attorney General's Office and others about Public Records Act compliance

The Office of the Attorney General (AGO) is responsible by law for providing guidance, training, and technical assistance to public agencies that implement the Public Records Act.

- The AGO's general Public Records Act guidance and training includes this exemption. It does not have stand-alone official guidance specific to this exemption.
- Other organizations (e.g., Municipal Research and Services Center) also offer advice on records and human resources issues. Like AGO, their general guidance includes the exemption.

Agencies say that **more guidance or access to leading practices** would help **ensure they are implementing the law correctly and protecting at-risk employees.**