S-3789.1

SENATE BILL 6081

State of Washington 69th Legislature 2026 Regular Session

By Senators Pedersen and Liias

AN ACT Relating to protecting Washingtonians from invasion of privacy, including the unauthorized disclosure of sex designation information and historic sex designation changes in official government records; amending RCW 46.20.091, 70.58A.500, 70.58A.510, 70.58A.520, 70.58A.530, and 70.58A.540; reenacting and amending RCW 42.56.230; adding a new section to chapter 46.20 RCW; and providing an effective date.

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

Sec. 1. RCW 42.56.230 and 2023 c 361 s 14, 2023 c 346 s 1, and 2023 c 182 s 2 are each reenacted and amended to read as follows:

The following personal information is exempt from public inspection and copying under this chapter:

(1) Personal information in any files maintained for students in public schools, patients or clients of public institutions or public health agencies, or welfare recipients;

(2)(a) Personal information:

(i) For a child enrolled in licensed child care in any files maintained by the department of children, youth, and families;

(ii) For a child enrolled in a public or nonprofit program serving or pertaining to children, adolescents, or students, including but not limited to early learning or child care services,

parks and recreation programs, youth development programs, and after-school programs;

(iii) For a student enrolled or previously enrolled in a local education agency, in any records pertaining to the student, including correspondence;

(iv) For the family members or guardians of a child who is subject to the exemption under this subsection (2) if the family member or guardian has the same last name as the child or if the family member or guardian resides at the same address as the child and disclosure of the family member's or guardian's information would result in disclosure of the personal information exempted under (a)(i) through (iii) of this subsection; or

(v) For substitute caregivers who are licensed or approved to provide overnight care of children by the department of children, youth, and families.

(b) Emergency contact information under this subsection (2) may be provided to appropriate authorities and medical personnel for the purpose of treating the individual during an emergency situation;

(3) Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy;

(4) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would: (a) Be prohibited to such persons by RCW 84.08.210, 82.32.330, 84.40.020, 84.40.340, or any ordinance authorized under RCW 35.102.145; or (b) violate the taxpayer's right to privacy or result in unfair competitive disadvantage to the taxpayer;

(5) Credit card numbers, debit card numbers, electronic check numbers, card expiration dates, or bank or other financial information as defined in RCW 9.35.005 including social security numbers, except when disclosure is expressly required by or governed by other law;

(6) Personal and financial information related to a small loan or any system of authorizing a small loan in RCW 31.45.093;

(7)(a) Any record used to prove identity, age, residential address, social security number, or other personal information required to apply for a driver's license or identicard.

(b) Information provided under RCW 46.20.111 that indicates that an applicant declined to register with the selective service system.

(c) Any record pertaining to a vehicle license plate, driver's license, or identicard issued under RCW 46.08.066 that, alone or in combination with any other records, may reveal the identity of an individual, the sex designation of an individual, or reveal that an individual is or was, performing an undercover or covert law enforcement, confidential public health work, public assistance fraud, or child support investigative activity. This exemption does not prevent the release of the total number of vehicle license plates, drivers' licenses, or identicards that, under RCW 46.08.066, an agency or department has applied for, been issued, denied, returned, destroyed, lost, and reported for misuse.

(d) Any record pertaining to a vessel registration issued under RCW 88.02.330 that, alone or in combination with any other records, may reveal the identity of an individual, or reveal that an individual is or was, performing an undercover or covert law enforcement activity. This exemption does not prevent the release of the total number of vessel registrations that, under RCW 88.02.330, an agency or department has applied for, been issued, denied, returned, destroyed, lost, and reported for misuse.

Upon request by the legislature, the department of licensing shall provide a report to the legislature containing all of the information in (c) of this subsection (7) and this subsection (7)(d) that is subject to public disclosure;

(8) All information related to individual claim resolution settlement agreements submitted to the board of industrial insurance appeals under RCW 51.04.063, other than final orders from the board of industrial insurance appeals. The board of industrial insurance appeals shall provide to the department of labor and industries copies of all final claim resolution settlement agreements;

(9) Voluntarily submitted information contained in a database that is part of or associated with 911 emergency communications systems, or information contained or used in emergency notification systems as provided under RCW 38.52.575 and 38.52.577;

(10) Information relating to a future voter, as provided in RCW 29A.08.725;

(11) All information submitted by a person to the state, either directly or through a state-licensed gambling establishment, or Indian tribes, or tribal enterprises that own gambling operations or facilities with class III gaming compacts, as part of the self-

exclusion program established in RCW 9.46.071 or 67.70.040 for people with a gambling problem or gambling disorder;

(12) Names, addresses, or other personal information of individuals who participated in the bump-fire stock buy-back program under former RCW 43.43.920; ((~~and~~))

(13) All personal and financial information concerning a player that is received or maintained by the state lottery or any contracted lottery vendor except the player's name and city or town of residence. Additional information may be released only in accordance with prior written permission from the player; and

(14) Information collected from individuals who have requested or previously requested changes to sex designation for vital records under chapter 70.58A RCW.

NEW SECTION. **Sec. 2.** A new section is added to chapter 46.20 RCW to read as follows:

(1) The department may not display, transmit, or otherwise make available any record of a person's sex designation except with the consent of the person, given for a specific purpose.

(2) Credentials and digital records issued after a change to sex designation must contain only the current sex designation and no indicator that a change occurred.

Sec. 3. RCW 46.20.091 and 2021 c 158 s 4 are each amended to read as follows:

(1) **Application**. In order to apply for a driver's license or instruction permit the applicant must provide the applicant's:

(a) Name of record, as established by documentation required under RCW 46.20.035;

(b) Date of birth, as established by satisfactory evidence of age;

(c) Sex;

(d) Washington residence address;

(e) Description;

(f) Driving licensing history, including:

(i) Whether the applicant has ever been licensed as a driver or chauffeur and, if so, (A) when and by what state or country; (B) whether the license has ever been suspended or revoked; and (C) the date of and reason for the suspension or revocation; or

(ii) Whether the applicant's application to another state or country for a driver's license has ever been refused and, if so, the date of and reason for the refusal; and

(g) Any additional information required by the department.

(2) **Sworn statement.** An application for an instruction permit or for an original driver's license must be made upon a form provided by the department. The form must include a section for the applicant to indicate whether the applicant has received driver training and, if so, where. The identifying documentation verifying the name of record must be accompanied by the applicant's sworn statement that it is valid. For an original driver's license, the information provided on the form must be sworn to and signed by the applicant before a person authorized to administer oaths. An applicant who makes a false statement on an application for a driver's license or instruction permit is guilty of false swearing, a gross misdemeanor, under RCW 9A.72.040.

(3) **Driving records from other jurisdictions.** If a person previously licensed in another jurisdiction applies for a Washington driver's license, the department shall request a copy of the applicant's driver's record from the other jurisdiction. The driving record from the other jurisdiction becomes a part of the driver's record in this state.

(4) **Driving records to other jurisdictions.** If another jurisdiction requests a copy of a person's Washington driver's record, the department shall provide a copy of the record. The department shall forward the record without charge if the other jurisdiction extends the same privilege to the state of Washington. Sex designation information is considered sensitive information and must be excluded from any records transmitted to other jurisdictions except with the consent of the person, given for a specific purpose. Otherwise the department shall charge a reasonable fee for transmittal of the record.

Sec. 4. RCW 70.58A.500 and 2019 c 148 s 18 are each amended to read as follows:

(1) The state registrar may amend certification items on state vital records.

(2) The state registrar may amend a live birth record to change the name of a person born in state:

(a) Upon receipt of a complete and signed amendment application with applicable fees and a certified copy of an order of a court of competent jurisdiction, including the name of the person as it appears on the current live birth record and the new name to be designated on the amended live birth record, under RCW 4.24.130; or

(b) As authorized under 18 U.S.C. Sec. 3521, the federal witness relocation and protection act.

(3) The state registrar shall seal the original live birth record amended under subsection (2)(b) of this section. The sealed record is not subject to public inspection and copying under chapter 42.56 RCW except upon order of a court of competent jurisdiction.

(4)(a) The state registrar may amend a vital record to change the sex designation of the subject of the record. The state registrar shall include a nonbinary option for sex designation on the record.

(b) Supporting documentation related to sex designation changes shall be sealed by the state registrar and constitute supporting documentation for the purposes of RCW 42.56.365 and 70.58A.540.

(5) The state registrar may amend vital records for purposes other than those established in this section.

(6) The state registrar may deny an application to amend a vital record when:

(a) The application is not completed or filed in accordance with this chapter;

(b) The state registrar has cause to question the validity or adequacy of the applicant's statements or documentary evidence; or

(c) The deficiencies under (a) or (b) of this subsection are not addressed to the satisfaction of the state registrar.

(7) The state registrar shall provide notice of the denial of an application to amend a vital record and state the reasons for the denial. If the state registrar denies an amendment to a vital record under the provisions of this section, a person may appeal the decision under RCW 70.58A.550.

Sec. 5. RCW 70.58A.510 and 2019 c 148 s 19 are each amended to read as follows:

(1) The state registrar shall develop and implement a preservation management policy for the vital records system for permanent preservation while in the custody of the state registrar.

(2) The state registrar shall transfer the custody of vital records to the state archives in accordance with state archival procedures when:

(a) One hundred years have elapsed after the date of live birth or fetal death;

(b) Twenty-five years have elapsed after the date of death; and

(c) Twenty-five years have elapsed after the date of marriage, divorce, dissolution of marriage, dissolution of domestic partnership, declaration of invalidity of marriage, declaration of invalidity of domestic partnership, or legal separation.

(3) The state archives may provide noncertified copies of original vital records in the custody of the state archives, due to a transfer under subsection (2) of this section, to the public.

(4) The state archives may not:

(a) Charge the department a fee or pass along costs to transfer the vital records to state archives or maintain the vital records in the state archives, other than those charged through the central services billing model for the cost of operating the state archives; or

(b) Alter, amend, or delete certification items on the vital records.

(5) Sealed records must remain sealed and in the custody of the department.

(6) In consultation with the state archives, the state registrar shall prescribe the format and method of delivery of vital records transferred to the state archives.

(7) The department may retain records for the purpose of issuing certifications under RCW 70.58A.530.

(8) The state archives shall not make publicly available or disclose to any recipient other than the department any supporting documentation related to sex designation changes that were transferred pursuant to this section.

Sec. 6. RCW 70.58A.520 and 2019 c 148 s 20 are each amended to read as follows:

(1) The department may disclose vital records information for persons named in any birth, death, or fetal death record only as provided under this chapter.

(2) Proposals for research and public health purposes must be reviewed and approved as to scientific merit and adequacy of confidentiality safeguards in accordance with this section.

(3) The department may release birth and fetal death record data that includes direct identifiers for research with approval of the state institutional review board and receipt of a signed confidentiality agreement with the department.

(4) The department may release birth and fetal death record data that includes direct identifiers for nonresearch public health purposes to a government agency upon receipt of a signed written data-sharing agreement with the department.

(5) The department may release birth and fetal death record data that contains only indirect identifiers to anyone upon receipt of a signed written data-sharing agreement with the department.

(6) The department may release death record data to anyone upon approval of the department and receipt of a signed written data-sharing agreement with the department.

(7) A written data-sharing agreement required under subsections (4) through (6) and (14) through (17) of this section must, at a minimum:

(a) Include a description of the type of data needed and the purpose for how the data will be used;

(b) Include the methods to be used to protect the confidentiality and security of the data;

(c) State that ownership of the data provided under this section remains with the department, and is not transferred to those authorized to receive and use the data under the agreement; and

(d) Include the applicable fees for use of the data.

(8) In addition to the conditions required by subsection (7) of this section, the written data-sharing agreement for birth and fetal death record data for public health purposes under subsection (4) of this section must:

(a) Prohibit redisclosure of any direct or indirect identifiers without explicit permission from the department; and

(b) Prohibit the recipient of the data from contacting or attempting to contact the person whose information is included in the data set or that person's family members without explicit permission from the department.

(9) In addition to the conditions required by subsection (7) of this section, the written data-sharing agreement for birth or fetal

death record data with indirect identifiers under subsection (5) of this section must prohibit the recipient of the data from attempting to determine the identity of persons whose information is included in the data set or use the data in any manner that identifies individuals or their family members.

(10) The department and the state institutional review board shall apply the most restrictive law governing data release to proposals for research and public health purposes requesting data sets with direct identifiers for linkage to other data sets.

(11) The department may provide the fewest birth and fetal death record data elements necessary for the purpose described in the proposal for research or public health purposes.

(12) The department may deny a request for data for cause including, but not limited to, when:

(a) Indirect identifiers are sufficient for the purpose described in the proposal for research or public health purposes;

(b) The research or public health proposal lacks scientific merit;

(c) The department lacks resources or the request would result in an unreasonable use of resources related to data preparation and analysis;

(d) The requestor cannot meet the requirements in a data-sharing agreement for protecting the confidentiality of the data; ((~~or~~))

(e) The requestor is out of compliance with an existing data-sharing agreement; or

(f) The department determines that there is a reasonable possibility of the data being used to cause or enable harm or disenfranchisement or that its use could reasonably result in disparate impact on the data subject or that otherwise fulfilling the request would not be in the public interest.

(13) The department must provide notice of the denial to the requestor and include a statement of the reasons for the denial. If the state registrar denies a request for data under the provisions of this section, a person may appeal the decision under RCW 70.58A.550.

(14) The department may release vital records to government agencies in the conduct of official duties upon approval of the state registrar and receipt of a signed written data-sharing agreement with the department that prohibits redisclosure of any direct or indirect identifiers without explicit permission from the department. Vital records information released by the department under this subsection

may be limited to only the information necessary to perform the official duties of the agencies to which the information is released. The department may deny requests according to subsection (12) of this section. Government agencies may access records electronically and use of records must be limited to the information needed for official business. The agreement may include cost sharing for support of the electronic system.

(15) The department shall make available to the department of social and health services, division of child support, the social security numbers of parents listed on birth records as required for establishing child support upon receipt of a signed written data-sharing agreement with the department.

(16) The department may release vital records to the national center for health statistics to be used solely for national statistics upon approval of the state registrar and receipt of a signed written data-sharing agreement with the department.

(17) The department may release copies of vital records through an interjurisdictional exchange agreement to offices of vital statistics in states or territories of the United States, the District of Columbia, New York City, or neighboring countries. The records must relate to a resident of, a person born in, or a person who died in the requesting state, territory, the District of Columbia, New York City, or neighboring country.

(18) The department may release indices of death, marriage, and divorce records annually to the state archives.

(19) Nothing in this chapter may be construed as giving authority to the state or local registrar, department, government agencies, or data recipients to sell or provide access to lists of individuals when requested for commercial purposes.

(20) For the purposes of this section:

(a) "Data" means a data file containing multiple records.

(b) "Direct identifier" means a single data element that identifies an individual person.

(c) "Indirect identifier" means a single data element that on its own does not identify an individual person, but when combined with other indirect identifiers can be used to identify an individual person.

(d) "Public health purpose" means a purpose that seeks to support or evaluate public health activities which include, but are not limited to, health surveillance; identifying population health

trends; health assessments; implementing educational programs; program evaluation; developing and implementing policies; determining needs for access to services and administering services; creating emergency response plans; promoting healthy lifestyles; and preventing, detecting, and responding to infectious diseases, injury, and chronic and inheritable conditions. Public health purpose does not include research as defined in this section.

(e) "Research" means a systematic investigation, including research development, testing, and evaluation, designed to develop or contribute to generalizable knowledge. Activities that meet this definition constitute research for purposes of this policy, whether or not they are conducted or supported under a program that is considered research for other purposes.

Sec. 7. RCW 70.58A.530 and 2025 c 37 s 1 are each amended to read as follows:

(1)(a) A certification issued in accordance with this section is considered for all purposes the same as the original vital record and is prima facie evidence of the facts stated therein.

(b) An informational copy is not considered the same as the original vital record and does not serve as prima facie evidence of the facts stated therein.

(2) The state and local registrar shall issue all certifications registered in the vital records system from the state's central vital records system database upon submission by a qualified applicant of all required information and documentation required either by this chapter or by rule, or both, and shall ensure that all certifications include:

(a) The date of registration; and

(b) Security features that deter altering, counterfeiting, or simulation without ready detection as required under this chapter.

(3) A person requesting a certification of birth, death, fetal death, or birth resulting in stillbirth must submit an application, identity documentation, evidence of eligibility, and the applicable fee established in RCW 70.58A.560 to the state or local registrar.

(4) For a certification of birth, the state or local registrar may release the certification only to:

(a) The subject of the record or the subject of the record's spouse or domestic partner, child, parent, stepparent, stepchild, sibling, grandparent, great grandparent, grandchild, great

grandchild, legal guardian, legal representative, or authorized representative; or

(b) A government agency or court, if the certification will be used in the conduct of the agency's or court's official duties, unless the department determines that there is a reasonable possibility of the certification being used to cause or enable harm or disenfranchisement or that its use could reasonably result in disparate impact on the data subject or that otherwise fulfilling the request would not be in the public interest.

(5) The state registrar may issue an heirloom certification of birth to a qualified applicant consistent with subsection (4) of this section. The heirloom certification of birth must contain the state seal and be signed by the governor.

(6) The state registrar may issue a certification of a birth record registered as delayed under RCW 70.58A.120 or 70.58A.130 to a qualified applicant consistent with subsection (4) of this section. The certification must:

(a) Be marked as delayed; and

(b) Include a description of the evidence or court order number used to establish the delayed record.

(7) The state registrar may issue a certification of a birth record for a person adopted under chapter 26.33 RCW and registered under RCW 70.58A.400 to a qualified applicant consistent with subsection (4) of this section. The certification:

(a) Must not include reference to the adoption of the child; and

(b) For children born outside of the state, must be issued consistent with the certification standards of this section, unless the court orders otherwise.

(8) When providing a birth certification to a qualified applicant under this chapter, the state or local registrar shall include information prepared by the department setting forth the advisability of a security freeze under RCW 19.182.230 and the process for acquiring a security freeze.

(9) For a certification of death, the state or local registrar may release the certification only to:

(a) The decedent's spouse or domestic partner, child, parent, stepparent, stepchild, sibling, grandparent, great grandparent, grandchild, great grandchild, legal guardian immediately prior to death, legal representative, authorized representative, or next of kin as specified in RCW 11.28.120;

(b) A funeral director, the funeral establishment licensed pursuant to chapter 18.39 RCW, or the person having the right to control the disposition of the human remains under RCW 68.50.160 named on the death record, within twelve months of the date of death; or

(c) A government agency or court, if the certification will be used in the conduct of the agency's or court's official duties.

(10) The state or local registrar may issue a short form certification of death that does not display information relating to cause and manner of death to a qualified applicant. In addition to the qualified applicants listed in subsection (9) of this section, a qualified applicant for a short form certification of death includes:

(a) A title insurer or title insurance agent handling a transaction involving real property in which the decedent held some right, title, or interest; or

(b) A person that demonstrates that the certified copy is necessary for a determination related to the death or the protection of a personal or property right related to the death.

(11) The state or local registrar may issue reports of fetal death either as a certification of a fetal death or as a certification of birth resulting in a stillbirth, or both.

(12) When issuing a certification of fetal death, the state or local registrar may release the certification only to:

(a) A parent, a parent's legal representative, an authorized representative, a sibling, or a grandparent;

(b) The funeral director or funeral establishment licensed pursuant to chapter 18.39 RCW and named on the fetal death record, within twelve months of the date of fetal death; or

(c) A government agency or court, if the certification will be used in the conduct of the agency's or court's official duties.

(13) When issuing a certification of birth resulting in stillbirth, the state or local registrar may release the certification only to the individual who gave birth listed on the fetal death record.

(a) A certification of birth resulting in stillbirth must comply with the format requirements prescribed by the state registrar and be in a format similar to a certification of birth.

(b) The certification of birth resulting in stillbirth must contain a title at the top of the certification that reads: "This

certificate of birth resulting in stillbirth is not proof of a live birth and is not an identity document."

(c) Nothing in this subsection (13):

(i) May be the basis for a civil cause of action seeking damages or criminal charges against any person or entity for bodily injury, personal injury, or wrongful death for a stillbirth;

(ii) Shall alter a woman's rights to reproductive freedom or equal protection under the law, or to alter or supersede any other provision of law; and

(iii) Except for the right to request a certification of birth resulting in stillbirth, may constitute the basis of any new right, privilege, or entitlement, or abrogate any existing right, privilege, or entitlement.

(14) The state or local registrar shall review the identity documentation and evidence of eligibility to determine if the person requesting the certification is a qualified applicant under this section. The state or local registrar may verify the identity documents and evidence of eligibility to determine the acceptability and authenticity of identity documentation and evidence of eligibility.

(15) The state or local registrar may not issue a certification of birth or fetal death, including a certification of birth resulting in stillbirth, that includes information from the confidential section of record, except as provided in subsection (16) of this section.

(16) The state registrar may release information contained in the confidential section of the birth record only to the following persons:

(a) The individual who is the subject of the birth record, upon confirmation of documentation and evidence of identity of the requestor in a manner approved by the state board of health and the department. The state registrar must limit the confidential information provided to the individual who is the subject of the birth record's information, and may not include the parent's confidential information; or

(b) A member of the public, upon order of a court of competent jurisdiction.

(17) A person requesting a certification of marriage, dissolution of marriage, or dissolution of domestic partnership currently held by

the department must submit an application and the applicable fee established in RCW 70.58A.560 to the state registrar.

(18) The state registrar may mark deceased on a birth certification when that birth record is matched to a death record under RCW 70.58A.060.

(19) The state or local registrar must issue an informational copy from the central vital records system to anyone. Informational copies must contain only the information allowed by rule. Informational copies of death records must not display information related to cause and manner of death.

(20) A person requesting an informational copy must submit an application and the applicable fee established in RCW 70.58A.560 to the state or local registrar.

(21) If no record is identified as matching the information provided in the application, the state or local registrar shall issue a document indicating that a search of the vital records system was made and no matching record was identified.

(22) All government agencies or courts to whom certifications or informational copies are issued must pay the applicable fee for certifications established in RCW 70.58A.560.

(23) The state or local registrar must comply with the requirements of this chapter when issuing a certification or informational copy of a vital life event.

(24) The department may issue, through electronic means and processes determined by the department, verifications of information contained on birth or death records filed with the department when a verification is requested by a government agency, insurance company, hospital, or any other organization in the conduct of its official duties for fraud prevention and good governance purposes as determined by the department. The department shall charge a fee for a search under this subsection.

(25) For the purposes of this section:

(a) "Qualified applicant" means a person who is eligible to receive a certification of a vital record based on the standards established by this chapter and department rule.

(b) "Stillbirth" means the same as fetal death as defined in RCW 70.58A.010.

Sec. 8. RCW 70.58A.540 and 2019 c 148 s 22 are each amended to read as follows:

(1) All or part of any vital records, reports, supporting documentation, vital statistics, data, or information contained therein, including information related to sex designation changes under this chapter, are not subject to public inspection and copying under chapter 42.56 RCW.

(2) With the exception of certifications and informational copies issued under RCW 70.58A.530, or unless otherwise authorized by this chapter, ((~~no person may permit the inspection of, disclose data or information contained in, or copy or issue a copy of all or part of any~~)) all vital records, reports, supporting documentation, vital statistics, data, ((~~or~~)) and information contained therein maintained by the department are confidential and are not subject to state or federal discovery, subpoenas, or other compulsory process.

NEW SECTION. **Sec. 9.** This act takes effect January 1, 2028.

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