**ESD Agency Request Legislation**

**Data Privacy and Confidentiality Bill**



***August 2018***

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| **Summary** |
| The Employment Security Department (ESD) believes deeply in protecting the privacy and confidentiality of our customers’ sensitive data. In the 1970s, large sections of state law went into effect governing how ESD shares private and confidential information received through the Unemployment Insurance program from both claimants and employers. Many of the provisions included in state law are required to conform with federal privacy and confidentiality requirements. We are proposing modernizing and strengthening these provisions in our state law to ensure our customers and the sensitive data we collect are protected in an open and transparent way.  |
| **Privacy Officer** |
| This bill would require ESD to designate a privacy officer who will develop an ESD personal information minimization policy to reduce the use and retention of personal information when possible. The privacy officer will create a work plan, which will include cost estimates, to: * Create an inventory of all of the personal information that we prepare, own, use or retain; and
* Create a map of the location of all personal information that we collect. The map will be exempt from disclosure under the Public Records Act.

In addition, we would report the work plan annually to the Washington Office of Privacy and Data Protection and provide a report to the Legislature every other year on the implementation and maintenance of data privacy and confidentiality within ESD.

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| **Third-Party Access** |

Modifying the provisions for how and when we disclose confidential records and information to a third party who is acting on behalf of an individual or employer who is otherwise eligible to receive records under RCW 50.13.040(1) or (2) if we receive a release from the individual, the employer, or a third party. The release must be signed and must include certain information, such as a statement that specifically identifies the information that will be disclosed.

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| **Data Sharing** |

Making changes to how we disclose private and confidential information to another government agency if the agency needs the information for official purposes or when required by federal law pertaining to unemployment compensation and records. The government agency must also meet certain additional criteria, such as submitting an application specifically identifying the records or information and stating why they need it. Modifying how we share private and confidential records or information with state and local governmental agencies and federally-recognized Indian tribes when the information is needed for the discharge of their official duties if they meet certain criteria.

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| **Penalties and Redisclosure** |

Requiring people or organizations who receive information from us under RCW 50.13 to take all reasonable actions necessary to prevent the disclosure of confidential information. Prohibiting government agencies that receive records or information from us under RCW 50.13 from disclosing it. If misuse or unauthorized disclosure occurs, all parties who are aware of the violation must inform us immediately and take all reasonably available actions to resolve the problem.If an entity misuses or rediscloses these records or information without our authorization, they are subject to a fine of up to $20,000, which we will adjust annually in relation to the Consumer Price Index.Requiring people and entities to obtain our permission before redisclosing information. However, there is an exemption for state and local government agencies and for federally-recognized tribes if the redisclosure is necessary for criminal prosecution. |
| **Contact** |
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