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**Labor & Workplace Standards  
Committee**

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**SSB 5564**

**Brief Description:** Protecting the confidentiality of employees using employee assistance programs.

**Sponsors:** Senate Committee on Labor, Commerce & Tribal Affairs (originally sponsored by Senators Keiser, Kuderer, Conway, Hunt, Lovick, Randall, Stanford and Wilson, C.).

**Brief Summary of Substitute Bill**

- Prohibits employers from obtaining individually identifiable information regarding an employee's participation in an employee assistance program.

**Hearing Date:** 2/16/22

**Staff:** Jessica Cable (786-7290) and Trudes Tango (786-7384).

**Background:**

An employee assistance program (EAP) is a program offered by employers to assist employees with work and life concerns. EAPs may provide support to employees for depression, stress, addictions, anger, parenting, relationships, and grief and loss. Employees of private employers may have access to an EAP through their employer's human resources or benefits department.

The Department of Enterprise Services administers the Washington State Employee Assistance Program (WSEAP). The WSEAP is a confidential program created to promote the health, safety, and well-being of state employees. Employees' participation and all individually identifiable information gathered in the process of conducting the WSEAP must be kept confidential; however, agency management may be provided with certain information in the case

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of poor job performance. An employee's participation or nonparticipation in the EAP must not be a factor in a decision affecting the employee's job security, promotional opportunities, corrective or disciplinary action, or other employment rights.

**Summary of Bill:**

An employer may not obtain individually identifiable information regarding an employee's participation in an EAP. Individually identifiable information gathered in the process of conducting an EAP must be kept confidential.

The prohibition does not apply to:

- authorized disclosures under the WSEAP;
- disclosures to an employer regarding an employee's attendance in an EAP, which the employee was required to attend as a condition of continued employment; and
- disclosures that are made to prevent or lessen a perceived threat to the health or safety of an individual or the public or permitted or required under state law.

An employee's participation or nonparticipation in an EAP must not be a factor in a decision affecting an employee's job security, promotional opportunities, corrective or disciplinary action, or other employment rights.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.