

# FINAL BILL REPORT

## SSB 5564

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Synopsis as Enacted

**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.).

**Senate Committee on Labor, Commerce & Tribal Affairs**  
**House Committee on Labor & Workplace Standards**

**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. EAPs may also provide support regarding legal and financial concerns. Many state employees have access to the Washington State Employee Assistance Program (WSEAP).

WSEAP is a free, confidential program created to promote the health, safety, and well-being of state employees. WSEAP is administered by the Washington State Department of Enterprise Services. Under WSEAP, employees' participation and all individually identifiable information gathered in the process of conducting WSEAP must be kept confidential, however, agency management may be provided with certain information in the case of poor job performance. Participation or nonparticipation in WSEAP must not be a factor in a decision affecting an employee's job security, promotional opportunities, corrective or disciplinary action, or other employment rights.

Employees of private employers may have access to an EAP through their employer's human resources or benefits department.

**Summary:** It is unlawful for an employer to 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.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

The prohibition does not apply to:

- authorized disclosures under the state EAP;
- 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.

**Votes on Final Passage:**

Senate	45	4
House	93	2

**Effective:** June 9, 2022