



ESHB 1155: My Health, My Data

Everyone deserves access to the health care they need without their personal health information being collected and shared without their permission or knowledge. Providing privacy protections is a crucial step to safeguarding health care access.

My Health, My Data is particularly necessary in this moment because of the wave of anti-abortion and anti-gender affirming care legislation sweeping the nation. Washington has the opportunity to be **innovative and bold** in protecting people's access to necessary healthcare.

Crisis Pregnancy Centers and the Private Right of Action

ESHB 1155 is essential to addressing crisis pregnancy centers (CPCs), which threaten the health and privacy of pregnant people, their healthcare providers, and their supporters across Washington State, as well as people seeking care from other states that ban abortion care.

- Despite often looking like medical clinics, most CPCs are not licensed health facilities and are **not required to comply with HIPAA**, which puts people's personal health information at risk.
- This means that CPCs can collect and share pregnant people's health information, from ultrasounds to medical histories, to advance anti-abortion activism.
- If passed, ESHB 1155 would require CPCs to disclose how patient information may be used and prohibit them from collecting, sharing or selling health data without consumer consent, protecting pregnant people, and their health information.
 - For example, Jane is seeking abortion care and accidentally ends up at a CPC. They gather her name, address, medical history, and do an ultrasound. She realized that abortion care is not available and ultimately goes elsewhere.
 - Unfortunately, the CPC creates a profile in their database with her information, sharing with their network of CPCs nationwide. They also share her personal information with anti-choice people in her community, resulting in harassment and significant mental distress.
 - Under ESHB 1155, Jane would be able to use the Consumer Protection Act to ensure the CPC no longer has her information to share and possibly get compensation for the harm she endured.
 - However, without a robust private right to action that includes per se violations, Jane would have to go through a lengthy legal process before getting any sort of relief under the CPA.
 - She would have to prove that the fake clinic engages in trade and commerce - which can be a difficult argument as they often lure people in with promises of free diapers, formulas, and fake ultrasounds.
 - She would also have to prove that it is against the public interest for them to continue storing and selling or sharing people's health data without her affirmative consent. This requires establishing a pattern of conduct - something that can be especially difficult for individual plaintiffs.

- The Washington Supreme Court has acknowledged that this is a **high burden for a private plaintiff** - in this case, it could deter Jane from seeking any sort of compensation for the distress she suffered, or the CPC from any significant consequences for the misuse of her health information.
- The Attorney General's Office would not be able to take on Jane's case because they do not represent private individuals. They would have to wait until they received multiple complaints - which could take years. Meanwhile, Jane would have no meaningful access to a remedy.

Idaho Laws and Impact on Washington

The overturning of *Roe v. Wade* in June 2022 triggered a total abortion ban in Idaho. Not only are people unable to access this basic reproductive healthcare, abortion providers are under attack, as they could be **sued for \$20,000** by family members and extended family of the person seeking an abortion.

With a total abortion ban not being enough for Idaho, the legislature passed a bill this session that would [criminalize transporting a minor across state lines](#) in order to get an abortion. This bill, a first of its kind in the country, would jeopardize the safety and health of young people in Idaho as well as the people willing to help them.

- Idaho has a track record of being a testing ground for outrageous laws that strip away fundamental rights. For example, in 2020 Idaho introduced HB500, an anti-trans sports bill that was first-of-its-kind at the time.
- Since then, [similar legislation has popped up in 18 states](#), with 14 more introducing legislation this year alone. We have an opportunity to interrupt this harmful mindset before it gets exported to other states across the country.

Situations created by the draconian laws in Idaho require that Washington have strong privacy protections - so that a 14-year-old traveling from Idaho to Washington for an abortion can be sure that their location data or search history won't be used against them, their loved ones, or Washington healthcare providers and supporters.