

**Chapter 50A.25 RCW
PRIVACY**

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RCW 50A.25.010 Private and confidential information. (1) If information provided to the department by another governmental agency is held private and confidential by state or federal law, the department may not release such information unless otherwise provided in this title.

(2) Information provided to the department by another governmental entity conditioned upon privacy and confidentiality under a provision of law is to be held private and confidential according to the agreement between the department and the other governmental agency unless otherwise provided in this title.

(3) The department may hold private and confidential information obtained for statistical analysis, research, or study purposes if the information was supplied voluntarily, conditioned upon maintaining confidentiality of the information.

(4) Persons requesting disclosure of information held by the department under subsection (1) or (2) of this section shall request such disclosure from the agency providing the information to the department rather than from the department. [2019 c 13 § 70.]

RCW 50A.25.020 Information concerning an individual or employer obtained pursuant to the administration of chapter 50A.25 RCW is private and confidential. (1) Any information or records concerning an individual or employer obtained by the department pursuant to the

administration of this title shall be private and confidential, except as otherwise provided in this chapter or RCW 50A.05.040.

(2) This chapter does not create a rule of evidence.

(3) The department must publish, on its website, a current list of all employers that have approved voluntary plans under chapter 50A.30 RCW. [2022 c 233 § 4; 2019 c 13 § 71.]

RCW 50A.25.030 Commissioner—Rule-making authority. The commissioner has the authority to adopt, amend, or rescind rules interpreting and implementing this chapter. [2019 c 13 § 72.]

RCW 50A.25.040 Access to records and information—Individuals—Employers—Third parties. (Effective until January 1, 2024.) (1) An individual shall have access to all records and information concerning that individual held by the department unless the information is exempt from disclosure under RCW 42.56.410.

(2) An employer shall have access to:

(a) Its own records relating to any claim or determination for family or medical leave benefits by an individual;

(b) Records and information relating to a decision to allow or deny benefits if the decision is based on material information provided by the employer; and

(c) Records and information related to that employer's premium assessment.

(3) The department may disclose records and information deemed confidential under this chapter to a third party acting on behalf of an individual or employer that would otherwise be eligible to receive records under subsection (1) or (2) of this section when the department receives a signed release from the individual or employer. The release must include a statement:

(a) Specifically identifying the information that is to be disclosed;

(b) That state government files will be accessed to obtain that information;

(c) Of the specific purpose or purposes for which the information is sought and a statement that information obtained under the release will only be used for that purpose or purposes; and

(d) Indicating all the parties who may receive the information disclosed.

(4) Until February 15, 2029, to verify coverage and make payments to drivers for premiums paid, the department may disclose the following information to a transportation network company, as defined in RCW 49.46.300, about a driver, as defined in RCW 49.46.300:

(a) When a driver has elected coverage;

(b) A driver's assessed and paid premiums;

(c) When a driver's elective coverage has been withdrawn or canceled; and

(d) Information related to a third party acting on a driver's behalf with regard to reporting and paying of premiums. [2023 c 451 § 4; 2019 c 13 § 73.]

RCW 50A.25.040 Access to records and information—Individuals—Interested parties—Employers—Third parties. (Effective January 1,

2024.) (1) An individual shall have access to all records and information concerning that individual held by the department unless the information is exempt from disclosure under RCW 42.56.410.

(2) An employer shall have access to:

(a) Its own records relating to any claim or determination for family or medical leave benefits by an individual;

(b) Records and information relating to a decision to allow or deny benefits if the decision is based on material information provided by the employer; and

(c) Records and information related to that employer's premium assessment.

(3) (a) Any interested party may have access to the following records and information related to an employee's paid family or medical leave claim:

(i) Type of leave being taken;

(ii) Requested duration of leave including the approved dates of leave; and

(iii) Whether the employee was approved for benefits and was paid benefits for any given week.

(b) Any information provided under this subsection shall be considered accurate to the extent possible based on information available to the department at the time the request is processed.

(c) Any information provided under this subsection may only be used for the purpose of administering internal employer leave or benefit practices under established employer policies. The department may investigate unauthorized uses of records and information obtained under this subsection in accordance with RCW 50A.40.010.

(d) For the purposes of this subsection, "interested party" means a current employer, a current employer's third-party administrator, or an employee. "Interested party" may be specified further in rule by the department.

(4) The department may disclose records and information deemed confidential under this chapter to a third party acting on behalf of an individual or employer that would otherwise be eligible to receive records under subsection (1) or (2) of this section when the department receives a signed release from the individual or employer. The release must include a statement:

(a) Specifically identifying the information that is to be disclosed;

(b) That state government files will be accessed to obtain that information;

(c) Of the specific purpose or purposes for which the information is sought and a statement that information obtained under the release will only be used for that purpose or purposes; and

(d) Indicating all the parties who may receive the information disclosed.

(5) Until February 15, 2029, to verify coverage and make payments to drivers for premiums paid, the department may disclose the following information to a transportation network company, as defined in RCW 49.46.300, about a driver, as defined in RCW 49.46.300:

(a) When a driver has elected coverage;

(b) A driver's assessed and paid premiums;

(c) When a driver's elective coverage has been withdrawn or canceled; and

(d) Information related to a third party acting on a driver's behalf with regard to reporting and paying of premiums. [2023 c 451 § 4; 2023 c 375 § 1; 2019 c 13 § 73.]

Reviser's note: This section was amended by 2023 c 375 § 1 and by 2023 c 451 § 4, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2023 c 375: "This act takes effect January 1, 2024." [2023 c 375 § 2.]

RCW 50A.25.050 Access to information or records for use in a proceeding before the appeal tribunal or commissioner.

(1) Any interested party, as defined by rule, in a proceeding before the appeal tribunal or commissioner shall have access to any information or records deemed private and confidential under this chapter if the information or records are material to the issues in that proceeding.

(2) No decision by the commissioner or the appeals tribunal shall be deemed private and confidential under this chapter unless the decision is based on information obtained in a closed hearing. [2019 c 13 § 74.]

RCW 50A.25.060 Private and confidential information—When available to parties to judicial or formal administrative proceedings.

(1) Information or records deemed private and confidential under this chapter shall be available to parties to judicial or formal administrative proceedings only upon a written finding by the presiding officer that the need for the information or records in the proceeding outweighs any reasons for the privacy and confidentiality of the information or records.

(2) Information or records deemed private and confidential under this chapter shall not be available in discovery proceedings unless the court in which the action has been filed has made the finding in subsection (1) of this section. A judicial or administrative subpoena directed to the department must contain this finding. A subpoena for records or information under this section must be submitted in a manner prescribed by the department. [2019 c 13 § 75.]

RCW 50A.25.070 Data-sharing contracts—When authorized—Disclosure to state or local government agencies.

(1) The department may enter into data-sharing contracts and may disclose records and information deemed confidential to state or local government agencies under this chapter only if permitted under subsection (2) of this section and RCW 50A.25.090. A state or local government agency must need the records or information for an official purpose and must also provide:

(a) An application in writing to the department for the records or information containing a statement of the official purposes for which the state or local government agency needs the information or records and specifically identify the records or information sought from the department; and

(b) A written verification of the need for the specific information from the director, commissioner, chief executive, or other official of the requesting state or local government agency either on the application or on a separate document.

(2) The department may disclose information or records deemed confidential under this chapter to the following state or local government agencies:

(a) To the department of social and health services to identify child support obligations as defined in RCW 50A.15.080 and for the purposes of administering the department's responsibilities under Title 50B RCW;

(b) To the department of revenue to determine potential tax liability or employer compliance with registration and licensing requirements;

(c) To the department of labor and industries to compare records or information to detect improper or fraudulent claims;

(d) To the office of financial management for the purpose of conducting periodic salary or fringe benefit studies pursuant to law or for the actuarial services created under chapter 233, Laws of 2022;

(e) To the office of the state treasurer and any financial or banking institutions deemed necessary by the office of the state treasurer and the department for the proper administration of funds;

(f) To the office of the attorney general for purposes of legal representation;

(g) To a county clerk for the purpose of RCW 9.94A.760 if requested by the county clerk's office;

(h) To the office of administrative hearings for the purpose of administering the administrative appeal process;

(i) To the department of enterprise services for the purpose of agency administration and operations;

(j) To the consolidated technology services agency for the purpose of enterprise technology support; and

(k) To the health care authority and the office of the state actuary for the purposes of administering the department's responsibilities under Title 50B RCW;

(l) To the office of the state actuary for the purpose of performing actuarial services to assess the financial stability and solvency of the family and medical leave program, and specifically the family and medical leave insurance account created in RCW 50A.05.070; and

(m) To the joint legislative audit and review committee, in accordance with RCW 44.28.110, for the purpose of conducting performance audits.

(3) The department may also enter into data-sharing agreements with other state or local government agencies solely for the purposes of program evaluation under this title or Title 50B RCW. [2022 c 233 § 10; 2022 c 18 § 2; 2020 c 125 § 8; 2019 c 13 § 76.]

Reviser's note: This section was amended by 2022 c 18 § 2 and by 2022 c 233 § 10, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

RCW 50A.25.080 Access to information—Legislature. The state legislature may have access to information or records deemed private and confidential under this chapter if the following requirements are met:

(1) The legislature, a legislative committee, a legislator, or a staff member finds that the information or records are necessary and for official purposes; and

(2) The individuals and organizations whose information is contained within the confidential records requested must provide a signed disclosure that manifests the individual's or organization's informed consent to the disclosure of the records or information to the legislature, legislative committee, legislator, or staff member. [2019 c 13 § 77.]

RCW 50A.25.090 Disclosure to the federal internal revenue service. The department may disclose information or records deemed confidential under this chapter to the federal internal revenue service if the information is deemed necessary by the department to administer RCW 50A.15.070. [2019 c 13 § 78.]

RCW 50A.25.100 Application to RCW 42.56.070. Nothing in this chapter shall be construed as limiting or restricting the effect of RCW 42.56.070(8). [2019 c 13 § 79.]

RCW 50A.25.110 Disclosure by the family and medical leave program of the department—When authorized. The paid family and medical leave program of the department and the long-term services and supports trust administering agencies may disclose information or records deemed private and confidential under this chapter to any private person or organization, and by extension, the agents of any private person or organization, when the disclosure is necessary to permit private contracting parties to assist in the operation, management, and implementation of the program in instances where certain departmental functions may be delegated to private parties to increase the department's efficiency or quality of service to the public. The private person or organization shall use the information or records solely for the purpose for which the information was disclosed and shall be bound by the same rules of privacy and confidentiality as department employees. [2022 c 18 § 3; 2019 c 13 § 80.]

RCW 50A.25.120 Obligation to prevent disclosure of information—Misuse or unauthorized disclosure. (1) All private persons, government agencies, and organizations authorized to receive information from the department under this chapter have an affirmative obligation to take all reasonable actions necessary to prevent the disclosure of confidential information.

(2) The disclosure of any records or information by a private person, government agency, or organization that obtained the records or information from the department under this chapter is prohibited unless expressly permitted by this chapter.

(3) If misuse or an unauthorized disclosure of confidential records or information occurs, all parties who are aware of the violation must inform the department immediately and must take all reasonably available actions to rectify the disclosure to the department's standards.

(4) The misuse or unauthorized release of records or information deemed private and confidential under this chapter by any private person, government agency, or organization to which access is

permitted by this section shall subject the person, government agency, or organization to a civil penalty of up to twenty thousand dollars in 2018 and annually adjusted by the department based on changes in the United States consumer price index for all urban consumers. Other applicable sanctions under state and federal law also apply.

(5) Suit to enforce this section shall be brought by the attorney general and the amount of any penalties collected shall be paid into the department's family and medical leave enforcement account. The attorney general may recover reasonable attorneys' fees for any action brought to enforce this section. [2019 c 13 § 81.]

RCW 50A.25.130 Disclosure of records acquired in the performance of the department's obligation—When authorized. Where the family and medical leave program of the department contracts to provide services to other governmental or private organizations, the department may disclose to those organizations information or records deemed private and confidential that have been acquired in the performance of the department's obligations under the contracts. [2019 c 13 § 82.]

RCW 50A.25.140 Disclosure when all details identifying an individual or employee are deleted—When authorized. Nothing in this chapter shall prevent the disclosure of information or records deemed private and confidential under this chapter if all details identifying an individual or employer are deleted so long as the information or records cannot be foreseeably combined with other publicly available information to reveal the identity of an individual or employer. [2019 c 13 § 83.]