



# 2023 AG REQUEST LEGISLATION

## WASHINGTON MY HEALTH MY DATA ACT

### What's the problem?

With the U.S. Supreme Court overturning *Roe v. Wade*, lawmakers must adopt increased protections for our most sensitive health-related data, including data surrounding reproductive and gender-affirming care.

Washingtonians expect that their sensitive health information will be kept confidential. Unfortunately, the Health Insurance Portability & Accountability Act (HIPAA) only protects personally identifiable health information collected by covered entities. Non-HIPAA entities do not have the same obligation to keep people's medical information confidential. In fact, apps, websites, and non-HIPAA covered medical facilities lawfully collect, share, and sell sensitive medical information in the same manner as all other data, including data connected to their medical history, diagnosis and treatment.

Increased data privacy protections for our most sensitive health data are long overdue. In a post-Dobbs world, they have taken on increased urgency. Without the passage of this law, consumer health data is left vulnerable in the following ways:

- Period tracking apps can sell sensitive information about a woman's late period or miscarriage to data brokers. Data brokers can link that information to her data profile, which is essentially for sale on the open market. Law enforcement from states with strict anti-abortion laws or anti-choice advocacy groups can purchase that data profile and use that information to prosecute women who had an abortion or miscarriage in another state.
- Pregnant individuals sometimes contact or visit crisis pregnancy centers looking for reproductive health care services, only to find that they cannot receive an abortion at that facility. But while they are there, the crisis pregnancy center can collect and share the woman's sensitive data with anti-abortion groups who can then target the woman with pro-life messaging and political ads.
- Digital advertising firms can set up geofencing around health care facilities that trip when a person brings their cell phone or mobile device across the barrier. The individual can be bombarded with text messages and advertisements urging them not to seek reproductive or gender-affirming care.

### What's the solution? **HB 1155 / SB 5351**

The Washington My Health My Data Act will close the gap on health data privacy protections and provide Washingtonians concerned about their reproductive freedom more control of their data by:

- Requiring entities to publish a Consumer Health Data Privacy Policy
- Blocking entities from collecting and sharing health data without consent
- Prohibiting the selling of sensitive health data to third parties without valid authorization
- Guaranteeing Washingtonians the right to withdraw consent and request their data be deleted
- Restricting geofencing around health care facilities

Violations of the Washington My Health My Data Act are a violation of the Consumer Protection Act.

#### Prime Sponsor:

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