
Health Care & Wellness Committee

HB 2685

Brief Description: Concerning sharing and protection of tribal data.

Sponsors: Representatives Lekanoff, Parshley, Ramel and Pollet.

Brief Summary of Bill

- Requires certain state agencies to use and share tribal data in a manner consistent with tribal data sovereignty principles.
- Directs the State Board of Health to adopt rules requiring health care providers, facilities, and laboratories to report notifiable conditions to tribal health jurisdictions.
- Exempts tribal data held by certain state agencies or by local health jurisdictions from public disclosure.

Hearing Date: 2/3/26

Staff: Alison Ryan (786-7296).

Background:

The state public health system is comprised of the Department of Health, the Board of Health, 35 local health jurisdictions, and tribal governments. Washington and federally-recognized Indian tribes in Washington address issues of mutual concern on a government-to-government basis.

Board of Health rules require health care providers, health care facilities, and laboratories to notify certain public health authorities of suspected or confirmed cases of selected disease or conditions. These diseases or conditions are referred to as notifiable conditions. Public health authorities include local health jurisdictions, the Department of Health, the Department of Labor and Industries, the Department of Agriculture, sovereign tribal nations, and tribal epidemiology

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centers. For most notifiable conditions, the reporting entity must notify the local health jurisdiction where the patient resides, or, in the event the patient's residence cannot be determined, the local health jurisdiction in which the patient received treatment.

The Public Records Act (PRA) requires state and local agencies to make all public records available for public inspection and copying, unless a record falls within an exemption in the PRA or another statute that exempts or prohibits disclosure of specific information or records. A "public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. The PRA must be liberally construed; any exemptions to the disclosure requirement must be interpreted narrowly.

Summary of Bill:

When using or sharing tribal data, the state agencies that are members of the Governor's Indian Health Advisory Council (GIHAC) must do so in a manner consistent with tribal data sovereignty principles. These agencies are: the Health Care Authority, the Department of Children, Youth, and Families, the Department of Commerce, the Department of Corrections, the Department of Health, the Department of Social and Health Services, the Office of the Insurance Commissioner, the Office of the Superintendent of Public Instruction, and the Washington Health Benefit Exchange.

The designated agencies must apply the following tribal data sovereignty principles:

- Tribes must have the same or enhanced access to state data as other public health jurisdictions and nongovernmental entities to carry out their governmental duties.
- Tribes must possess sovereign authority to manage the collection, ownership, application, and interpretation of their own data even when it is collected by federal, state, or local governments, or third parties.
- Tribes must retain an ownership interest in their data even when the data is located in state, federal, or other datasets, and this interest remains when the data is aggregated with other data.
- Unless otherwise required by law, tribes have the right to informed consent on how their data, including protected health information about tribal members, is used or shared with third parties.
- States agencies must meaningfully consult and engage with tribes, in accordance with their government-to-government relationship, on how and when to share, analyze, report, or interpret tribal data.

The designated agencies must include tribal data sovereignty principles in data sharing agreements. When developing tribal data sharing agreements, the agencies must refer to the GIHAC tribal data sharing agreement checklist. The agencies must seek input and guidance from the GIHAC tribal data sovereignty committee on issues related to tribal data.

The State Board of Health must adopt rules requiring health care providers, health care facilities, laboratories, and other required entities to report notifiable conditions to tribal health jurisdictions in Washington where the patient resides, or in the event the patient's residence cannot be determined, the tribal health department in which the patient received treatment. The adopted rules must require notification to tribal health jurisdictions wherever notification is required to local health jurisdictions. The rules must be adopted by July 31, 2027.

Tribal data prepared, owed, used, or retained by the designated state agencies or by local health jurisdictions is exempt from public disclosure under the Public Records Act.

"Tribal data" means data or information that is specific to an individual tribe and includes public or private data or information on or about a tribe or its people subject to tribal rights of ownership and control. Tribal data also includes but is not limited to: tribal membership; tribal affiliation, events and conditions within the tribe's jurisdiction and lands; information about tribal members and any persons living within the tribe's jurisdiction; tribal census tract; tribal land; and identification of tribal facilities, entities, and enterprises; and any individuals they serve.

"Tribal data sovereignty" means the inherent legal authority of tribes to:

- manage the collection, ownership, application, and interpretation of tribal data or information even if it is collected by federal, state, or local governments, or other third parties, regardless of where data is collected;
- have the right to informed consent on how their data, including but not limited to protected health information about their tribal members, is used or shared with third parties;
- have the same or additional access to state data as other public health jurisdictions in order to carry out their governmental duties; and
- be notified by other entities holding tribal data of data breaches and be informed of any policies regarding data disposition, security, confidentiality, storage, and human subjects research limitations.

Appropriation: None.

Fiscal Note: Requested on January 29, 2025.

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