

SENATE, No. 562

STATE OF NEW JERSEY 216th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

Sponsored by:

Senator SHIRLEY K. TURNER

District 15 (Hunterdon and Mercer)

Senator NIA H. GILL

District 34 (Essex and Passaic)

SYNOPSIS

Requires health service corporation to encrypt certain information.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



(Sponsorship Updated As Of: 3/18/2014)

1 AN ACT concerning the security of certain personal information and
2 supplementing P.L.1960, c.39 (C.56:8-1 et seq.).

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4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. As used in this act:

8 "Computer" means an electronic, magnetic, optical,
9 electrochemical or other high speed data processing device or
10 another similar device capable of executing a computer program,
11 including arithmetic, logic, memory, data storage or input-output
12 operations and includes any computer equipment connected to such
13 a device, computer system, or computer network.

14 "Computer equipment" means any equipment or device,
15 including all input, output, processing, storage, software, or
16 communications facilities, intended to interface with a computer.

17 "Computer network" means the interconnection of
18 communication lines, including microwave or other means of
19 electronic communication, with a computer through remote
20 terminals, or a complex consisting of two or more interconnected
21 computers.

22 "Computer program" means a series of instructions or statements
23 executable on a computer, which directs the computer system in a
24 manner to produce a desired result.

25 "Computer software" means a set of computer programs, data,
26 procedures, and associated documentation concerning the operation
27 of a computer system.

28 "Computer system" means a set of interconnected computer
29 equipment intended to operate as a cohesive system.

30 "Computerized record" means any record, recorded or preserved
31 on any computer, computer equipment, computer network,
32 computer program, computer software, or computer system.

33 "Personal information" means an individual's first name or first
34 initial and last name linked with any one or more of the following
35 data elements: (1) Social Security number; (2) driver's license
36 number or State identification card number; (3) address; or (4)
37 identifiable health information. Dissociated data that, if linked,
38 would constitute personal information is personal information if the
39 means to link the dissociated data were accessed in connection with
40 access to the dissociated data.

41 "Record" means any material, regardless of the physical form, on
42 which information is recorded or preserved by any means, including
43 written or spoken words, graphically depicted, printed, or
44 electromagnetically transmitted. Record does not include publicly
45 available directories containing information an individual has
46 voluntarily consented to have publicly disseminated or listed.

1 2. A health service corporation established pursuant to
2 P.L.1985, c.236 (C.17:48E-1 et seq.) shall not compile or maintain
3 computerized records that include personal information, unless that
4 information is secured by encryption or by any other method or
5 technology rendering the information unreadable, undecipherable,
6 or otherwise unusable by an unauthorized person. Compliance with
7 this section shall require more than the use of a password protection
8 computer program, if that program only prevents general
9 unauthorized access to the personal information, but does not render
10 the information itself unreadable, undecipherable, or otherwise
11 unusable by an unauthorized person operating, altering, deleting, or
12 bypassing the password protection computer program.

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14 3. It shall be an unlawful practice and a violation of P.L.1960,
15 c.39 (C.56:8-1 et seq.) to violate the provisions of this act.

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17 4. This act shall take effect on the first day of the seventh
18 month next following enactment.

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STATEMENT

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23 This bill requires a health service corporation established
24 pursuant to P.L.1985, c.236 (C.17:48E-1 et seq.), when compiling
25 or maintaining computerized records that include personal
26 information, to secure the information by encryption or by any other
27 method or technology rendering it unreadable, undecipherable, or
28 otherwise unusable by an unauthorized person. This requirement
29 applies to any computer, including a desktop computer or laptop
30 computer, computer equipment, computer network, or computer
31 system, as defined by the bill. Compliance with this requirement
32 shall require more than the use of a password protection computer
33 program, if that program only prevents general unauthorized access
34 to personal information, but does not render the information itself
35 unreadable, undecipherable, or otherwise unusable by an
36 unauthorized person operating, altering, deleting, or bypassing the
37 password protection program.

38 As defined in the bill, "personal information" means an
39 individual's first name or first initial and last name linked with any
40 one or more of the following data elements: (1) Social Security
41 number; (2) driver's license number or State identification card
42 number; (3) address; or (4) identifiable health information.

43 It is an unlawful practice and a violation of the consumer fraud
44 law (C.56:8-1 et seq.) for a health service corporation to violate the
45 provisions of this bill. Such violation is punishable by a monetary
46 penalty of not more than \$10,000 for a first offense and not more
47 than \$20,000 for a second or any subsequent offense. In addition, a

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- 1 violation can result in cease and desist orders issued by the
- 2 Attorney General, the assessment of punitive damages and the
- 3 awarding of treble damages and costs to the injured party.