

ASSEMBLY, No. 4170

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MAY 28, 2020

Sponsored by:

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SYNOPSIS

Restricts use of certain data collected for purposes of contact tracing related to COVID-19 pandemic.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/1/2020)

1 AN ACT concerning data privacy related to certain health
2 information.

3

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

6

7 1. a. To the extent that any public health entity collects data
8 regarding an individual for the purposes of contact tracing related to
9 the coronavirus disease 2019 (COVID-19) pandemic, including
10 digital data from Bluetooth devices or global positioning systems,
11 such health and location data shall only be used by the public health
12 entity for the purposes of completing contact tracing, and the public
13 health entity shall ensure the data is deleted from the entity's records
14 no later than 30 days after the date the data is received by the entity.
15 If a public health entity shares data collected for the purposes of
16 contact tracing related to the COVID-19 pandemic with a third party
17 entity, the public health entity shall publish the name of the third
18 party entity on its Internet website or on the Internet website of the
19 Department of Health, and shall require that the third party entity
20 only use the data for the purposes of completing contact tracing
21 related to the COVID-19 pandemic and that the third party entity
22 delete the data by the date on which the public health entity is
23 required to delete the data. To this end, the Commissioner of Health
24 shall require that systems using health and location data for contact
25 tracing purposes automatically delete the data no later than 30 days
26 after the data is entered into the system.

27 b. A third party entity that misuses or unlawfully discloses
28 COVID-19 contact tracing data shared with it by a public health
29 entity, or that retains the data beyond the date on which the data is
30 required to be deleted, shall be liable to a civil penalty of up to
31 \$10,000, which shall be collected by and in the name of the
32 Commissioner of Health in a summary proceeding before a court of
33 competent jurisdiction pursuant to the "Penalty Enforcement Law of
34 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

35 c. As used in this section:

36 "Contact tracing" means the process of identifying individuals
37 who were in contact with a person who has tested positive for
38 COVID-19 or who was likely exposed to COVID-19, as well as
39 providing support services to the individual. Contact tracing may
40 include: verbal interviews with individuals and those they may have
41 had contact with, as well as any other individual who may have
42 knowledge of potential exposure situations; to the extent authorized
43 by applicable State and federal laws, accessing an individual's digital
44 data from a Bluetooth or global positioning system to identify
45 potential exposures; and any other means utilized by a public health
46 entity to track potential exposures to, and the potential spread of,
47 COVID-19 among individuals and population groups within the
48 State.

1 “Public health entity” means the Department of Health, any
2 county or local board of health, and any other entity conducting
3 contact tracing in response to the COVID-19 pandemic.

4
5 2. No later than 30 days after the effective date of this act, the
6 Commissioner of Health shall publish on its Internet website
7 proposed guidance on how public health entities and third party
8 entities may use data collected for contact tracing related to the
9 COVID-19 pandemic, and how those entities will be required to
10 ensure the security and confidentiality of that data, including any
11 specific internal audit requirements those entities will be required to
12 implement to guard against misuse or unauthorized disclosure of the
13 data. The commissioner shall create a mechanism for members of
14 the public to submit comments on the proposed guidance, allow for
15 a public comment period of at least 30 days, and, no later than 30
16 days after the public comment period closes, publish final guidance
17 on the use of data collected for the purposes of contact tracing related
18 to the COVID-19 pandemic, which final guidance may incorporate
19 appropriate revisions based on public comments received. Nothing
20 in this section shall be construed to prohibit or delay the
21 implementation of section 1 of this act immediately upon the
22 effective date of this act.

23
24 3. This act shall take effect immediately and shall expire one
25 year after the end of both the state of emergency and the public health
26 emergency declared in response to the coronavirus disease 2019
27 pandemic.

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30 STATEMENT

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32 This bill provides that public health entities, including the
33 Department of Health, county and local boards of health, and other
34 entities that collect data regarding an individual for the purposes of
35 contact tracing related to the coronavirus disease 2019 (COVID-19)
36 pandemic, may only use the data for the purposes of completing
37 contact tracing.

38 Contact tracing is the process of identifying, and providing
39 support services to, individuals who may have been exposed to
40 COVID-19 through contact with a person who has tested positive for
41 COVID-19 or who has had a serious risk exposure. Contact tracing
42 may include both verbal interviews with individuals and the use of
43 digital data, such as Bluetooth data and data from global positioning
44 systems, to conduct proximity investigations and identify when
45 individuals may have been in close contact with others.

46 The bill requires public health entities to ensure that health and
47 location data collected for contact tracing is deleted from the entity’s
48 records no later than 30 days after the date the data is received by the

1 entity. If the public health entity shares contact tracing data with a
2 third party entity, the public health entity will be required to publish
3 the name of third party entity on the public health entity's Internet
4 website or on the Internet website of the Department of Health. The
5 third party entity will be subject to the same restrictions on the use
6 of the data as apply to public health entities, and will be required to
7 delete the data by the date on which the public health entity is
8 required to delete the data. To this end, the Commissioner of Health
9 is to require that systems using health and location data for contact
10 tracing automatically delete the data no later than 30 days after the
11 data is entered into the system.

12 A third party entity that misuses or unlawfully discloses COVID-
13 19 contact tracing data shared with it by a public health entity, or that
14 retains the data beyond the date on which the data is required to be
15 deleted, will be liable to a civil penalty of up to \$10,000, which will
16 be collected by and in the name of the Commissioner of Health in a
17 summary proceeding before a court of competent jurisdiction.

18 The bill requires that, no later than 30 days after the effective date
19 of the bill, the Commissioner of Health will be required to publish on
20 its Internet website proposed guidance on how public health entities
21 and third party entities may use data collected for contact tracing
22 related to the COVID-19 pandemic, and how those entities will be
23 required to ensure the security and confidentiality of that data,
24 including any specific internal audit requirements those entities will
25 be required to implement to guard against misuse or unauthorized
26 disclosure of the data. The commissioner is to create a mechanism
27 for members of the public to submit comments on the proposed
28 guidance, allow for a public comment period of at least 30 days, and,
29 no later than 30 days after the public comment period closes, publish
30 final guidance on the use of data collected for the purposes of contact
31 tracing related to the COVID-19 pandemic, which final guidance may
32 incorporate appropriate revisions based on public comments
33 received. The process of adopting data use guidance under the bill
34 will not prohibit or delay the implementation of the remaining
35 provisions of the bill restricting the use of COVID-19 contact tracing
36 data, which requirements will take effect immediately upon
37 enactment.

38 The bill will expire one year after the end of both the state of
39 emergency and the public health emergency declared in response to
40 the COVID-19 pandemic.