

SENATE, No. 2539

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED JUNE 8, 2020

Sponsored by:

Senator LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

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District 11 (Monmouth)

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Senator A.M.Bucco

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: 7/16/2020)

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:*

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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
14 records no later than 30 days after the date the data is received by
15 the entity. If a public health entity shares data collected for the
16 purposes of contact tracing related to the COVID-19 pandemic with
17 a third party entity, the public health entity shall publish the name
18 of the third party entity on its Internet website or on the Internet
19 website of the Department of Health, and shall require that the third
20 party entity only use the data for the purposes of completing contact
21 tracing related to the COVID-19 pandemic and that the third party
22 entity 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
24 Health shall require that systems using health and location data for
25 contact tracing purposes automatically delete the data no later than
26 30 days 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
41 have had contact with, as well as any other individual who may
42 have knowledge of potential exposure situations; to the extent
43 authorized by applicable State and federal laws, accessing an
44 individual's digital data from a Bluetooth or global positioning
45 system to identify potential exposures; and any other means utilized
46 by a public health entity to track potential exposures to, and the
47 potential spread of, COVID-19 among individuals and population
48 groups within the State.

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

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

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

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