

SB0541/403225/1

BY: Finance Committee

AMENDMENTS TO SENATE BILL 541
(First Reading File Bill)

AMENDMENT NO. 1

On page 2, in line 3, strike “14–4613” and substitute “14–4614”.

AMENDMENT NO. 2

On page 2, in line 20, after “THAT” insert “, DIRECTLY OR INDIRECTLY THROUGH ONE OR MORE INTERMEDIARIES, CONTROLS, IS CONTROLLED BY, OR IS UNDER COMMON CONTROL WITH ANOTHER PERSON, SUCH THAT THE PERSON”; and strike lines 21 through 23, inclusive, and substitute:

“(1) OWNS OR HAS THE POWER TO VOTE MORE THAN 50% OF THE OUTSTANDING SHARES OF ANY VOTING CLASS OF THE OTHER PERSON’S SECURITIES;

“(2) HAS THE POWER TO ELECT OR INFLUENCE THE ELECTION OF A MAJORITY OF THE DIRECTORS, MEMBERS, OR MANAGERS OF THE OTHER PERSON;

“(3) HAS THE POWER TO DIRECT THE MANAGEMENT OF THE OTHER PERSON; OR

“(4) IS SUBJECT TO THE OTHER PERSON’S EXERCISE OF THE POWERS DESCRIBED IN ITEM (1), (2), OR (3) OF THIS SUBSECTION.”

On page 3, in line 9, strike “CAN BE” and substitute “ARE”.

On page 4, in line 24, strike “CARE” and substitute “TREATMENT”.

On page 5, in line 8, strike “(1)”; in line 9, after “1998” insert “AND THE REGULATIONS, RULES, GUIDANCE, AND EXEMPTIONS ADOPTED UNDER THE ACT, AND AS THE ACT AND THE REGULATIONS, RULES, GUIDANCE, AND EXEMPTIONS MAY BE AMENDED”; strike lines 10 and 11 in their entirety; strike line 23 in its entirety; and in lines 24, 25, 26, and 27, strike “(4)”, “(5)”, “(6)”, and “(7)”, respectively, and substitute “(3)”, “(4)”, “(5)”, and “(6)”, respectively.

On page 6, in line 1, strike “(8)” and substitute “(7)”; strike beginning with “MEANS” in line 2 down through “SUBSECTION” in line 13 and substitute “HAS THE MEANING STATED IN § 14-4401 OF THIS TITLE”; after line 13, insert:

“(Q) “GENDER-AFFIRMING TREATMENT” HAS THE MEANING STATED IN § 15-151(A) OF THE HEALTH – GENERAL ARTICLE.”;

in line 14, strike “(1)”; and strike beginning with “MEANS” in line 14 down through “DATA” in line 30 and substitute “HAS THE MEANING STATED IN § 14-4401 OF THIS TITLE”.

On page 8, in line 5, strike “DATA” and substitute “;

(II) DATA”;

in line 8, strike “(II)” and substitute “(III)”; in the same line, strike “EQUIPMENT” and substitute “DATA GENERATED BY EQUIPMENT”; and in line 23, after “THAT” insert “A PERSON”; and strike lines 24 through 28, inclusive, and substitute:

“(I) LAWFULLY OBTAINS FROM A RECORD OF A GOVERNMENTAL ENTITY;

(II) REASONABLY BELIEVES A CONSUMER OR WIDELY DISTRIBUTED MEDIA HAVE LAWFULLY MADE AVAILABLE TO THE GENERAL PUBLIC; OR

(III) IF THE CONSUMER HAS NOT RESTRICTED THE INFORMATION TO A SPECIFIC AUDIENCE, OBTAINS FROM A PERSON TO WHOM THE CONSUMER DISCLOSED THE INFORMATION.”.

On page 9, in line 1, strike “(1)”; in lines 1 and 2, strike “CARE RELATED TO” and substitute “A HEALTH CARE-RELATED SERVICE OR PRODUCT RENDERED OR PROVIDED CONCERNING”; in line 2, strike the period and substitute “, INCLUDING:”; strike line 3 in its entirety; in lines 4, 7, 9, 10, 11, and 13, strike “(I)”, “(II)”, “(III)”, “(IV)”, “(V)”, and “(VI)”, respectively, and substitute “(1)”, “(2)”, “(3)”, “(4)”, “(5)”, and “(7)”, respectively; in line 10, after “MEDICATION” insert “, INCLUDING A MEDICATION PURCHASED OR USED FOR THE PURPOSES OF AN ABORTION”; in line 12, strike “MEASUREMENT THEREOF” and substitute “SYMPTOM”; after line 12, insert:

“(6) A MEASUREMENT OF A BODILY FUNCTION, VITAL SIGN, OR SYMPTOM; AND”;

strike beginning with “, WHETHER” in line 13 down through “ABORTION” in line 14 and substitute “AND MEDICAL AND NONMEDICAL SERVICES, PRODUCTS, DIAGNOSTICS, COUNSELING, AND FOLLOW-UP SERVICES FOR AN ABORTION”; and in line 19, after “CONTROLLER” insert “, A PROCESSOR, OR AN AFFILIATE OF A CONTROLLER OR PROCESSER”.

On page 10, strike beginning with “FOR” in line 2 down through “CONSUMER” in line 3.

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On page 11, in line 10, after “ACROSS” insert “NONAFFILIATED”; strike beginning with “IN” in line 13 down through “ADVERTISEMENT” in line 15 and substitute “OF A CONSUMER’S CURRENT SEARCH QUERY, VISIT TO A WEBSITE, OR ONLINE APPLICATION”; and in line 25, strike “(1)”.

On pages 11 and 12, strike beginning with “MEANS” in line 25 on page 11 down through “PROCESS” in line 4 on page 12 and substitute “HAS THE MEANING STATED IN § 11–1201 OF THIS ARTICLE”.

On page 6, in line 14, strike “(Q)” and substitute “(R)”.

On page 7, in lines 1, 12, 14, 16, 19, and 24, strike “(R)”, “(S)”, “(T)”, “(U)”, “(V)”, and “(W)”, respectively, and substitute “(S)”, “(T)”, “(U)”, “(V)”, “(W)”, and “(X)”, respectively.

On page 8, in lines 9, 13, 15, 20, and 22, strike “(X)”, “(Y)”, “(Z)”, “(AA)”, and “(BB)”, respectively, and substitute “(Y)”, “(Z)”, “(AA)”, “(BB)”, and “(CC)”, respectively.

On page 9, in lines 1, 15, and 18, strike “(CC)”, “(DD)”, and “(EE)”, respectively, and substitute “(DD)”, “(EE)”, and “(FF)”, respectively.

On page 10, in line 19, strike “(FF)” and substitute “(GG)”.

On page 11, in lines 6, 22, and 25, strike “(GG)”, “(HH)”, and “(II)”, respectively, and substitute “(HH)”, “(II)”, and “(JJ)”, respectively.

AMENDMENT NO. 3

On page 12, in line 7, before “CONDUCTS” insert “(I)”; in line 8, strike “(2)(I)” and substitute “(II)”; and in lines 10, 11, and 15, strike “(II)”, “1.”, and “2.”, respectively, and substitute “(2)”, “(I)”, and “(II)”, respectively.

AMENDMENT NO. 4

On page 12, in line 8, strike “**PRODUCES**” and substitute “**PROVIDES**”; in line 21, after “**BODY**” insert “**OR INSTRUMENTALITY**”; in line 27, strike “**OR**”; in line 28, strike “**OR**” and substitute “**, AN**”; in line 29, after “**INSTITUTION**” insert “**, OR DATA**”; and in line 30, after “**ACT**” insert “**; OR**”

(4) A NONPROFIT CONTROLLER THAT PROCESSES OR SHARES PERSONAL DATA SOLELY FOR THE PURPOSES OF ASSISTING:

(I) LAW ENFORCEMENT AGENCIES IN INVESTIGATING CRIMINAL OR FRAUDULENT ACTS RELATING TO INSURANCE; OR

(II) FIRST RESPONDERS IN RESPONDING TO CATASTROPHIC EVENTS”.

On page 13, in line 19, before “**INFORMATION**” insert “**(I)**”; and after line 23, insert:

“(II) INFORMATION THAT IS A MEDICAL RECORD UNDER § 4-301 OF THE HEALTH – GENERAL ARTICLE IF:

1. THE INFORMATION IS HELD BY AN ENTITY THAT IS A COVERED ENTITY OR BUSINESS ASSOCIATE UNDER HIPAA BECAUSE IT COLLECTS, USES, OR DISCLOSES PROTECTED HEALTH INFORMATION; AND

2. THE ENTITY APPLIES THE SAME STANDARDS FOR THE COLLECTION, USE, AND DISCLOSURE OF THE INFORMATION AS REQUIRED FOR PROTECTED HEALTH INFORMATION UNDER HIPAA AND MEDICAL RECORDS

(Over)

UNDER § 4-301 OF THE HEALTH – GENERAL ARTICLE, INCLUDING SPECIFIC STANDARDS REGARDING LEGALLY PROTECTED HEALTH CARE; AND

(III) INFORMATION THAT IS DE-IDENTIFIED IN ACCORDANCE WITH THE REQUIREMENTS FOR DE-IDENTIFICATION SET FORTH IN 45 C.F.R. 164.514 THAT IS DERIVED FROM INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION AS DESCRIBED IN HIPAA OR PERSONAL INFORMATION CONSISTENT WITH THE HUMAN SUBJECT PROTECTION REQUIREMENTS OF THE U.S. FOOD AND DRUG ADMINISTRATION;”.

On page 14, in line 17, strike “AND”; and in line 21, after “ACT” insert “;AND”

(13) PERSONAL DATA TO THE EXTENT IT IS COLLECTED FOR, PROVIDED TO, OR USED BY A PERSON REGULATED UNDER THE INSURANCE ARTICLE OR AN AFFILIATE OF SUCH A PERSON, IN FURTHERANCE OF THE BUSINESS OF INSURANCE”.

AMENDMENT NO. 5

On page 14, in line 29, strike “THE” and substitute “:

(I) THE”;

and in line 30, after the semicolon insert “OR”

(II) CONFIDENTIALITY IS REQUIRED AS A CONDITION OF EMPLOYMENT OF THE EMPLOYEE;”.

On page 15, in line 3, strike “14-4607” and substitute “14-4608”; in the same line, after the semicolon insert “OR”; and strike beginning with the colon in line 4 down through “SOLD” in line 12 and substitute “TO ESTABLISH A VIRTUAL BOUNDARY”

THAT IS WITHIN 1,750 FEET OF ANY MENTAL HEALTH FACILITY OR REPRODUCTIVE OR SEXUAL HEALTH FACILITY FOR THE PURPOSE OF IDENTIFYING, TRACKING, OR COLLECTING DATA FROM OR SENDING ANY NOTIFICATION TO A CONSUMER REGARDING THE CONSUMER'S CONSUMER HEALTH DATA".

AMENDMENT NO. 6

On page 15, strike beginning with the comma in line 18 down through "SECRET" in line 19; strike beginning with "UNLESS" in line 21 down through "SECRET" in line 22; and in line 27, after "CONSUMER" insert "UNLESS RETENTION OF THE PERSONAL DATA IS REQUIRED BY LAW".

AMENDMENT NO. 7

On page 17, strike lines 15 through 17, inclusive.

AMENDMENT NO. 8

On page 19, strike lines 27 through 29, inclusive.

On page 20, in lines 1, 6, 7, 9, 13, 16, and 21, strike "(2)", "(3)", "(4)", "(5)", "(6)", "(7)", and "(8)", respectively, and substitute "(1)", "(2)", "(3)", "(4)", "(5)", "(6)", and "(7)", respectively; strike beginning with "AND" in line 3 down through "CONSENT" in line 4; and in lines 11 and 15, in each instance, strike "AT LEAST 13 YEARS OLD AND".

On page 21, in line 1, strike "(9)" and substitute "(8)"; and in line 21, strike "15" and substitute "30".

On page 22, strike beginning with "WHAT" in line 10 down through "DATA" in line 12 and substitute "THE TYPE OF, BUSINESS MODEL OF, OR PROCESSING CONDUCTED BY EACH THIRD PARTY"; in line 21, after the first "THE" insert "SALE OR"; and in line 22, before "PROCESSING" insert "SALE OR".

On page 24, in line 9, before “**IF**” insert “**(1)**”; and after line 18, insert:

“(2) A CONTROLLER THAT RECOGNIZES SIGNALS APPROVED BY OTHER STATES SHALL BE CONSIDERED IN COMPLIANCE WITH THIS SECTION.”

AMENDMENT NO. 9

On page 24, in line 26, strike “**INSTRUCTIONS FOR**”; and in line 27, strike “**PROCESSING**” and substitute “**INSTRUCTIONS FOR PROCESSING**”.

On page 26, strike beginning with “**(1)**” in line 5 down through “**(2)**” in line 8; in lines 9, 11, 14, 17, and 21, strike “**(I)**”, “**(II)**”, “**1.**”, “**2.**”, and “**(III)**”, respectively, and substitute “**(1)**”, “**(2)**”, “**(I)**”, “**(II)**”, and “**(3)**”, respectively; strike beginning with the second comma in line 12 down through “**PROCESSOR**” in line 13; and in line 16, after “**REQUESTS**” insert “**, CONSIDERING THE NATURE OF PROCESSING AND THE INFORMATION AVAILABLE TO THE PROCESSOR**”.

AMENDMENT NO. 10

On page 29, after line 30, insert:

“(H) A DATA PROTECTION ASSESSMENT CONDUCTED UNDER THIS SECTION:

(1) SHALL APPLY TO PROCESSING ACTIVITIES THAT OCCUR ON OR AFTER OCTOBER 1, 2025; AND

(2) IS NOT REQUIRED FOR PROCESSING ACTIVITIES THAT OCCUR BEFORE OCTOBER 1, 2025.”

AMENDMENT NO. 11

On page 31, strike beginning with “COMPLY” in line 6 down through “AUTHORITY” in line 8 and substitute “COMPLY WITH A CIVIL OR CRIMINAL SUBPOENA OR SUMMONS BY A FEDERAL, STATE, LOCAL, OR OTHER JUDICIAL BODY”.

On page 33, in line 10, after “CONTROLLER” insert “OR PROCESSOR”; in line 11, after “CONTROLLER” insert “OR PROCESSOR”; and in line 16, after “CONTROLLER” insert “OR PROCESSOR”.

AMENDMENT NO. 12

On page 32, in line 29, after “(D)” insert “(1) A CONTROLLER OR PROCESSOR THAT DISCLOSES PERSONAL DATA TO A PROCESSOR OR A THIRD-PARTY CONTROLLER IN COMPLIANCE WITH THIS SUBTITLE IS NOT IN VIOLATION OF THIS SUBTITLE IF THE PROCESSOR OR THIRD-PARTY CONTROLLER THAT RECEIVES THE PERSONAL DATA VIOLATES THIS SUBTITLE AND, AT THE TIME THE DISCLOSING CONTROLLER OR PROCESSOR DISCLOSED THE PERSONAL DATA, THE DISCLOSING CONTROLLER OR PROCESSOR DID NOT HAVE ACTUAL KNOWLEDGE THAT THE RECEIVING PROCESSOR OR THIRD-PARTY CONTROLLER WOULD VIOLATE THIS SUBTITLE.

(2)”.

AMENDMENT NO. 13

On page 34, after line 12, insert:

“14-4614.

(A) THIS SECTION APPLIES TO AN ENFORCEMENT ACTION UNDER § 14-4613 OF THIS SUBTITLE FOR AN ALLEGED VIOLATION THAT OCCURS ON OR BEFORE APRIL 1, 2027.

(Over)

(B) BEFORE INITIATING ANY ACTION UNDER § 14-4613 OF THIS SUBTITLE, THE DIVISION MAY ISSUE A NOTICE OF VIOLATION TO THE CONTROLLER OR PROCESSOR IF THE DIVISION DETERMINES THAT A CURE IS POSSIBLE.

(C) (1) IF THE DIVISION ISSUES A NOTICE OF VIOLATION UNDER SUBSECTION (B) OF THIS SECTION, THE CONTROLLER OR PROCESSOR SHALL HAVE AT LEAST 60 DAYS TO CURE THE VIOLATION AFTER RECEIPT OF THE NOTICE.

(2) IF THE CONTROLLER OR PROCESSOR FAILS TO CURE THE VIOLATION WITHIN THE TIME PERIOD SPECIFIED BY THE DIVISION, THE DIVISION MAY BRING AN ENFORCEMENT ACTION UNDER § 14-4613 OF THIS SUBTITLE.

(D) IN DETERMINING WHETHER TO GRANT A CONTROLLER OR PROCESSOR AN OPPORTUNITY TO CURE AN ALLEGED VIOLATION, THE DIVISION MAY CONSIDER THE FOLLOWING THE FACTORS:

(1) THE NUMBER OF VIOLATIONS;

(2) THE SIZE AND COMPLEXITY OF THE CONTROLLER OR PROCESSOR;

(3) THE NATURE AND EXTENT OF THE CONTROLLER'S OR PROCESSOR'S PROCESSING ACTIVITIES;

(4) THE LIKELIHOOD OF INJURY TO THE PUBLIC;

(5) THE SAFETY OF PERSONS OR PROPERTY;

(6) WHETHER THE ALLEGED VIOLATION WAS LIKELY CAUSED BY A HUMAN OR TECHNICAL ERROR; AND

(7) THE EXTENT TO WHICH THE CONTROLLER OR PROCESSOR HAS VIOLATED THIS SUBTITLE OR SIMILAR LAWS IN THE PAST.

AMENDMENT NO. 14

On page 34, in line 16, strike “2025” and substitute “2026”; and in line 18, strike “2024” and substitute “2025”.