

HB0567/193527/1

BY: Economic Matters Committee

AMENDMENTS TO HOUSE BILL 567
(First Reading File Bill)

AMENDMENT NO. 1

On page 12, in line 6, after “THAT” insert “CONDUCTS BUSINESS IN THE STATE OR PROVIDES PRODUCTS OR SERVICES THAT ARE TARGETED TO RESIDENTS OF THE STATE, AND THAT DURING THE PRECEDING CALENDAR YEAR DID ANY OF THE FOLLOWING”; strike in their entirety lines 7 through 10, inclusive; and in lines 11 and 15, strike “1.” and “2.”, respectively, and substitute “(1)” and “(2)”, respectively.

AMENDMENT NO. 2

On page 2, in line 22, 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 in their entirety lines 23 through 25, inclusive, and substitute:

“(1) OWNS OR HAS THE POWER TO VOTE MORE THAN 50 PERCENT 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 ITEMS (1), (2), OR (3) OF THIS SUBSECTION.”.

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On page 4, in line 25, 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”; and strike in their entirety lines 10 and 11.

On page 6, 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 “(Q)” and substitute “(R)”; in the same line, 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 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 line 5, strike “DATA” and substitute “;

(II) DATA;

in line 8, strike “(II)” and substitute “(III)”; in lines 9, 13, 15, 20, and 22, strike “(X)”, “(Y)”, “(Z)”, “(AA)”, and “(BB)”, respectively, and substitute “(Y)”, “(Z)”, “(AA)”, “(BB)”,

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and “**(CC)**”, respectively; in line 23, after “**THAT**” insert “**A PERSON**”; and strike in their entirety 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 HAS 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 lines 1, 15, and 18, strike “**(CC)**”, “**(DD)**”, and “**(EE)**”, respectively, and substitute “**(DD)**”, “**(EE)**”, and “**(FF)**”, respectively; 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,**

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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; and 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; 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 12, after line 4, insert:

"(KK) "TRANSFER" MEANS TO DISCLOSE, RELEASE, DISSEMINATE, MAKE AVAILABLE, LICENSE, RENT, OR SHARE PERSONAL DATA ORALLY, IN WRITING, ELECTRONICALLY, OR BY ANY OTHER MEANS."

AMENDMENT NO. 3

On page 12, in line 21, strike "OR"; in the same line, after "BODY" insert "OR INSTRUMENTALITY"; in line 28, strike "OR" and substitute ", AN"; and in line 29, after "INSTITUTION" insert ", OR DATA".

On page 13, in line 19, before "INFORMATION" insert "(I)"; and in line 23, after the semicolon insert "AND".

(II) INFORMATION COLLECTED, USED, OR DISCLOSED BY AN ENTITY IF:

1. THE ENTITY 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 FEDERAL AND STATE STANDARDS FOR THE COLLECTION, USE, AND DISCLOSURE OF INFORMATION AS PROVIDED TO PROTECTED HEALTH INFORMATION UNDER HIPAA AND LEGALLY PROTECTED HEALTH CARE UNDER § 4-301 OF THE HEALTH – GENERAL ARTICLE FOR INFORMATION THAT:

A. IS CONSIDERED A MEDICAL RECORD UNDER § 4-301 OF THE HEALTH – GENERAL ARTICLE; AND

B. IS NOT CONSIDERED PROTECTED HEALTH INFORMATION UNDER HIPAA;”.

AMENDMENT NO. 4

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;”.

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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, COLLECTING DATA FROM, OR SENDING ANY NOTIFICATION TO A CONSUMER REGARDING THE CONSUMER’S CONSUMER HEALTH DATA”.

AMENDMENT NO. 5

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. 6

On page 19, in line 26, after “CONTROLLER” insert “OR PROCESSOR”.

On page 20, strike beginning with “AND” in line 3 down through “CONSENT” in line 4; in lines 11 and 15, in each instance, strike “AT LEAST 13 YEARS OLD AND”; and strike beginning with “WITHOUT” in line 13 down through “CONSENT” in line 14.

On page 21, in line 5, after “CONTROLLER” insert “OR PROCESSOR”; in line 21, strike “15” and substitute “30”; and in line 31, after “PROGRAM” insert “THAT DOES NOT:”

(I) PROVIDE FOR THE TRANSFER OF PERSONAL DATA TO A THIRD PARTY AS PART OF THE PROGRAM UNLESS:

1. THE TRANSFER IS FUNCTIONALLY NECESSARY TO ENABLE THE THIRD PARTY TO PROVIDE A BENEFIT TO WHICH THE CONSUMER IS ENTITLED;

2. THE TRANSFER OF PERSONAL DATA TO THE THIRD PARTY IS CLEARLY DISCLOSED IN THE TERMS OF THE PROGRAM; AND

3. THE THIRD PARTY USES THE PERSONAL DATA ONLY FOR PURPOSES OF FACILITATING A BENEFIT TO WHICH THE CONSUMER IS ENTITLED AND DOES NOT PROCESS OR TRANSFER THE PERSONAL DATA FOR ANY OTHER PURPOSE; OR

(II) USE FINANCIAL INCENTIVE PRACTICES THAT ARE UNJUST, UNREASONABLE, COERCIVE, OR USURIOUS IN NATURE.

(3) A SALE OF PERSONAL DATA MAY NOT BE CONSIDERED FUNCTIONALLY NECESSARY TO PROVIDE A PROGRAM THAT MEETS THE DESCRIPTION UNDER PARAGRAPH (2)(I) OF THIS SUBSECTION”.

On page 22, strike beginning with “WHAT” in line 10 down through “DATA” in line 12 and substitute “THE TYPE OF BUSINESS MODEL OR PROCESSING CONDUCTED BY THE 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. 7

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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. 8

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. 9

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. 10

On page 34, in line 16, strike “2025” and substitute “2026”; in line 18, strike “2024” and substitute “2025”; and in line 17, after “SECTION 3.” insert “AND BE IT”

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FURTHER ENACTED, That, if any provision of this Act or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Act that can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable.

SECTION 4."