

HB0213/163829/1

BY: Delegate Grammer

AMENDMENTS TO HOUSE BILL 213, AS AMENDED
(First Reading File Bill)

AMENDMENT NO. 1

On page 1 of the bill, at the top of the page, insert “EMERGENCY BILL”; in line 2, strike “**Information Exchanges – Definition and Privacy Regulations**” and substitute “– Information Exchanges and Protection of Personal Medical Information”; in line 8, after “purposes;” insert “establishing that each individual within the State has a right to confidentiality and privacy concerning the individual’s personal medical information; prohibiting certain persons from adopting certain policies relating to an individual’s personal medical information or requiring the release or revelation of an individual’s personal medical information; prohibiting an employer from requesting or requiring the release of an individual’s personal medical information under certain circumstances; prohibiting a health care provider from using an individual’s personal medical information to deny access to certain services; prohibiting certain public officials, employees, and agents from taking certain actions that violate certain protections under this Act; requiring the Office of the Attorney General to prosecute or defend the rights protected under this Act;”; in line 9, after “exchanges” insert “and the protection of personal medical information”; and after line 19, insert:

“BY adding to

Article - Health - General

Section 4–3A–01 through 4–3A–03 to be under the new subtitle “Subtitle 3A.

Protection of Personal Medical Information”

Annotated Code of Maryland

(2019 Replacement Volume and 2021 Supplement)”.

AMENDMENT NO. 2

On page 3 of the Health and Government Operations Committee Amendment (HB0213/843223/1), in line 3, after “**§ 160.203.**” insert:

“SUBTITLE 3A. PROTECTION OF PERSONAL MEDICAL INFORMATION.

4-3A-01.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “HEALTH CARE PROVIDER” HAS THE MEANING STATED IN § 4-301 OF THIS TITLE.

(C) “HEALTH CARE SERVICE” MEANS A SERVICE, TREATMENT, OR PROVISION OF A PRODUCT:

(1) (I) FOR THE CARE OF A PHYSICAL OR MENTAL DISEASE, ILLNESS, INJURY, DEFECT, OR CONDITION; OR

(II) TO MAINTAIN OR IMPROVE PHYSICAL OR MENTAL HEALTH; AND

(2) THAT IS SUBJECT TO REGULATION UNDER THE LAWS, REGULATIONS, OR RULES OF THE STATE.

(D) “PENALTY” MEANS A CIVIL OR CRIMINAL FINE, TAX, SALARY OR WAGE WITHHOLDING, SURCHARGE, FEE, OR ANY OTHER IMPOSED CONSEQUENCE, ESTABLISHED BY LAW OR RULE THAT IS USED TO PUNISH OR DISCOURAGE THE EXERCISE OF RIGHTS PROTECTED UNDER THIS SUBTITLE.

(E) “PERSONAL MEDICAL INFORMATION” MEANS INFORMATION RELATED TO OR REVEALING SPECIFICS OR DETAILS OF AN INDIVIDUAL’S MEDICAL OR DENTAL CONDITION, DIAGNOSIS, TREATMENT, OPERATION, PROCEDURE, MEDICATION, IMMUNIZATION, GENETIC MODULATION, INOCULATION, OR ANY OTHER SIMILAR OR RELATED INFORMATION.

4-3A-02.

(A) EACH INDIVIDUAL WITHIN THE STATE HAS A RIGHT TO CONFIDENTIALITY AND PRIVACY CONCERNING THE INDIVIDUAL'S PERSONAL MEDICAL INFORMATION.

(B) WITH THE EXCEPTION OF AN INDIVIDUAL'S PERSONAL HEALTH CARE PROVIDER, CARETAKER, OR GUARDIAN, A PERSON, INCLUDING A SCHOOL, A COLLEGE, A UNIVERSITY, AN AGENCY, OR A DEPARTMENT, WHETHER PUBLIC OR PRIVATE, MAY NOT:

(1) ADOPT A POLICY THAT LIMITS AN INDIVIDUAL'S AUTONOMY, DECISION MAKING, FREEDOM OF EXPRESSION, OR ACCESS BASED ON THE INDIVIDUAL'S PERSONAL MEDICAL INFORMATION; OR

(2) REQUIRE THE RELEASE OR REVELATION OF AN INDIVIDUAL'S PERSONAL MEDICAL INFORMATION.

(C) (1) THIS SUBSECTION DOES NOT APPLY TO AN EMPLOYER REQUIRING OR PERFORMING A DRUG SCREENING IN COMPLIANCE WITH A POLICY OF THE EMPLOYER.

(2) AN EMPLOYER MAY NOT, IN CONNECTION WITH A HIRING, PROMOTION, DEMOTION, RETENTION, DISCIPLINARY ACTION, OR OTHER RELATED DECISION REQUEST OR REQUIRE THE RELEASE OR REVELATION OF AN INDIVIDUAL'S PERSONAL MEDICAL INFORMATION.

(3) A HEALTH CARE PROVIDER MAY NOT USE AN INDIVIDUAL'S PERSONAL MEDICAL INFORMATION TO DENY THE INDIVIDUAL ACCESS TO HEALTH CARE SERVICES.

4-3A-03.

(A) A PUBLIC OFFICIAL, AN EMPLOYEE, OR AN AGENT OF THE STATE OR ANY OF ITS POLITICAL SUBDIVISIONS MAY NOT ACT TO IMPOSE, COLLECT,

(Over)

ENFORCE, OR EFFECTUATE ANY PENALTY IN THE STATE THAT VIOLATES THE PROTECTIONS UNDER THIS SUBTITLE.

(B) A PERSON WHO VIOLATED THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$1,000.

(C) THE ATTORNEY GENERAL SHALL PROSECUTE OR DEFEND THE RIGHTS PROTECTED UNDER THIS SUBTITLE.”.

On page 4 of the bill, in lines 16 and 17, strike “That this Act shall take effect October 1, 2022.” and substitute “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 3. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.”.