

HB0567/903224/1

BY: Finance Committee

AMENDMENTS TO HOUSE BILL 567  
(Third Reading File Bill)

AMENDMENT NO. 1

On page 2, in line 10, strike “14-4613” and substitute “14-4614”.

AMENDMENT NO. 2

On page 3, in line 3, strike “PERCENT” and substitute “%”.

On page 6, strike line 8 in its entirety; and in lines 9, 10, 11, 12, and 13, strike “(4)”, “(5)”, “(6)”, “(7)”, and “(8)”, respectively, and substitute “(3)”, “(4)”, “(5)”, “(6)”, and “(7)”, respectively.

On page 8, in line 24, strike “EQUIPMENT” and substitute “DATA GENERATED BY EQUIPMENT”.

On page 13, strike lines 6 through 8, inclusive.

AMENDMENT NO. 3

On page 14, in line 4, strike “OR”; in line 7, 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**”;

and in line 30, strike “AND”.

Strike beginning with line 31 on page 14 through line 12 on page 15 and substitute:

**“(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 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 16, in line 6, strike “AND”; and in line 10, after “ACT” insert “; AND”

**(13) PERSONAL DATA COLLECTED BY OR ON BEHALF OF A PERSON REGULATED UNDER THE INSURANCE ARTICLE OR AN AFFILIATE OF SUCH A PERSON, IN FURTHERANCE OF THE BUSINESS OF INSURANCE**

**AMENDMENT NO. 4**

On page 19, strike lines 7 through 9, inclusive.

**AMENDMENT NO. 5**

On page 21, in line 17, strike "OR PROCESSOR"; strike lines 18 through 20, inclusive; and in lines 21, 26, 27, and 29, strike "(2)", "(3)", "(4)", and "(5)", respectively, and substitute "(1)", "(2)", "(3)", and "(4)", respectively.

On page 22, in lines 1, 4, 9, and 21, strike "(6)", "(7)", "(8)", and "(9)", respectively, and substitute "(5)", "(6)", "(7)", and "(8)", respectively; and in line 25, strike "OR PROCESSOR".

On page 24, in line 17, after "OF", insert a comma; in the same line, after "MODEL", insert "OF,"; and in the same line, strike the second "THE" and substitute "EACH".

**AMENDMENT NO. 6**

Strike beginning with "THAT" in line 19 on page 23 through "SUBSECTION" in line 3 on page 24, inclusive, and substitute ", PROVIDED THAT THE SELLING OF PERSONAL DATA IS NOT A CONDITION OF PARTICIPATION IN THE PROGRAM".

On page 24, in line 23, after "(E)" insert "(1)"; and after line 29, insert:

**"(2) THE DISCLOSURE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE PROMINENTLY DISPLAYED, AND USE CLEAR, EASY TO**

UNDERSTAND, AND UNAMBIGUOUS LANGUAGE, TO STATE WHETHER THE CONSUMER'S PERSONAL DATA WILL BE SOLD OR SHARED WITH A THIRD PARTY."

AMENDMENT NO. 7

On page 35, in line 11, 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:

(I) 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; AND

(II) THE DISCLOSING CONTROLLER WAS, AND REMAINED, IN COMPLIANCE WITH ITS OBLIGATIONS AS THE DISCLOSER OF THE PERSONAL DATA.

(2)".

AMENDMENT NO. 8

On page 36, after line 22, 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.

(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 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;

(Over)

(5) THE SAFETY OF PERSONS OR PROPERTY;

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

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