



Biotechnology Innovation Organization  
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March 20, 2024

The Honorable Pamela Beidle, Chair  
Senate Committee on Finance  
Miller Senate Office Building, 3 East Wing  
11 Bladen St., Annapolis, MD 21401 – 1991

RE: **FWA – HB 567 Maryland Online Data Privacy Act**

Dear Chair Beidle and Members of the Committee:

The Biotechnology Innovation Organization (BIO) would firstly like to thank the Committee for adopting BIO's proposed amendments to the Senate crossfile of this bill, SB 541. BIO previously submitted proposed amendments in written testimony for the House and Senate Hearings. BIO would therefore ask that the Finance Committee vote HB 567 FWA adopting the same amendments proposed by BIO that this Committee adopted to the Senate crossfile, SB 541.

BIO is the world's largest trade association representing biotechnology companies, academic institutions, state biotechnology centers, and related organizations across the United States and in more than 30 other nations. BIO members develop medical products and technologies to treat patients afflicted with serious diseases, to delay the onset of these diseases, or prevent diseases from occurring.

Here is where the amendments would be placed in the House version of the bill:

**AMENDMENT NO. 1**

On Page 3 in line 25 strike "CAN BE" and substitute "**ARE**".

**14-4601.**

**(2) "BIOMETRIC DATA" INCLUDES:**

**(i) A FINGERPRINT;**

**(ii) A VOICE PRINT;**

**(iii) AN EYE RETINA OR IRIS IMAGE; AND**

**(iv) ANY OTHER UNIQUE BIOLOGICAL CHARACTERISTICS THAT ~~CAN BE~~ **ARE** USED TO**

**UNIQUELY AUTHENTICATE A CONSUMER'S IDENTITY.**

Rationale - Overly broad. Biometric data should be limited to *data that are used the authenticate* identity, as opposed to *data that can be used to authenticate* identity. This amendment would narrow the application for that purpose. Illinois BIPA biometric information privacy act [740 ILCS 14/section 10](#), and Washington Chapter [19.375](#) RCW [19.375.010](#) (1). The majority of state biometric privacy laws are modeled after BIPA.

**AMENDMENT NO. 2**

On page 15 in line 12, after "**HIPAA;**" insert "**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;”**

Rationale – We recommend expanding the definition of 'de-identified data' to include data de-identified according to HIPAA standards. HIPAA's framework streamlines data gathering, empowers patients to control their PHI, and promotes healthcare research and innovation. While HB 567 aligns with many aspects of HIPAA, it lacks the de-identification standard crucial for harmonizing data collection practices among our members for research.

Maintaining adherence to current HIPAA and research requirements is essential for BIO members. HIPAA provides clear guidelines for PHI use and disclosure, balancing patient privacy with research needs. Its de-identification standard ensures secure and private use of healthcare data for research purposes.

Excluding this standard would pose operational challenges for biomedical research companies in Maryland. This aligns with consumer privacy laws in 12 out of 13 states with HIPAA de-identification provisions.

California – [CCPA](#) – Section 179.146(a)(4)(A)(i)

Colorado – [SB 190 2021](#) – 6-1-1304 (1)(g)(I)

Connecticut – [CT Personal Data Privacy Act](#) – Section 3(b)(8)

Indiana – [Consumer Data Protection Act](#) - Section 2(6)

Iowa – [SF 262 \(2023\)](#) - Section 2 (3)(j)

Montana – [SB 0284 2023](#) – Section 4(1)(i)

New Hampshire – [SB 255](#) 507-H:3 II(h)

Oregon – [SB 619 2023](#) – Section 1(11)(a), (b), (A), (B) – OR legislation tracks closely to our proposed MD amendment altering definition of deidentified data

Tennessee – [HB 1181 2023](#) – 47-18-3210 (a)(13)

Texas – [Data Privacy and Security Act](#) – 541.003 (7)

Utah – [SB 0227 2022](#) – 13-61-102(2)(g)(ix)(A),(B)

Virginia – [H 2307 2021](#) Consumer Data Protection Act – 59.1-576(C)(7)

Thank you for the opportunity to comment and we urge the Committee to pass with these amendments included. Please do not hesitate to contact us for any further information.

Sincerely,

/s/

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