

# HOUSE BILL 1358

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EMERGENCY BILL

2lr1921

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By: **Delegate Grammer**

Introduced and read first time: February 11, 2022

Assigned to: Health and Government Operations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Health – Protection of Personal Medical Information**

3 FOR the purpose of establishing that each individual within the State has a right to  
4 confidentiality and privacy concerning the individual's personal medical  
5 information; prohibiting certain persons from adopting certain policies relating to an  
6 individual's personal medical information or requiring the release or revelation of an  
7 individual's personal medical information; prohibiting an employer from requesting  
8 or requiring the release of an individual's personal medical information under  
9 certain circumstances; prohibiting a health care provider from using an individual's  
10 personal medical information to deny access to certain services; prohibiting certain  
11 public officials, employees, and agents from taking certain actions that violate  
12 certain protections under this Act; requiring the Office of the Attorney General to  
13 prosecute or defend the rights protected under this Act; and generally relating to the  
14 protection of personal medical information.

15 BY adding to

16 Article – Health – General

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

18 Protection of Personal Medical Information”

19 Annotated Code of Maryland

20 (2019 Replacement Volume and 2021 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

22 That the Laws of Maryland read as follows:

23 **Article – Health – General**

24 **SUBTITLE 3A. PROTECTION OF PERSONAL MEDICAL INFORMATION.**

25 **4–3A–01.**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

5 (C) "HEALTH CARE SERVICE" MEANS A SERVICE, TREATMENT, OR  
6 PROVISION OF A PRODUCT:

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

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

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

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

17 (E) "PERSONAL MEDICAL INFORMATION" MEANS INFORMATION RELATED  
18 TO OR REVEALING SPECIFICS OR DETAILS OF AN INDIVIDUAL'S MEDICAL OR DENTAL  
19 CONDITION, DIAGNOSIS, TREATMENT, OPERATION, PROCEDURE, MEDICATION,  
20 IMMUNIZATION, GENETIC MODULATION, INOCULATION, OR ANY OTHER SIMILAR OR  
21 RELATED INFORMATION.

22 4-3A-02.

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

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

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

4           **(2) REQUIRE THE RELEASE OR REVELATION OF AN INDIVIDUAL’S**  
5 **PERSONAL MEDICAL INFORMATION.**

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

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

13           **(3) A HEALTH CARE PROVIDER MAY NOT USE AN INDIVIDUAL’S**  
14 **PERSONAL MEDICAL INFORMATION TO DENY THE INDIVIDUAL ACCESS TO HEALTH**  
15 **CARE SERVICES.**

16 **4-3A-03.**

17           **(A) A PUBLIC OFFICIAL, AN EMPLOYEE, OR AN AGENT OF THE STATE OR ANY**  
18 **OF ITS POLITICAL SUBDIVISIONS MAY NOT ACT TO IMPOSE, COLLECT, ENFORCE, OR**  
19 **EFFECTUATE ANY PENALTY IN THE STATE THAT VIOLATES THE PROTECTIONS**  
20 **UNDER THIS SUBTITLE.**

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

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

25           SECTION 2. AND BE IT FURTHER ENACTED, That, if any provision of this Act or  
26 the application thereof to any person or circumstance is held invalid for any reason in a  
27 court of competent jurisdiction, the invalidity does not affect other provisions or any other  
28 application of this Act that can be given effect without the invalid provision or application,  
29 and for this purpose the provisions of this Act are declared severable.

30           SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency  
31 measure, is necessary for the immediate preservation of the public health or safety, has  
32 been passed by a yea and nay vote supported by three-fifths of all the members elected to  
33 each of the two Houses of the General Assembly, and shall take effect from the date it is  
34 enacted.