

# ASSEMBLY, No. 2184

## STATE OF NEW JERSEY 221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

**Sponsored by:**

**Assemblyman WILLIAM F. MOEN, JR.**

**District 5 (Camden and Gloucester)**

**Assemblyman ROBERT J. KARABINCHAK**

**District 18 (Middlesex)**

**Assemblywoman ELLEN J. PARK**

**District 37 (Bergen)**

**Co-Sponsored by:**

**Assemblyman Venezia**

**SYNOPSIS**

Requires registration of data brokers and prohibits brokering of certain health records.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



**(Sponsorship Updated As Of: 3/7/2024)**

1 AN ACT concerning data brokers and supplementing Title 56 of the  
2 Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. As used in P.L. , c. (C. ) (pending before the  
8 Legislature as this bill):

9 “Behavioral health care” means procedures or services provided  
10 to a patient for the treatment of a mental illness, emotional disorder,  
11 or substance use disorder.

12 “Behavioral health record” means personal identifying  
13 information that describes behavioral health care or that otherwise  
14 identifies an individual patient as having a behavioral health  
15 condition or as receiving care or treatment for a behavioral health  
16 condition.

17 “Data broker” means a business, or a unit or units of a business,  
18 separately or together, that collects and sells or licenses to third  
19 parties the personal identifying information of an individual with  
20 whom the business does not have a direct relationship.

21 “Division” means the Division of Consumer Affairs in the  
22 Department of Law and Public Safety.

23 “Personal identifying information” means one or more of the  
24 following computerized data elements about an individual, if  
25 categorized or organized for dissemination to third parties: name;  
26 address; date of birth; place of birth; mother’s maiden name; unique  
27 biometric data generated from measurements or technical analysis  
28 of human body characteristics used by the owner or licensee of the  
29 data to identify or authenticate the individual, such as a fingerprint,  
30 retina or iris image, or other unique physical representation or  
31 digital representation of biometric data; name or address of a  
32 member of the individual’s immediate family or household; Social  
33 Security number or other government-issued identification number;  
34 or other information that, alone or in combination with the other  
35 information sold or licensed, would allow a reasonable person to  
36 identify the individual with reasonable certainty. “Personal  
37 identifying information” shall not include publicly available  
38 information to the extent that it is related to an individual’s business  
39 or profession.

40 “Physical health care” means procedures or services provided to  
41 a patient in connection with the patient’s physical health, including,  
42 but not limited to, preventative care, reproductive care, and  
43 wellness care, as well as treatment for an illness, disorder, disease,  
44 or other acute or chronic physical health condition.

45 “Physical health record” means personal identifying information  
46 that describes physical health care or that otherwise identifies an  
47 individual patient as having a physical health condition or as  
48 receiving care or treatment for a physical health condition.

1       2. a. The Division of Consumer Affairs in the Department of  
2 Law and Public Safety shall establish and maintain a public registry  
3 of data brokers doing business in this State. Using the information  
4 submitted pursuant to subsection c. of this section, the registry shall  
5 include, at a minimum, for each data broker doing business in this  
6 State: the data broker's name and physical address; a general email  
7 address that may be used to request information about the data  
8 broker's privacy policies and data collection practices; a general  
9 Internet website address for the data broker; an Internet website  
10 address specific to the data broker's privacy policies; and any  
11 relevant opt-out information. The division shall review and update  
12 the information contained in the registry at least annually.

13       b. Each data broker doing business in New Jersey shall  
14 annually register with, and pay a registration fee of \$100 to, the  
15 division. Registration fees collected pursuant to this subsection  
16 shall be used to establish and maintain the registry required  
17 pursuant to this section.

18       c. Each data broker shall submit the following information to  
19 the division at the time of registration, which information shall be  
20 updated by the data broker at least annually, or at such other  
21 frequency as the division may require:

22       (1) the data broker's name and primary physical, email, and  
23 Internet addresses;

24       (2) whether the data broker permits individuals to opt out of the  
25 data broker's collection practices, including the method for  
26 requesting an opt-out, the type of opt-out, whether the opt-out is  
27 limited to certain activities or sales, and whether the data broker  
28 permits individuals to authorize a third party to opt out on the  
29 individual's behalf;

30       (3) a statement specifying the data collection, databases, or sales  
31 activities from which an individual may not opt out;

32       (4) whether the data broker uses a credentialing process for  
33 purchasers of data and, if applicable, a general explanation of that  
34 process;

35       (5) a history of data breaches and other cybersecurity events  
36 affecting the data broker and personal identifying information in the  
37 data broker's possession, including the number of individuals  
38 affected by each such data breach or cybersecurity event;

39       (6) a separate statement detailing the data collection practices,  
40 databases, sales activities, and opt-out methods that are applicable  
41 to the personal identifying information of persons under the age of  
42 18 and whether the data broker has actual knowledge that it  
43 possesses the personal identifying information of persons under the  
44 age of 18; and

45       (7) any information the division deems appropriate to  
46 implement the purposes of P.L. , c. (C. ) (pending before  
47 the Legislature as this bill).

1 d. (1) A business that collects and sells or licenses personal  
2 identifying information shall not be considered a data broker for the  
3 purposes of P.L. , c. (C. ) (pending before the Legislature  
4 as this bill) if:

5 (a) the full extent to which the business collects and sells or  
6 licenses personal identifying information is incidental to conducting  
7 one or more of the following activities:

8 (i) developing or maintaining a third-party e-commerce or  
9 application platform;

10 (ii) providing 411 directory assistance or directory information  
11 services, including name, address, and telephone number, on behalf  
12 of or as a function of a telecommunications carrier;

13 (iii) providing publicly available information related to an  
14 individual's business or profession; or

15 (iv) providing publicly available information via real-time or  
16 near real-time alert services for health or safety purposes; or

17 (b) the business is a financial institution or an affiliate of a  
18 financial institution that is subject to Title V of the federal  
19 "Gramm-Leach-Bliley Act," 15 U.C.S. s.6801 et seq., and the rules  
20 and regulations promulgated thereunder.

21 (2) A business that engages in one or more of the activities  
22 described in sub-subparagraphs (i) through (iv) of subparagraph (a)  
23 of paragraph 1 of this subsection shall be considered a data broker  
24 for the purposes of P.L. , c. (C. ) (pending before the  
25 Legislature as this bill) if the business collects and sells or licenses  
26 personal identifying information in any way that is not incidental to  
27 an activity described in sub-subparagraphs (i) through (iv) of  
28 subparagraph (a) of paragraph 1 of this subsection, unless the  
29 business is exempt under subparagraph (b) of paragraph (1) of this  
30 subsection.

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32 3. In no case shall a data broker sell, offer for sale, license, or  
33 otherwise furnish, provide, or transmit to any other individual or  
34 entity a physical health record or a behavioral health record.

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36 4. a. A data broker that fails to register with the division or to  
37 submit the annual registration fee as required under subsection b. of  
38 section 2 of P.L. , c. (C. ) (pending before the Legislature  
39 as this bill) shall be liable to a civil penalty of \$50 for each day the  
40 data broker fails to register or submit the required fee.

41 b. A data broker that fails to submit the information required  
42 under subsection c. of section 2 of P.L. , c. (C. ) (pending  
43 before the Legislature as this bill) or to update the information as  
44 required under subsection c. of section 2 of P.L. , c. (C. )  
45 (pending before the Legislature as this bill) shall be liable for a civil  
46 penalty of \$50 for each day the data broker fails to submit or update  
47 the information.

1 c. A data broker that sells, offers for sale, licenses, or  
2 otherwise furnishes, provides, or transmits to any other individual  
3 or entity a physical health record or a behavioral health record in  
4 violation of section 3 of P.L. , c. (C. ) (pending before the  
5 Legislature as this bill) shall be liable to a civil penalty of \$1,000  
6 for each physical or behavioral health record sold, offered for sale,  
7 licensed, or otherwise furnished, provided, or transmitted.

8 d. A civil penalty assessed pursuant to this section shall be  
9 collected and enforced by the division in summary proceedings  
10 before a court of competent jurisdiction pursuant to the provisions  
11 of the “Penalty Enforcement Law of 1999,” P.L.1999, c.274  
12 (C.2A:58-10 et seq.).

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14 5. The Director of the Division of Consumer Affairs in the  
15 Department of Law and Public Safety shall adopt rules and  
16 regulations, pursuant to the “Administrative Procedure Act,”  
17 P.L.1968, c.410 (C.52:14B-1 et seq.), as shall be necessary for the  
18 implementation of P.L. , c. (C. ) (pending before the  
19 Legislature as this bill).

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21 6. This act shall take effect immediately, except that  
22 subsections a. and b. of section 4 of this act shall remain inoperative  
23 for 180 days following the date of enactment.

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26 STATEMENT

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28 This bill requires data brokers to register with the Division of  
29 Consumer Affairs (“the division”) in the Department of Law and  
30 Public Safety and prohibits the brokering of physical or behavioral  
31 health records.

32 Data brokers are businesses that collect and sell or license to third  
33 parties the personal identifying information of an individual with  
34 whom the business does not have a direct relationship. As used in the  
35 bill, “personal identifying information” means one or more  
36 computerized data elements about an individual that are categorized or  
37 organized for dissemination to third parties and that, alone or in  
38 combination with other information sold or licensed, would allow a  
39 reasonable person to identify the individual with reasonable certainty.

40 Specifically, the bill requires the division to establish and maintain  
41 a public registry of data brokers doing business in New Jersey. Data  
42 brokers are required to register with the division, pay an annual  
43 registration fee of \$100, and provide the division with certain  
44 information about the data broker’s business as described in the bill.  
45 Collected registration fees will be used to implement the provisions of  
46 the bill.

47 Under the bill, the information that data brokers are required to  
48 submit to the division at the time of registration includes: (1) the data

1 broker's name and primary physical, email, and Internet addresses; (2)  
2 the data broker's policies for opting out of the data broker's collection  
3 practices; (3) whether the data broker uses a credentialing process for  
4 purchasers of data and, if applicable, a general explanation of that  
5 process; (4) a history of data breaches and other cybersecurity events  
6 affecting the data broker, including the number of individuals affected  
7 by each such data breach or cybersecurity event; (5) a separate  
8 statement detailing the data collection practices, databases, sales  
9 activities, and opt-out methods that are applicable to the personal  
10 identifying information of persons under the age of 18 and whether the  
11 data broker has actual knowledge that it possesses the personal  
12 identifying information of persons under the age of 18; and (6) any  
13 other information the division deems appropriate. Data brokers are  
14 required to update this information annually or at such other intervals  
15 as the division requires.

16 Using the information submitted by data brokers, the division is to  
17 include in the registry, at minimum, each data broker's name and  
18 physical address, a general email address that may be used to request  
19 information about the data broker's privacy policies and data  
20 collection practices, a general Internet website address for the data  
21 broker, an Internet website address specific to the data broker's  
22 privacy policies, and any relevant opt-out information. The division is  
23 required to review and update this information at least annually.

24 Data brokers that fail to submit and update information as required  
25 under the bill, or that fail to register and pay the registration fee  
26 required under the bill, will be liable for a civil penalty of \$50 for each  
27 day the data broker is not in compliance.

28 A business will not be considered a data broker for the purposes of  
29 the bill if the collection and sale or licensing of personal identifying  
30 information is incidental to one or more of the following activities  
31 conducted by the business: (1) developing or maintaining a third-party  
32 e-commerce or application platform; (2) providing 411 directory  
33 assistance or directory information services on behalf of or as a  
34 function of a telecommunications carrier; (3) providing publicly  
35 available information related to an individual's business or profession;  
36 or (4) providing publicly available information via real-time or near  
37 real-time alert services for health or safety purposes. A business that  
38 engages in these activities will still be considered a data broker for the  
39 purposes of the bill if the business collects and sells or licenses  
40 personal identifying information in any way that is not incidental to  
41 one or more of those activities.

42 Additionally, a business will not be considered a data broker for  
43 the purposes of the bill if it is a financial institution or an affiliate of a  
44 financial institution subject to Title V of the federal "Gramm-Leach-  
45 Bliley Act," and the rules or regulations issued under its authority.

46 The bill provides that in no case may a data broker sell, offer for  
47 sale, license, or otherwise furnish, provide, or transmit to any other  
48 individual or entity any physical or behavioral health record pertaining

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1 to an individual, including records describing physical or behavioral  
2 health care provided to an individual and records that otherwise  
3 identify an individual as having a physical or behavioral health  
4 condition or as receiving care or treatment for a physical or behavioral  
5 health condition. A data broker that violates this prohibition will be  
6 liable to a civil penalty of \$1,000 for each physical or behavioral  
7 health record sold, offered for sale, licensed, or otherwise furnished,  
8 provided, or transmitted in violation of this prohibition.