

Representative Robert M. Spendlove proposes the following substitute bill:

DATA PRIVACY AMENDMENTS

2020 FIFTH SPECIAL SESSION

STATE OF UTAH

Chief Sponsor: Robert M. Spendlove

Senate Sponsor: Keith Grover

LONG TITLE

General Description:

This bill enacts provisions relating to the collection, storage, use, and retention of certain electronic information or data related to COVID-19.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates requirements for the collection, storage, use, and retention of certain electronic information or data by a government entity to investigate or control COVID-19;
- ▶ prohibits the collection of location information without clear and affirmative consent from the individual;
- ▶ requires a government entity to submit a contract to collect certain electronic information or data to the attorney general to certify that the contract meets the requirements in this bill; and
- ▶ makes it a felony to willfully and knowingly violate an injunction or court order to enforce the requirements in this bill.

Money Appropriated in this Bill:

None



26 **Other Special Clauses:**

27 This bill provides a special effective date.

28 **Utah Code Sections Affected:**

29 ENACTS:

30 [13-44-203](#), Utah Code Annotated 1953



31 *Be it enacted by the Legislature of the state of Utah:*

32 Section 1. Section **13-44-203** is enacted to read:

33 **13-44-203. COVID-19 data privacy requirements - Willful violation of an**
34 **injunction a felony.**

35 (1) As used in this section:

36 (a) "Covered data" means electronic information or data that:

37 (i) is collected under a contract with a government entity for the purpose of
38 investigating or controlling COVID-19; and

39 (ii) (A) is identifiable health data as defined in Section [26-3-1](#);

40 (B) is location information; or

41 (C) otherwise makes the individual supplying or described in the electronic
42 information or data identifiable.

43 (b) "COVID-19" means the same as that term is defined in Section [78B-4-517](#).

44 (c) "Electronic information or data" means the same as that term is defined in Section
45 [77-23c-101.2](#).

46 (d) "Government entity" means the same as that term is defined in Section [77-23d-102](#).

47 (e) "Location information" means the same as that term is defined in Section
48 [77-23c-101.2](#).

49 (2) A person who enters into a contract with a government entity to collect or provide
50 covered data to the government entity:

51 (a) may not sell, offer for sale, or otherwise provide the covered data collected under
52 the contract to any person other than the government entity;

53 (b) shall implement and maintain reasonable procedures to:

54 (i) prevent unlawful use or disclosure of covered data collected or maintained in the
55 regular course of business; and

57 (ii) destroy, or arrange for the destruction of, records containing covered data that are
58 not to be retained by the person by:

59 (A) shredding;

60 (B) erasing; or

61 (C) otherwise modifying the covered data to make the electronic information or data
62 indecipherable; and

63 (c) may not collect location information without clear and affirmative consent by the
64 individual about which the location information is being collected.

65 (3) Before entering into a contract to collect covered data, a government entity shall
66 submit the contract to the attorney general to certify that the contract complies with the
67 provisions of Subsection (2).

68 (4) In addition to the penalties described in Section [13-44-301](#), a person who willfully
69 and knowingly violates an injunction or court order issued under Section [13-44-301](#) to enforce
70 a requirement in this section is guilty of a felony of the third degree.

71 **Section 2. Effective date.**

72 If approved by two-thirds of all the members elected to each house, this bill takes effect
73 upon approval by the governor, or the day following the constitutional time limit of Utah
74 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
75 the date of veto override.