

# HB5001S01 compared with HB5001

~~{deleted text}~~ shows text that was in HB5001 but was deleted in HB5001S01.

inserted text shows text that was not in HB5001 but was inserted into HB5001S01.

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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

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### LONG TITLE

#### General Description:

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

#### Highlighted Provisions:

This bill:

- ▶ ~~{restricts the collection or use}~~defines terms;
- ▶ creates requirements for the collection, storage, use, and retention of certain electronic ~~{location}~~ information or data by ~~{the state}~~a government entity to investigate or control COVID-19~~{without consent from}~~;
- ▶ prohibits the ~~{owner of the electronic}~~collection of location information~~{~~;
- ▶ ~~enacts provisions relating to the use and retention of certain identifiable information relating to COVID-19; and~~

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- ~~creates penalties for misuse of confidential identifiable information relating to COVID-19;~~ 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

### Other Special Clauses:

This bill provides a special effective date.

### Utah Code Sections Affected:

ENACTS:

~~{63G-27-101}~~ 13-44-203, Utah Code Annotated 1953

~~{63G-27-102, Utah Code Annotated 1953~~

~~}~~

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

Section 1. Section ~~{63G-27-101}~~ 13-44-203 is enacted to read:

~~{CHAPTER 27. PANDEMIC RESPONSE DATA PRIVACY ACT~~

~~63G-27-101. Title:~~

~~This chapter is known as the "Pandemic Response Data Privacy Act."~~

~~Section 2. Section 63G-27-102 is enacted to read:~~

~~63G-27-102}~~ 13-44-203. COVID-19 data privacy requirements - Willful violation of an injunction a felony.

(1) As used in this section:

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

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

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

(B) is location information; or

(C) otherwise makes the individual supplying or described in the electronic

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information or data identifiable.

~~(a)b~~ "COVID-19" means the same as that term is defined in Section 78B-4-517.

~~(b)c~~ "Electronic ~~location information~~ ~~means location~~ information ~~as~~ or data" means the same as that term is defined in Section 77-23c-101.2.

~~(c)~~ "State agency" ~~means a department, division, board, council, committee, institution, office, bureau, or other similar administrative unit of the executive branch of state government.~~

~~(2)~~ A state agency may not collect personally identifiable electronic location ~~information~~ d

"Government entity" means the same as that term is defined in Section 77-23d-102.

(e) "Location information ~~for the purpose of investigating or controlling COVID-19 unless the state agency obtains consent from the owner of the electronic location information.~~

~~(3)~~ " means the same as that term is defined in Section 77-23c-101.2.

(2) A person who enters into a contract with a ~~state agency~~ government entity to collect or provide ~~personally identifiable information regarding COVID-19~~ covered data to the government entity:

(a) may not sell, offer for sale, or otherwise provide the ~~personally identifiable information~~ covered data collected under the contract to any person other than the ~~state agency; and~~

~~(b)~~ may not retain the information collected under the contract in any form after the ~~personally identifiable~~ government entity;

(b) shall implement and maintain reasonable procedures to:

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

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

(A) shredding;

(B) erasing; or

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

(c) may not collect location information without clear and affirmative consent by the individual about which the location information is ~~no longer necessary to fulfill the terms of~~

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~~the contract.~~

~~— (4) A person who enters} being collected.~~

(3) Before entering into a contract to collect covered data, a government entity shall submit the contract to the attorney general to certify that the contract complies with {a state agency to provide personally identifiable information regarding COVID-19} the provisions of Subsection (2).

(4) In addition to the penalties described in Section 13-44-301, a person who willfully and knowingly violates an injunction or court order issued under Section 13-44-301 to enforce a requirement in this section is guilty of a {class B misdemeanor if the person:

~~— (a) violates the requirements described in Subsection (3); or~~

~~— (b) intentionally releases or makes public personally identifiable information collected under the contract with a state agency;~~

~~— (c) if applicable, breaches the confidentiality provisions of Title 26, Chapter 6, Utah Communicable Disease Control Act.~~

~~— Section 3} felony of the third degree.~~

### Section 2. Effective date.

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