Representative Keven J. Stratton 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;
- prohibits a government entity from collecting certain location information for the purpose of investigating or controlling COVID-19 unless the collection of location information is approved by the Legislature and the governor by concurrent resolution;
requires a government entity with an existing contract to collect certain location
information to terminate collection of that location information and destroy certain
location information that has been collected; 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.
This bill provides revisor instructions.

Utah Code Sections Affected:
ENACTS:
13-44-203, Utah Code Annotated 1953

Utah Code Sections Affected by Revisor Instructions:
13-44-203, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:
Section 1. Section 13-44-203 is enacted to read:
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 by a government entity or under a contract between a third party and a
government entity;
(ii) is collected for the purpose of investigating or controlling COVID-19; and
(iii) (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
information or data identifiable.
(b) "Covered location information" means location information that is collected for the
purpose of investigating or controlling COVID-19:
(i) by a government entity; or
(ii) under a contract between a government entity and a person who is not a
government entity.

(c) "COVID-19" means the same as that term is defined in Section 78B-4-517.
(d) "Electronic information or data" means the same as that term is defined in Section
77-23c-101.2.
(e) "Government entity" means the same as that term is defined in Section 77-23d-102.
(f) "Location information" means the same as that term is defined in Section
77-23c-101.2.
(2) A person who enters into a contract with a government entity to collect or provide
covered data:

(a) may not sell, offer for sale, or otherwise provide the covered data collected under
the contract to any person other than:
(i) the government entity;
(ii) a subcontractor for the purpose of carrying out the provisions of the contract; or
(iii) at the request and with clear and affirmative consent by the individual described in
the covered data.
(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 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 the
provisions of Subsection (2).
(4) (a) Beginning the effective date of this bill, a government entity may not collect covered data that is location information unless the collection of covered data that is location information receives approval of the Legislature and the governor through concurrent resolution that specifies:

(i) the type of covered data will be collected;

(ii) how long the collection of the covered data will occur; and

(iii) how the covered data will be used.

(b) Within five days after the effective date of this bill, a government entity with an existing contract to collect covered location information shall:

(i) terminate or direct the termination of the collection of any covered location information under the contract;

(ii) direct the person with which the government entered into the contract to destroy any covered location information collected under the contract in accordance with the requirements described in Subsection (2)(b)(ii); and

(iii) require the person with which the government entered into the contract to certify that the person has satisfied the requirement described in Subsection (4)(b)(ii).

(c) This Subsection (4):

(i) does not impair a government entity's obligations to pay money under a contract entered into before the effective date of this bill; and

(ii) may not be waived or suspended under Title 53, Chapter 2a, Emergency Management Act.

(5) 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 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.

Section 3. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in
preparing the Utah Code database for publication, replace the reference in Section 13-44-203 "the effective date of this bill" to the bill's actual effective date.