

SB 703 -2 STAFF MEASURE SUMMARY

Senate Committee On Judiciary

Prepared By: Channa Newell, Counsel

Meeting Dates: 2/19, 4/8

WHAT THE MEASURE DOES:

Prohibits entities from transactions relating to a person's health information, protected health information, or de-identified data without first obtaining a signed authorization from the person. Allows person to receive remuneration in exchange for authorization. Prohibits discrimination or penalty against person who declines to sign authorization or who seeks remuneration for authorization. Makes violation an unlawful trade practice. Defines terms. Makes policy statement that a person has a property interest in the health information of the person.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-2 Replaces measure. Establishes Task Force on Protecting Health Information. Specifies membership, including four legislators, one member appointed by Attorney General, and eleven members appointed by Governor. Charges Task Force to research and study options for the use of protected health information for commercial purposes, review safeguarding protected health information without restricting individuals' abilities to use own information, and whether the individual should have a property right or privacy right in their health information. Authorizes Task Force to examine models used in other states and counties. Requires report to the interim committee of Legislative Assembly relating to judiciary no later than December 1, 2019. Declares emergency, effective on passage.

BACKGROUND:

The Health Insurance Portability and Accountability Act (HIPAA) was enacted in 1996 and requires covered entities, such as healthcare plans and healthcare providers, to safeguard an individual's health data. The entities must follow rules on disclosure, limiting it to circumstances in which disclosure is: 1) to the individual, 2) for treatment, payment, or health care operations, 3) in an informal setting when the person has the opportunity to agree or object, 4) incident to an otherwise permitted use and disclosure, 5) for public interest and benefit activities, or 6) of a limited data set for the purposes of research, public health or health care operations. Information that has identifiable data removed is not subject to the disclosure rules.

Senate Bill 703 prohibits any commercial disclosure from one entity to another of a person's health data, including de-identified data, unless the person has signed an authorization for release. The measure also allows a person to request compensation in exchange for the release and makes failure to comply, or discrimination against a person who does not sign an authorization or asks for compensation, an unlawful trade practice. The measure also provides the state policy that a person should have the right to assert a property interest in the health information.