

## SB 703 A STAFF MEASURE SUMMARY

### Senate Committee On Judiciary

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**Action Date:** 04/08/19

**Action:** Do pass with amendments and requesting referral to Ways and Means. (Printed A-Engrossed.)

**Vote:** 7-0-0-0

**Yeas:** 7 - Bentz, Fagan, Gelser, Linthicum, Manning Jr, Prozanski, Thatcher

**Fiscal:** Fiscal impact issued

**Revenue:** No revenue impact

**Prepared By:** Channa Newell, Counsel

**Meeting Dates:** 2/19, 4/8

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#### WHAT THE MEASURE DOES:

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 related to judiciary no later than December 1, 2019. Declares emergency, effective on passage.

#### ISSUES DISCUSSED:

- Debate between privacy or property interest in health data
- Current sale of individuals' health data
- National and international efforts to address use of health data
- Need for study of issue

#### EFFECT OF AMENDMENT:

Replaces the measure.

#### BACKGROUND:

The Health Insurance Portability and Accountability Act (HIPAA) was enacted in 1996 and requires covered entities, such as health care plans and health care 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 A creates the Task Force on Protecting Health Information and charges it with researching and studying various options for the use and sale of protected health information, as well as reviewing the process for safeguarding an individual's health information without restricting the individual's ability to use their own data, and to study and recommend whether an individual has a property right or a privacy right in the individual's health information. The Task Force is required to report to the interim legislative committee related to judiciary no later than December 1, 2019.