

Amendment - 1st Reading/2nd House-blue - Requested by: Katie Sullivan - Conference Committee on HB 446

- 2023

68th Legislature 2023

Drafter: Madelyn Krezowski, (406) 444-6857

HB0446.002.001

1 HOUSE BILL NO. 446
2 INTRODUCED BY K. SULLIVAN, D. ZOLNIKOV, D. HARVEY, K. BOGNER, A. BUCKLEY, K. KORTUM

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING HEALTH PRIVACY LAWS;
5 ESTABLISHING CONFIDENTIALITY STANDARDS FOR DIGITAL HEALTH CARE; PROVIDING FOR
6 REMEDIES FOR NONCOMPLIANCE; ~~PROVIDING ADDITIONAL REQUIREMENTS FOR A MENTAL~~
7 ~~HEALTH DIGITAL SERVICE;~~ AND PROVIDING DEFINITIONS."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10
11 NEW SECTION. Section 1. Digital health care information -- confidentiality -- penalties --
12 ADDITIONAL REQUIREMENTS. (1) A mental health digital service is subject to the disclosure and confidentiality
13 provisions of Title 50, chapter 16, part 5, when handling health care information as defined in 50-16-504 on
14 behalf of an individual.

15 (2) A violation of this section may be enforced IN A CIVIL ACTION as provided in 50-16-552, and a
16 person whose information is disclosed in violation of Title 50, chapter 16, part 5, may pursue the remedies
17 allowed in 50-16-553. ~~A PERSON AGGRIEVED BY THE SALE OR PURCHASE OF HEALTH CARE INFORMATION IN A~~
18 ~~VIOLATION OF THIS SECTION MAY RECOVER STATUTORY DAMAGES OF UP TO \$100,000 FOR EACH SALE OR PURCHASE OF~~
19 ~~THE HEALTH CARE INFORMATION IN ADDITION TO DAMAGES FOR ANY PECUNIARY LOSS losses UNDER 50-16-553.~~

20 ~~(3) A PERSON WHO PURPOSELY OR KNOWINGLY SELLS HEALTH CARE INFORMATION IN VIOLATION OF THIS~~
21 ~~SECTION IS GUILTY OF A FELONY AND UPON CONVICTION IS PUNISHABLE BY IMPRISONMENT FOR A PERIOD NOT~~
22 ~~EXCEEDING 5 YEARS.~~

23 ~~(4) A PERSON WHO PURPOSELY OR KNOWINGLY PURCHASES HEALTH CARE INFORMATION SOLD IN~~
24 ~~VIOLATION OF THIS SECTION IS GUILTY OF A FELONY AND UPON CONVICTION IS PUNISHABLE BY IMPRISONMENT FOR A~~
25 ~~PERIOD NOT EXCEEDING 5 YEARS.~~

26 ~~(5) IF APPLICABLE, A PROSECUTOR SHALL SEEK EXTRADITION OF A VIOLATOR OF THIS SECTION FROM A~~
27 ~~FOREIGN COUNTRY THROUGH THE UNITED STATES DEPARTMENT OF STATE AND THE UNITED STATES DEPARTMENT OF~~

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1 JUSTICE.

2 ~~(3)(6)(3)~~ "Mental health digital service" means a mobile-based application or internet website
3 that collects, obtains, uses, possesses, or accesses information related to an individual's inferred or diagnosed
4 mental health or substance use disorder, markets itself as facilitating mental health or substance use disorder
5 services to an individual, and uses the information provided to facilitate mental health services, including
6 diagnosis, treatment, suggested therapies, or management of the mental health or substance use disorder to
7 an individual.

8 ~~(7) — A MENTAL HEALTH DIGITAL SERVICE THAT COLLECTS HEALTH CARE INFORMATION OF A PERSON IN THIS~~
9 ~~STATE MUST BE EITHER INCORPORATED UNDER THE LAWS OF THIS STATE OR REGISTERED TO DO BUSINESS IN THE~~
10 ~~STATE AS A FOREIGN CORPORATION UNDER TITLE 35, CHAPTER 14.~~

11 ~~(8) — A MENTAL HEALTH DIGITAL SERVICE THAT COLLECTS HEALTH CARE INFORMATION OF A PERSON IN THIS~~
12 ~~STATE SHALL FILE AN AFFIRMATION WITH THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES THAT IT WILL~~
13 ~~COMPLY WITH THE REQUIREMENTS OF THIS SECTION.~~

14
15 NEW SECTION. Section 2. Codification instruction. [Section 1] is intended to be codified as an
16 integral part of Title 50, chapter 16, part 5, and the provisions of Title 50, chapter 16, part 5, apply to [section 1].

17 - END -