



# SENATE BILL No. 636

September 12, 1995, Introduced by Senators SCHWARZ, BYRUM, SHUGARS, BENNETT, HART and O'BRIEN and referred to the Committee on Health Policy and Senior Citizens.

A bill to amend Act No. 368 of the Public Acts of 1978, entitled as amended "Public health code," as amended, being sections 333.1101 to 333.25211 of the Michigan Compiled Laws, by adding sections 2919, 2921, 2923, 2925, and 2927.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1 Section 1. Act No. 368 of the Public Acts of 1978, as  
2 amended, being sections 333.1101 to 333.25211 of the Michigan  
3 Compiled Laws, is amended by adding sections 2919, 2921, 2923,  
4 2925, and 2927 to read as follows:

5 SEC. 2919. (1) EACH DATA PLAN SHALL INCLUDE POLICIES AND  
6 PROCEDURES ON CONFIDENTIALITY AND ACCESS TO THE DATA COLLECTED  
7 FOR ENTRY INTO THE DATA BASE. THE POLICIES AND PROCEDURES SHALL  
8 INCLUDE, AT A MINIMUM, WHO MAY OBTAIN ACCESS TO WHICH DATA, FEES

1 FOR ACCESS TO THE DATA BASE, WHO MAY USE WHICH DATA, HOW  
2 ACCESSIBLE DATA MAY BE USED, AND HOW PATIENT CONFIDENTIALITY IS  
3 TO BE PROTECTED.

4 (2) DATA COLLECTED UNDER THE DATA PLAN THAT IDENTIFY INDI-  
5 VIDUAL PATIENTS AND OTHER INFORMATION THAT COULD BE EXPECTED TO  
6 REVEAL THE IDENTITY OF AN INDIVIDUAL PATIENT ARE NOT SUBJECT TO  
7 DISCLOSURE UNDER THE FREEDOM OF INFORMATION ACT, ACT NO. 442 OF  
8 THE PUBLIC ACTS OF 1976, BEING SECTIONS 15.231 TO 15.246 OF THE  
9 MICHIGAN COMPILED LAWS.

10 (3) THE POLICIES AND PROCEDURES REQUIRED UNDER  
11 SUBSECTION (1) SHALL PROVIDE THAT PUBLICLY AVAILABLE INFORMATION  
12 FROM THE DATA BASE NOT ALLOW ACCESS TO COMBINATIONS OF PATIENT  
13 CHARACTERISTIC DATA ELEMENTS THAT REASONABLY COULD BE EXPECTED TO  
14 REVEAL THE IDENTITY OF AN INDIVIDUAL PATIENT. PUBLIC OR PRIVATE  
15 ORGANIZATIONS WITH WHICH THE BOARD OR THE DATA CORPORATION, PUR-  
16 SUANT TO CONTRACT WITH THE BOARD, CONTRACTS TO DEVELOP DATA ANA-  
17 LYSES ARE BOUND BY THE POLICIES AND PROCEDURES REQUIRED UNDER  
18 SUBSECTION (1), AND SHALL HAVE ACCESS TO PATIENT-LEVEL DATA FROM  
19 THE DATA BASE ONLY TO THE EXTENT NECESSARY TO DEVELOP DATA ANA-  
20 LYSES, INCLUDING, BUT NOT LIMITED TO, LINKAGE FOR OUTCOME AND  
21 OTHER ANALYSES. ONCE LINKAGE OCCURS, PATIENT-LEVEL DATA AND ANA-  
22 LYSES SHALL BE CODED TO PREVENT THEIR USE OR DISPLAY IN ANY  
23 MANNER THAT REASONABLY COULD BE EXPECTED TO REVEAL THE IDENTITY  
24 OF A PATIENT.

25 (4) DATA COLLECTED UNDER A DATA PLAN THAT CONTAIN THE IDEN-  
26 TITY OF INDIVIDUAL PROVIDERS, EMPLOYERS, AND PURCHASERS ARE NOT

1 CONFIDENTIAL AND ARE PUBLIC INFORMATION, UNLESS THE DATA COULD  
2 REASONABLY BE EXPECTED TO REVEAL THE IDENTITY OF A PATIENT.

3 SEC. 2921. (1) THE HEALTH CARE INFORMATION THAT IS PROVIDED  
4 TO THE BOARD OR TO THE DATA CORPORATION FROM A PATIENT'S MEDICAL  
5 RECORD, OR SUPPLIED BY A HEALTH CARE PAYMENT OR BENEFIT PLAN TO  
6 ENABLE THE BOARD OR THE DATA CORPORATION TO PERFORM ITS FUNC-  
7 TIONS, SHALL BE LIMITED TO ONLY THOSE DATA ELEMENTS SPECIFIED IN  
8 THE DATA PLAN APPROVED AND MADE EFFECTIVE PURSUANT TO  
9 SECTION 2909 AND IN EFFECT AT THE TIME THE HEALTH CARE INFORMA-  
10 TION IS PROVIDED.

11 (2) A REQUEST FOR DATA FROM THE DATA BASE, OTHER THAN PUBLIC  
12 INFORMATION AVAILABLE UNDER SECTION 2911, SHALL STATE WITH PAR-  
13 TICULARITY WHAT INFORMATION IS NEEDED AND THE REASONS FOR THE  
14 REQUEST. IN ORDER FOR THE INFORMATION TO BE PROVIDED FROM THE  
15 DATA BASE, THE REQUEST MUST BE CONSISTENT WITH THE DATA PLAN.

16 SEC. 2923. DATA COLLECTED FOR THE DATA BASE MAY BE DIS-  
17 CLOSED ONLY IF THE DISCLOSURE IS IN COMPLIANCE WITH THE REQUIRE-  
18 MENTS OF SECTIONS 2919 AND 2921.

19 SEC. 2925. THE ATTORNEY GENERAL, A COUNTY PROSECUTOR, OR A  
20 PERSON AGGRIEVED BY A VIOLATION OF THIS PART MAY MAINTAIN A CIVIL  
21 ACTION TO ENFORCE THIS ACT IN A COURT OF COMPETENT JURISDICTION.  
22 THE COURT MAY ORDER ANY RELIEF AUTHORIZED UNDER SECTION 2927.

23 SEC. 2927. (1) A COURT IN WHICH AN ACTION IS FILED UNDER  
24 SECTION 2925 MAY ORDER A PROVIDER, PURCHASER, OR ANY OTHER PERSON  
25 TO COMPLY WITH THIS PART AND MAY ORDER ANY OTHER APPROPRIATE  
26 RELIEF.

1 (2) IF THE COURT DETERMINES THAT THERE IS A VIOLATION OF  
2 THIS PART, THE AGGRIEVED PERSON, OR THE ATTORNEY GENERAL OR A  
3 COUNTY PROSECUTOR ON BEHALF OF AN AGGRIEVED PERSON, MAY RECOVER  
4 DAMAGES FOR PECUNIARY LOSSES SUSTAINED AS A RESULT OF THE VIOLA-  
5 TION AND, IN ADDITION, IF THE VIOLATION INVOLVES WILLFUL OR  
6 GROSSLY NEGLIGENT CONDUCT RESULTING IN THE DISCLOSURE OF INFORMA-  
7 TION THAT IDENTIFIES A PATIENT, THE COURT MAY AWARD EXEMPLARY  
8 DAMAGES OF NOT MORE THAN \$5,000.00 FOR A VIOLATION OF THIS PART,  
9 EXCLUSIVE OF ANY PECUNIARY LOSS, RELATED TO THE DISCLOSURE OF  
10 EACH DATA ELEMENT PERTAINING TO THE INDIVIDUAL PATIENT.

11 (3) THE COURT MAY AWARD REASONABLE ATTORNEY FEES AND COSTS  
12 REASONABLY INCURRED IN AN ACTION UNDER THIS SECTION TO THE PRE-  
13 VAILING PARTY.

14 (4) A PERSON WHO DISCLOSES INFORMATION IN GOOD FAITH COMPLI-  
15 ANCE WITH A DATA PLAN APPROVED AND MADE EFFECTIVE UNDER  
16 SECTION 2909 IS NOT SUBJECT TO CIVIL, ADMINISTRATIVE, OR CRIMINAL  
17 LIABILITY FOR THE DISCLOSURE.

18 Section 2. This amendatory act shall not take effect unless  
19 all of the following bills of the 88th Legislature are enacted  
20 into law:

21 (a) Senate Bill No. 635.

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23 (b) Senate Bill No. 637.

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25 (c) Senate Bill No. 633.

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(d) Senate Bill No. 634.

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