

STATE OF NEW YORK

3469

2023-2024 Regular Sessions

IN SENATE

January 31, 2023

Introduced by Sen. RIVERA -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, in relation to communicable disease contact tracing

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The title heading of title 8 of article 21 of the public
2 health law, as added by chapter 377 of the laws of 2020, is amended to
3 read as follows:

4 ~~[NOVEL CORONAVIRUS, COVID-19]~~ COMMUNICABLE DISEASES;
5 CONTACT TRACING

6 § 2. Section 2180 of the public health law, as amended by chapter 62
7 of the laws of 2021, subdivisions 12, 13, 14, 15, 16, 17, 18, 19, and 20
8 as added by chapter 829 of the laws of 2022, is amended to read as
9 follows:

10 § 2180. Definitions. As used in this title the following terms shall
11 have the following meanings:

12 1. "Contact tracing" means ~~[COVID-19]~~ communicable disease case inves-
13 tigation and identification of case individuals and contact individuals.

14 2. (a) "Contact tracer" and "contact tracing entity" means an individ-
15 ual or entity employed by or under contract with the state, a local
16 government, a state or local governmental entity, or an agent thereof,
17 to conduct contact tracing, engage in contact tracing, or receive
18 contact tracing information.

19 (b) A contact tracer or contact tracing entity shall not include a
20 service provider that is a non-governmental entity that is employed by
21 or under contract with a contact tracing entity or an agent thereof,
22 that receives, transmits, maintains, stores, or hosts contact tracing
23 information at the direction of a contact tracer or contact tracing
24 entity so long as such service provider's access to the information is
25 exclusively limited to the maintenance of the information and the

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 contact tracer or contact tracing entity has the ability to delete and
2 manage contact tracing information as provided by this chapter, law,
3 rules or regulations. A service provider under this paragraph shall be
4 referred to in this title as a "designated non-governmental entity." A
5 service provider that does not meet the requirements of this paragraph
6 and would otherwise be subject to paragraph (a) of this subdivision
7 shall be a contact tracing entity.

8 3. "Contact tracing information" means any information that includes
9 or can reveal the identity of any case individual or contact individual,
10 and any [~~COVID-19-related~~] communicable disease-related information or
11 test results, received or collected for the purpose or in the course of
12 contact tracing.

13 4. "Contact individual" means an individual who has or may have come
14 in contact with a case individual or who has or may have been exposed to
15 and possibly infected with [~~COVID-19~~] a communicable disease.

16 5. "Case individual" means an individual with a confirmed or probable
17 diagnosis of [~~COVID-19~~] a communicable disease.

18 6. [~~"COVID-19" means infection with or the disease caused by the~~
19 ~~severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2).~~

20 ~~7.~~] "Immigration authority" means any entity, officer, employee, or
21 government employee or agent thereof charged with or engaged in enforce-
22 ment of the federal Immigration and Nationality Act, including the
23 United States Immigration and Customs Enforcement, United States Depart-
24 ment of Homeland Security, or United States Customs and Border
25 Protection, or agent, contractor or employee thereof, or any successor
26 legislation or entity.

27 [~~8.~~] 7. "De-identified" means, in relation to contact tracing informa-
28 tion, that the information cannot identify or be made to identify or be
29 associated with a particular individual, directly or indirectly and is
30 subject to technical safeguards and policies and procedures that prevent
31 re-identification, whether intentionally or unintentionally, of any
32 individual.

33 [~~9.~~] 8. "Law enforcement agent or entity" means any governmental enti-
34 ty or public servant, or agent, contractor or employee thereof, author-
35 ized to investigate, prosecute, or make an arrest for a criminal or
36 civil offense (except a designated civil offense), or engaged in any
37 such activity, but shall not mean the department, the commissioner, a
38 health district, a county department of health, a county health commis-
39 sioner, a local board of health, a local health officer, the department
40 of health and mental hygiene of the city of New York, or the commis-
41 sioner of the department of health and mental hygiene of the city of New
42 York. As used in this subdivision, "designated civil offense" means a
43 civil offense or offenses designated by the commissioner (or the commis-
44 sioner of the New York city department of health and mental hygiene in
45 the case of contact tracing information collected by or under authority
46 of the New York city department of health and mental hygiene or the New
47 York city health and hospitals corporation).

48 [~~10.~~] 9. "Support" means resources or services provided to an individ-
49 ual to enable such individual to safely quarantine or isolate, including
50 grocery, meal or pharmacy delivery, laundry services, child or elder
51 care, pet walking, assistance with telephone, internet, or other commu-
52 nication services or devices, health and mental health services, legal
53 services, provision of appropriate living space for individuals who
54 cannot isolate or quarantine at home, and income replacement. "Support"
55 may also include support provided to other individuals for whom the
56 individual commonly provides those resources or services.

1 ~~[11-]~~ 10. "Permitted purpose" means:

2 (a) disclosure to appropriate health care providers or their personnel

3 for the purpose of the clinical diagnosis, care or treatment of the case

4 individual or contact individual who is the subject of the information,

5 where an emergency exists and the individual is in immediate need of

6 medical attention and an attempt to secure consent would result in delay

7 of treatment which would increase the risk to the individual's life or

8 health;

9 (b) facilitating a legally-authorized public health-related action,

10 where and only to the extent necessary to protect the public health in

11 relation to ~~[COVID-19]~~ a communicable disease; or

12 (c) use or disclosure of contact tracing information to pursue a legal

13 action in relation to a violation of this title; provided that disclo-

14 sure shall be subject to in camera review and approval by the court,

15 and, if the use is initiated by a party other than the case individual

16 or contact individual who is the subject of the contact tracing informa-

17 tion, the information must be highly material and relevant for the

18 purpose.

19 ~~[12-]~~ 11. "Covered entity" means a governmental entity or a place of

20 public accommodation, resort or amusement, as defined in section two

21 hundred ninety-two of the executive law.

22 ~~[13-]~~ 12. "Derived from an immunity passport" means any information

23 contained in or retrieved from an immunity passport, as well as any

24 metadata associated with the use of the immunity passport, including the

25 time and location the immunity passport was used, as well as any infer-

26 ences made based on the information contained in an immunity passport or

27 an immunity passport's usage.

28 ~~[14-]~~ 13. "Disclose" means the release, transfer, provision of, access

29 to, or divulging in any other manner of information outside the entity

30 holding the information.

31 ~~[15-]~~ 14. "Governmental entity" means a department or agency of the

32 state or a political subdivision thereof, an individual acting for or on

33 behalf of the state or a political subdivision thereof, or any entity

34 regulated under the social services law.

35 ~~[16-]~~ 15. "Immunity passport" means a credential, whether digital,

36 electronic, or physical, that identifies an individual as having

37 received a COVID-19 vaccine or a COVID-19 test result.

38 ~~[17-]~~ 16. "Immunity passport provider" means a legal entity that

39 develops, maintains, distributes, or markets immunity passports in New

40 York state.

41 ~~[18-]~~ 17. "Personal information" means information that directly or

42 indirectly identifies, relates to, describes, is capable of being asso-

43 ciated with, or could reasonably be linked to a particular individual or

44 personal device. Information is reasonably linkable to an individual or

45 personal device if it can be used on its own or in combination with

46 other reasonably available information, regardless of whether such other

47 information is held by the covered entity or immunity passport provider,

48 to identify an individual or a personal device.

49 ~~[19-]~~ 18. "Physical immunity passport" means a credential that identi-

50 fies an individual as having received a COVID-19 vaccine or a COVID-19

51 test result that does not rely on a digital or electronic device. Phys-

52 ical immunity passports include, but are not limited to, pieces of paper

53 denoting immunity status.

54 ~~[20-]~~ 19. "Use" means, with respect to personal information, the shar-

55 ing, employment, application, utilization, examination, or analysis of

56 such information within an entity that maintains such information.

1 § 3. The section heading and subdivision 5 of section 2181 of the
2 public health law, as amended by chapter 62 of the laws of 2021, are
3 amended to read as follows:

4 [~~COVID-19~~] Communicable disease contact tracing; confidentiality.
5 5. No law enforcement agent or entity or immigration authority shall
6 be a contact tracer or contact tracing entity or engage in contact trac-
7 ing. This subdivision does not bar an individual who is associated with
8 a law enforcement entity or immigration authority from acting only as a
9 case individual or contact individual. This subdivision does not prevent
10 a law enforcement agent or entity from assisting in a permitted use
11 under paragraph (b) of subdivision [~~eleven~~] ten of section twenty-one
12 hundred eighty of this title.

13 § 4. This act shall take effect immediately.