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:

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

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

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

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

1. "Contact tracing" means [~~COVID-19~~] **communicable disease** case investigation and identification of case individuals and contact individuals.

2. (a) "Contact tracer" and "contact tracing entity" means an individual or entity employed by or under contract with the state, a local government, a state or local governmental entity, or an agent thereof, to conduct contact tracing, engage in contact tracing, or receive contact tracing information.

(b) A contact tracer or contact tracing entity shall not include a service provider that is a non-governmental entity that is employed by or under contract with a contact tracing entity or an agent thereof, that receives, transmits, maintains, stores, or hosts contact tracing information at the direction of a contact tracer or contact tracing entity so long as such service provider's access to the information is 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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contact tracer or contact tracing entity has the ability to delete and manage contact tracing information as provided by this chapter, law, rules or regulations. A service provider under this paragraph shall be referred to in this title as a "designated non-governmental entity." A service provider that does not meet the requirements of this paragraph and would otherwise be subject to paragraph (a) of this subdivision shall be a contact tracing entity.

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

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

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

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

~~7.~~] "Immigration authority" means any entity, officer, employee, or government employee or agent thereof charged with or engaged in enforcement of the federal Immigration and Nationality Act, including the United States Immigration and Customs Enforcement, United States Department of Homeland Security, or United States Customs and Border Protection, or agent, contractor or employee thereof, or any successor legislation or entity.

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

[~~9.~~] 8. "Law enforcement agent or entity" means any governmental entity or public servant, or agent, contractor or employee thereof, authorized to investigate, prosecute, or make an arrest for a criminal or civil offense (except a designated civil offense), or engaged in any such activity, but shall not mean the department, the commissioner, a health district, a county department of health, a county health commissioner, a local board of health, a local health officer, the department of health and mental hygiene of the city of New York, or the commissioner of the department of health and mental hygiene of the city of New York. As used in this subdivision, "designated civil offense" means a civil offense or offenses designated by the commissioner (or the commissioner of the New York city department of health and mental hygiene in the case of contact tracing information collected by or under authority of the New York city department of health and mental hygiene or the New York city health and hospitals corporation).

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

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

(a) disclosure to appropriate health care providers or their personnel for the purpose of the clinical diagnosis, care or treatment of the case individual or contact individual who is the subject of the information, where an emergency exists and the individual is in immediate need of medical attention and an attempt to secure consent would result in delay of treatment which would increase the risk to the individual's life or health;

(b) facilitating a legally-authorized public health-related action, where and only to the extent necessary to protect the public health in relation to [~~COVID-19~~] a communicable disease; or

(c) use or disclosure of contact tracing information to pursue a legal action in relation to a violation of this title; provided that disclosure shall be subject to in camera review and approval by the court, and, if the use is initiated by a party other than the case individual or contact individual who is the subject of the contact tracing information, the information must be highly material and relevant for the purpose.

[~~12.~~] 11. "Covered entity" means a governmental entity or a place of public accommodation, resort or amusement, as defined in section two hundred ninety-two of the executive law.

[~~13.~~] 12. "Derived from an immunity passport" means any information contained in or retrieved from an immunity passport, as well as any metadata associated with the use of the immunity passport, including the time and location the immunity passport was used, as well as any inferences made based on the information contained in an immunity passport or an immunity passport's usage.

[~~14.~~] 13. "Disclose" means the release, transfer, provision of, access to, or divulging in any other manner of information outside the entity holding the information.

[~~15.~~] 14. "Governmental entity" means a department or agency of the state or a political subdivision thereof, an individual acting for or on behalf of the state or a political subdivision thereof, or any entity regulated under the social services law.

[~~16.~~] 15. "Immunity passport" means a credential, whether digital, electronic, or physical, that identifies an individual as having received a COVID-19 vaccine or a COVID-19 test result.

[~~17.~~] 16. "Immunity passport provider" means a legal entity that develops, maintains, distributes, or markets immunity passports in New York state.

[~~18.~~] 17. "Personal information" means information that directly or indirectly identifies, relates to, describes, is capable of being associated with, or could reasonably be linked to a particular individual or personal device. Information is reasonably linkable to an individual or personal device if it can be used on its own or in combination with other reasonably available information, regardless of whether such other information is held by the covered entity or immunity passport provider, to identify an individual or a personal device.

[~~19.~~] 18. "Physical immunity passport" means a credential that identifies an individual as having received a COVID-19 vaccine or a COVID-19 test result that does not rely on a digital or electronic device. Physical immunity passports include, but are not limited to, pieces of paper denoting immunity status.

[~~20.~~] 19. "Use" means, with respect to personal information, the sharing, employment, application, utilization, examination, or analysis of such information within an entity that maintains such information.

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

[~~COVID-19~~] **Communicable disease** contact tracing; confidentiality.

5. No law enforcement agent or entity or immigration authority shall be a contact tracer or contact tracing entity or engage in contact tracing. This subdivision does not bar an individual who is associated with a law enforcement entity or immigration authority from acting only as a case individual or contact individual. This subdivision does not prevent a law enforcement agent or entity from assisting in a permitted use under paragraph (b) of subdivision [~~eleven~~] **ten** of section twenty-one hundred eighty of this title.

§ 4. This act shall take effect immediately.