STATE OF NEW YORK

3629

2025-2026 Regular Sessions

IN ASSEMBLY

January 29, 2025

Introduced by M. of A. ROZIC, JENSEN -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law, in relation to prohibiting sharing or selling personal data to third parties by government entities and contractors

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

Section 1. The executive law is amended by adding a new article 5-A to read as follows:

ARTICLE 5-A

SHARING AND SELLING OF PERSONAL DATA

Section 81. Definitions.
82. Data collection disclosure.
83. Sharing and selling of personal information prohibited.
84. Limitation on restrictions.

§ 81. Definitions. As used in this article, the following terms shall have the following meanings unless otherwise specified:

1. "Aggregate personal information" shall mean information that relates to a group or category of individuals, from which individual identities have been removed, that is not linked or reasonably linkable to any individual or household, including via a device. "Aggregate personal information" shall not mean one or more individual's records that have been deidentified.

2. "Collects", "collected", or "collection" shall mean gathering, obtaining, receiving, or accessing any personal information pertaining to an individual by any means. This includes receiving information from such individual either actively or passively.

3. "Contractor" means a contractor, or subcontractor of a contractor, that contracts to process information on behalf of a government entity and to which such government entity discloses an individual's personal information for a legitimate government purpose pursuant to a written

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

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contract, provided that such contract prohibits such contractor or subcontractor receiving such personal information from retaining, using, or disclosing such personal information for any purpose other than for the specific purpose of performing the services specified in such contract, or as otherwise permitted by this article, including retaining, using, or disclosing such personal information for a commercial purpose other than providing the services specified in the contract.

4. "Deidentified" shall mean information that cannot reasonably identify, relate to, describe, be capable of being associated with, or be linked to, directly or indirectly, a particular individual, provided that a government entity that uses such deidentified information:

(a) has implemented technical safeguards and processes that prohibit reidentification of the individual to whom such information may pertain;

(b) has implemented processes to prevent inadvertent release of deidentified information; and

(c) makes no attempt to reidentify such information.

5. "Device" shall mean any physical object that is capable of connecting to the internet, directly or indirectly, or to another device.

6. "Government entity" or "entity" shall mean any state agency or any part, body, or subdivision thereof.

7. "Individual" shall mean a person who is a resident of New York state.

8. (a) "Personal information" shall mean information that identifies, relates to, describes, is capable of being associated with, or could reasonably be linked to, directly or indirectly, a particular individual or household. Personal information includes, but is not limited to, the following:

(i) identifiers such as a real name, alias, postal address, unique personal identifier, internet protocol address, email address, social security number, driver's license number, passport number, photograph, or other similar identifiers;

(ii) characteristics of protected classifications under New York or federal law;

(iii) commercial information, including records of real or personal property;

(iv) biometric information;

(v) audio, electronic, visual, or similar information;

(vi) professional or employment-related information;

(vii) education information, defined as information that is not publicly available personally identifiable information as defined in the family educational rights and privacy act (20 USC 1232g);

(viii) inferences drawn from any of the information identified in this paragraph to create a profile about an individual reflecting such individual's preferences, characteristics, psychological trends, predispositions, behavior, attitudes, intelligence, abilities, and aptitudes; and

(ix) financial or tax information.

(b) "Personal information" shall not include publicly available information. For these purposes, "publicly available" shall mean information that is lawfully made available from federal, state, or local government records, or any conditions associated with such information. "Publicly available" shall not include an individual's information that is deidentified or aggregate personal information.

9. "Probabilistic identifier" shall mean the identification of an individual or a device to a degree of certainty of more probable than not based on any categories of personal information included in, or

similar to, the categories enumerated in subdivision eight of this section.

10. "Process" or "processing" shall mean any operation or set of operations that are performed on personal data or on sets of personal data, whether or not by automated means.

11. (a) "Sell", "selling", "sale", or "sold" shall mean selling, renting, releasing, disclosing, disseminating, making available, transferring, or otherwise communicating orally, in writing, or by electronic or other means, an individual's personal information by a government entity or contractor to a third party for monetary or other valuable consideration.

(b) A government entity or contractor does not sell personal information within the meaning of this article when:

(i) An individual uses or directs such government entity or contractor to intentionally disclose personal information to a third party, provided such third party also does not sell such personal information, unless such disclosure would be consistent with the provisions of this article.

(ii) Such government entity or contractor uses or shares with a third party personal information of an individual that is necessary to perform a legitimate government purpose if both of the following conditions are met:

(1) the government entity or contractor has provided notice that information is being used or shared; and

(2) the third party does not further collect, sell, or use the personal information of such individual except as necessary to perform the business purpose for which it received such information.

(iii) A contractor who transfers to a third party an individual's personal information as an asset that is part of a merger, acquisition, bankruptcy, or other transaction in which such contractor or third party assumes control of all or part of such third party provided that such information is used or shared consistently with this article. If a third party materially alters how it uses or shares personal information of an individual in a manner that is materially inconsistent with the promises made at the time of collection, it shall provide prior notice of the new or changed practice to such individual. Such notice shall be sufficiently prominent and robust to ensure that individuals can easily exercise their choices consistently with section eighty-three of this article.

12. "Service" or "services" shall mean work, labor, and services, including services furnished in connection with the sale or repair of goods.

13. "Third party" shall mean a person or business entity who is not another government entity or contractor thereof.

14. "Unique identifier" or "unique personal identifier" shall mean a persistent identifier that can be used to recognize an individual, a family, or a device that is linked to an individual or family, over time and across different services, including, but not limited to, a device identifier; an internet protocol address; cookies, beacons, pixel tags, or similar technology; unique pseudonym, or user alias; telephone numbers, or other forms of persistent or probabilistic identifiers that can be used to identify a particular individual or device. For purposes of this subdivision, "family" means a custodial parent or guardian and any minor children over which such parent or guardian has custody.

§ 82. Data collection disclosure. 1. A government entity or contractor that collects an individual's personal information shall, at or before the point of collection, inform such individual as to the categories of

personal information to be collected and the purposes for which such categories of personal information shall be used. A government entity or contractor shall not collect additional categories of personal information or use personal information collected for additional purposes without providing such individual with notice consistent with this article.

2. This section shall not require a government entity or contractor to:

(a) retain any personal information collected for a single, one-time transaction if such information is not shared or retained by such government entity or contractor; or

(b) reidentify or otherwise link information that is not maintained in a manner that would be considered personal information.

§ 83. Sharing and selling of personal information prohibited. 1. No government entity or contractor shall share any individual's personal information with a contractor or subcontractor unless such information is crucial to the purpose for which such government entity or contractor has contracted such contractor or subcontractor's services.

2. No government entity or contractor shall share any individual's personal information with another government entity or contractor unless such information is crucial to the performance of such other government entity or contractor's duties, and such other government entity or contractor cannot procure such personal information on its own without serious hardship.

3. No government entity or contractor shall sell personal information about an individual.

§ 84. Limitation on restrictions. 1. The obligations imposed on government entities and contractors by this article shall not restrict any government entity or contractor's ability to:

(a) otherwise comply with federal, state, or local laws;

(b) comply with a civil, criminal, or regulatory inquiry, investigation, subpoena, or summons by federal, state, or local authorities;

(c) comply with a request made under the freedom of information law; or

(d) exercise or defend legal claims.

2. This article shall not apply to the sale of personal information to or from a consumer reporting agency if such information is to be reported in, or used to generate, a consumer report as defined by the federal fair credit reporting act (15 USC 1681), and use of that information is limited by such act.

3. A government entity that discloses personal information to a contractor shall not be liable under this article if such contractor uses such personal information in violation of the restrictions set forth in this article, provided that, at the time of disclosing such personal information, such government entity does not have actual knowledge or reason to believe that such contractor intends to commit such a violation. No contractor shall be liable under this article for the obligations of a government entity for which it provides services as set forth in this article.

4. This article shall not be construed to require a government entity to reidentify or otherwise link information that is not maintained in a manner that would be considered personal information.

5. The rights afforded to individuals and the obligations imposed on government entities and contractors by this article shall not adversely affect the rights and freedoms of any other person.

§ 2. This act shall take effect one year after it shall have become a law.