

The Senate Committee on Appropriations offered the following substitute to SB 184:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 4 of Chapter 12 of Title 45 of the Official Code of Georgia Annotated,  
2 relating to the Office of Planning and Budget, so as to establish the Integrated Population  
3 Health Data Project; to create a governing board and provide for its membership and terms;  
4 to provide for oversight of the project; to provide for board responsibilities; to provide for  
5 reporting; to provide for funding; to provide for data sharing; to provide for immunity; to  
6 provide for open records and meetings; to provide for related matters; to repeal conflicting  
7 laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 style="text-align:center">**SECTION 1.**

10 Article 4 of Chapter 12 of Title 45 of the Official Code of Georgia Annotated, relating to the  
11 Office of Planning and Budget, is amended by revising Part 3, which is reserved, as follows:

12 style="text-align:center">"Part 3

13 ~~45-12-150 through 45-12-158.~~

14 ~~Reserved.~~

15 45-12-150.

16 As used in this part, the term:

17 (1) 'Aggregated data' means information that has been combined into groups showing  
18 averages or other summary statistics, and that is not individually identifiable information  
19 as defined in this part.

20 (2) 'De-identified data' means information that does not identify an individual and for  
21 which there is no reasonable basis to believe that the information can be used to identify  
22 an individual, and which meets the requirements for de-identification of protected health  
23 information under HIPAA.

- 24 (3) 'Governing board' or 'board' means the board established pursuant to Code Section  
25 45-12-151 charged with responsibility for governing the Integrated Population Health  
26 Data Project.
- 27 (4) 'Health data' means information that is created or received by a governmental  
28 department or agency that relates to the past, present, or future physical or mental health  
29 or condition of an individual or the past, present, or future payment for the provision of  
30 health care to an individual.
- 31 (5) 'HIPAA' means the Health Insurance Portability and Accountability Act of 1996,  
32 Pub. L.104-191, and any regulations promulgated thereunder by the Secretary of the  
33 United States Department of Health and Human Services.
- 34 (6) 'Individually identifiable information' means information that identifies an individual,  
35 or with respect to which there is a reasonable basis to believe the information can be used  
36 to identify an individual.
- 37 (7) 'iPHD Project' means the Integrated Population Health Data Project established  
38 pursuant to Code Section 45-12-152.
- 39 (8) 'IRB' means an institutional review board designated by the governing board and  
40 established pursuant to federal regulations (45 C.F.R. 46) with a federal-wide assurance  
41 for the protection of human subjects approved by the United States Department of Health  
42 and Human Services, Office for Human Research Protections, to review and monitor  
43 research involving human subjects to ensure that such subjects are protected from harm  
44 and that the rights of such subjects are adequately protected.
- 45 (9) 'Protected health information' has the same meaning as defined under HIPAA.
- 46 (10) 'Publicly supported programs data' means information relating to an individual's  
47 receipt of services from or through public support programs administered by a federal,  
48 state, or local government or by a private entity, including, but not limited to, an  
49 individual's participation in or eligibility for Temporary Assistance for Needy Families  
50 (TANF), Supplemental Nutrition Assistance Program (SNAP), the medical assistance  
51 program under Article 7 of Chapter 4 of Title 49, the PeachCare for Kids Program under  
52 Article 13 of Chapter 5 of Title 49, or other similar programs.
- 53 (11) 'Research' means a systematic investigation, including research development,  
54 testing, and evaluation, which is designed to develop or contribute to generalizable  
55 knowledge as defined pursuant to 45 C.F.R. 46.102(d).
- 56 (12) 'Researcher' means a private entity or public entity that conducts research under the  
57 review and monitoring of an IRB and has received approval from the data steward for the  
58 purpose of requested data elements.

59 45-12-151.

60 (a) The iPHD Project governing board is established in the Office of Planning and Budget.

61 (b)(1) The governing board shall consist of ten members, as follows:

62 (A) One member shall be the Director of the Georgia Health Policy Center, who shall  
 63 serve as a nonvoting, ex-officio member;

64 (B) One member shall be a public member appointed by the President of the Senate,  
 65 representing an organization capable of advocating on behalf of persons whose data  
 66 may be received, maintained, or transmitted by the iPHD Project in accordance with  
 67 this part;

68 (C) One member shall be a public member appointed by the Speaker of the House of  
 69 Representatives, with experience in human subjects research who is affiliated with a  
 70 research university in Georgia; and

71 (D) Two members shall be public members appointed by the Governor, as follows:

72 (i) An individual with legal expertise in protecting the privacy and security of  
 73 individually identifiable information; and

74 (ii) An individual with technical expertise in the creation and maintenance of large  
 75 data systems and data security.

76 (2) The five remaining members shall be voting, ex-officio members representing the  
 77 commissioner of public health, or his or her designee, who shall serve as chairperson of  
 78 the board; the commissioner of community health, or his or her designee; the director of  
 79 the Office of Planning and Budget, or his or her designee; the state auditor, or his or her  
 80 designee; and a chief information officer from a state university, or his or her designee.

81 (c) Of the public members first appointed to the governing board, two shall be appointed  
 82 to terms of three years, one shall be appointed to a term of two years, and one shall be  
 83 appointed to a term of one year. Following the expiration of the initial terms, public  
 84 members of the board shall be appointed for terms of three years. The voting, ex-officio  
 85 members of the board shall serve during their respective terms of office. Any vacancy  
 86 occurring in the membership of the board shall be filled in the same manner as the original  
 87 appointment, but for the unexpired term only. The board shall meet at least quarterly, and  
 88 at such other times as it determines, in its judgment, to be necessary. The appointed  
 89 members of the board shall serve without compensation but may be reimbursed for  
 90 necessary expenses incurred in the performance of their duties. In addition, the board shall  
 91 be entitled to and avail itself of the assistance and services of the staff of the Office of  
 92 Planning and Budget, and of the employees of any other state department, board, bureau,  
 93 commission, or agency, as it may require and as may be available for its purposes.

94 (d) A member of the governing board shall not, by reason of the member's performance  
 95 of any duty, function, or activity required of, or authorized to be undertaken by, the board,

96 be liable in an action for damages to any person for any action taken or recommendation  
97 made by the member within the scope of the member's duty, function, or activity as a  
98 member of the board, if the action or recommendation was taken or made without malice.  
99 The members of the board shall be indemnified and their defense of any action provided  
100 for in the same manner and to the same extent as employees of this state on the basis of acts  
101 or omissions in the scope of their service.

102 (e) A member of the governing board shall not participate in deliberations or vote on any  
103 matter before the board concerning an individual or entity with which the member has, or  
104 within the last 12 months has had, any substantial ownership, employment, medical staff,  
105 fiduciary, contractual, creditor, or consultative relationship. A member who has or who  
106 has had such a relationship with an individual or entity involved in any matter before the  
107 board shall make a written disclosure before any action is taken by the board with respect  
108 to the matter, and shall make the relationship public in any meeting in which action on the  
109 matter is to be taken.

110 (f) The governing board shall be a public body for the purposes of Chapter 14 of Title 50,  
111 relating to open and public meetings, and shall conduct its business in accordance with the  
112 provisions of said part. All proceedings of the governing board shall be subject to Article 4  
113 of Chapter 18 of Title 50, relating to inspection of public records.

114 45-12-152.

115 (a) No later than January 1, 2019, the Office of Planning and Budget with the assistance  
116 of Georgia Health Policy Center shall establish an operational Integrated Population Health  
117 Data Project (iPHD Project) capable of securely receiving, maintaining, and transmitting  
118 data in accordance with this part and the HIPAA privacy and security standards applicable  
119 to this part. The Office of Planning and Budget may employ staff to assist with carrying  
120 out the functions associated with the establishment and maintenance of the iPHD Project.

121 (b) Notwithstanding any provision of this part to the contrary, the iPHD Project shall seek  
122 to receive, maintain, and transmit de-identified data wherever possible, and shall only  
123 receive, maintain, and transmit individually identifiable information if permitted by this  
124 Code section and other applicable law and if the information is in a form and format that  
125 is secured to prevent disclosure of individually identifiable information.

126 (c) A consortium of researchers from Georgia academic institutions and from medical  
127 schools affiliated with Georgia universities may be organized by the Georgia Health Policy  
128 Center to facilitate actionable population health research to help improve health outcomes  
129 for Georgia residents, as well as promote Georgia's research institutions as leaders in social  
130 science research.

131 45-12-153.

132 Oversight of the operations of the iPHD Project, established pursuant to Code  
133 Section 45-12-152, shall be vested in the governing board. The iPHD Project shall receive,  
134 maintain, and transmit data only as permitted by this part and approved by the governing  
135 board and agency or department whose data is requested. The governing board's  
136 responsibilities shall include:

137 (1) Identification of publicly supported programs data that has been created, received,  
138 or maintained by agencies that may be appropriate for receipt, maintenance, and  
139 transmission by the iPHD Project in furtherance of the purposes of this part;

140 (2) Prior to the receipt of data by the iPHD Project, the review and approval of the  
141 appropriateness of such receipt, including consideration of the following factors:

142 (A) Whether the transmitting department or agency has authority to collect the data  
143 proposed to be received by the iPHD Project, particularly if the data includes  
144 individually identifiable information;

145 (B) Whether collection of the data proposed to be received by the iPHD Project is  
146 expected to further the purpose of this part, namely, the improvement of public health,  
147 safety, security, and well-being of Georgia residents and the improvement of the overall  
148 cost efficiency of government assistance programs; and

149 (C) Whether reasonable efforts have been made to ensure that the iPHD Project will  
150 receive only the appropriate data needed to accomplish the purposes of this part;

151 (3) Prior to the receipt or transmission of data by the iPHD Project, the review and  
152 approval of any necessary data use agreements or business associate agreements with any  
153 person or entity from which or to which information is received or transmitted in  
154 compliance with all applicable privacy and security standards, including, but not limited  
155 to, HIPAA, when such data includes individually identifiable information that is  
156 protected health information as defined under HIPAA; and

157 (4) Adopting and publishing policies and procedures for the efficient and transparent  
158 operation of the iPHD Project, including, but not limited to, the following:

159 (A) Privacy and data security policies and procedures that comply with the applicable  
160 federal and state privacy and security statutes and regulations, including HIPAA;

161 (B) Data access policies and procedures that allow access by a public or private entity,  
162 including a researcher, only when such access request meets the standards set forth in  
163 the data access policies and procedures and has been approved by the governing board  
164 and the appropriate agency or department. When data access is requested by any public  
165 or private entity, including a researcher, for the purpose of conducting research, the  
166 governing board shall only approve access to data after review and approval by an IRB,  
167 and such access shall be limited to data identified in approved IRB research protocols

168 and only for the period of the approval. In no event shall the governing board approve  
 169 access to health data that identifies, or that may be used to identify, rates of payment  
 170 by a private entity for the provision of health care services to an individual unless the  
 171 party seeking access agrees to keep such information confidential and to prevent public  
 172 disclosure of such data or the rates of payment derived from such data;

173 (C) Data retention policies identifying that data shall be returned to sponsoring  
 174 agencies or destroyed when it is no longer in the state's interest to promote analysis of  
 175 such data and in accordance with applicable HIPAA regulations, data use agreements,  
 176 and provisions of IRB approvals;

177 (D) Policies to require researchers to consult with subject matter experts in the data sets  
 178 being linked on a specific project. The purpose of such consultation shall be to help  
 179 researchers understand and interpret the data being linked to a specific project; and

180 (E) Policies that establish processes to engage researchers and academic institutions  
 181 across Georgia to help set research priorities and promote the use of the iPHD Project  
 182 to accelerate population health research in this state.

183 45-12-154.

184 No later than July 1, 2019, upon the receipt of data by the iPHD Project pursuant to this  
 185 part, and on an annual basis thereafter, the Georgia Health Policy Center, in consultation  
 186 with the board, shall publish a report that is made available and accessible to the public and  
 187 that contains the following information:

188 (1) A description of the implementation of the iPHD Project, including identification of  
 189 the sources and types of data received and maintained by the iPHD Project over the  
 190 prior 12 months;

191 (2) A list of all aggregated data maintained by the iPHD Project;

192 (3) A description of each IRB approved disclosure of data or data sets by the iPHD  
 193 Project;

194 (4) A list of publications and other reports based on iPHD Project data;

195 (5) A strategic plan for achieving the purposes of this part during the successive 12  
 196 month period; and

197 (6) Any other information deemed appropriate by the governing board.

198 45-12-155.

199 The iPHD Project governing board and the Georgia Health Policy Center may apply for  
 200 and receive funding in relation to the iPHD Project from the following sources:

201 (1) Grants from research or other private entities;

202 (2) Fees paid by persons or entities requesting access to iPHD Project data or the  
203 performance of analyses by the iPHD Project, which fees have been approved by the  
204 governing board to support the cost of preparing data for access or the performance of  
205 analyses;

206 (3) Federal grants; and

207 (4) Grants or other financial assistance from state or local departments, agencies,  
208 authorities, and organizations at the discretion of these entities, for specific projects of  
209 interest to these entities.

210 45-12-156.

211 Any department or agency that creates, receives, or maintains publicly supported programs  
212 data or health data shall, only after execution of an enforceable data use, data sharing, or  
213 other similar agreement that is acceptable to the department or agency, transmit or allow  
214 access to such data as is necessary and appropriate to further the goals of this part and shall  
215 cooperate with iPHD Project requests for receipt of or access to such data.  
216 Notwithstanding the foregoing, no department or agency shall be required to transmit data  
217 it creates, receives, or maintains to the iPHD Project, or to allow access to such data, if the  
218 Attorney General's review or the applicable department's or agency's review determines  
219 that such transmission or access would violate state or federal law. The Attorney General's  
220 review shall include consideration of an analysis from the department or agency whose data  
221 is being requested. This Code section shall not prohibit the Georgia Health Policy Center  
222 or any department or agency from creating, receiving, maintaining, or transmitting data in  
223 data systems that are separate and distinct from the iPHD Project."

224 **SECTION 2.**

225 All laws and parts of laws in conflict with this Act are repealed.