

Senate Bill 184

By: Senators Hufstetler of the 52nd, Unterman of the 45th, Beach of the 21st, Thompson of the 14th and Albers of the 56th

AS PASSED SENATE

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 **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 "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.