

House Bill 197 (AS PASSED HOUSE AND SENATE)

By: Representatives Dempsey of the 13th, Houston of the 170th, Gardner of the 57th, England of the 116th, and Powell of the 171st

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 provide for the establishment of the
3 Georgia Data Analytic Center; to provide for definitions; to provide for the operation of the
4 system; to provide for data submission from state agencies and departments; to provide for
5 reporting; to provide for funding; to provide for related matters; to repeal conflicting laws;
6 and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

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

11 Part 3

12 45-12-150.

13 As used in this part, the term:

14 (1) 'Aggregated data' means information that has been combined into groups showing
15 averages or other summary statistics and that is not individually identifiable information.

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

20 (3) 'GDAC Project' means the Georgia Data Analytic Center established pursuant to this
21 part.

22 (4) 'Health data' means information that is created or received by a state agency or
23 department that relates to the past, present, or future physical or mental health or

24 condition of an individual or the past, present, or future payment for the provision of
 25 health care services to an individual.

26 (5) 'HIPAA' means the federal Health Insurance Portability and Accountability Act of
 27 1996, P.L. 104-191, and any regulations promulgated thereunder by the United States
 28 secretary of health and human services.

29 (6) 'Individually identifiable information' means information that identifies an individual
 30 or for which there is a reasonable basis to believe that the information can be used to
 31 identify an individual.

32 (7) 'IRB' means an institutional review board designated by the office and established
 33 pursuant to federal regulations (45 C.F.R. Section 46) with a nation-wide assurance for
 34 the protection of human subjects approved by the United States Department of Health and
 35 Human Services, Office for Human Research Protections, to review and monitor research
 36 involving human subjects to ensure that such subjects are protected from harm and that
 37 the rights of such subjects are adequately protected.

38 (8) 'Office' means the Office of Planning and Budget.

39 (9) 'Protected health information' has the same meaning as provided for under HIPAA
 40 in effect as of July 1, 2019.

41 (10) 'Research' means a systematic investigation, including research development,
 42 testing, and evaluation, which is designed to develop or contribute to generalizable
 43 knowledge as defined pursuant to 45 C.F.R. Section 46.102(d).

44 (11) 'Researcher' means a public or private entity that conducts research under the review
 45 and monitoring of an IRB and has received approval from the data steward for the
 46 purpose of requested data elements. Reserved:

47 45-12-151.

48 (a) No later than September 1, 2019, the office shall establish an operational Georgia Data
 49 Analytic Center capable of securely receiving, maintaining, and transmitting data in
 50 accordance with this part and with the HIPAA privacy and security standards applicable
 51 to this part. The office may employ staff to assist with carrying out the functions
 52 associated with the establishment and maintenance of the GDAC Project.

53 (b) The office shall ensure the procurement of hardware, software, and a data base system
 54 capable of performing analytics at scale and capable of evaluating all data to the extent
 55 required to carry out the purposes of the GDAC Project pursuant to this part. Further, the
 56 office shall procure sufficient management services to develop and maintain the system.

57 (c) Notwithstanding any provision of this part to the contrary, the GDAC Project shall seek
 58 to receive and maintain individually identifiable data but transmit de-identified data
 59 wherever possible and shall only receive, maintain, and transmit individually identifiable

60 information if permitted by this Code section and other applicable law and if the
61 information is in a form and format that are secured to prevent disclosure of individually
62 identifiable information.

63 45-12-152.

64 Oversight of the operation of the GDAC Project established pursuant to this part shall be
65 vested in the office. The GDAC Project shall receive, maintain, and transmit data only as
66 permitted by this part and as approved by the office and the state agency or department
67 whose data are requested. The office's responsibilities with respect to this part shall
68 include:

69 (1) Identification of data that have been created, received, or maintained by state
70 agencies or departments that may be appropriate for receipt, maintenance, and
71 transmission by the GDAC Project in furtherance of the purposes of this part;

72 (2) Prior to the receipt of data by the GDAC Project, review and approval of the
73 appropriateness of such receipt, including consideration of the following factors:

74 (A) Whether the transmitting agency or department has authority to collect the data
75 proposed to be received by the GDAC Project, particularly if the data include
76 individually identifiable information;

77 (B) Whether collection of the data proposed to be received by the GDAC Project is
78 expected to further the purposes of this part, namely, the improvement of public health
79 and the safety, security, and well-being of Georgia residents; and

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

82 (3) Prior to the receipt or transmission of data by the GDAC Project, review and
83 approval of any necessary data use agreements or business associate agreements with any
84 person or entity from which or to which information is received or transmitted in
85 compliance with all applicable privacy and security standards, including, but not limited
86 to, HIPAA, when such data include individually identifiable information that is protected
87 health information;

88 (4) Adopting and publishing policies and procedures for the efficient and transparent
89 operation of the GDAC Project, including, but not limited to, the following:

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

92 (B) Data access policies and procedures that allow access by a public or private entity,
93 including a researcher, only when such access request meets the standards set forth in
94 the data access policies and procedures and has been approved by the office and the
95 appropriate state agency or department. When data access is requested by any public

96 or private entity, including a researcher, for the purpose of conducting research, the
 97 office shall only approve access to data after review and approval by an IRB, and such
 98 access shall be limited to data identified in approved IRB research protocols and only
 99 for the period of the approval. In no event shall the office approve access to health data
 100 that identifies, or that may be used to identify, rates of payment by a private entity for
 101 the provision of health care services to an individual unless the entity seeking access
 102 agrees to keep such information confidential and to prevent public disclosure of such
 103 data or the rates of payment derived from such data;

104 (C) Data retention policies requiring that data be returned to transmitting state agencies
 105 or departments or destroyed when it is no longer in the state's interest to promote
 106 analysis of such data and in accordance with applicable HIPAA regulations, data use
 107 agreements, and provisions of IRB approvals;

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

111 (E) Policies that establish processes to engage researchers and academic institutions
 112 across Georgia to help set research priorities and promote the use of the GDAC Project
 113 to accelerate population health research in this state;

114 (5) Communicating to all state agencies and departments that each state agency or
 115 department shall, upon request of the office, make available to the office through the
 116 GDAC Project all data housed within its respective office pursuant to policies established
 117 pursuant to this Code section;

118 (6)(A) Establishing the process by which each state agency or department is required,
 119 in consultation with the office, to identify and submit to the office a minimum of two
 120 distinct policy concerns that may be studied in an integrated information environment
 121 in order to identify evidence based solutions to such policy concerns; and

122 (B) Establishing procedures for ranking the submission and selection of such policy
 123 concerns considered by the office to be of greatest concern to the health, safety,
 124 security, and well-being of Georgia's citizens; and

125 (7) Establishing a process to set research priorities that utilize the GDAC Project to
 126 provide effective and efficient policy management for the state.

127 45-12-153.

128 (a) Any state agency or department that creates, receives, or maintains publicly supported
 129 program, fiscal, or health data shall, only after execution of an enforceable data use, data
 130 sharing, or other similar agreement that is acceptable to the state agency or department,
 131 transmit or allow access to such data as is necessary and appropriate to further the purposes

132 of this part and shall cooperate with GDAC Project requests for receipt of or access to such
 133 data. Notwithstanding the foregoing, any state agency or department shall not be required
 134 to transmit data which it creates, receives, or maintains to the GDAC Project or to allow
 135 access to such data if the Attorney General's review or the applicable state agency's or
 136 department's review determines that such transmission or access would violate state or
 137 federal law. The Attorney General's review shall include consideration of an analysis from
 138 the state agency or department whose data are being requested.

139 (b) This Code section shall not prohibit the office or any agency or department from
 140 creating, receiving, maintaining, or transmitting data in data systems that are separate and
 141 distinct from the GDAC Project.

142 45-12-154.

143 No later than July 1, 2020, upon the receipt of data by the GDAC Project pursuant to this
 144 part, and on an annual basis thereafter, the office shall publish a report that is made
 145 available and accessible to the General Assembly consisting of:

146 (1) A description of the implementation of the GDAC Project, including identification
 147 of the sources and types of data received and maintained by the GDAC Project over the
 148 prior 12 months;

149 (2) A list of all aggregated data maintained by the GDAC Project;

150 (3) A description of each IRB approved disclosure of data or data sets by the GDAC
 151 Project;

152 (4) A list of publications and other reports based on GDAC Project data;

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

155 (6) Any other information deemed appropriate by the office.

156 45-12-155.

157 The office may apply for and receive funding in relation to the GDAC Project from the
 158 following sources:

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

160 (2) Fees paid by persons or entities requesting access to GDAC Project data or the
 161 performance of analyses by the GDAC Project, which fees have been approved by the
 162 office to support the cost of preparing data for access or performing analyses;

163 (3) Federal grants;

164 (4) Grants or other financial assistance from state or local departments, agencies,
 165 authorities, and organizations at the discretion of such entities, for specific projects of
 166 interest to such entities; and

167 (5) Appropriations made to the GDAC Project pursuant to the General Appropriations
168 Act or a supplementary appropriations Act."

169 **SECTION 2.**

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