

1 HOUSE BILL 488

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

4 Andrea Romero and Elizabeth "Liz" Thomson

5  
6  
7  
8  
9  
10 AN ACT

11 RELATING TO UNFAIR PRACTICES; AMENDING AND ENACTING SECTIONS OF  
12 THE UNFAIR PRACTICES ACT; PROHIBITING THE DISSEMINATION OF AN  
13 INDIVIDUAL'S HEALTH DATA, MENTAL HEALTH DATA OR LOCATION DATA  
14 EXCEPT IN CERTAIN CIRCUMSTANCES; PROVIDING DEFINITIONS;  
15 PROVIDING A PENALTY.

16  
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

18 SECTION 1. A new section of the Unfair Practices Act is  
19 enacted to read:

20 "[NEW MATERIAL] SELLING AND TRANSFERRING HEALTH DATA,  
21 MENTAL HEALTH DATA AND LOCATION DATA--PROHIBITED ACT--  
22 PENALTY.--

23 A. It is unlawful to share, license, sell, trade,  
24 transfer or otherwise provide or make available an individual's  
25 health data, mental health data or location data except when:

.225285.1

underscored material = new  
[bracketed material] = delete

- 1 (1) expressly required or authorized by law;  
2 (2) affirmatively authorized by the individual  
3 upon informed consent; or  
4 (3) necessary for law enforcement activities  
5 undertaken by a law enforcement agency or prosecuting  
6 authority.

7 B. As used in this section:

8 (1) "health data" and "mental health data"  
9 mean information linked to specific individuals or groups of  
10 individuals sharing the same residence or internet protocol  
11 address that reveals or describes the search for, attempt to  
12 obtain or receipt of any health or mental health services,  
13 including the type of specialization of a medical or mental  
14 health provider or the provider's clinical facility, any past,  
15 present or future disability, physical health condition, mental  
16 health condition or health condition of an individual,  
17 including pregnancy and miscarriage, and any treatment or  
18 diagnosis of such conditions; and

19 (2) "location data" means data capable of  
20 determining the past or present physical location of an  
21 individual or an individual's internet connection device.

22 C. A violation of this section shall be subject to  
23 the civil penalty provided in Section 57-12-11 NMSA 1978, with  
24 each instance of violation of Subsection A of this section  
25 constituting a separate occurrence."

.225285.1

underscoring = new  
~~[bracketed material]~~ = delete

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

SECTION 2. Section 57-12-11 NMSA 1978 (being Laws 1970, Chapter 38, Section 2) is amended to read:

"57-12-11. CIVIL PENALTY.--In any action brought under Section [~~49-15-7 NMSA 1953~~] 57-12-8 NMSA 1978, if the court finds that a person is willfully using or has willfully used a method, act or practice declared unlawful by the Unfair Practices Act, the attorney general, upon petition to the court, may recover on behalf of the state [~~of New Mexico~~] a civil penalty of not [~~exceeding five thousand dollars (\$5,000) per violation~~] less than five hundred dollars (\$500) and not more than ten thousand dollars (\$10,000) per occurrence."

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.