

AMENDED IN SENATE APRIL 2, 2002

SENATE BILL

No. 1914

**Introduced by Committee on Insurance (Senators Speier
(Chair), Escutia, Figueroa, Johnson, Scott, and Soto)**

February 22, 2002

An act to amend *Section 11019.9 of the Government Code*, and to amend Section 125145 of the Health and Safety Code, relating to health.

LEGISLATIVE COUNSEL'S DIGEST

SB 1914, as amended, Committee on Insurance. Health.

(1) Existing federal law, the Health Insurance Portability and Accountability Act of 1996 (HIPAA), establishes requirements to safeguard the privacy of medical information. The act specifies that its provisions supercede any contrary provision of state law, subject to a determination by the Secretary of the United States Department of Health and Human Services that a contrary state law provision is necessary for specified reasons. *Existing law also requires each state department and state agency to enact and maintain a permanent privacy policy in adherence with the Information Practices Act of 1977 and is required to include in that policy various provisions related to its collections, retention, and disclosure of personally identifiable information.*

The bill would also provide that those provisions relating to a state department's or agency's permanent privacy policy or the Information Practices Act of 1977 that are preempted by the HIPAA shall be inapplicable to the extent of that preemption, except that the remainder of those provisions and the act are in full force and effect.

This bill would declare the intent of the Legislature to repeal any statute that is preempted by HIPAA and that will not be included in a

request made by the state for an exception determination from the Secretary of the United States Department of Health and Human Services.

(2) Existing law creates the Holden-Moscone-Garamendi Genetically Handicapped Person’s Program that is administered by the Director of Health Services. Under existing law, the director is required to appoint an Advisory Committee on Genetically Handicapped Person’s Program and to seek the committee’s advice with respect to regulations adopted pursuant to the program.

This bill would make nonsubstantive changes to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. It is the intent of the Legislature to repeal those
2 statutes, or parts of statutes, that are preempted by the federal
3 Health Insurance Portability and Accountability Act of 1996 and
4 that will not be included in a request made by California for an
5 exception determination from the Secretary of the United States
6 Department of Health and Human Services.

7 SEC. 2. *Section 11019.9 of the Government Code is amended*
8 *to read:*

9 11019.9. Each state department and state agency shall enact
10 and maintain a permanent privacy policy, in adherence with the
11 Information Practices Act of 1977 (Title 1.8 (commencing with
12 Section 1798) of Part 4 of Division 3 of the Civil Code), that
13 includes, but is not limited to, the following principles:

14 (a) Personally identifiable information is only obtained
15 through lawful means.

16 (b) The purposes for which personally identifiable data are
17 collected are specified at or prior to the time of collection, and any
18 subsequent use is limited to the fulfillment of purposes not
19 inconsistent with those purposes previously specified.

20 (c) Personal data shall not be disclosed, made available, or
21 otherwise used for purposes other than those specified, except with
22 the consent of the subject of the data, or as authorized by law or
23 regulation.

24 (d) Personal data collected must be relevant to the purpose for
25 which it is collected.



1 (e) The general means by which personal data is protected
2 against loss, unauthorized access, use modification or disclosure
3 shall be posted, unless that disclosure of general means would
4 compromise legitimate state department or state agency objectives
5 or law enforcement purposes.

6 (f) Each state department or state agency shall designate a
7 position within the department or agency, the duties of which shall
8 include, but not be limited to, responsibility for the privacy policy
9 within that department or agency.

10 (g) *Any provision of this section or the Information Practices*
11 *Act of 1977 (Title 1.8 (commencing with Section 1798) of Part 4*
12 *of Division 3 of the Civil Code) that is preempted by the federal*
13 *Health Insurance Portability and Accountability Act (HIPAA)*
14 *(Public Law 104-191), pursuant to Part 160.203 of Title 45 of the*
15 *Code of Federal Regulations, shall be inapplicable to the extent*
16 *of that preemption by the HIPPA, except that the remainder of the*
17 *provisions of this section or the Information Practices Act of 1977*
18 *shall be in full force and effect.*

19 SEC. 3. Section 125145 of the Health and Safety Code is
20 amended to read:

21 125145. The director shall appoint an 11-member Advisory
22 Committee on Genetically Handicapped Person's Program
23 composed of professional and consumer representatives. The
24 members shall serve without compensation and at the discretion of
25 the director. The director shall seek the advice of the advisory
26 committee with respect to regulations to be adopted pursuant to
27 this article.

