

AN ACT

---

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

---

*Codification  
District of  
Columbia  
Official Code*

**2001 Edition**

**2010 Fall  
Supp.**

**West Group  
Publisher**

To authorize the sharing of health and human services information for specified purposes, to authorize the creation of a single or combined data system, to ensure that disclosure of individually identifiable information is consistent with federal law, and to impose penalties for unlawful disclosure of certain health and human services information and personally identifiable information; to amend the District of Columbia Public Assistance Act of 1982 to authorize the sharing of health and human services information for specified purposes; to amend the Confidentiality and Disclosure of Records on Abused and Neglected Children Act of 1979 to authorize the sharing of health and human services information for specified purposes; to amend An Act To authorize the Commissioners of the District of Columbia to make regulations to prevent and control the spread of communicable and preventable diseases to authorize the sharing of health and human services information for specified purposes; to amend the District of Columbia Mental Health Information Act of 1978 to authorize the sharing of health and human services information for specified purposes; to amend the Mentally Retarded Citizens Constitutional Rights and Dignity Act of 1978 to authorize the sharing of health and human services information for specified purposes; to amend the Adult Protective Services Act of 1984 to authorize the sharing of health and human services information for specified purposes; to amend the Choice in Drug Treatment Act of 2000 to authorize the sharing of health and human services information for specified purposes; to amend An Act to establish a program for the rehabilitation of alcoholics, promote temperance, and provide for the medical and scientific treatment of persons found to be alcoholics by the courts of the District of Columbia, and for other purposes, to authorize the sharing of health and human services information for specified purposes; to amend Chapter 23 of Title 16 of the District of Columbia Official Code to authorize the sharing of health and human services information for specified purposes; and to authorize the disclosure, for certain limited purposes, of information covered by those acts.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Data-Sharing and Information Coordination Amendment Act of 2010”.

TITLE I. DATA SHARING

Sec. 101. Definitions.

For the purposes of this title, the term:

- (1) "Agency" means an agency, department, unit, or instrumentality of the District of Columbia government.
- (2) "Disclosure" means the release, transfer, provision of access to, or distribution of information in any manner by an entity holding the information to a person outside of the entity.
- (3) "Health and human services information" means any information that relates to:
  - (A) The past, present, or future physical or mental health of an individual or family;
  - (B) The provision of health care or human services, including benefits or supports, to an individual or family; or
  - (C) The past, present, or future payment for the provision of health care or human services to an individual or family.
- (4) "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, approved August 21, 1996 (110 Stat. 1936; 42 U.S.C. § 1320d *et seq.*), and the regulations issued pursuant to it.
- (5) "Human services" means programs, assistance, supports, or benefits of any kind to improve quality of life or to meet the social, physical health, housing, and mental health needs of an individual.
- (6) "Identified individual" means a natural person to whom health and human services information pertains.
- (7) "Individually identifiable health information" shall have the same meaning as it does in HIPAA.
- (8) "Person" means a natural person, firm, company, association, corporation, service provider, or government instrumentality or agency.
- (9) "Service provider" means an entity that provides health or human services to District residents pursuant to a contract, grant, or other similar agreement with an agency.
- (10) "Use" means the sharing, employment, application, utilization, examination, or analysis of health and human services information.

Sec. 102. Use and disclosure of health and human services information.

(a) In accordance with section 103 and without prior consent from the identified individual, an agency or service provider may use and shall disclose to another agency or service provider health and human services information referencing or relating to the identified individual for the following purposes; provided, that the use or disclosure is not specifically prohibited under District or federal law:

- (1) To establish the identified individual's eligibility for, or determine his or her

amount and type of:

- (A) Treatment;
- (B) Services;
- (C) Benefits;
- (D) Support; or
- (E) Assistance;

(2) To coordinate for the identified individual, his or her:

- (A) Treatment;
- (B) Benefits;
- (C) Services;
- (D) Support; or
- (E) Assistance;

(3) To conduct oversight activities, including:

- (A) Management;
- (B) Financial and other audits;
- (C) Program evaluations;
- (D) Planning;
- (E) Investigations;
- (F) Examinations;
- (G) Inspections;
- (H) Quality reviews;
- (I) Licensure;
- (J) Disciplinary actions; or
- (K) Civil, administrative, or criminal proceedings or actions; and

(4) To conduct research related to treatment, benefits, services, supports, and assistance; provided, that:

(A) Health and human services information referencing or relating to an identified individual shall not be disclosed in a manner that would permit the identity of the individual to be reasonably inferred by either direct or indirect means; and

(B) The agency or service provider receiving the health and human services information shall affirm in writing that any individually identifiable health information shall be treated in accordance with HIPAA.

(b) A service provider shall disclose health and human services information to an agency upon request by the agency; provided, that the disclosure and use of such information is in accordance with this act.

(c) An agency or service provider shall use or disclose individually identifiable health information in accordance with HIPAA.

(d) When using or disclosing health and human services information, an agency or service provider shall make reasonable efforts to limit such information to the minimum amount necessary to accomplish the purpose of the use or disclosure.

(e) An agency or service provider that discloses health and human services information shall designate an individual responsible for:

(1) Responding to requests for health and human services information from another agency or service provider, who shall:

(A) Respond to a request within 48 hours;

(B) Not unreasonably deny a request; and

(C) Within 5 business days of the date of the request, supply the requested information to the extent such request was approved; and

(2) Ensuring that any health and human services information disclosed pursuant to section 103 is limited to the minimum amount of information necessary to accomplish the purpose of the disclosure.

**Sec. 103. Data system.**

The Mayor may establish a single or combined data system to store and share health and human services information; provided, that the system meets the security requirements of HIPAA and that individuals with authority to access the system receive training in accordance with HIPAA prior to any use of the system.

**Sec. 104. Disclosures to a service provider.**

(a) Before an agency or service provider discloses health and human services information to a service provider pursuant to this act, the receiving service provider shall make a written request for the information, describing the health and human services information sought and the purpose for the information.

(b) Regarding requests for health and human services information from a service provider, an agency or service provider must maintain an accurate record, for a reasonable period of time:

(1) Of the date and purpose for any request for the information;

(2) The date on which the information was disclosed; and

(3) A record of to whom the information was disclosed.

**Sec. 105. Civil penalties for unlawful use or disclosure.**

(a)(1) A person who negligently uses or discloses health and human services information in a manner not authorized by this act or other District law shall be liable in an amount of \$500 for each violation.

(2) For the purposes of this subsection, the term “negligently” means that a person guided by ordinary considerations should have known, and by exercising reasonable diligence would have known, that the use or disclosure was not authorized.

(b) A person who willfully uses or discloses health and human services information in a manner not authorized by this act or other District law shall be liable in an amount of \$1,000 for each violation.

(c) This section shall not apply to disclosures of information authorized pursuant to other District law or to federal law.

Sec. 106. Criminal penalties for unlawful use or disclosure.

A person who knowingly obtains, uses, or discloses health and human services information in a manner not authorized by this act or other District law shall be guilty of a misdemeanor, and upon conviction, shall be fined not more than \$2,500, imprisoned not more than 60 days, or both; except, that if the offense is committed through deception or theft the person shall be guilty of a misdemeanor and shall be fined not more than \$5,000, imprisoned for not more than 180 days, or both.

Sec. 107. Relation to other laws.

If a civil or criminal penalty imposed by another law applies to an action that is also subject to a civil or criminal penalty under this act, the greater penalty shall apply.

Sec. 108. Rules.

(a) The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), shall issue rules to implement the provisions of this title.

(b) The Mayor shall submit the proposed rules to the Council for a 30-day period of review, excluding Saturdays, Sundays, holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 30-day review period, the proposed rules shall be deemed approved.

TITLE II. CONFORMING AMENDMENTS

Sec. 201. Section 904 of the District of Columbia Public Assistance Act of 1982, effective April 20, 1999 (D.C. Law 12-241; D.C. Official Code § 4-209.04), is amended as follows:

Amend  
§ 4-209.04

(a) Subsection (a)(6) is amended as follows:

(1) Strike the phrase “Children, and programs” and insert the phrase “Children, Child Care Subsidy, Emergency Rental Assistance, and programs” in its place.

(2) Strike the phrase “*et seq.*.” and insert the phrase “*et seq.*), and such other public benefits programs as may be designated as IMA programs by the Mayor.”.

(b) Subsection (c)(3) is amended as follows:

(1) Subparagraph (G) is amended by striking the word “or” at the end.

(2) Subparagraph (H) is amended by striking the period and inserting the phrase “; or” in its place.

(3) A new subparagraph (I) is added to read as follows:

“(I) For the purposes of and in accordance with Title I of the Data-Sharing and Information Coordination Amendment Act of 2010, passed on 2<sup>nd</sup> reading on June

29, 2010 (Enrolled version of Bill 18-356).”.

(c) Subsection (d)(3) is amended as follows:

(1) Subparagraph (D) is amended by striking the word “or” at the end.

(2) Subparagraph (E) is amended by striking the period at the end and inserting the phrase “; or” in its place.

(3) A new subparagraph (F) is added to read as follows:

“(F) For the purposes of and in accordance with Title I of the Data-Sharing and Information Coordination Amendment Act of 2010, passed on 2<sup>nd</sup> reading on June 29, 2010 (Enrolled version of Bill 18-356).”.

Sec. 202. Section 306(a) of the Confidentiality and Disclosure of Records on Abused and Neglected Children Act of 1979, effective October 18, 1979 (D.C. Law 3-29; D.C. Official Code § 4-1303.06(a)), is amended to read as follows:

**Amend  
§ 4-130.06**

“(a) Information acquired by staff of the Child and Family Services Agency that identifies individual children reported as or found to be abused or neglected or which identifies other members of their families or other persons shall be considered confidential and may be released or divulged only for:

“(1) Purposes relating to the identification of abuse or neglect;

“(2) The identification of service needs or resources;

“(3) The securing or provision of treatment or direct services for the child or individual identified;

“(4) The investigation or review of child fatalities by representatives of the Child Fatality Review Committee, established pursuant to section 4603 of the Child Fatality Review Committee Establishment Act of 2001, effective October 3, 2001 (D.C. Law 14-28; D.C. Official Code § 4-1371.03); or

“(5) For the purposes of and in accordance with Title I of the Data-Sharing and Information Coordination Amendment Act of 2010, passed on 2<sup>nd</sup> reading on June 29, 2010 (Enrolled version of Bill 18-356).”.

Sec. 203. Section 1 of An Act To authorize the Commissioners of the District of Columbia to make regulations to prevent and control the spread of communicable and preventable diseases, approved August 11, 1939 (53 Stat. 1408; D.C. Official Code § 7-131), is amended as follows:

**Amend  
§ 7-131**

(a) Subsection (a) is amended by striking the phrase “Commissioner of Public Health” both time it appears and inserting the phrase “Director of the Department of Health” in its place.

(b) Subsection (b) is amended as follows:

(1) Paragraph (1) is amended by striking the phrase “Commissioner of Public Health” and inserting the phrase “Director of the Department of Health” in its place.

(2) Paragraph (2) is amended to read as follows:

“(2) The constraints on disclosure and redisclosure of identifying information set forth in paragraph (1) of this subsection shall not apply to the disclosure and use of information disclosed and used pursuant to:

“(A) The Prevention of Child Abuse and Neglect Act of 1977, effective September 23, 1977 (D.C. Law 2-22; D.C. Official Code § 4-1301.01 *et seq.*); or

“(B) Chapter 23 of Title 16 of the District of Columbia Official Code.”.

Sec. 204. The District of Columbia Mental Health Information Act of 1978, effective March 3, 1979 (D.C. Law 2-136; D.C. Official Code § 7-1201.01 *et seq.*), is amended as follows:

(a) Section 302 (D.C. Official Code § 7-1203.02) is amended to read as follows:

Amend  
§ 7-1203.02

“Sec. 302. Disclosures under law.

“Mental health information may be disclosed by a mental health professional or mental health facility where necessary and, to the extent necessary:

“(1) To meet the requirements of D.C. Official Code § 21-586 (concerning financial responsibility for the care of hospitalized persons);

“(2) To meet the compulsory reporting provisions of District or federal law that seek to promote human health and safety, including section 4612 of the Child Facility Review Committee Establishment Act of 2001, effective October 3, 2001 (D.C. Law 14-28; D.C. Official Code § 4-1371.12); or

“(3) For the purposes of and in accordance with Title I of the Data-Sharing and Information Coordination Amendment Act of 2010, passed on 2<sup>nd</sup> reading on June 29, 2010 (Enrolled version of Bill 18-356).”.

(b) Section 305 (D.C. Official Code § 7-1203.05) is amended as follows:

Amend  
§ 7-1203.05

(1) Strike the phrase “A mental health professional” and insert the phrase “In addition to the disclosures authorized pursuant to Title I of the Data-Sharing and Information Coordination Act of 2010, passed on 2<sup>nd</sup> reading on June 29, 2010 (Enrolled version of Bill 18-356), a mental health professional” in its place.

(2) Strike the phrase “any manner” and insert the phrase “any manner; except, that de-identified data may be shared in accordance with the Health Insurance Portability and Accountability Act of 1996, approved August 21, 1996 (110 Stat. 1936; 42 U.S.C. § 1320d *et seq.*)” in its place.

(c) Section 306 (D.C. Official Code § 7-1203.06) is amended by striking the phrase “of this act.” and inserting the phrase “of this act or for the purposes of and in accordance with Title I of the Data-Sharing and Information Coordination Amendment Act of 2010, passed on 2<sup>nd</sup> reading on June 29, 2010 (Enrolled version of Bill 18-356).” in its place.

Amend  
§ 7-1203.06

(d) Section 601 (D.C. Official Code § 7-1206.01) is amended by adding the following sentence at the end:

Amend  
§ 7-1206.01

“Any entity that receives mental health information shall have appropriate administrative, technical, and physical safeguards in place to protect the confidentiality of

**ENROLLED ORIGINAL**

mental health information and shall promptly notify the Department of Mental Health in writing of any unauthorized disclosure or use of mental health information.”.

Sec. 205. Section 512 of the Mentally Retarded Citizens Constitutional Rights and Dignity Act of 1978, effective March 3, 1979 (D.C. Law 2-137; D.C. Official Code § 7-1305.12), is amended as follows:

**Amend  
§ 7-1305.12**

(a) Designate the existing text as subsection (a).

(b) A new subsection (b) is added to read as follows:

“(b) Notwithstanding subsection (a) of this section, information contained in a customer’s record may be used or disclosed for the purposes of and in accordance with Title I of the Data-Sharing and Information Coordination Amendment Act of 2010, passed on 2<sup>nd</sup> reading on June 29, 2010 (Enrolled version of Bill 18-356).”.

Sec. 206. Section 6 of the AIDS Health-Care Response Act of 1986, effective June 10, 1986 (D.C. Law 6-121; D.C. Official Code § 7-1605), is amended to read as follows:

**Amend  
§ 7-1605**

“Sec. 6. Confidentiality of medical records and information.

“Except as provided in paragraph (2) of this section, the Director shall use the records incident to a case of HIV infection or AIDS reported under this act for statistical and public-health purposes only. Identifying information contained in these records shall be disclosed only when essential to safeguard the physical health of others. No person shall otherwise disclose identifying information derived from these records unless:

“(1) The person about whom the record pertains gives his or her prior written permission; or

“(2) A court finds, upon clear and convincing evidence, after having granted the person reported an opportunity to contest the disclosure, that disclosure:

“(A) Is essential to safeguard the physical health of others; or

“(B) Would provide evidence probative of guilt or innocence in a criminal prosecution.”.

Sec. 207. Section 4(d)(1) of the Adult Protective Services Act of 1984, effective March 14, 1985 (D.C. Law 5-156; D.C. Official Code § 7-1903(d)(1)), is amended as follows:

**Amend  
§ 7-1903**

(a) Subparagraph (B-1) is amended by striking the word “or” at the end.

(b) Subparagraph (C) is amended by striking the period at the end and inserting the phrase “; or” in its place.

(c) A new subparagraph (D) is added to read as follows:

“(D) For the purposes of and in accordance with Title I of the Data-Sharing and Information Coordination Amendment Act of 2010, passed on 2<sup>nd</sup> reading on June 29, 2010 (Enrolled version of Bill 18-356).”.

**ENROLLED ORIGINAL**

Sec. 208. Section 7 of the Choice in Drug Treatment Act of 2000, effective July 18, 2000 (D.C. Law 13-146; D.C. Official Code § 7-3006), is amended by striking the phrase “and treatment.” and inserting the phrase “and treatment; except, that with the prior written consent of the client, the information may be disclosed for the purposes of and in accordance with Title I of the Data-Sharing and Information Coordination Amendment Act of 2010, passed on 2<sup>nd</sup> reading on June 29, 2010 (Enrolled version of Bill 18-356).” in its place.

**Amend  
§ 7-3006**

Sec. 209. Section 4(c) of An Act to establish a program for the rehabilitation of alcoholics, promote temperance, and provide for the medical and scientific treatment of persons found to be alcoholics by the courts of the District of Columbia, and for other purposes, approved August 4, 1947 (61 Stat. 745; D.C. Official Code § 24-604(c)), is amended to read as follows:

**Amend  
§ 24-604**

“(c) The registration and other records of a detoxification center shall remain confidential and may be disclosed only:

“(A) To medical personnel for purposes of:

“(i) Diagnosis;

“(ii) Treatment; or

“(iii) Court testimony;

“(B) To police personnel for purposes of investigation of criminal offenses and complaints against police action;

“(C) To authorized personnel for purposes of pre-sentence reports; or

“(D) With the prior written consent of the client, for the purposes of and in accordance with Title I of the Data-Sharing and Information Coordination Amendment Act of 2010, passed on 2<sup>nd</sup> reading on June 29, 2010 (Enrolled version of Bill 18-356).”.

Sec. 210. Chapter 23 of Title 16 of the District of Columbia Official Code is amended as follows:

(a) Section 16-2331(b) is amended by adding a new paragraph (9A) to read as follows:

“(9A) Authorized persons for the purposes of and in accordance with Title I of the Data-Sharing and Information Coordination Amendment Act of 2010, passed on 2<sup>nd</sup> reading on June 29, 2010 (Enrolled version of Bill 18-356);”.

**Amend  
§ 16-2331**

(b) Section 16-2332(b) is amended as follows:

**Amend  
§ 16-2332**

(1) Subparagraph (I) is amended by striking the word “and” at the end.

(2) Subparagraph (J) is amended by strike the period at the end and inserting the phrase “; and” in its place.

(3) A new subparagraph (K) is added to read as follows:

“(K) Authorized persons for the purposes of and in accordance with Title I of the Data-Sharing and Information Coordination Amendment Act of 2010, passed on 2<sup>nd</sup> reading on June 29, 2010 (Enrolled version of Bill 18-356).”.

**ENROLLED ORIGINAL**

(c) Section 16-2333(b) is amended by adding a new paragraph (10A) to read as follows:

Amend  
§ 16-2333

“(10A) Authorized persons for the purposes of and in accordance with Title I of the Data-Sharing and Information Coordination Amendment Act of 2010, passed on 2<sup>nd</sup> reading on June 29, 2010 (Enrolled version of Bill 18-356)(“Data-Sharing Act”); except, that the information derived from termination of parental rights and guardianship proceedings shall not be disclosed without the prior written consent of the identified individual, as that term is defined in section 101(6) of the Data-Sharing Act.”.

**TITLE III. FISCAL IMPACT STATEMENT AND EFFECTIVE DATE.**

**Sec. 301. Fiscal impact statement.**

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

**Sec. 302. Effective date.**

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 60-day period of Congressional review as provided in section 602(c)(2) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(2)), and publication in the District of Columbia Register.

---

Chairman  
Council of the District of Columbia

---

Mayor  
District of Columbia