

Senate Republicans Release COVID-19 Privacy Bill

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In light of concerns associated with attempts to use personal data to track the spread of [COVID-19](#), a group of Republican Senators, led by Mississippi Senator Roger Wicker, introduced the [COVID-19 Consumer Data Protection Act of 2020](#) today.

The bill imposes specific requirements on entities seeking to process precise geolocation data, proximity data, persistent identifiers, and personal health information (together, “covered data”) in association with COVID-19 mitigation efforts. Among other things, the Act would require:

- **Notice/Consent:** Prior notice and affirmative express consent for the collection, processing, or transfer of covered data to track COVID-19, monitor social distancing compliance, or for COVID-19 contact tracing purposes;
- **Opt Out Rights:** Giving individuals the right to opt out of such processing;
- **Deletion Rights:** Deleting or de-identifying all covered data once the entity is no longer using it;
- **Data Processing Restrictions:** A public commitment to limit the processing of the data, unless certain exceptions apply;
- **Notice:** Posting a clear and conspicuous privacy policy within 14 days of the Act’s enactment that provides information about data transfers, data retention practices, and data security practices; and
- **Accountability:** During the public health emergency, providing a bi-monthly public report identifying the aggregate number of individuals from whom the covered entity has collected, processed, or transferred covered data for COVID-19 purposes with additional detail about how and why that information was used.

The bill also requires covered entities to engage in data accuracy (including allowing the individual to report inaccuracies), data minimization, and data security practices. The FTC has enforcement authority under the bill and would also be required to release data minimization guidelines in relation to COVID-19 processing.

Separately, the bill explicitly exempts covered entities from requirements under the Communications Act or regulations in relation to this processing. The bill also preempts any similar state law, although state attorneys general have enforcement authority along with the FTC.

Whether Congress will pass the measure is unclear, as Democrats and public interest organizations have voiced concerns about the bill. Still, assuming Congress can agree, it’s worth monitoring to see

whether the measure may be included in any upcoming COVID-19 relief bill.

