

AMENDED IN SENATE SEPTEMBER 5, 2025

AMENDED IN ASSEMBLY APRIL 9, 2025

AMENDED IN ASSEMBLY MARCH 28, 2025

CALIFORNIA LEGISLATURE—2025–26 REGULAR SESSION

ASSEMBLY BILL

No. 45

**Introduced by Assembly Member Bauer-Kahan
(Coauthors: Assembly Members Harabedian, Kalra, Pellerin,
Ransom, Schiavo, Stefani, Wilson, and Zbur)**

December 2, 2024

An act to amend Section 1798.99.90 of, to amend the heading of Title 1.81.49 (commencing with Section 1798.99.90) of Part 4 of Division 3 of, and to add Sections 1798.99.91, 1798.99.92, and 1798.99.93 to, the Civil Code, *and to amend Section 140 of the Health and Safety Code*, relating to privacy.

LEGISLATIVE COUNSEL'S DIGEST

AB 45, as amended, Bauer-Kahan. Privacy: health data: location and research.

Existing law prohibits a person or business, as defined, from collecting, using, disclosing, or retaining the personal information of a person who is physically located at, or within a precise geolocation of, a family planning center, as defined, except as necessary to perform the services or provide the goods requested and ~~not sold or shared~~. *prohibits a person or business from selling or sharing this personal information*. Existing law authorizes an aggrieved person or entity to institute and prosecute a civil action against a person or business for a violation of these provisions and ~~specify~~ *specifies the damages and costs authorized to be recovered*.

This bill would recast the above-described provisions, and instead prohibit the collection, use, disclosure, sale, sharing, or retention of the personal information of a natural person who is physically located at, or within a precise geolocation of, a family planning center, except *under certain circumstances, including, among others, for the collection or use as necessary to perform the services or provide the goods requested. The bill would also provide exceptions that authorize specified law enforcement officials to collect, use, or retain the personal information of specified individuals who are on parole, probation, or other types of release and are subject to electronic monitoring.* The bill would authorize an aggrieved person to institute and prosecute a civil action against a natural person, association, proprietorship, corporation, trust, foundation, partnership, or any other organization or group of people acting in concert for a violation of these provisions. The bill would also make other nonsubstantive changes.

This bill would, subject to specified exceptions, prohibit geofencing, or selling or sharing personal information with a third party to geofence, as defined, an entity that provides in-person health care services in California for specified purposes, and would prohibit the use of personal information obtained in violation of this provision. The bill would provide that violators are subject to an injunction and liable for a civil penalty assessed and recovered in a civil action brought by the Attorney General, and deposited in the California Reproductive Justice and Freedom Fund. *The bill would require those penalties to be awarded by the State Department of Public Health for grants to implement a program or to fund an existing program that provides and promotes medically accurate and comprehensive reproductive and sexual health education, as provided.* The bill would also provide that a statement signed under penalty of perjury, as specified, that the personal information will not be used for selling or sharing personal information in violation of these geofencing provisions is prima facie evidence that the personal information was not sold or shared in violation of these geofencing provisions. By expanding the crime of perjury, this bill would impose a state-mandated local program.

Existing law, the Confidentiality of Medical Information Act (CMIA), generally prohibits a provider of health care, a health care service plan, or a contractor from disclosing medical information regarding a patient, enrollee, or subscriber without first obtaining an authorization, unless a specified exception applies. The CMIA prohibits a provider of health care, a health care service plan, a contractor, or an employer from

releasing medical information that would identify an individual or related to an individual seeking or obtaining an abortion in response to a subpoena or a request or to law enforcement if that subpoena, request, or the purpose of law enforcement for the medical information is based on, or for the purpose of enforcement of, either another state’s laws that interfere with a person’s rights to choose or obtain an abortion or a foreign penal civil action.

This bill would, similar to the provisions of the CMIA, prohibit the release of research records, in a personally identifying form, developed or acquired by a person in the course of conducting research relating to anyone seeking or obtaining health care services, or relating to personal information, in response to a subpoena or a request or to law enforcement if that subpoena, request, or the purpose of law enforcement for the medical information is based on, or for the purpose of enforcement of, either another state’s laws that interfere with a person’s rights to choose or obtain an abortion or a foreign penal civil action.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. The heading of Title 1.81.49 (commencing with
2 Section 1798.99.90) of Part 4 of Division 3 of the Civil Code is
3 amended to read:

4
5 TITLE 1.81.49. HEALTH AND LOCATION DATA PRIVACY

6
7 SEC. 2. Section 1798.99.90 of the Civil Code is amended to
8 read:

9 1798.99.90. For purposes of this title, the following definitions
10 apply:

11 (a) “Collect,” “collected,” or “collection” means buying, renting,
12 gathering, obtaining, receiving, or accessing any personal
13 information pertaining to a natural person by any means. This

1 includes receiving information from the natural person, either
2 actively or passively, or by observing the natural person's behavior.

3 (b) "Family planning center" means a facility categorized as a
4 family planning center by the North American Industry
5 Classification System adopted by the United States Census Bureau,
6 including, but not limited to, a clinic or center that provides
7 reproductive health care services as defined in Section 1798.300.

8 (c) "Geofence" means any technology that enables spatial or
9 location detection to establish a virtual boundary around, and detect
10 an individual's presence within, a "precise geolocation" as defined
11 in subdivision (w) of Section 1798.140.

12 (d) "Health care services" means any service provided to a
13 natural person of a medical, surgical, psychiatric, therapeutic,
14 diagnostic, mental health, behavioral health, preventative,
15 rehabilitative, supportive, consultative, referral, or prescribing
16 nature.

17 (e) "Person" means a natural person, association, proprietorship,
18 corporation, trust, foundation, partnership, or any other
19 organization or group of people acting in concert.

20 (f) "Personal information" has the same definition as that term
21 is defined in subdivision (v) of Section 1798.140, except as applied
22 to all natural persons and not limited to consumers and households,
23 as those terms are defined in subdivisions (i) and (q), respectively,
24 of that section.

25 (g) "Precise geolocation" means a geographic area that is equal
26 to or less than the area of a circle with a radius of 1,850 feet as
27 derived from a device that is used or intended to be used to locate
28 a person. If the geographic scope of the term "precise geolocation"
29 as defined in Section 1798.140 is expanded beyond 1,850 feet,
30 then that larger scope shall apply to this definition of precise
31 geolocation.

32 (h) "Research" means systematic investigation, including
33 research development, testing, and evaluation, that has as its
34 primary purpose the development of, or contribution to,
35 generalizable knowledge.

36 (i) "Sell," "selling," "sale," or "sold" means selling, renting,
37 releasing, disclosing, disseminating, making available, transferring,
38 or otherwise communicating orally, in writing, or by electronic or
39 other means, a natural person's personal information by another
40 person to a third party for monetary or other valuable consideration.

1 (j) “Share,” “shared,” or “sharing” means sharing, renting,
2 releasing, disclosing, disseminating, making available, transferring,
3 or otherwise communicating orally, in writing, or by electronic or
4 other means, a natural person’s personal information by another
5 person to a third party, whether or not for monetary or other
6 valuable consideration.

7 SEC. 3. Section 1798.99.91 is added to the Civil Code,
8 immediately following Section 1798.99.90, to read:

9 1798.99.91. (a) It shall be unlawful to collect, use, disclose,
10 sell, share, or retain the personal information of a natural person
11 who is physically located at, or within a precise geolocation of, a
12 family planning center, except as specified in subdivision ~~(b)~~. *(b)*
13 *or as otherwise provided by law or in a collective bargaining*
14 *agreement.*

15 (b) Notwithstanding subdivision (a), it is permissible to collect
16 or use the personal information of a natural person who is
17 physically located at, or within a precise geolocation of, a family
18 planning center, but only as necessary to perform the services or
19 provide the goods requested by the natural person. All other
20 prohibitions under subdivision (a) shall continue to apply.

21 (c) (1) An aggrieved person or entity, including a family
22 planning center, may institute and prosecute a civil action against
23 any person who violates this section for injunctive and monetary
24 relief and attorney’s fees within three years of discovery of the
25 violation.

26 (2) If the court finds for the petitioner in an action authorized
27 by paragraph (1), recovery shall be in the amount of three times
28 the amount of actual damages and any other expenses, costs, or
29 reasonable attorney’s fees incurred in connection with the litigation.

30 (d) *(1) This section does not apply to a provider of health care,*
31 *a health care service plan, or contractor, as those terms are defined*
32 *in Section ~~56.05~~. 56.05 or to a covered entity or its business*
33 *associate, as defined in Section 160.103 of Title 45 of the Code of*
34 *Federal Regulations.*

35 *(2) In order to qualify for this exemption, a contractor or*
36 *business associate must be contractually obligated to comply with*
37 *all applicable state and federal privacy laws.*

38 *(e) Notwithstanding subdivision (a), it is permissible for the*
39 *Department of Corrections and Rehabilitation to collect, use, and*

1 retain the personal information of individuals who are either of
 2 the following:

3 (1) On parole through electronic monitoring, as authorized in
 4 Sections 3004 and 3010 of the Penal Code.

5 (2) Participating in prerelease community programs where
 6 electronic monitoring is required for the maintenance of public
 7 safety, as authorized in Sections 1170.05, 3411, and 6258 of the
 8 Penal Code.

9 (f) Notwithstanding subdivision (a), it is permissible for a
 10 probation department to collect, use, and retain the personal
 11 information of individuals who are any of the following:

12 (1) On probation through electronic monitoring, as authorized
 13 in Section 1202.8, 1203.2, 1203.25, or 1210.7 of the Penal Code.

14 (2) On postrelease supervision through electronic monitoring,
 15 as authorized in Section 3454 of the Penal Code.

16 (3) On mandatory supervision through electronic monitoring,
 17 as authorized in subparagraph (B) of paragraph (5) of subdivision
 18 (h) of Section 1170 of the Penal Code.

19 (4) Being supervised through electronic monitoring, as
 20 authorized in Section 602, 628, 628.1, or 628.2 of the Welfare and
 21 Institutions Code.

22 (5) Subject to a protective order through electronic monitoring,
 23 as authorized in Section 136.2 of the Penal Code.

24 (6) Subject to the terms of the Interstate Compact for Adult
 25 Offender Supervision through electronic monitoring, as authorized
 26 in Section 11180 of the Penal Code or subject to the terms of the
 27 Interstate Compact for Juveniles through electronic monitoring,
 28 as authorized by Section 1400 of the Welfare and Institutions Code.

29 (7) Participating in a pretrial release program through
 30 electronic monitoring, as ordered by a court.

31 (g) Notwithstanding subdivision (a), it is permissible for a sheriff
 32 to collect, use, and retain the personal information of individuals
 33 who are subject to a protective order through electronic
 34 monitoring, as authorized in Section 136.2 of the Penal Code.

35 (h) Notwithstanding subdivision (a), it is permissible for a sheriff
 36 or a county director of corrections to collect, use, and retain the
 37 personal information of individuals who are participating in an
 38 alternative custody program through electronic monitoring, as
 39 authorized in Section 1170.06 of the Penal Code.

1 (i) Notwithstanding subdivision (a), it is permissible for a sheriff,
2 probation officer, or director of the county department of
3 corrections to collect, use, and retain the personal information of
4 individuals who are either of the following:

5 (1) Participating in a home detention program through
6 electronic monitoring, as authorized in Section 1203.016 or
7 1203.017 of the Penal Code.

8 (2) Being held in lieu of bail and participating in an electronic
9 monitoring program, as authorized in Section 1203.018 of the
10 Penal Code.

11 SEC. 4. Section 1798.99.92 is added to the Civil Code,
12 immediately following Section 1798.99.91, to read:

13 1798.99.92. (a) Except as provided in subdivision (f), it shall
14 be unlawful to geofence an entity that provides in-person health
15 care services in California for any of the following purposes:

16 (1) To identify or track a person seeking, receiving, or providing
17 health care services.

18 (2) To collect personal information from a person seeking,
19 receiving, or providing health care services.

20 (3) To send notifications to a person related to their personal
21 information or health care services.

22 (4) To send advertisements to a person related to the person's
23 personal information or health care services.

24 (b) It shall be unlawful to sell personal information to, or share
25 personal information with, a third party for the use of such
26 information to violate subdivision (a). A statement signed under
27 penalty of perjury, pursuant to Section 2015.5 of the Code of Civil
28 Procedure, by a natural person authorized to enter into agreements
29 on behalf of the third party that the personal information will not
30 be used for these purposes shall be prima facie evidence that the
31 personal information was not sold or shared in violation of this
32 subdivision.

33 (c) Except as provided in subdivision (f), it shall be unlawful
34 to use personal information obtained in violation of subdivision
35 (a) or (b).

36 (d) (1) Any person that violates this section shall be subject to
37 an injunction and liable for a civil penalty of twenty-five thousand
38 dollars (\$25,000) for each violation, which shall be assessed and
39 recovered in a civil action brought in the name of the people of
40 the State of California by the Attorney General. The court may

1 consider the good faith cooperation of the entity or person in
2 determining the amount of the civil penalty.

3 (2) Any civil penalty recovered by an action brought by the
4 Attorney General for a violation of this section, and the proceeds
5 of any settlement of any said action, shall be deposited in the
6 California Reproductive Justice and Freedom Fund established
7 pursuant to Section 140 of the Health and Safety Code.

8 (e) This section shall be implemented consistent with state and
9 federal law.

10 (f) (1) (A) This section does not prohibit any person that owns,
11 operates, manages, or otherwise provides services to an in-person
12 health care entity from geofencing the entity’s own location to
13 provide necessary health care services, including the use of
14 location-based alarm devices to monitor newborns and
15 memory-impaired individuals.

16 (B) This section does not prohibit any person that provides
17 reproductive health care services, as defined in Section 1798.300,
18 from utilizing geofencing for the purpose of providing security
19 services to protect patients, staff, or property.

20 (2) Nothing in this section shall exempt any person from
21 complying with any of the following:

22 (A) A lawfully executed search warrant.

23 (B) A lawful subpoena issued pursuant to existing California
24 law.

25 (C) Law enforcement if law enforcement, in good faith, believes
26 that an emergency involving danger of death or serious physical
27 injury to any person requires access to such geofencing data. For
28 purposes of this subparagraph, accessing, procuring, or searching
29 for services regarding contraception, pregnancy care, and perinatal
30 care, including, but not limited to, abortion services, shall not
31 constitute being at risk or danger of death or serious physical injury.

32 (3) Nothing in this section abrogates or limits the requirements
33 of the Electronic Communications Privacy Act (Chapter 3.6
34 commencing with Section 1546) of Title 12 of Part 2 of the Penal
35 Code).

36 (4) Nothing in this section shall apply to geofencing activities
37 conducted solely for research purposes by an investigator within
38 an institution that holds an assurance with the federal Department
39 of Health and Human Services pursuant to Part 46 (commencing
40 with Section 46.101) of Title 45 of the Code of Federal Regulations

1 and who obtains informed consent in the method and manner
2 required by those regulations.

3 (5) (A) *This section does not prohibit geofencing activities*
4 *conducted by a labor organization, as defined in Section 1117 of*
5 *the Labor Code, or an employee organization, as defined in*
6 *subdivision (a) of Section 3501 of, subdivision (a) of Section 3513*
7 *of, or subdivision (f) of Section 3562 of, the Government Code, if*
8 *geofencing is for activities concerning workplace conditions,*
9 *worker safety, labor disputes, or organizing.*

10 (B) *A third party vendor, including, but not limited to, a social*
11 *media platform, that collects personal information from a labor*
12 *organization or employee organization pursuant to subparagraph*
13 *(A) shall be prohibited from selling, using, or sharing that personal*
14 *information for any purpose other than the activities described in*
15 *subparagraph (A).*

16 SEC. 5. Section 1798.99.93 is added to the Civil Code,
17 immediately following Section 1798.99.92, to read:

18 1798.99.93. (a) Research records, in a personally identifying
19 form, developed or acquired by a person in the course of
20 conducting research relating to anyone seeking or obtaining health
21 care services, or relating to personal information, shall be subject
22 to the restrictions on release set forth in this section.

23 (b) Research records, in a personally identifying form, developed
24 or acquired by a person in the course of conducting research
25 relating to anyone seeking or obtaining health care services, or
26 relating to personal information, shall not be released in response
27 to a subpoena or request if that subpoena or request is based on
28 either another state's laws that interfere with a person's rights
29 under the Reproductive Privacy Act (Article 2.5 (commencing
30 with Section 123460) of Chapter 2 of Part 2 of Division 106 of
31 the Health and Safety Code) or a foreign penal civil action, as
32 defined in Section 2029.200 of the Code of Civil Procedure.

33 (c) Research records, in a personally identifying form, developed
34 or acquired by a person in the course of conducting research
35 relating to anyone seeking or obtaining health care services, or
36 relating to personal information, shall not be released to law
37 enforcement for either of the following purposes, unless that release
38 is pursuant to a subpoena not otherwise prohibited by subdivision
39 (b):

1 (1) Enforcement of another state’s law that interferes with a
2 person’s rights under the Reproductive Privacy Act (Article 2.5
3 (commencing with Section 123460) of Chapter 2 of Part 2 of
4 Division 106 of the Health and Safety Code).

5 (2) Enforcement of a foreign penal civil action, as defined in
6 Section 2029.200 of the Code of Civil Procedure.

7 *SEC. 6. Section 140 of the Health and Safety Code is amended*
8 *to read:*

9 140. (a) The California Reproductive Justice and Freedom
10 Fund (RJ Fund) is hereby established. The goal of the RJ Fund is
11 to dismantle historic and standing systemic reproductive and sexual
12 health inequities through medically accurate, culturally congruent
13 education and outreach, as well as to create innovative strategies
14 that meaningfully address and function to eliminate root causes of
15 reproductive oppression.

16 (b) Upon appropriation by the Legislature, the State Department
17 of Public Health shall award grants from the RJ Fund to eligible
18 community-based organizations over a three-year period.

19 (1) On or before July 1, 2023, the department shall post the
20 grant application on its internet website and solicit applications.

21 (2) On or before December 31, 2023, the department shall award
22 grants to selected entities based on the eligibility criteria.

23 (c) *Notwithstanding paragraphs (1) and (2) of subdivision (b),*
24 *any civil penalties deposited in the RJ Fund pursuant to Section*
25 *1798.99.92 of the Civil Code shall be awarded by the State*
26 *Department of Public Health in the form of grants, subject to the*
27 *criteria specified in subdivisions (d) to (h), inclusive.*

28 ~~(e)~~

29 (d) A grant recipient shall use any grant funds awarded pursuant
30 to this section to implement a program or fund an existing program
31 that provides and promotes medically accurate, comprehensive
32 reproductive and sexual health education.

33 ~~(f)~~

34 (e) A program funded pursuant to this section shall do all of the
35 following:

36 (1) Promote reproductive justice.

37 (2) Provide medically accurate, culturally congruent
38 reproductive and sexual health education that is inclusive of
39 information on abortion rights, care, and services. The education
40 or outreach provided by a program shall include information on

1 how to obtain an abortion or provide abortion referrals, especially
2 upon request.

3 (3) Be targeted at communities that have experienced or continue
4 to experience high reproductive or sexual health inequities or
5 disparities. This includes communities that have experienced
6 reproductive or sexual health inequities or disparities because of
7 historic and systemic oppression, including based on their race
8 and ethnicity, immigration status, sexual orientation, gender
9 expression, foster youth status, or disability.

10 ~~(e)~~

11 (f) A grant recipient may use a portion of grant funds to pay for
12 costs associated with carrying out grant activities. An assessment
13 of associated costs shall contemplate the community-based
14 organization, the community served, and the nature of services it
15 provides, and may include all of the following:

16 (1) Building staff capacity.

17 (2) Development and dissemination of materials.

18 (3) Travel costs.

19 ~~(f)~~

20 (g) The department shall not spend more than 5 percent of the
21 funds appropriated for the purposes of this section on
22 administrative costs.

23 ~~(g)~~

24 (h) For purposes of this section:

25 (1) “Community-based organization” means a public or private
26 not-for-profit organization that provides education, resources, or
27 services and is representative of a disparately impacted community
28 or significant segments of a community or has demonstrated status
29 as a trusted part of the community that it serves.

30 (2) “Culturally congruent education” means education that takes
31 account of the cultural beliefs, values, norms, patterns, way of life,
32 or practices of the target audience to provide appropriate and
33 meaningful education. Culturally congruent education and outreach
34 fits a person’s or community’s lifestyle, values, and systems of
35 meaning. It requires acknowledgment, respect, and adaptation of
36 information to the cultural needs of the communities served.
37 Additionally, it contemplates sociocultural and situational factors
38 into education.

39 (3) “Medically accurate” means factual information, verified
40 or supported by research conducted in compliance with scientific

1 methods, published in peer-reviewed journals, if appropriate, and
2 recognized as accurate and objective by the relevant professional
3 organizations.

4 (4) “Racial equity” means the condition achieved when race
5 can no longer be used to predict life outcomes and when conditions
6 for all groups are improved. Racial equity includes transforming
7 the behaviors, institutions, and systems that harm disparately
8 impacted communities, including by increasing access to power,
9 redistributing and providing additional resources, and eliminating
10 barriers to opportunity, in order to empower Black, Indigenous,
11 and communities of color to thrive and realize their full potential.

12 (5) “Reproductive health” means the state of complete physical,
13 mental, and social well-being, and not merely the absence of
14 disease or infirmity, in all matters relating to the reproductive
15 system and to its functions and processes. “Reproductive health”
16 implies that a person is able to have a satisfying and safe sex life
17 and that they have the capability to reproduce and the freedom to
18 decide if, when, and how often to do so.

19 (6) “Reproductive justice” means the human right to control
20 our sexuality, our gender, our work, and our reproduction, which
21 can only be achieved when all people, particularly women and
22 girls, have the complete economic, social, and political power and
23 resources to make healthy decisions about their bodies, their
24 families, and their communities in all areas of their lives. At the
25 core of “reproductive justice” is the belief that all people have the
26 right to have children, the right to not have children, and the right
27 to parent the children they have with dignity and respect, in safe
28 and sustainable communities.

29 (7) “Sexual health” means the state of physical, emotional,
30 mental, and social well-being in relation to sexuality, and not
31 merely the absence of disease, dysfunction, or infirmity. “Sexual
32 health” requires a positive and respectful approach to sexuality
33 and sexual relationships, as well as the possibility of having
34 pleasurable and safe sexual experiences, free of coercion,
35 discrimination, and violence.

36 ~~SEC. 6.~~

37 *SEC. 7.* No reimbursement is required by this act pursuant to
38 Section 6 of Article XIII B of the California Constitution because
39 the only costs that may be incurred by a local agency or school
40 district will be incurred because this act creates a new crime or

1 infraction, eliminates a crime or infraction, or changes the penalty
2 for a crime or infraction, within the meaning of Section 17556 of
3 the Government Code, or changes the definition of a crime within
4 the meaning of Section 6 of Article XIII B of the California
5 Constitution.

O