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"Christie Signs Law Requiring Jersey's Health Insurers to Encrypt Personal Data", Star-Ledger, 1-10-15

LAW/RWH

P.L.2014, CHAPTER 88, *approved January 9, 2015*  
Senate, No. 562 (*First Reprint*)

1 AN ACT concerning the security of certain personal information and  
2 supplementing P.L.1960, c.39 (C.56:8-1 et seq.).

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. As used in this act:

8 “Computer” means an electronic, magnetic, optical,  
9 electrochemical or other high speed data processing device or  
10 another similar device capable of executing a computer program,  
11 including arithmetic, logic, memory, data storage or input-output  
12 operations and includes any computer equipment connected to such  
13 a device, computer system, or computer network.

14 “Computer equipment” means any equipment or device,  
15 including all input, output, processing, storage, software, or  
16 communications facilities, intended to interface with a computer.

17 “Computer network” means the interconnection of  
18 communication lines, including microwave or other means of  
19 electronic communication, with a computer through remote  
20 terminals, or a complex consisting of two or more interconnected  
21 computers.

22 “Computer program” means a series of instructions or statements  
23 executable on a computer, which directs the computer system in a  
24 manner to produce a desired result.

25 “Computer software” means a set of computer programs, data,  
26 procedures, and associated documentation concerning the operation  
27 of a computer system.

28 “Computer system” means a set of interconnected computer  
29 equipment intended to operate as a cohesive system.

30 “Computerized record” means any record, recorded or preserved  
31 on any computer, computer equipment, computer network,  
32 computer program, computer software, or computer system.

33 <sup>1</sup>“End user computer system” means any computer system that is  
34 designed to allow end users to access computerized information,  
35 computer software, computer programs, or computer networks. End  
36 user computer system includes, but is not limited to, desktop

**EXPLANATION** – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate SCM committee amendments adopted March 17, 2014.

1 computers, laptop computers, tablets or other mobile devices, or  
2 removable media.

3 "Health benefits plan" means a benefits plan which pays or  
4 provides hospital and medical expense benefits for covered  
5 services, and is delivered or issued for delivery in this State by or  
6 through a carrier. Health benefits plan includes, but is not limited  
7 to, Medicare supplement coverage and risk contracts to the extent  
8 not otherwise prohibited by federal law. For the purposes of this  
9 act, health benefits plan shall not include the following plans,  
10 policies, or contracts: accident only, credit, disability, long-term  
11 care, TRICARE supplement coverage, coverage arising out of a  
12 workers' compensation or similar law, automobile medical payment  
13 insurance, personal injury protection insurance issued pursuant to  
14 P.L.1972, c.70 (C.39:6A-1 et seq.), or hospital confinement  
15 indemnity coverage.

16 "Health insurance carrier" means an insurance company, health  
17 service corporation, hospital service corporation, medical service  
18 corporation, or health maintenance organization authorized to issue  
19 health benefits plans in this State.

20 "Identifiable health information" means individually identifiable  
21 health information as defined in 45 C.F.R. s.160.103.<sup>1</sup>

22 "Personal information" means an individual's first name or first  
23 initial and last name linked with any one or more of the following  
24 data elements: (1) Social Security number; (2) driver's license  
25 number or State identification card number; (3) address; or (4)  
26 identifiable health information. Dissociated data that, if linked,  
27 would constitute personal information is personal information if the  
28 means to link the dissociated data were accessed in connection with  
29 access to the dissociated data.

30 <sup>1</sup>"Public network" means a network to which anyone, including  
31 the general public, has access and through which a person can  
32 connect to other networks or the Internet.<sup>1</sup>

33 "Record" means any material, regardless of the physical form, on  
34 which information is recorded or preserved by any means, including  
35 written or spoken words, graphically depicted, printed, or  
36 electromagnetically transmitted. Record does not include publicly  
37 available directories containing information an individual has  
38 voluntarily consented to have publicly disseminated or listed.

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40 2. <sup>1</sup>a.<sup>1</sup> A health <sup>1</sup>**【**service corporation established pursuant to  
41 P.L.1985, c.236 (C.17:48E-1 et seq.)**】** insurance carrier<sup>1</sup> shall not  
42 compile or maintain computerized records that include personal  
43 information, unless that information is secured by encryption or by  
44 any other method or technology rendering the information  
45 unreadable, undecipherable, or otherwise unusable by an  
46 unauthorized person. Compliance with this section shall require  
47 more than the use of a password protection computer program, if

1 that program only prevents general unauthorized access to the  
2 personal information, but does not render the information itself  
3 unreadable, undecipherable, or otherwise unusable by an  
4 unauthorized person operating, altering, deleting, or bypassing the  
5 password protection computer program.

6 <sup>1</sup>b. This section shall only apply to end user computer systems  
7 and computerized records transmitted across public networks.<sup>1</sup>

8  
9 3. It shall be an unlawful practice and a violation of P.L.1960,  
10 c.39 (C.56:8-1 et seq.) to violate the provisions of this act.

11  
12 4. This act shall take effect on the first day of the seventh  
13 month next following enactment.

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Requires health insurance carriers to encrypt certain information.

# SENATE, No. 562

## STATE OF NEW JERSEY 216th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

**Sponsored by:**

**Senator SHIRLEY K. TURNER**

**District 15 (Hunterdon and Mercer)**

**Senator NIA H. GILL**

**District 34 (Essex and Passaic)**

**SYNOPSIS**

Requires health service corporation to encrypt certain information.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel



**(Sponsorship Updated As Of: 3/18/2014)**

1 AN ACT concerning the security of certain personal information and  
2 supplementing P.L.1960, c.39 (C.56:8-1 et seq.).

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. As used in this act:

8 "Computer" means an electronic, magnetic, optical,  
9 electrochemical or other high speed data processing device or  
10 another similar device capable of executing a computer program,  
11 including arithmetic, logic, memory, data storage or input-output  
12 operations and includes any computer equipment connected to such  
13 a device, computer system, or computer network.

14 "Computer equipment" means any equipment or device,  
15 including all input, output, processing, storage, software, or  
16 communications facilities, intended to interface with a computer.

17 "Computer network" means the interconnection of  
18 communication lines, including microwave or other means of  
19 electronic communication, with a computer through remote  
20 terminals, or a complex consisting of two or more interconnected  
21 computers.

22 "Computer program" means a series of instructions or statements  
23 executable on a computer, which directs the computer system in a  
24 manner to produce a desired result.

25 "Computer software" means a set of computer programs, data,  
26 procedures, and associated documentation concerning the operation  
27 of a computer system.

28 "Computer system" means a set of interconnected computer  
29 equipment intended to operate as a cohesive system.

30 "Computerized record" means any record, recorded or preserved  
31 on any computer, computer equipment, computer network,  
32 computer program, computer software, or computer system.

33 "Personal information" means an individual's first name or first  
34 initial and last name linked with any one or more of the following  
35 data elements: (1) Social Security number; (2) driver's license  
36 number or State identification card number; (3) address; or (4)  
37 identifiable health information. Dissociated data that, if linked,  
38 would constitute personal information is personal information if the  
39 means to link the dissociated data were accessed in connection with  
40 access to the dissociated data.

41 "Record" means any material, regardless of the physical form, on  
42 which information is recorded or preserved by any means, including  
43 written or spoken words, graphically depicted, printed, or  
44 electromagnetically transmitted. Record does not include publicly  
45 available directories containing information an individual has  
46 voluntarily consented to have publicly disseminated or listed.

1       2. A health service corporation established pursuant to  
2 P.L.1985, c.236 (C.17:48E-1 et seq.) shall not compile or maintain  
3 computerized records that include personal information, unless that  
4 information is secured by encryption or by any other method or  
5 technology rendering the information unreadable, undecipherable,  
6 or otherwise unusable by an unauthorized person. Compliance with  
7 this section shall require more than the use of a password protection  
8 computer program, if that program only prevents general  
9 unauthorized access to the personal information, but does not render  
10 the information itself unreadable, undecipherable, or otherwise  
11 unusable by an unauthorized person operating, altering, deleting, or  
12 bypassing the password protection computer program.

13  
14       3. It shall be an unlawful practice and a violation of P.L.1960,  
15 c.39 (C.56:8-1 et seq.) to violate the provisions of this act.

16  
17       4. This act shall take effect on the first day of the seventh  
18 month next following enactment.

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#### STATEMENT

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23       This bill requires a health service corporation established  
24 pursuant to P.L.1985, c.236 (C.17:48E-1 et seq.), when compiling  
25 or maintaining computerized records that include personal  
26 information, to secure the information by encryption or by any other  
27 method or technology rendering it unreadable, undecipherable, or  
28 otherwise unusable by an unauthorized person. This requirement  
29 applies to any computer, including a desktop computer or laptop  
30 computer, computer equipment, computer network, or computer  
31 system, as defined by the bill. Compliance with this requirement  
32 shall require more than the use of a password protection computer  
33 program, if that program only prevents general unauthorized access  
34 to personal information, but does not render the information itself  
35 unreadable, undecipherable, or otherwise unusable by an  
36 unauthorized person operating, altering, deleting, or bypassing the  
37 password protection program.

38       As defined in the bill, "personal information" means an  
39 individual's first name or first initial and last name linked with any  
40 one or more of the following data elements: (1) Social Security  
41 number; (2) driver's license number or State identification card  
42 number; (3) address; or (4) identifiable health information.

43       It is an unlawful practice and a violation of the consumer fraud  
44 law (C.56:8-1 et seq.) for a health service corporation to violate the  
45 provisions of this bill. Such violation is punishable by a monetary  
46 penalty of not more than \$10,000 for a first offense and not more  
47 than \$20,000 for a second or any subsequent offense. In addition, a



**S562 TURNER, GILL**

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- 1 violation can result in cease and desist orders issued by the
- 2 Attorney General, the assessment of punitive damages and the
- 3 awarding of treble damages and costs to the injured party.

# SENATE COMMERCE COMMITTEE

## STATEMENT TO

### **SENATE, No. 562**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: MARCH 17, 2014

The Senate Commerce Committee reports favorably and with committee amendments Senate Bill No. 562.

This bill, as amended, requires health insurance carriers when compiling or maintaining computerized records that include personal information, to secure the information by encryption or by any other method or technology rendering it unreadable, undecipherable, or otherwise unusable by an unauthorized person. This requirement only applies to end user computer systems and computerized records transmitted across public networks. Compliance with this requirement shall require more than the use of a password protection computer program, if that program only prevents general unauthorized access to personal information, but does not render the information itself unreadable, undecipherable, or otherwise unusable by an unauthorized person operating, altering, deleting, or bypassing the password protection program.

As defined in the bill, "personal information" means an individual's first name or first initial and last name linked with any one or more of the following data elements: (1) Social Security number; (2) driver's license number or State identification card number; (3) address; or (4) identifiable health information.

It is an unlawful practice and a violation of the consumer fraud law (C.56:8-1 et seq.) for a health insurance carrier to violate the provisions of this bill. Such violation is punishable by a monetary penalty of not more than \$10,000 for a first offense and not more than \$20,000 for a second or any subsequent offense. In addition, a violation can result in cease and desist orders issued by the Attorney General and the awarding of treble damages and costs to the injured party.

This bill was pre-filed for introduction in the 2014-2015 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

#### Committee Amendments:

The committee amended the bill to:

- expand the application of the bill's provisions from health service corporations to any health insurance carrier. Health insurance carrier is defined as an insurance company, health service corporation, hospital service corporation, medical service corporation, or health maintenance organization authorized to issue health benefits plans in this State; and
- provide that the bill only applies to end user computer systems and computerized records transmitted across public networks.

ASSEMBLY FINANCIAL INSTITUTIONS AND INSURANCE  
COMMITTEE

STATEMENT TO

[First Reprint]  
**SENATE, No. 562**

**STATE OF NEW JERSEY**

DATED: OCTOBER 23, 2014

The Assembly Financial Institutions and Insurance Committee reports favorably Senate Bill No. 562 (1R).

This bill requires health insurance carriers when compiling or maintaining computerized records that include personal information, to secure the information by encryption or by any other method or technology rendering it unreadable, undecipherable, or otherwise unusable by an unauthorized person. This requirement only applies to end user computer systems and computerized records transmitted across public networks. Compliance with this requirement shall require more than the use of a password protection computer program, if that program only prevents general unauthorized access to personal information, but does not render the information itself unreadable, undecipherable, or otherwise unusable by an unauthorized person operating, altering, deleting, or bypassing the password protection program.

As defined in the bill, "personal information" means an individual's first name or first initial and last name linked with any one or more of the following data elements: (1) Social Security number; (2) driver's license number or State identification card number; (3) address; or (4) identifiable health information.

It is an unlawful practice and a violation of the consumer fraud law, P.L.1960, c.39 (C.56:8-1 et seq.), for a health insurance carrier to violate the provisions of this bill. Such violation is punishable by a monetary penalty of not more than \$10,000 for a first offense and not more than \$20,000 for a second or any subsequent offense. In addition, a violation can result in cease and desist orders issued by the Attorney General and the awarding of treble damages and costs to the injured party.

As reported by the committee, this bill is identical to Assembly Bill No. 3322, which also was reported by the committee on this same date.

# ASSEMBLY, No. 3322

## STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED JUNE 5, 2014

**Sponsored by:**

**Assemblyman GARY S. SCHAER**

**District 36 (Bergen and Passaic)**

**Assemblyman CARMELO G. GARCIA**

**District 33 (Hudson)**

**Assemblyman JOSEPH A. LAGANA**

**District 38 (Bergen and Passaic)**

**Co-Sponsored by:**

**Assemblyman Coughlin**

**SYNOPSIS**

Requires health insurance carriers to encrypt certain information.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 11/14/2014)**

1 AN ACT concerning the security of certain personal information and  
2 supplementing P.L.1960, c.39 (C.56:8-1 et seq.).

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6

7 1. As used in this act:

8 “Computer” means an electronic, magnetic, optical,  
9 electrochemical or other high speed data processing device or  
10 another similar device capable of executing a computer program,  
11 including arithmetic, logic, memory, data storage or input-output  
12 operations and includes any computer equipment connected to such  
13 a device, computer system, or computer network.

14 “Computer equipment” means any equipment or device,  
15 including all input, output, processing, storage, software, or  
16 communications facilities, intended to interface with a computer.

17 “Computer network” means the interconnection of  
18 communication lines, including microwave or other means of  
19 electronic communication, with a computer through remote  
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23 executable on a computer, which directs the computer system in a  
24 manner to produce a desired result.

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29 equipment intended to operate as a cohesive system.

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31 on any computer, computer equipment, computer network,  
32 computer program, computer software, or computer system.

33 “End user computer system” means any computer system that is  
34 designed to allow end users to access computerized information,  
35 computer software, computer programs, or computer networks. End  
36 user computer system includes, but is not limited to, desktop  
37 computers, laptop computers, tablets or other mobile devices, or  
38 removable media.

39 "Health benefits plan" means a benefits plan which pays or  
40 provides hospital and medical expense benefits for covered  
41 services, and is delivered or issued for delivery in this State by or  
42 through a carrier. Health benefits plan includes, but is not limited  
43 to, Medicare supplement coverage and risk contracts to the extent  
44 not otherwise prohibited by federal law. For the purposes of this  
45 act, health benefits plan shall not include the following plans,  
46 policies, or contracts: accident only, credit, disability, long-term  
47 care, TRICARE supplement coverage, coverage arising out of a  
48 workers' compensation or similar law, automobile medical payment

1 insurance, personal injury protection insurance issued pursuant to  
2 P.L.1972, c.70 (C.39:6A-1 et seq.), or hospital confinement  
3 indemnity coverage.

4 "Health insurance carrier" means an insurance company, health  
5 service corporation, hospital service corporation, medical service  
6 corporation, or health maintenance organization authorized to issue  
7 health benefits plans in this State.

8 "Identifiable health information" means individually identifiable  
9 health information as defined in 45 C.F.R. s.160.103.

10 "Personal information" means an individual's first name or first  
11 initial and last name linked with any one or more of the following  
12 data elements: (1) Social Security number; (2) driver's license  
13 number or State identification card number; (3) address; or (4)  
14 identifiable health information. Dissociated data that, if linked,  
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17 access to the dissociated data.

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19 the general public, has access and through which a person can  
20 connect to other networks or the Internet.

21 "Record" means any material, regardless of the physical form, on  
22 which information is recorded or preserved by any means, including  
23 written or spoken words, graphically depicted, printed, or  
24 electromagnetically transmitted. Record does not include publicly  
25 available directories containing information an individual has  
26 voluntarily consented to have publicly disseminated or listed.

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28 2. a. A health insurance carrier shall not compile or maintain  
29 computerized records that include personal information, unless that  
30 information is secured by encryption or by any other method or  
31 technology rendering the information unreadable, undecipherable,  
32 or otherwise unusable by an unauthorized person. Compliance  
33 with this section shall require more than the use of a password  
34 protection computer program, if that program only prevents general  
35 unauthorized access to the personal information, but does not render  
36 the information itself unreadable, undecipherable, or otherwise  
37 unusable by an unauthorized person operating, altering, deleting, or  
38 bypassing the password protection computer program.

39 b. This section shall only apply to end user computer systems  
40 and computerized records transmitted across public networks.

41

42 3. It shall be an unlawful practice and a violation of P.L.1960,  
43 c.39 (C.56:8-1 et seq.) to violate the provisions of this act.

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45 4. This act shall take effect on the first day of the seventh  
46 month next following enactment.

STATEMENT

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This bill requires health insurance carriers when compiling or maintaining computerized records that include personal information, to secure the information by encryption or by any other method or technology rendering it unreadable, undecipherable, or otherwise unusable by an unauthorized person. This requirement only applies to end user computer systems and computerized records transmitted across public networks. Compliance with this requirement shall require more than the use of a password protection computer program, if that program only prevents general unauthorized access to personal information, but does not render the information itself unreadable, undecipherable, or otherwise unusable by an unauthorized person operating, altering, deleting, or bypassing the password protection program.

As defined in the bill, “personal information” means an individual's first name or first initial and last name linked with any one or more of the following data elements: (1) Social Security number; (2) driver's license number or State identification card number; (3) address; or (4) identifiable health information.

It is an unlawful practice and a violation of the consumer fraud law (C.56:8-1 et seq.) for a health insurance carrier to violate the provisions of this bill. Such violation is punishable by a monetary penalty of not more than \$10,000 for a first offense and not more than \$20,000 for a second or any subsequent offense. In addition, a violation can result in cease and desist orders issued by the Attorney General and the awarding of treble damages and costs to the injured party.



ASSEMBLY FINANCIAL INSTITUTIONS AND INSURANCE  
COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 3322**

**STATE OF NEW JERSEY**

DATED: OCTOBER 23, 2014

The Assembly Financial Institutions and Insurance Committee reports favorably Assembly Bill No. 3322.

This bill requires health insurance carriers when compiling or maintaining computerized records that include personal information, to secure the information by encryption or by any other method or technology rendering it unreadable, undecipherable, or otherwise unusable by an unauthorized person. This requirement only applies to end user computer systems and computerized records transmitted across public networks. Compliance with this requirement shall require more than the use of a password protection computer program, if that program only prevents general unauthorized access to personal information, but does not render the information itself unreadable, undecipherable, or otherwise unusable by an unauthorized person operating, altering, deleting, or bypassing the password protection program.

As defined in the bill, "personal information" means an individual's first name or first initial and last name linked with any one or more of the following data elements: (1) Social Security number; (2) driver's license number or State identification card number; (3) address; or (4) identifiable health information.

It is an unlawful practice and a violation of the consumer fraud law, P.L.1960, c.39 (C.56:8-1 et seq.), for a health insurance carrier to violate the provisions of this bill. Such violation is punishable by a monetary penalty of not more than \$10,000 for a first offense and not more than \$20,000 for a second or any subsequent offense. In addition, a violation can result in cease and desist orders issued by the Attorney General and the awarding of treble damages and costs to the injured party.

As reported by the committee, this bill is identical to Senate Bill No. 562(1R), which also was reported by the committee on this same date.