

Exposure Notification Privacy Act

In the coming weeks, automated exposure notification services will be released to track the spread of the COVID-19 virus and notify individuals who may be exposed. However, this method will only be effective if adoption reaches a critical mass. Safeguarding data privacy and civil rights in any exposure notification system is needed to help ensure the widespread participation necessary for the program's efficacy. The Exposure Notification Privacy Act creates those strong privacy safeguards for commercial automated exposure notification services.

THE PRIMARY ROLE OF PUBLIC HEALTH AUTHORITIES

- The Act prohibits any automated exposure notification service not operated by or in collaboration with a public health authority.
- The Act requires that automated exposure notification services only allow submission of medically authorized diagnoses of infectious diseases.

ENSURING INDIVIDUALS' RIGHTS

- The Act empowers individuals to control their participation in an automated exposure notification service; individuals' consent must be freely given and anyone can withdraw at any time.
- The Act allows participants in an automated exposure notification service to have their data deleted at any time.
- The Act makes it unlawful to discriminate against, or otherwise make unavailable to an individual, any place of public accommodation based on data collected or processed through an automated exposure notification service.

DATA RESTRICTIONS TO PRESERVE PRIVACY

- The Act prohibits operators of automated exposure notification services from collecting or using data beyond what is necessary to implement such services for public health purposes. Operators are prohibited from collecting or processing data for any commercial purpose.
- The Act creates strong cybersecurity and breach notification safeguards.
- The Act requires recurring and ongoing data deletion obligations.
- The Act makes allowances for public health research.

STRONG ENFORCEMENT

- The Act empowers the Federal Trade Commission and State Attorneys General to pursue violators.
- The Act allows the FTC to pursue civil penalties for first-time violations.
- The Act protects state privacy rights, ensuring that consumer privacy and health laws remain in place.