

AMENDED IN SENATE AUGUST 11, 2020  
AMENDED IN SENATE JULY 14, 2020  
AMENDED IN SENATE JUNE 18, 2020  
AMENDED IN ASSEMBLY MAY 24, 2019  
AMENDED IN ASSEMBLY APRIL 30, 2019  
AMENDED IN ASSEMBLY APRIL 10, 2019  
AMENDED IN ASSEMBLY MARCH 25, 2019  
CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1782**

---

---

**Introduced by Assembly Member Chau  
(Coauthor: Assembly Member Wicks)**

February 22, 2019

---

---

An act to add Title 4.5 (commencing with Section 1924) to Part 4 of Division 3 of the Civil Code, to add Chapter 5 (commencing with Section 104000) to Part 2 of Division 102 of the Health and Safety Code, and to add Part 6 (commencing with Section 22360) to Division 2 of the Public Contract Code, relating to personal information.

LEGISLATIVE COUNSEL'S DIGEST

AB 1782, as amended, Chau. Personal information: contact tracing. Existing law, the California Consumer Privacy Act of 2018 (CCPA), grants a consumer various rights with respect to personal information, as defined, that is collected or sold by a business, as defined, including the right to require a business to delete personal information about the consumer, as specified.

This bill, the Technology-Assisted Contact Tracing Public Accountability and Consent Terms (TACT-PACT) Act, would generally regulate public health entities and businesses, as defined, that provide technology-assisted contact tracing (TACT), as defined. The bill would, among other things, require a business or public health entity offering TACT to provide a simple mechanism for a user to revoke consent for the collection, use, maintenance, or disclosure of data and permit revocation of consent at any time. The bill would require a business offering TACT that is not affiliated with a public health entity to clearly and conspicuously disclose upon solicitation and provision of that service that the service is not affiliated with a public health entity. The bill would require a public health entity participating in TACT to require that any report of exposure be verified by a health care professional *or public health entity* before notifying persons who have been or may have been in contact with the reporting individual or before publicly disclosing exposure data.

This bill would require a business or public health entity offering TACT to individual users to issue a public report, at least once every 90 days, containing certain information, including the number of individuals whose personal information was collected, used, or disclosed pursuant to TACT, the categories of information, and the recipients of that information, as specified.

This bill would prohibit a business or public entity from discriminating against a person on the basis of participation or nonparticipation in TACT, as specified.

Existing law generally governs contracts entered into by a state or local agency.

This bill would, among other things, require data collected and maintained in the course of fulfilling the duties of a TACT contract to be encrypted to the extent practicable and would require certain provisions to be included in a TACT contract, including a provision creating performance metrics for evaluation of the particular goods or services provided pursuant to the contract.

*This bill would subject a violation of its provisions to civil damages and reasonable attorney fees, as specified.*

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

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

1 SECTION 1. This act shall be known, and may be cited, as the  
2 Technology-Assisted Contact Tracing Public Accountability and  
3 Consent Terms (TACT-PACT) Act.

4 SEC. 2. Title 4.5 (commencing with Section 1924) is added to  
5 Part 4 of Division 3 of the Civil Code, to read:

6  
7 TITLE 4.5. TECHNOLOGY-ASSISTED CONTACT  
8 TRACING PUBLIC ACCOUNTABILITY AND CONSENT  
9 TERMS (TACT-PACT)

10  
11 1924. For purposes of this title:

12 (a) “Business” means a sole proprietorship, partnership,  
13 corporation, association, or other group, including, but not limited  
14 to, a nonprofit entity.

15 (b) (1) “Consent” means an affirmative act by an individual  
16 that is both of the following:

17 (A) Clearly and conspicuously communicates the individual’s  
18 authorization of an act or practice.

19 (B) Made in the absence of any mechanism in a user interface  
20 that has the purpose or substantial effect of obscuring, subverting,  
21 or impairing decisionmaking or choice to obtain consent.

22 (2) Consent shall not be inferred from inaction.

23 (c) “Data” means measurements, transactions, determinations,  
24 locations, or other information, whether or not that information  
25 can be associated with a specific natural person.

26 (d) “Personal information” means data that identifies, relates  
27 to, describes, is reasonably capable of being associated, or could  
28 reasonably be linked, directly or indirectly, with a specific natural  
29 person or household.

30 (e) “Public health entity” means a state or local ~~public entity~~  
31 ~~that is responsible for public health matters as part of its official~~  
32 ~~mandate.~~ *health department or a public university health center.*

33 (f) (1) “Technology-assisted contact tracing (TACT)” means  
34 the use of a digital application or other electronic or digital platform  
35 that is capable of independently transmitting information and is  
36 offered to individuals for the purpose of identifying and monitoring  
37 individuals, through data collection and analysis, who may have

1 had contact with an infectious person as a means of controlling  
2 the spread of a communicable disease.

3 (2) *“Technology-assisted contact tracing (TACT)” does not*  
4 *include the use of a device issued at a general acute care hospital,*  
5 *acute psychiatric hospital, or skilled nursing facility, as defined*  
6 *in Section 1250 of the Health and Safety Code, that is used only*  
7 *within the issuing health facility’s campus.*

8 1924.1. A business or public health entity offering TACT to  
9 individual users shall do all of the following:

10 (a) Ensure that a request for an individual’s consent for the  
11 collection, use, maintenance, or disclosure of data includes the  
12 public health purpose for which that individual’s data will be  
13 collected, used, maintained, or disclosed, and the party or parties  
14 to whom that data will be disclosed.

15 (b) Provide a simple mechanism for a user to revoke consent  
16 for the collection, use, maintenance, or disclosure of data and  
17 permit revocation of consent at any time.

18 (c) Disclose to the user the categories of data collected, used,  
19 or disclosed and the specific public health purposes for which each  
20 category will be collected, used, or disclosed.

21 (d) Provide users with an effective mechanism by which to  
22 access, correct, and delete their personal information.

23 (e) Delete any personal information collected pursuant to TACT  
24 within 60 days from the time of collection.

25 (f) (1) *Delete any data collected pursuant to TACT within 60*  
26 *days from the time of collection.*

27 (2) *This subdivision shall not apply to data that is maintained*  
28 *and used solely for the purpose of research, as defined in Part 46*  
29 *(commencing with Section 46.101) of Title 45 of the Code of*  
30 *Federal Regulations, and is subject to the regulations pursuant to*  
31 *that part.*

32 (~~f~~)

33 (g) Ensure that all components of TACT are capable of being  
34 temporarily disabled and removed by the user in a manner that is  
35 clear, simple, and does not include any unnecessary steps.

36 (h) *Encrypt any data collected and maintained pursuant to*  
37 *TACT to the extent practicable.*

38 (~~g~~)

1 (i) Clearly and conspicuously disclose that the absence of an  
2 exposure notice does not ensure that the individual has not been  
3 exposed to the condition of public health concern.

4 ~~(h)~~

5 (j) Issue a public report, at least once every 90 days, containing  
6 all of the following information:

7 (1) The number of individuals whose personal information was  
8 collected, used, or disclosed pursuant to TACT.

9 (2) The categories of data collected, used, or disclosed and the  
10 specific public health purposes for which each category was  
11 collected, used, or disclosed pursuant to TACT.

12 (3) The recipient to whom any of the information described in  
13 paragraphs (1) and (2) was disclosed.

14 ~~(i)~~

15 (k) Implement and maintain reasonable security procedures and  
16 practices, appropriate to the nature of the data and the purposes  
17 for which that data will be used, to protect that data from  
18 unauthorized use, disclosure, access, destruction, or modification,  
19 including all of the following:

20 (1) Administrative safeguards.

21 (2) Physical safeguards.

22 (3) Technical safeguards.

23 1924.3. A business or public health entity offering TACT to  
24 individual users shall not do any of the following:

25 (a) Collect, use, maintain, or disclose data for the purpose of  
26 providing TACT without the affirmative consent of the individual  
27 to whom that data pertains.

28 (b) Collect, use, maintain, or disclose personal information that  
29 is not reasonably necessary to provide ~~a service or conduct an~~  
30 ~~activity that a user has requested.~~ TACT services.

31 1924.4. A business or public entity shall not do any of the  
32 following:

33 (a) Discriminate on the basis of participation or nonparticipation  
34 in TACT or any behavior or disclosure pursuant thereto.

35 (b) Impose a penalty on the basis of participation or  
36 nonparticipation in TACT or any behavior or disclosure pursuant  
37 thereto.

38 (c) Require any person, including, but not limited to, an  
39 employee or independent contractor, to participate in TACT or  
40 any behavior or disclosure pursuant thereto.

1 1924.5. (a) A business providing TACT that is not affiliated  
2 with a public health entity shall clearly and conspicuously disclose  
3 upon solicitation and provision of a TACT service that the service  
4 is not affiliated with a public health entity.

5 (b) A business described in subdivision (a) shall not hold itself  
6 out to be affiliated with a public health entity.

7 (c) A business described in subdivision (a) shall not associate  
8 data collected from a user pursuant to TACT in any way with data  
9 otherwise collected or maintained for other purposes without that  
10 user's consent.

11 (d) *A business described in subdivision (a) shall not use data*  
12 *collected from a user pursuant to TACT for a purpose other than*  
13 *facilitating contact tracing for the immediate public health purpose*  
14 *or implementing TACT system improvements.*

15 (e) *A business described in subdivision (a) shall not reidentify*  
16 *or attempt to reidentify deidentified, anonymized, or aggregated*  
17 *data collected pursuant to TACT.*

18 1924.6. *This title shall not be construed to limit or prohibit a*  
19 *public health entity or its agent from administering programs to*  
20 *identify individuals who have contracted, or may have been*  
21 *exposed to, a public health condition through traditional means*  
22 *intended to monitor and mitigate the transmission of a disease or*  
23 *disorder, including, but not limited to, interviews, outreach, case*  
24 *investigation, and other recognized investigatory measures.*

25 1924.8. (a) (1) *A business that violates this title shall be*  
26 *subject to a civil judgment for reasonable attorney fees, injunctive*  
27 *relief, and the following:*

28 (A) *If the violation does not directly result in disclosure of data,*  
29 *the greater of the following:*

30 (i) *Actual damages.*

31 (ii) *Statutory damages in an amount not greater than one*  
32 *hundred dollars (\$100) for each day that the violation occurred.*

33 (B) *If the violation is not a willful violation, but the violation*  
34 *directly results in disclosure of data, the greater of the following:*

35 (i) *Actual damages.*

36 (ii) *Statutory damages in an amount not greater than one*  
37 *hundred dollars (\$100) for each violation.*

38 (C) *If the violation is a willful violation and directly results in*  
39 *disclosure of data, the greater of the following:*

40 (i) *Actual damages.*

1 (ii) Statutory damages in an amount not greater than five  
2 hundred dollars (\$500) for each violation.

3 (2) The Attorney General, a district attorney, a city attorney,  
4 or a member of the public may bring a civil action against a  
5 business for relief pursuant to this subdivision.

6 (b) (1) A public entity that violates this title shall be subject to  
7 a civil judgment for reasonable attorney fees, injunctive relief, and  
8 the following:

9 (A) If the violation does not directly result in disclosure of data,  
10 injunctive relief.

11 (B) If the violation is not a willful violation, but the violation  
12 directly results in disclosure of data, actual damages.

13 (C) If the violation is a willful violation and directly results in  
14 disclosure of data, the greater of the following:

15 (i) Actual damages.

16 (ii) Statutory damages in an amount not greater than five  
17 hundred dollars (\$500) for each violation.

18 (2) (A) A civil action against a public entity for damages  
19 pursuant to this subdivision may be brought only by the Attorney  
20 General, a district attorney, or a city attorney.

21 (B) A member of the public may bring a civil action against a  
22 public entity to obtain relief pursuant to this subdivision only to  
23 obtain injunctive relief and reasonable attorney fees.

24 SEC. 3. Chapter 5 (commencing with Section 104000) is added  
25 to Part 2 of Division 102 of the Health and Safety Code, to read:

26

27 CHAPTER 5. TECHNOLOGY-ASSISTED CONTACT TRACING PUBLIC  
28 ACCOUNTABILITY AND CONSENT TERMS (TACT-PACT)

29

30 104000. For purposes of this chapter:

31 (a) (1) "Consent" means an affirmative act by an individual  
32 that is both of the following:

33 (A) Clearly and conspicuously communicates the individual's  
34 authorization of an act or practice.

35 (B) Made in the absence of any mechanism in a user interface  
36 that has the purpose or substantial effect of obscuring, subverting,  
37 or impairing decisionmaking or choice to obtain consent.

38 (2) Consent shall not be inferred from inaction.

1 (b) “Data” means measurements, transactions, determinations,  
2 locations, or other information, whether or not that information  
3 can be associated with a specific natural person.

4 (c) “Personal information” means data that identifies, relates  
5 to, describes, is reasonably capable of being associated, or could  
6 reasonably be linked, directly or indirectly, with a specific natural  
7 person or household.

8 (d) “Public health entity” means a state or local ~~public entity~~  
9 ~~that is responsible for public health matters as part of its official~~  
10 ~~mandate.~~ *health department or a public university health center.*

11 (e) “Technology-assisted contact tracing (TACT)” means the  
12 use of a digital application or other electronic or digital platform  
13 that is capable of independently transmitting information, and is  
14 offered to individuals for the purpose of identifying and monitoring  
15 individuals, through data collection and analysis, who may have  
16 had contact with an infectious person as a means of controlling  
17 the spread of a communicable disease.

18 104002. (a) Notwithstanding any other law, a public entity  
19 that is not a public health entity shall not ~~deploy or cause the~~  
20 ~~deployment of~~ *offer* TACT.

21 (b) Participation in TACT, and any behavior or furnishing of  
22 information or consent for the purpose of effectuating TACT, shall  
23 be entirely voluntary.

24 (c) (1) Personal information collected, used, or maintained by  
25 a public health entity ~~for the purpose of~~ *through* TACT shall not  
26 be used for any purpose other than facilitating the response to the  
27 immediate public health purpose.

28 (2) For purposes of this subdivision, “facilitating the response  
29 to the immediate public health purpose” does not include  
30 enforcement of laws or orders pertaining to the public health  
31 purpose or created in response to the public health purpose, or  
32 investigations into violations of those orders and laws.

33 (d) A public health entity shall not associate data collected  
34 pursuant to TACT in any way with data otherwise collected or  
35 maintained for other purposes.

36 (e) *A public health entity shall not offer TACT if the TACT*  
37 *collects, uses, retains, or shares geolocation information.*

38 (f) *A public health entity that is a public university health center*  
39 *shall not allow access to data collected pursuant to TACT by any*  
40 *agent or division of the university outside of the health center.*



1 104004. A public health entity participating in TACT shall do  
2 all of the following:

3 (a) (1) Require that any report of ~~exposure~~ *exposure, including*  
4 *a presumptive report of exposure*, be verified by a health care  
5 professional *or public health entity* before notifying persons who  
6 have been or may have been in contact with the reporting individual  
7 or before publicly disclosing exposure data.

8 (2) *For purposes of this subdivision, “verified” means to have*  
9 *made an expert determination based on case history, test results,*  
10 *symptoms, or any other readily available information pertinent to*  
11 *the case that the condition of an individual meets the public health*  
12 *definition of a case, or presumptive case, of a specific infectious*  
13 *disease.*

14 ~~(b) Issue a public report, at least once every 90 days, stating all~~  
15 ~~of the following:~~

16 ~~(1) The number of individuals whose personal information the~~  
17 ~~public health entity collected, used, or disclosed pursuant to TACT.~~

18 ~~(2) The categories of data collected, used, or disclosed and the~~  
19 ~~specific public health purposes for which each category was~~  
20 ~~collected, used, or disclosed pursuant to TACT.~~

21 ~~(3) The recipient to whom any of the information described in~~  
22 ~~paragraphs (1) and (2) was disclosed.~~

23 ~~(e)~~

24 (b) Comply with other applicable laws, including Title 4.5  
25 (commencing with Section 1924) of Part 4 of Division 3 of the  
26 Civil Code.

27 104006. A public health entity participating in TACT shall not  
28 charge a user fee for participation in TACT.

29 104008. This chapter shall not be construed to limit or prohibit  
30 a public health entity or its agent from administering programs to  
31 identify individuals who have contracted, or may have been  
32 exposed to, a public health condition through traditional means  
33 intended to monitor and mitigate the transmission of a disease or  
34 disorder, including interviews, outreach, case investigation, and  
35 other recognized investigatory measures.

36 104010. (a) *A public entity that violates this chapter shall be*  
37 *subject to a civil judgment for reasonable attorney fees, injunctive*  
38 *relief, and the following:*

39 (1) *If the violation does not directly result in disclosure of data,*  
40 *injunctive relief.*

1 (2) *If the violation is not a willful violation, but the violation*  
2 *directly results in disclosure of data, actual damages.*

3 (3) *If the violation is a willful violation and directly results in*  
4 *disclosure of data, the greater of the following:*

5 (A) *Actual damages.*

6 (B) *Statutory damages in an amount not greater than five*  
7 *hundred dollars (\$500) for each violation.*

8 (b) (1) *A civil action against a public entity for damages*  
9 *pursuant to subdivision (a) may be brought only by the Attorney*  
10 *General, a district attorney, or a city attorney.*

11 (2) *A member of the public may bring a civil action against a*  
12 *public entity to obtain relief pursuant to subdivision (a) only to*  
13 *obtain injunctive relief and reasonable attorney fees.*

14 SEC. 4. Part 6 (commencing with Section 22360) is added to  
15 Division 2 of the Public Contract Code, to read:

16

17 PART 6. TECHNOLOGY-ASSISTED CONTACT TRACING  
18 PUBLIC ACCOUNTABILITY AND CONSENT TERMS  
19 (TACT-PACT)  
20

21 22360. For purposes of this part:

22 (a) (1) “Consent” means an affirmative act by an individual  
23 that is both of the following:

24 (A) Clearly and conspicuously communicates the individual’s  
25 authorization of an act or practice.

26 (B) Made in the absence of any mechanism in a user interface  
27 that has the purpose or substantial effect of obscuring, subverting,  
28 or impairing decisionmaking or choice to obtain consent.

29 (2) Consent shall not be inferred from inaction.

30 (b) “Data” means measurements, transactions, determinations,  
31 locations, or other information, whether or not that information  
32 can be associated with a specific natural person.

33 (c) “Personal information” means data that identifies, relates  
34 to, describes, is reasonably capable of being associated, or could  
35 reasonably be linked, directly or indirectly, with a specific natural  
36 person or household.

37 (d) “Public health entity” means a state or local ~~public entity~~  
38 ~~that is responsible for public health matters as part of its official~~  
39 ~~mandate.~~ *health department or a public university health center.*

1 (e) “Technology-assisted contact tracing (TACT)” means the  
2 use of a digital application or other electronic or digital platform  
3 that is capable of independently transmitting information, and is  
4 offered to individuals for the purpose of identifying and monitoring  
5 individuals, through data collection and analysis, who may have  
6 had contact with an infectious person as a means of controlling  
7 the spread of a communicable disease.

8 22362. (a) Notwithstanding any other law, a public entity that  
9 is not a public health entity shall not enter into a TACT contract.

10 (b) Any data collected by, and any inventions, discoveries,  
11 intellectual property, technical communications, and records  
12 originated or prepared by, the contractor in the course of activities  
13 governed by the contract, including papers, reports, charts,  
14 computer programs, and other documentation, shall be the public  
15 health entity’s exclusive property.

16 (c) Any data collected and maintained in the course of fulfilling  
17 the duties of a TACT contract shall be encrypted to the extent  
18 practicable.

19 22364. A TACT contract shall include, but not be limited to,  
20 all of the following provisions:

21 (a) Participation in TACT, and any behavior or furnishing of  
22 information or consent for the purpose of effectuating TACT, shall  
23 be entirely voluntary.

24 (b) (1) Except as provided in paragraph (2), the contractor shall  
25 comply with the requirements imposed on public health entities  
26 pursuant to Chapter 5 (commencing with Section 104000) of Part  
27 2 of Division 102 of the Health and Safety ~~Code~~. *Code and Title*  
28 *4.5 (commencing with Section 1924) of Part 4 of Division 3 of the*  
29 *Civil Code*.

30 (2) The contractor shall not be required to comply with the  
31 reporting requirement imposed by subdivision (c) of Section  
32 104004 of the Health and Safety Code if the report published by  
33 the public health entity accounts for the data collected, used, or  
34 disclosed by the contractor pursuant to the contract.

35 (c) Performance metrics for evaluation of the particular goods  
36 or services provided pursuant to the contract.

37 (d) (1) Subject to paragraph (2), the term of the contract shall  
38 not exceed one year.

1 (2) The contract may be renewed for increments of one year or  
2 less if the terms of the performance metrics described in  
3 subdivision (c) are substantially satisfied.

4 (e) Limitations on data collection and use.

5 (f) Security and data breach requirements, including both of the  
6 following:

7 (1) A contractor shall report a data breach to law enforcement  
8 and the public health entity.

9 (2) A contractor shall report a data breach pursuant to Section  
10 1798.82 of the Civil Code.

11 (g) A contractor shall provide any source code created by the  
12 contractor pursuant to a TACT contract to both of the following:

13 (1) The public health entity.

14 (2) Any entity charged with oversight of the public health  
15 entity’s acquisitions, as required by Section 12100.

16 (h) A contract governed by this part shall be deemed a contract  
17 for the acquisition of information technology goods and services  
18 related to information technology projects for purposes of Section  
19 12100.

20 22366. A TACT contract shall prohibit a contractor from all  
21 of the following:

22 (a) Collecting data that is not directly necessary for the public  
23 health purposes enumerated in the contract.

24 (b) Disclosing data collected, used, or maintained pursuant to  
25 the contract with any person or entity without the express written  
26 consent of the public health entity and the affirmative consent of  
27 any individual whose data would be disclosed.

28 (c) Using data for a purpose other than facilitating contact  
29 tracing for the immediate public health ~~purpose~~. *purpose or*  
30 *implementing TACT system improvements.*

31 (d) Using data collected pursuant to the contract for a  
32 commercial purpose or to obtain anything of value apart from due  
33 compensation pursuant to the contract.

34 (e) Associating data collected pursuant to the contract in any  
35 way with data otherwise collected or maintained by the contractor  
36 for other purposes.

37 (f) Reidentifying or attempting to reidentify deidentified,  
38 anonymized, or aggregated data.

39 (g) Using or maintaining personal information collected pursuant  
40 to the contract for longer than 60 days from the time of collection.

1 (h) Maintaining data collected pursuant to the contract after the  
2 termination or expiration of the contract.  
3 22368. (a) (1) A contractor that violates this part shall be  
4 subject to a judgment for reasonable attorney fees, injunctive relief,  
5 and the following:  
6 (A) If the violation does not directly result in disclosure of data,  
7 the greater of the following:  
8 (i) Actual damages.  
9 (ii) Statutory damages in an amount not greater than one  
10 hundred dollars (\$100) for each day that the violation occurred.  
11 (B) If the violation is not a willful violation, but the violation  
12 directly results in disclosure of data, the greater of the following:  
13 (i) Actual damages.  
14 (ii) Statutory damages in an amount not greater than one  
15 hundred dollars (\$100) for each violation.  
16 (C) If the violation is a willful violation and directly results in  
17 disclosure of data, the greater of the following:  
18 (i) Actual damages.  
19 (ii) Statutory damages in an amount not greater than five  
20 hundred dollars (\$500) for each violation.  
21 (2) The Attorney General, a district attorney, a city attorney,  
22 or a member of the public may bring a civil action against a  
23 contractor for relief pursuant to this subdivision.  
24 (b) (1) A public entity that violates this part shall be subject to  
25 a judgment for reasonable attorney fees, injunctive relief, and the  
26 following:  
27 (A) If the violation does not directly result in disclosure of data,  
28 injunctive relief.  
29 (B) If the violation is not a willful violation, but the violation  
30 directly results in disclosure of data, actual damages.  
31 (C) If the violation is a willful violation and directly results in  
32 disclosure of data, the greater of the following:  
33 (i) Actual damages.  
34 (ii) Statutory damages in an amount not greater than five  
35 hundred dollars (\$500) for each violation.  
36 (2) (A) A civil action against a public entity for damages  
37 pursuant to this subdivision may be brought only by the Attorney  
38 General, a district attorney, or a city attorney.

- 1     *(B) A member of the public may bring a civil action against a*
- 2     *public entity to obtain relief pursuant to this subdivision only to*
- 3     *obtain injunctive relief and reasonable attorney fees.*

O