

HB4867



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB4867

Introduced 1/27/2022, by Rep. Jim Durkin

SYNOPSIS AS INTRODUCED:

20 ILCS 2305/2

from Ch. 111 1/2, par. 22

Amends the Department of Public Health Act. Makes a technical change in a Section concerning the powers of the Department of Public Health.

LRB102 25626 CPF 34918 b

A BILL FOR

1 AN ACT concerning State government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Department of Public Health Act is amended
5 by changing Section 2 as follows:

6 (20 ILCS 2305/2) (from Ch. 111 1/2, par. 22)

7 Sec. 2. Powers.

8 (a) The ~~The~~ State Department of Public Health has general
9 supervision of the interests of the health and lives of the
10 people of the State. It has supreme authority in matters of
11 quarantine and isolation, and may declare and enforce
12 quarantine and isolation when none exists, and may modify or
13 relax quarantine and isolation when it has been established.
14 The Department may adopt, promulgate, repeal and amend rules
15 and regulations and make such sanitary investigations and
16 inspections as it may from time to time deem necessary for the
17 preservation and improvement of the public health, consistent
18 with law regulating the following:

19 (1) Transportation of the remains of deceased persons.

20 (2) Sanitary practices relating to drinking water made
21 accessible to the public for human consumption or for
22 lavatory or culinary purposes.

23 (3) Sanitary practices relating to rest room

1 facilities made accessible to the public or to persons
2 handling food served to the public.

3 (4) Sanitary practices relating to disposal of human
4 wastes in or from all buildings and places where people
5 live, work or assemble.

6 The provisions of the Illinois Administrative Procedure
7 Act are hereby expressly adopted and shall apply to all
8 administrative rules and procedures of the Department of
9 Public Health under this Act, except that Section 5-35 of the
10 Illinois Administrative Procedure Act relating to procedures
11 for rule-making does not apply to the adoption of any rule
12 required by federal law in connection with which the
13 Department is precluded by law from exercising any discretion.

14 All local boards of health, health authorities and
15 officers, police officers, sheriffs and all other officers and
16 employees of the state or any locality shall enforce the rules
17 and regulations so adopted and orders issued by the Department
18 pursuant to this Section.

19 The Department of Public Health shall conduct a public
20 information campaign to inform Hispanic women of the high
21 incidence of breast cancer and the importance of mammograms
22 and where to obtain a mammogram. This requirement may be
23 satisfied by translation into Spanish and distribution of the
24 breast cancer summaries required by Section 2310-345 of the
25 Department of Public Health Powers and Duties Law (20 ILCS
26 2310/2310-345). The information provided by the Department of

1 Public Health shall include (i) a statement that mammography
2 is the most accurate method for making an early detection of
3 breast cancer, however, no diagnostic tool is 100% effective
4 and (ii) instructions for performing breast self-examination
5 and a statement that it is important to perform a breast
6 self-examination monthly.

7 The Department of Public Health shall investigate the
8 causes of dangerously contagious or infectious diseases,
9 especially when existing in epidemic form, and take means to
10 restrict and suppress the same, and whenever such disease
11 becomes, or threatens to become epidemic, in any locality and
12 the local board of health or local authorities neglect or
13 refuse to enforce efficient measures for its restriction or
14 suppression or to act with sufficient promptness or
15 efficiency, or whenever the local board of health or local
16 authorities neglect or refuse to promptly enforce efficient
17 measures for the restriction or suppression of dangerously
18 contagious or infectious diseases, the Department of Public
19 Health may enforce such measures as it deems necessary to
20 protect the public health, and all necessary expenses so
21 incurred shall be paid by the locality for which services are
22 rendered.

23 (b) Subject to the provisions of subsection (c), the
24 Department may order a person or group of persons to be
25 quarantined or isolated or may order a place to be closed and
26 made off limits to the public to prevent the probable spread of

1 a dangerously contagious or infectious disease, including
2 non-compliant tuberculosis patients, until such time as the
3 condition can be corrected or the danger to the public health
4 eliminated or reduced in such a manner that no substantial
5 danger to the public's health any longer exists. Orders for
6 isolation of a person or quarantine of a place to prevent the
7 probable spread of a sexually transmissible disease shall be
8 governed by the provisions of Section 7 of the Illinois
9 Sexually Transmissible Disease Control Act and not this
10 Section.

11 (c) Except as provided in this Section, no person or a
12 group of persons may be ordered to be quarantined or isolated
13 and no place may be ordered to be closed and made off limits to
14 the public except with the consent of the person or owner of
15 the place or upon the prior order of a court of competent
16 jurisdiction. The Department may, however, order a person or a
17 group of persons to be quarantined or isolated or may order a
18 place to be closed and made off limits to the public on an
19 immediate basis without prior consent or court order if, in
20 the reasonable judgment of the Department, immediate action is
21 required to protect the public from a dangerously contagious
22 or infectious disease. In the event of an immediate order
23 issued without prior consent or court order, the Department
24 shall, as soon as practical, within 48 hours after issuing the
25 order, obtain the consent of the person or owner or file a
26 petition requesting a court order authorizing the isolation or

1 quarantine or closure. When exigent circumstances exist that
2 cause the court system to be unavailable or that make it
3 impossible to obtain consent or file a petition within 48
4 hours after issuance of an immediate order, the Department
5 must obtain consent or file a petition requesting a court
6 order as soon as reasonably possible. To obtain a court order,
7 the Department, by clear and convincing evidence, must prove
8 that the public's health and welfare are significantly
9 endangered by a person or group of persons that has, that is
10 suspected of having, that has been exposed to, or that is
11 reasonably believed to have been exposed to a dangerously
12 contagious or infectious disease including non-compliant
13 tuberculosis patients or by a place where there is a
14 significant amount of activity likely to spread a dangerously
15 contagious or infectious disease. The Department must also
16 prove that all other reasonable means of correcting the
17 problem have been exhausted and no less restrictive
18 alternative exists. For purposes of this subsection, in
19 determining whether no less restrictive alternative exists,
20 the court shall consider evidence showing that, under the
21 circumstances presented by the case in which an order is
22 sought, quarantine or isolation is the measure provided for in
23 a rule of the Department or in guidelines issued by the Centers
24 for Disease Control and Prevention or the World Health
25 Organization. Persons who are or are about to be ordered to be
26 isolated or quarantined and owners of places that are or are

1 about to be closed and made off limits to the public shall have
2 the right to counsel. If a person or owner is indigent, the
3 court shall appoint counsel for that person or owner. Persons
4 who are ordered to be isolated or quarantined or who are owners
5 of places that are ordered to be closed and made off limits to
6 the public, shall be given a written notice of such order. The
7 written notice shall additionally include the following: (1)
8 notice of the right to counsel; (2) notice that if the person
9 or owner is indigent, the court will appoint counsel for that
10 person or owner; (3) notice of the reason for the order for
11 isolation, quarantine, or closure; (4) notice of whether the
12 order is an immediate order, and if so, the time frame for the
13 Department to seek consent or to file a petition requesting a
14 court order as set out in this subsection; and (5) notice of
15 the anticipated duration of the isolation, quarantine, or
16 closure.

17 (d) The Department may order physical examinations and
18 tests and collect laboratory specimens as necessary for the
19 diagnosis or treatment of individuals in order to prevent the
20 probable spread of a dangerously contagious or infectious
21 disease. Physical examinations, tests, or collection of
22 laboratory specimens must not be such as are reasonably likely
23 to lead to serious harm to the affected individual. To prevent
24 the spread of a dangerously contagious or infectious disease,
25 the Department may, pursuant to the provisions of subsection
26 (c) of this Section, isolate or quarantine any person whose

1 refusal of physical examination or testing or collection of
2 laboratory specimens results in uncertainty regarding whether
3 he or she has been exposed to or is infected with a dangerously
4 contagious or infectious disease or otherwise poses a danger
5 to the public's health. An individual may refuse to consent to
6 a physical examination, test, or collection of laboratory
7 specimens. An individual shall be given a written notice that
8 shall include notice of the following: (i) that the individual
9 may refuse to consent to physical examination, test, or
10 collection of laboratory specimens; (ii) that if the
11 individual consents to physical examination, tests, or
12 collection of laboratory specimens, the results of that
13 examination, test, or collection of laboratory specimens may
14 subject the individual to isolation or quarantine pursuant to
15 the provisions of subsection (c) of this Section; (iii) that
16 if the individual refuses to consent to physical examination,
17 tests, or collection of laboratory specimens and that refusal
18 results in uncertainty regarding whether he or she has been
19 exposed to or is infected with a dangerously contagious or
20 infectious disease or otherwise poses a danger to the public's
21 health, the individual may be subject to isolation or
22 quarantine pursuant to the provisions of subsection (c) of
23 this Section; and (iv) that if the individual refuses to
24 consent to physical examinations, tests, or collection of
25 laboratory specimens and becomes subject to isolation and
26 quarantine as provided in this subsection (d), he or she shall

1 have the right to counsel pursuant to the provisions of
2 subsection (c) of this Section. To the extent feasible without
3 endangering the public's health, the Department shall respect
4 and accommodate the religious beliefs of individuals in
5 implementing this subsection.

6 (e) The Department may order the administration of
7 vaccines, medications, or other treatments to persons as
8 necessary in order to prevent the probable spread of a
9 dangerously contagious or infectious disease. A vaccine,
10 medication, or other treatment to be administered must not be
11 such as is reasonably likely to lead to serious harm to the
12 affected individual. To prevent the spread of a dangerously
13 contagious or infectious disease, the Department may, pursuant
14 to the provisions of subsection (c) of this Section, isolate
15 or quarantine persons who are unable or unwilling to receive
16 vaccines, medications, or other treatments pursuant to this
17 Section. An individual may refuse to receive vaccines,
18 medications, or other treatments. An individual shall be given
19 a written notice that shall include notice of the following:
20 (i) that the individual may refuse to consent to vaccines,
21 medications, or other treatments; (ii) that if the individual
22 refuses to receive vaccines, medications, or other treatments,
23 the individual may be subject to isolation or quarantine
24 pursuant to the provisions of subsection (c) of this Section;
25 and (iii) that if the individual refuses to receive vaccines,
26 medications, or other treatments and becomes subject to

1 isolation or quarantine as provided in this subsection (e), he
2 or she shall have the right to counsel pursuant to the
3 provisions of subsection (c) of this Section. To the extent
4 feasible without endangering the public's health, the
5 Department shall respect and accommodate the religious beliefs
6 of individuals in implementing this subsection.

7 (f) The Department may order observation and monitoring of
8 persons to prevent the probable spread of a dangerously
9 contagious or infectious disease. To prevent the spread of a
10 dangerously contagious or infectious disease, the Department
11 may, pursuant to the provisions of subsection (c) of this
12 Section, isolate or quarantine persons whose refusal to
13 undergo observation and monitoring results in uncertainty
14 regarding whether he or she has been exposed to or is infected
15 with a dangerously contagious or infectious disease or
16 otherwise poses a danger to the public's health. An individual
17 may refuse to undergo observation and monitoring. An
18 individual shall be given written notice that shall include
19 notice of the following: (i) that the individual may refuse to
20 undergo observation and monitoring; (ii) that if the
21 individual consents to observation and monitoring, the results
22 of that observation and monitoring may subject the individual
23 to isolation or quarantine pursuant to the provisions of
24 subsection (c) of this Section; (iii) that if the individual
25 refuses to undergo observation and monitoring and that refusal
26 results in uncertainty regarding whether he or she has been

1 exposed to or is infected with a dangerously contagious or
2 infectious disease or otherwise poses a danger to the public's
3 health, the individual may be subject to isolation or
4 quarantine pursuant to the provisions of subsection (c) of
5 this Section; and (iv) that if the individual refuses to
6 undergo observation and monitoring and becomes subject to
7 isolation or quarantine as provided in this subsection (f), he
8 or she shall have the right to counsel pursuant to the
9 provisions of subsection (c) of this Section.

10 (g) To prevent the spread of a dangerously contagious or
11 infectious disease among humans, the Department may examine,
12 test, disinfect, seize, or destroy animals or other related
13 property believed to be sources of infection. An owner of such
14 animal or other related property shall be given written notice
15 regarding such examination, testing, disinfection, seizure, or
16 destruction. When the Department determines that any animal or
17 related property is infected with or has been exposed to a
18 dangerously contagious or infectious disease, it may agree
19 with the owner upon the value of the animal or of any related
20 property that it may be found necessary to destroy, and in case
21 such an agreement cannot be made, the animals or related
22 property shall be appraised by 3 competent and disinterested
23 appraisers, one to be selected by the Department, one by the
24 claimant, and one by the 2 appraisers thus selected. The
25 appraisers shall subscribe to an oath made in writing to
26 fairly value the animals or related property in accordance

1 with the requirements of this Act. The oath, together with the
2 valuation fixed by the appraisers, shall be filed with the
3 Department and preserved by it. Upon the appraisal being made,
4 the owner or the Department shall immediately destroy the
5 animals by "humane euthanasia" as that term is defined in
6 Section 2.09 of the Humane Care for Animals Act. Dogs and cats,
7 however, shall be euthanized pursuant to the provisions of the
8 Humane Euthanasia in Animal Shelters Act. The owner or the
9 Department shall additionally, dispose of the carcasses, and
10 disinfect, change, or destroy the premises occupied by the
11 animals, in accordance with rules prescribed by the Department
12 governing such destruction and disinfection. Upon his or her
13 failure so to do or to cooperate with the Department, the
14 Department shall cause the animals or related property to be
15 destroyed and disposed of in the same manner, and thereupon
16 the owner shall forfeit all right to receive any compensation
17 for the destruction of the animals or related property. All
18 final administrative decisions of the Department hereunder
19 shall be subject to judicial review pursuant to the provisions
20 of the Administrative Review Law, and all amendments and
21 modifications thereof, and the rules adopted pursuant thereto.
22 The term "administrative decision" is defined as in Section
23 3-101 of the Code of Civil Procedure.

24 (h) To prevent the spread of a dangerously contagious or
25 infectious disease, the Department, local boards of health,
26 and local public health authorities shall have emergency

1 access to medical or health information or records or data
2 upon the condition that the Department, local boards of
3 health, and local public health authorities shall protect the
4 privacy and confidentiality of any medical or health
5 information or records or data obtained pursuant to this
6 Section in accordance with federal and State law.
7 Additionally, any such medical or health information or
8 records or data shall be exempt from inspection and copying
9 under the Freedom of Information Act. Other than a hearing for
10 the purpose of this Act, any information, records, reports,
11 statements, notes, memoranda, or other data in the possession
12 of the Department, local boards of health, or local public
13 health authorities shall not be admissible as evidence, nor
14 discoverable in any action of any kind in any court or before
15 any tribunal, board, agency, or person. The access to or
16 disclosure of any of this information or data by the
17 Department, a local board of health, or a local public
18 authority shall not waive or have any effect upon its
19 non-discoverability or non-admissibility. Any person,
20 facility, institution, or agency that provides emergency
21 access to health information and data under this subsection
22 shall have immunity from any civil or criminal liability, or
23 any other type of liability that might otherwise result by
24 reason of these actions except in the event of willful and
25 wanton misconduct. The privileged quality of communication
26 between any professional person or any facility shall not

1 constitute grounds for failure to provide emergency access.
2 Nothing in this subsection shall prohibit the sharing of
3 information as authorized in Section 2.1 of this Act. The
4 disclosure of any of this information, records, reports,
5 statements, notes, memoranda, or other data obtained in any
6 activity under this Act, except that necessary for the
7 purposes of this Act, is unlawful, and any person convicted of
8 violating this provision is guilty of a Class A misdemeanor.

9 (i) (A) The Department, in order to prevent and
10 control disease, injury, or disability among citizens of
11 the State of Illinois, may develop and implement, in
12 consultation with local public health authorities, a
13 Statewide system for syndromic data collection through the
14 access to interoperable networks, information exchanges,
15 and databases. The Department may also develop a system
16 for the reporting of comprehensive, integrated data to
17 identify and address unusual occurrences of disease
18 symptoms and other medical complexes affecting the
19 public's health.

20 (B) The Department may enter into contracts or
21 agreements with individuals, corporations, hospitals,
22 universities, not-for-profit corporations, governmental
23 entities, or other organizations, whereby those
24 individuals or entities agree to provide assistance in the
25 compilation of the syndromic data collection and reporting
26 system.

1 (C) The Department shall not release any syndromic
2 data or information obtained pursuant to this subsection
3 to any individuals or entities for purposes other than the
4 protection of the public health. All access to data by the
5 Department, reports made to the Department, the identity
6 of or facts that would tend to lead to the identity of the
7 individual who is the subject of the report, and the
8 identity of or facts that would tend to lead to the
9 identity of the author of the report shall be strictly
10 confidential, are not subject to inspection or
11 dissemination, and shall be used only for public health
12 purposes by the Department, local public health
13 authorities, or the Centers for Disease Control and
14 Prevention. Entities or individuals submitting reports or
15 providing access to the Department shall not be held
16 liable for the release of information or confidential data
17 to the Department in accordance with this subsection.

18 (D) Nothing in this subsection prohibits the sharing
19 of information as authorized in Section 2.1 of this Act.

20 (j) This Section shall be considered supplemental to the
21 existing authority and powers of the Department and shall not
22 be construed to restrain or restrict the Department in
23 protecting the public health under any other provisions of the
24 law.

25 (k) Any person who knowingly or maliciously disseminates
26 any false information or report concerning the existence of

1 any dangerously contagious or infectious disease in connection
2 with the Department's power of quarantine, isolation and
3 closure or refuses to comply with a quarantine, isolation or
4 closure order is guilty of a Class A misdemeanor.

5 (l) The Department of Public Health may establish and
6 maintain a chemical and bacteriologic laboratory for the
7 examination of water and wastes, and for the diagnosis of
8 diphtheria, typhoid fever, tuberculosis, malarial fever and
9 such other diseases as it deems necessary for the protection
10 of the public health.

11 As used in this Act, "locality" means any governmental
12 agency which exercises power pertaining to public health in an
13 area less than the State.

14 The terms "sanitary investigations and inspections" and
15 "sanitary practices" as used in this Act shall not include or
16 apply to "Public Water Supplies" or "Sewage Works" as defined
17 in the Environmental Protection Act. The Department may adopt
18 rules that are reasonable and necessary to implement and
19 effectuate this amendatory Act of the 93rd General Assembly.

20 (m) The public health measures set forth in subsections
21 (a) through (h) of this Section may be used by the Department
22 to respond to chemical, radiological, or nuclear agents or
23 events. The individual provisions of subsections (a) through
24 (h) of this Section apply to any order issued by the Department
25 under this Section. The provisions of subsection (k) apply to
26 chemical, radiological, or nuclear agents or events. Prior to

1 the Department issuing an order for public health measures set
2 forth in this Act for chemical, radiological, or nuclear
3 agents or events as authorized in subsection (m), the
4 Department and the Illinois Emergency Management Agency shall
5 consult in accordance with the Illinois emergency response
6 framework. When responding to chemical, radiological, or
7 nuclear agents or events, the Department shall determine the
8 health related risks and appropriate public health response
9 measures and provide recommendations for response to the
10 Illinois Emergency Management Agency. Nothing in this Section
11 shall supersede the current National Incident Management
12 System and the Illinois Emergency Operation Plan or response
13 plans and procedures established pursuant to IEMA statutes.

14 (Source: P.A. 96-698, eff. 8-25-09.)