

SB0401



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB0401

Introduced 2/6/2009, by Sen. John J. Cullerton

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.

LRB096 06432 RCE 16516 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 Public
9 Health under this Act, except that Section 5-35 of the Illinois
10 Administrative Procedure Act relating to procedures for
11 rule-making does not apply to the adoption of any rule required
12 by federal law in connection with which the Department is
13 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 and
22 where to obtain a mammogram. This requirement may be satisfied
23 by translation into Spanish and distribution of the breast
24 cancer summaries required by Section 2310-345 of the Department
25 of Public Health Powers and Duties Law (20 ILCS 2310/2310-345).
26 The information provided by the Department of Public Health

1 shall include (i) a statement that mammography is the most
2 accurate method for making an early detection of breast cancer,
3 however, no diagnostic tool is 100% effective and (ii)
4 instructions for performing breast self-examination and a
5 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 efficiency,
15 or whenever the local board of health or local authorities
16 neglect or refuse to promptly enforce efficient measures for
17 the restriction or suppression of dangerously contagious or
18 infectious diseases, the Department of Public Health may
19 enforce such measures as it deems necessary to protect the
20 public health, and all necessary expenses so incurred shall be
21 paid by the locality for which services are rendered.

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

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

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

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

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

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

1 he or she has been exposed to or is infected with a dangerously
2 contagious or infectious disease or otherwise poses a danger to
3 the public's health. An individual may refuse to consent to a
4 physical examination, test, or collection of laboratory
5 specimens. An individual shall be given a written notice that
6 shall include notice of the following: (i) that the individual
7 may refuse to consent to physical examination, test, or
8 collection of laboratory specimens; (ii) that if the individual
9 consents to physical examination, tests, or collection of
10 laboratory specimens, the results of that examination, test, or
11 collection of laboratory specimens may subject the individual
12 to isolation or quarantine pursuant to the provisions of
13 subsection (c) of this Section; (iii) that if the individual
14 refuses to consent to physical examination, tests, or
15 collection of laboratory specimens and that refusal results in
16 uncertainty regarding whether he or she has been exposed to or
17 is infected with a dangerously contagious or infectious disease
18 or otherwise poses a danger to the public's health, the
19 individual may be subject to isolation or quarantine pursuant
20 to the provisions of subsection (c) of this Section; and (iv)
21 that if the individual refuses to consent to physical
22 examinations, tests, or collection of laboratory specimens and
23 becomes subject to isolation and quarantine as provided in this
24 subsection (d), he or she shall have the right to counsel
25 pursuant to the provisions of subsection (c) of this Section.
26 To the extent feasible without endangering the public's health,

1 the Department shall respect and accommodate the religious
2 beliefs of individuals in implementing this subsection.

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

1 feasible without endangering the public's health, the
2 Department shall respect and accommodate the religious beliefs
3 of individuals in implementing this subsection.

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

1 quarantine pursuant to the provisions of subsection (c) of this
2 Section; and (iv) that if the individual refuses to undergo
3 observation and monitoring and becomes subject to isolation or
4 quarantine as provided in this subsection (f), he or she shall
5 have the right to counsel pursuant to the provisions of
6 subsection (c) of this Section.

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

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

21 (h) To prevent the spread of a dangerously contagious or
22 infectious disease, the Department, local boards of health, and
23 local public health authorities shall have emergency access to
24 medical or health information or records or data upon the
25 condition that the Department, local boards of health, and
26 local public health authorities shall protect the privacy and

1 confidentiality of any medical or health information or records
2 or data obtained pursuant to this Section in accordance with
3 federal and State law. Additionally, any such medical or health
4 information or records or data shall be exempt from inspection
5 and copying under the Freedom of Information Act. Other than a
6 hearing for the purpose of this Act, any information, records,
7 reports, statements, notes, memoranda, or other data in the
8 possession of the Department, local boards of health, or local
9 public health authorities shall not be admissible as evidence,
10 nor discoverable in any action of any kind in any court or
11 before any tribunal, board, agency, or person. The access to or
12 disclosure of any of this information or data by the
13 Department, a local board of health, or a local public
14 authority shall not waive or have any effect upon its
15 non-discoverability or non-admissibility. Any person,
16 facility, institution, or agency that provides emergency
17 access to health information and data under this subsection
18 shall have immunity from any civil or criminal liability, or
19 any other type of liability that might otherwise result by
20 reason of these actions except in the event of willful and
21 wanton misconduct. The privileged quality of communication
22 between any professional person or any facility shall not
23 constitute grounds for failure to provide emergency access.
24 Nothing in this subsection shall prohibit the sharing of
25 information as authorized in Section 2.1 of this Act. The
26 disclosure of any of this information, records, reports,

1 statements, notes, memoranda, or other data obtained in any
2 activity under this Act, except that necessary for the purposes
3 of this Act, is unlawful, and any person convicted of violating
4 this provision is guilty of a Class A misdemeanor.

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

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

22 (C) The Department shall not release any syndromic data
23 or information obtained pursuant to this subsection to any
24 individuals or entities for purposes other than the
25 protection of the public health. All access to data by the
26 Department, reports made to the Department, the identity of

1 or facts that would tend to lead to the identity of the
2 individual who is the subject of the report, and the
3 identity of or facts that would tend to lead to the
4 identity of the author of the report shall be strictly
5 confidential, are not subject to inspection or
6 dissemination, and shall be used only for public health
7 purposes by the Department, local public health
8 authorities, or the Centers for Disease Control and
9 Prevention. Entities or individuals submitting reports or
10 providing access to the Department shall not be held liable
11 for the release of information or confidential data to the
12 Department in accordance with this subsection.

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

15 (j) This Section shall be considered supplemental to the
16 existing authority and powers of the Department and shall not
17 be construed to restrain or restrict the Department in
18 protecting the public health under any other provisions of the
19 law.

20 (k) Any person who knowingly or maliciously disseminates
21 any false information or report concerning the existence of any
22 dangerously contagious or infectious disease in connection
23 with the Department's power of quarantine, isolation and
24 closure or refuses to comply with a quarantine, isolation or
25 closure order is guilty of a Class A misdemeanor.

26 (l) The Department of Public Health may establish and

1 maintain a chemical and bacteriologic laboratory for the
2 examination of water and wastes, and for the diagnosis of
3 diphtheria, typhoid fever, tuberculosis, malarial fever and
4 such other diseases as it deems necessary for the protection of
5 the public health.

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

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

15 (Source: P.A. 93-829, eff. 7-28-04.)