



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

HB3120

Introduced 2/19/2021, by Rep. Edgar Gonzalez, Jr.

#### SYNOPSIS AS INTRODUCED:

410 ILCS 50/3.5 new

Amends the Medical Patient Rights Act. Provides that all contact tracing information shall be kept confidential by any contact tracer and may not be disclosed except as necessary to carry out contact tracing or a permitted purpose. Provides that an individual may waive the confidentiality provided for by this Section only by a written, informed, and voluntary waiver, in plain language and in a language understandable to the individual making the waiver, and not part of any other document. Provides that a disclosure of contact tracing information shall be limited in scope as to the identity of any individual, the information to be disclosed, and the party to which disclosure may be made, and shall not authorize re-disclosure except as explicitly authorized by the terms of the waiver. Provides that the provisions do not bar otherwise lawful disclosure, possession, or use of contact tracing information, including aggregate contact tracing information, that is de-identified. Requires disclosure, possession, or use under the provisions to only be for a public health or public health research purpose. Provides that no contact tracer may provide contact tracing information to a law enforcement agent or entity or immigration authority. Requires the Department of Public Health to adopt specified rules. Contains other provisions. Effective immediately.

LRB102 10779 CPF 16109 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning health.

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

4 Section 5. The Medical Patient Rights Act is amended by  
5 adding Section 3.5 as follows:

6 (410 ILCS 50/3.5 new)

7 Sec. 3.5. COVID-19 contact tracing; confidentiality.

8 (a) In this Section:

9 "Contact individual" means an individual who has or may  
10 have come in contact with a principal individual or who has or  
11 may have been exposed to and possibly infected with COVID-19.

12 "Contact tracer" mean an individual or entity employed by  
13 or under contract with the State, a local government, a State  
14 or local governmental entity, or an agent thereof, to conduct  
15 contact tracing, engage in contact tracing, or receive contact  
16 tracing information.

17 "Contact tracing" means case investigation and  
18 identification of principal individuals and contact  
19 individuals.

20 "Contact tracing information" means any information that  
21 includes or can reveal the identity of any principal  
22 individual or contact individual and any COVID-19-related  
23 information or test results received or collected for the

1 purpose or in the course of contact tracing.

2 "COVID-19" means infection with or the disease caused by  
3 the severe acute respiratory syndrome coronavirus 2  
4 (SARS-CoV-2).

5 "De-identified" means, in relation to contact tracing  
6 information, that the information cannot identify, be made to  
7 identify, or be associated with a particular individual,  
8 directly or indirectly, and is subject to technical safeguards  
9 and policies and procedures that prevent re-identification,  
10 whether intentionally or unintentionally, of any individual.

11 "Department" means the Department of Public Health.

12 "Immigration authority" means any entity, officer,  
13 employee, or government employee or agent thereof charged with  
14 or engaged in enforcement of the federal Immigration and  
15 Nationality Act, including the United States Immigration and  
16 Customs Enforcement or United States Customs and Border  
17 Protection, or any successor legislation or entity.

18 "Law enforcement agent or entity" means any governmental  
19 entity or public servant, or agent, contractor, or employee  
20 thereof, authorized to investigate, prosecute, or make an  
21 arrest for a criminal or civil offense, or engaged in any such  
22 activity, but shall not mean the Department, a local health  
23 department, a county health department, a local board of  
24 health, or a local health officer.

25 "Permitted purpose" means:

26 (1) disclosure to appropriate health care providers or

1 their personnel for the purpose of the clinical diagnosis,  
2 care, or treatment of the principal individual or contact  
3 individual who is the subject of the information where an  
4 emergency exists and the individual is in immediate need  
5 of medical attention and an attempt to secure consent  
6 would result in delay of treatment that would increase the  
7 risk to the individual's life or health;

8 (2) facilitation of a legally authorized public  
9 health-related action, in relation to a specified  
10 principal individual or contact individual, where and only  
11 to the extent necessary it is to protect the public  
12 health; or

13 (3) the investigation, prosecution, or defense of a  
14 civil or legal action for a violation of this Section;  
15 provided that if the use is initiated by a party other than  
16 the principal individual or contact individual who is the  
17 subject of the contact tracing information, the  
18 information must be highly material and relevant for the  
19 purpose.

20 "Principal individual" means an individual with a  
21 confirmed or probable diagnosis of COVID-19.

22 "Support" means resources or services provided to an  
23 individual to enable the individual to safely quarantine or  
24 isolate, including grocery, meal, or pharmacy delivery,  
25 laundry services, child or elder care, pet walking, assistance  
26 with telephone, Internet, or other communication services or

1 devices, health and mental health services, legal services,  
2 provision of appropriate living space for individuals who  
3 cannot isolate or quarantine at home, and income replacement.  
4 "Support" includes support provided to other individuals for  
5 whom the individual commonly provides those resources or  
6 services.

7 (b) All contact tracing information shall be kept  
8 confidential by any contact tracer and may not be disclosed  
9 except as necessary to carry out contact tracing or a  
10 permitted purpose.

11 Where a contact tracer discloses contact tracing  
12 information for a permitted purpose, the contact tracer shall  
13 make a record of the disclosure, including to whom it was made,  
14 which shall be part of the contact tracing information.

15 (c) An individual may waive the confidentiality provided  
16 for by this Section only by a written, informed, and voluntary  
17 waiver, in plain language and in a language understandable to  
18 the individual making the waiver, and not part of any other  
19 document. The waiver shall state the scope and limit of the  
20 waiver. If an individual lacks the capacity to make a waiver,  
21 an individual authorized to consent to health care for the  
22 individual, or the individual's legal representative, may make  
23 the waiver. However, a waiver of confidentiality is not  
24 required to be written if it is solely for the purpose of  
25 arranging or providing support for the individual who is the  
26 subject of the contact tracing information.

1       A waiver of confidentiality under this subsection shall  
2 only apply for the purpose of arranging or providing support  
3 if the individual who is the subject of the contact tracing  
4 information provides voluntary, informed consent to the  
5 arranging or providing of the support.

6       (d) A disclosure of contact tracing information authorized  
7 under this Section shall be limited in scope as to the identity  
8 of any individual, the information to be disclosed, and the  
9 party to which disclosure may be made, and as necessary to  
10 achieve the purpose of the disclosure under this Section, and  
11 shall not authorize re-disclosure except as explicitly  
12 authorized by the terms of the waiver under subsection (c).  
13 However, this Section does not bar disclosure of contact  
14 tracing information pertaining to and identifying a principal  
15 individual or contact individual by the individual who is  
16 identified.

17       (e) This Section does not bar otherwise lawful disclosure,  
18 possession, or use of contact tracing information, including  
19 aggregate contact tracing information, that is de-identified.  
20 Disclosure, possession, or use under this Section shall only  
21 be for a public health or public health research purpose.

22       A person or entity may only possess or use de-identified  
23 contact tracing information if the person or entity maintains  
24 technical safeguards and policies and procedures that prevent  
25 re-identification, whether intentional or unintentional, of  
26 any individual, as may be required by the Department. The

1 Department shall require safeguards, policies, and procedures  
2 under this Section, as the Department deems practicable.

3 Disclosure, possession, and use of de-identified contact  
4 tracing information under this Section shall be only pursuant  
5 to approval by the Department specifying the purpose, nature,  
6 and scope of the disclosure, possession, and use and measures  
7 to ensure that it will comply with this Section and the terms  
8 of the approval.

9 (f) No law enforcement agent or entity or immigration  
10 authority shall be a contact tracer or engage in contact  
11 tracing. This subsection does not bar an individual who is  
12 associated with a law enforcement entity or immigration  
13 authority from acting only as a principal individual or  
14 contact individual.

15 (g) No contact tracer may provide contact tracing  
16 information to a law enforcement agent or entity or  
17 immigration authority. Without consent under subsection (c),  
18 contact tracing information and any evidence derived therefrom  
19 shall not be subject to or provided in response to any legal  
20 process or be admissible for any purpose in any judicial or  
21 administrative action or proceeding. However, this subsection  
22 does not restrict providing information relating to a  
23 specified principal individual or contact individual where a  
24 permitted purpose exists, and only to the extent necessary for  
25 the permitted purpose.

26 (h) The Department shall adopt rules to require that

1 contact tracing information possessed, used, or under the  
2 control of a contact tracer shall be subject to technical  
3 safeguards and policies and procedures for storage,  
4 transmission, use, and protection of the information. The  
5 rules shall prevent possession, use, or disclosure of the  
6 contact tracing information not permitted by this Section and  
7 shall be at least as or more protective than the safeguards,  
8 policies, and procedures the Department provides for other  
9 confidential information.

10 This subsection applies where contact tracing information  
11 is possessed or controlled by a contact tracer that is a  
12 nongovernmental individual or entity employed by or under  
13 contract with a governmental entity or an agent thereof.  
14 Within 30 days after collecting or receiving the contact  
15 tracing information, the nongovernmental individual or entity  
16 shall (i) remove information from its possession or control  
17 and deliver it to the appropriate governmental contact tracing  
18 entity, retaining no copy of it; (ii) expunge the information  
19 from its possession or control; or (iii) de-identify the  
20 information. However, the expungement or de-identification of  
21 particular contact tracing information may be postponed for up  
22 to 15 days while the contact tracer is actively engaged in  
23 contact tracing using that information, provided that the  
24 principal individual or contact individual to whom it pertains  
25 gives voluntary informed consent. The disclosure, possession,  
26 and use of the de-identified contact tracing information shall



1 be subject to subsection (e).

2 (i) The Department shall adopt rules implementing this  
3 Section.

4 Section 99. Effective date. This Act takes effect upon  
5 becoming law.