



93RD GENERAL ASSEMBLY

State of Illinois

2003 and 2004

HB6921

Introduced 2/9/2004, by Elizabeth Coulson

SYNOPSIS AS INTRODUCED:

New Act
30 ILCS 805/8.28 new

Creates the Disease and Symptom Complex Surveillance and Reporting Act. Requires the Department of Public Health to develop a statewide system for reporting data on disease symptoms and symptom complexes. Provides for confidentiality of information and immunity from liability for reporting entities. Makes violation of the Act a Class A misdemeanor and authorizes administrative penalties. Preempts home rule. Amends the State Mandates Act to exempt from reimbursement. Effective immediately.

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CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

HOME RULE NOTE
ACT MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

1 AN ACT concerning public health.

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

4 Section 1. Short title. This Act may be cited as the
5 Disease and Symptom Complex Surveillance and Reporting Act.

6 Section 5. Legislative findings and purpose.

7 (a) The General Assembly finds that: (i) protection of the
8 public health and welfare of the citizens of Illinois requires
9 immediate access by State government to information regarding
10 outbreaks of disease symptoms and other medical symptom
11 complexes; (ii) although systems exist within State government
12 to access and maintain databases as to certain medical
13 symptoms, these existing systems are not designed to furnish
14 the immediately available integrated statewide surveillance
15 and data access needed to promptly address unusual occurrences
16 of disease symptoms and other medical symptom complexes; (iii)
17 it is the obligation of State government to protect the
18 citizens of the State of Illinois by developing such an
19 immediately accessible, comprehensive, and integrated data
20 surveillance and collection system regarding outbreaks of
21 disease symptoms and other medical symptom complexes.

22 (b) The purpose of this Act is to establish a
23 comprehensive, integrated statewide data surveillance and
24 collection system, through electronic and other appropriate
25 means, that contains immediately accessible, comprehensive,
26 and integrated data regarding disease symptoms and other
27 medical symptom complexes; provided, however, that such system
28 shall contain stringent confidentiality and privacy
29 protections for individually identifiable health information.

30 Section 10. Definitions. For purposes of this Act, unless
31 the context requires otherwise:

1 "Communicable Diseases Code" means the Illinois Control of
2 Communicable Diseases Code.

3 "Department" means the Illinois Department of Public
4 Health.

5 "Director" means the Director of Public Health.

6 "Disease symptoms" means medical symptoms of communicable
7 or non-communicable diseases, and, for purposes of
8 communicable diseases, includes without limitation those
9 diseases reportable under the Illinois Control of Communicable
10 Diseases Code.

11 "Individually identifiable health information" means
12 information collected pursuant to this Act that relates to the
13 past, present, or future physical or mental health or condition
14 of an individual or that relates to the provision of health
15 care to an individual, such that the information identifies the
16 individual or there is reasonable basis to believe the
17 information can be used to identify the individual.

18 "Medical symptom complex" means symptoms or symptom
19 clusters for other than disease, including without limitation
20 those required to be reported under the Illinois Health and
21 Hazardous Substances Registry Act.

22 Section 15. Data system. The Department, in order to
23 prevent and control disease, injury, or disability among
24 citizens of the State of Illinois, shall establish a statewide
25 system of uninterrupted access to surveillance, interoperable
26 networks, information exchange, and data protocols, a
27 comprehensive system of reporting to State government, and
28 immediate access to medical data, treatment guidelines and
29 health alerts, for disease symptoms and medical symptom
30 complexes. This system shall use electronic and other
31 appropriate means of communication. Individually identifiable
32 health information accessed through this system shall be
33 subject to, and protected by, the confidentiality and privacy
34 provisions set forth in Section 30.

1 Section 20. Emergency medical investigations. When the
2 Director determines that morbidity or mortality from a
3 particular set of disease symptoms or a medical symptom complex
4 warrants study to protect and control disease, injury, or
5 disability among citizens of the State of Illinois, the
6 Director may declare the disease symptoms or medical symptom
7 complex to be the subject of an emergency medical
8 investigation, and require the persons and entities identified
9 in Section 25 to submit or make available such information,
10 medical records, data, and reports as are necessary for the
11 purpose of the study. Individually identifiable health
12 information furnished pursuant to this Section shall be subject
13 to, and protected by, the confidentiality and privacy
14 protections set forth in Section 30. Nothing in this Act shall
15 be construed to compel any individual to submit to a medical
16 examination or medical supervision.

17 Section 25. Required participation. The following persons
18 and entities must participate in the surveillance and reporting
19 system described in Section 15 and the emergency medical
20 investigations described in Section 20, in accordance with the
21 provisions of this Act and the rules promulgated by the
22 Department:

23 (1) Physicians and physician group practices.

24 (2) Nurses.

25 (3) Nurse aides.

26 (4) Dentists.

27 (5) Health care practitioners.

28 (6) Hospitals and hospital personnel.

29 (7) Health insurance entities.

30 (8) Laboratories and laboratory personnel.

31 (9) Long-term care facilities and personnel.

32 (10) Community health centers, rural health clinics, and
33 public health clinics.

34 (11) Local health departments.

35 (12) State-operated health facilities.

- 1 (13) School personnel.
- 2 (14) Day care personnel.
- 3 (15) Pharmacies and pharmacy personnel.
- 4 (16) Coroners and medical examiners.
- 5 (17) Emergency medical technicians and other first
- 6 responders.

7 Section 30. Confidentiality of information obtained. All
8 reports made pursuant to the provisions of this Act shall be
9 strictly confidential, including the identity of the
10 individual who is the subject of the report and the identity of
11 the author of such report, and shall be used only for public
12 health purposes. The Department shall not release any data or
13 information obtained pursuant to this Act to any individuals or
14 entities for purposes other than protection of the public
15 health, unless the data or information can be de-identified
16 such that there is no reasonable basis to believe the data or
17 information that is released could be used to identify an
18 individual through such means as automated record linking
19 technology, data analysis and exchange, or any other similar
20 methods. The Department shall by rule or regulation establish
21 standards or guidelines for ensuring the protection of
22 information made confidential or privileged under law. The
23 privacy protections enumerated in this Section and the rules
24 promulgated thereunder shall be in addition to the privacy and
25 confidentiality provisions contained in the Communicable
26 Disease Report Act, the Control of Communicable Diseases Code,
27 and the Illinois Health and Hazardous Substances Registry Act.

28 Section 35. Admissibility as evidence. Individually
29 identifiable health information obtained by the Department
30 pursuant to the provisions of this Act and the regulations
31 promulgated under this Act shall not be admissible as evidence,
32 nor discoverable in any action of any kind in any court or
33 before any tribunal, board, agency, or person. The identity of
34 the individual or entity who makes a report to the Department

1 pursuant to this Act shall be confidential and shall not be
2 admissible as evidence, nor discoverable in any action of any
3 kind in any court or before any tribunal, board, agency, or
4 person. The disclosure of any such information or data, whether
5 proper or improper, shall not waive or have any effect upon its
6 confidentiality, nondiscoverability, or nonadmissibility. The
7 inadmissibility of information as evidence as described by this
8 Section shall be in addition to the similar inadmissibility
9 provisions contained in the Communicable Disease Report Act,
10 the Control of Communicable Diseases Code, and the Illinois
11 Health and Hazardous Substances Registry Act.

12 Section 40. Promulgation of rules. The Department shall
13 adopt any rules necessary to ensure proper implementation and
14 administration of this Act. Those rules shall include
15 provisions for the imposition of fines and other appropriate
16 civil remedies upon violation of this Act or the rules.

17 Section 45. Act takes precedence. In case of any conflict
18 between the provisions of this Act and any other law, executive
19 order, or administrative regulation, the provisions of this Act
20 shall prevail and control.

21 Section 50. Penalties. Any person who violates this Act
22 shall be guilty of a Class A misdemeanor and shall be fined a
23 sum not less than \$1,000 per violation. Each day's violation
24 constitutes a separate offense. The State's Attorney of the
25 county in which the violation occurred, or the Attorney
26 General, shall bring such actions in the name of the People of
27 the State of Illinois, and may, in addition to other remedies
28 provided in this Act, bring action for an injunction to
29 restrain such violation. Any person who violates any rule or
30 regulation adopted by the Department, or who violates any
31 determination or order of the Department thereunder, shall be
32 subject to fines of up to \$10,000 per violation and other
33 appropriate civil penalties as determined by the Department

1 through issuance of rules.

2 Section 55. Limited liability. The persons and entities
3 listed in items (1) through (17) of Section 25, who in good
4 faith report information described in Section 15 or participate
5 in an emergency medical investigation described in Section 5,
6 shall be immune from civil liability in connection with such
7 reporting or participation. The identity of any individual who
8 makes a report or who is identified in a report shall be
9 confidential and the identity of any person making a report or
10 named therein shall not be disclosed publicly or in any action
11 of any kind in any court or before any tribunal, board, or
12 agency. Nothing in this Act shall exonerate the persons and
13 entities listed in items (1) through (17) of Section 20 from
14 liability for injury caused by willful or wanton misconduct.

15 Section 60. Severability. If any provision or clause of
16 this Act or the application thereof to any person or
17 circumstances is held invalid, such invalidity shall not affect
18 other provisions or applications of the Act which can be given
19 effect without the invalid provision or application, and to
20 this end the provisions of this Act are declared to be
21 severable.

22 Section 65. Exclusive jurisdiction. It is declared to be
23 the law of this State that the regulation of disease symptoms
24 and symptom complexes as described in this Act is an exercise
25 of exclusive State power which may not be exercised
26 concurrently by any unit of local government, including home
27 rule units.

28 Section 90. The State Mandates Act is amended by adding
29 Section 8.28 as follows:

30 (30 ILCS 805/8.28 new)

31 Sec. 8.28. Exempt mandate. Notwithstanding Sections 6 and 8

1 of this Act, no reimbursement by the State is required for the
2 implementation of any mandate created by this amendatory Act of
3 the 93rd General Assembly.

4 Section 999. Effective date. This Act takes effect upon
5 becoming law.