



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB3922

Introduced 2/26/2009, by Rep. Greg Harris

SYNOPSIS AS INTRODUCED:

20 ILCS 2305/2

from Ch. 111 1/2, par. 22

Amends the Department of Public Health Act. In the provision concerning powers, mandates that the Department shall investigate the causes of dangerously contagious or infectious diseases and the health effects, health conditions, or health ailments related to a biological, chemical, radiological, or nuclear event (instead of dangerously contagious or infectious diseases). Sets forth the investigative powers of the Department concerning biological, chemical, radiological, and nuclear agents. Effective immediately.

LRB096 09187 RPM 19337 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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

25 (b) Subject to the provisions of subsection (c), the
26 Department may order a person or group of persons to be

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

14 (c) Except as provided in this Section, no person or a
15 group of persons may be ordered to be quarantined or isolated
16 and no place may be ordered to be closed and made off limits to
17 the public except with the consent of the person or owner of
18 the place or upon the prior order of a court of competent
19 jurisdiction. The Department may, however, order a person or a
20 group of persons to be quarantined or isolated or may order a
21 place to be closed and made off limits to the public on an
22 immediate basis without prior consent or court order if, in the
23 reasonable judgment of the Department, immediate action is
24 required to protect the public from a dangerously contagious or
25 infectious disease or biological, chemical, radiological, or
26 nuclear agent. In the event of an immediate order issued

1 without prior consent or court order, the Department shall, as
2 soon as practical, within 48 hours after issuing the order,
3 obtain the consent of the person or owner or file a petition
4 requesting a court order authorizing the isolation or
5 quarantine or closure. When exigent circumstances exist that
6 cause the court system to be unavailable or that make it
7 impossible to obtain consent or file a petition within 48 hours
8 after issuance of an immediate order, the Department must
9 obtain consent or file a petition requesting a court order as
10 soon as reasonably possible. To obtain a court order, the
11 Department, by clear and convincing evidence, must prove that
12 the public's health and welfare are significantly endangered by
13 a person or group of persons that has, that is suspected of
14 having, that has been exposed to, or that is reasonably
15 believed to have been exposed to a dangerously contagious or
16 infectious disease or biological, chemical, radiological, or
17 nuclear agent, including non-compliant tuberculosis patients
18 or by a place where there is a significant amount of activity
19 likely to spread a dangerously contagious or infectious disease
20 or biological, chemical, radiological, or nuclear agent. The
21 Department must also prove that all other reasonable means of
22 correcting the problem have been exhausted and no less
23 restrictive alternative exists. For purposes of this
24 subsection, in determining whether no less restrictive
25 alternative exists, the court shall consider evidence showing
26 that, under the circumstances presented by the case in which an

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

22 (d) The Department may order physical examinations and
23 tests and collect laboratory specimens as necessary for the
24 diagnosis or treatment of individuals in order to prevent the
25 probable spread of a dangerously contagious or infectious
26 disease or biological, chemical, radiological, or nuclear

1 agent. Physical examinations, tests, or collection of
2 laboratory specimens must not be such as are reasonably likely
3 to lead to serious harm to the affected individual. To prevent
4 the spread of a dangerously contagious or infectious disease or
5 biological, chemical, radiological, or nuclear agent, the
6 Department may, pursuant to the provisions of subsection (c) of
7 this Section, isolate or quarantine any person whose refusal of
8 physical examination or testing or collection of laboratory
9 specimens results in uncertainty regarding whether he or she
10 has been exposed to or is infected with a dangerously
11 contagious or infectious disease or biological, chemical,
12 radiological, or nuclear agent or otherwise poses a danger to
13 the public's health. An individual may refuse to consent to a
14 physical examination, test, or collection of laboratory
15 specimens. An individual shall be given a written notice that
16 shall include notice of the following: (i) that the individual
17 may refuse to consent to physical examination, test, or
18 collection of laboratory specimens; (ii) that if the individual
19 consents to physical examination, tests, or collection of
20 laboratory specimens, the results of that examination, test, or
21 collection of laboratory specimens may subject the individual
22 to isolation or quarantine pursuant to the provisions of
23 subsection (c) of this Section; (iii) that if the individual
24 refuses to consent to physical examination, tests, or
25 collection of laboratory specimens and that refusal results in
26 uncertainty regarding whether he or she has been exposed to or

1 is infected with a dangerously contagious or infectious disease
2 or otherwise poses a danger to the public's health, the
3 individual may be subject to isolation or quarantine pursuant
4 to the provisions of subsection (c) of this Section; and (iv)
5 that if the individual refuses to consent to physical
6 examinations, tests, or collection of laboratory specimens and
7 becomes subject to isolation and quarantine as provided in this
8 subsection (d), he or she shall have the right to counsel
9 pursuant to the provisions of subsection (c) of this Section.
10 To the extent feasible without endangering the public's health,
11 the Department shall respect and accommodate the religious
12 beliefs of individuals in implementing this subsection.

13 (e) The Department may order the administration of
14 vaccines, medications, or other treatments to persons as
15 necessary in order to prevent the probable spread of a
16 dangerously contagious or infectious disease or biological,
17 chemical, radiological, or nuclear agent. A vaccine,
18 medication, or other treatment to be administered must not be
19 such as is reasonably likely to lead to serious harm to the
20 affected individual. To prevent the spread of a dangerously
21 contagious or infectious disease or biological, chemical,
22 radiological, or nuclear agent, the Department may, pursuant to
23 the provisions of subsection (c) of this Section, isolate or
24 quarantine persons who are unable or unwilling to receive
25 vaccines, medications, or other treatments pursuant to this
26 Section. An individual may refuse to receive vaccines,

1 medications, or other treatments. An individual shall be given
2 a written notice that shall include notice of the following:
3 (i) that the individual may refuse to consent to vaccines,
4 medications, or other treatments; (ii) that if the individual
5 refuses to receive vaccines, medications, or other treatments,
6 the individual may be subject to isolation or quarantine
7 pursuant to the provisions of subsection (c) of this Section;
8 and (iii) that if the individual refuses to receive vaccines,
9 medications, or other treatments and becomes subject to
10 isolation or quarantine as provided in this subsection (e), he
11 or she shall have the right to counsel pursuant to the
12 provisions of subsection (c) of this Section. To the extent
13 feasible without endangering the public's health, the
14 Department shall respect and accommodate the religious beliefs
15 of individuals in implementing this subsection.

16 (f) The Department may order observation and monitoring of
17 persons to prevent the probable spread of a dangerously
18 contagious or infectious disease or biological, chemical,
19 radiological, or nuclear agent. To prevent the spread of a
20 dangerously contagious or infectious disease or biological,
21 chemical, radiological, or nuclear agent, the Department may,
22 pursuant to the provisions of subsection (c) of this Section,
23 isolate or quarantine persons whose refusal to undergo
24 observation and monitoring results in uncertainty regarding
25 whether he or she has been exposed to or is infected with a
26 dangerously contagious or infectious disease or biological,

1 chemical, radiological, or nuclear agent or otherwise poses a
2 danger to the public's health. An individual may refuse to
3 undergo observation and monitoring. An individual shall be
4 given written notice that shall include notice of the
5 following: (i) that the individual may refuse to undergo
6 observation and monitoring; (ii) that if the individual
7 consents to observation and monitoring, the results of that
8 observation and monitoring may subject the individual to
9 isolation or quarantine pursuant to the provisions of
10 subsection (c) of this Section; (iii) that if the individual
11 refuses to undergo observation and monitoring and that refusal
12 results in uncertainty regarding whether he or she has been
13 exposed to or is infected with a dangerously contagious or
14 infectious disease or biological, chemical, radiological, or
15 nuclear agent or otherwise poses a danger to the public's
16 health, the individual may be subject to isolation or
17 quarantine pursuant to the provisions of subsection (c) of this
18 Section; and (iv) that if the individual refuses to undergo
19 observation and monitoring and becomes subject to isolation or
20 quarantine as provided in this subsection (f), he or she shall
21 have the right to counsel pursuant to the provisions of
22 subsection (c) of this Section.

23 (g) To prevent the spread of a dangerously contagious or
24 infectious disease or biological, chemical, radiological, or
25 nuclear agent among humans, the Department may examine, test,
26 disinfect, seize, or destroy animals or other related property

1 believed to be sources of infection. An owner of such animal or
2 other related property shall be given written notice regarding
3 such examination, testing, disinfection, seizure, or
4 destruction. When the Department determines that any animal or
5 related property is infected with or has been exposed to a
6 dangerously contagious or infectious disease or biological,
7 chemical, radiological, or nuclear agent, it may agree with the
8 owner upon the value of the animal or of any related property
9 that it may be found necessary to destroy, and in case such an
10 agreement cannot be made, the animals or related property shall
11 be appraised by 3 competent and disinterested appraisers, one
12 to be selected by the Department, one by the claimant, and one
13 by the 2 appraisers thus selected. The appraisers shall
14 subscribe to an oath made in writing to fairly value the
15 animals or related property in accordance with the requirements
16 of this Act. The oath, together with the valuation fixed by the
17 appraisers, shall be filed with the Department and preserved by
18 it. Upon the appraisal being made, the owner or the Department
19 shall immediately destroy the animals by "humane euthanasia" as
20 that term is defined in Section 2.09 of the Humane Care for
21 Animals Act. Dogs and cats, however, shall be euthanized
22 pursuant to the provisions of the Humane Euthanasia in Animal
23 Shelters Act. The owner or the Department shall additionally,
24 dispose of the carcasses, and disinfect, change, or destroy the
25 premises occupied by the animals, in accordance with rules
26 prescribed by the Department governing such destruction and

1 disinfection. Upon his or her failure so to do or to cooperate
2 with the Department, the Department shall cause the animals or
3 related property to be destroyed and disposed of in the same
4 manner, and thereupon the owner shall forfeit all right to
5 receive any compensation for the destruction of the animals or
6 related property. All final administrative decisions of the
7 Department hereunder shall be subject to judicial review
8 pursuant to the provisions of the Administrative Review Law,
9 and all amendments and modifications thereof, and the rules
10 adopted pursuant thereto. The term "administrative decision"
11 is defined as in Section 3-101 of the Code of Civil Procedure.

12 (h) To prevent the spread of a dangerously contagious or
13 infectious disease or biological, chemical, radiological, or
14 nuclear agent, the Department, local boards of health, and
15 local public health authorities shall have emergency access to
16 medical or health information or records or data upon the
17 condition that the Department, local boards of health, and
18 local public health authorities shall protect the privacy and
19 confidentiality of any medical or health information or records
20 or data obtained pursuant to this Section in accordance with
21 federal and State law. Additionally, any such medical or health
22 information or records or data shall be exempt from inspection
23 and copying under the Freedom of Information Act. Other than a
24 hearing for the purpose of this Act, any information, records,
25 reports, statements, notes, memoranda, or other data in the
26 possession of the Department, local boards of health, or local

1 public health authorities shall not be admissible as evidence,
2 nor discoverable in any action of any kind in any court or
3 before any tribunal, board, agency, or person. The access to or
4 disclosure of any of this information or data by the
5 Department, a local board of health, or a local public
6 authority shall not waive or have any effect upon its
7 non-discoverability or non-admissibility. Any person,
8 facility, institution, or agency that provides emergency
9 access to health information and data under this subsection
10 shall have immunity from any civil or criminal liability, or
11 any other type of liability that might otherwise result by
12 reason of these actions except in the event of willful and
13 wanton misconduct. The privileged quality of communication
14 between any professional person or any facility shall not
15 constitute grounds for failure to provide emergency access.
16 Nothing in this subsection shall prohibit the sharing of
17 information as authorized in Section 2.1 of this Act. The
18 disclosure of any of this information, records, reports,
19 statements, notes, memoranda, or other data obtained in any
20 activity under this Act, except that necessary for the purposes
21 of this Act, is unlawful, and any person convicted of violating
22 this provision is guilty of a Class A misdemeanor.

23 (i) (A) The Department, in order to prevent and control
24 disease, injury, or disability among citizens of the State
25 of Illinois, may develop and implement, in consultation
26 with local public health authorities, a Statewide system

1 for syndromic data collection through the access to
2 interoperable networks, information exchanges, and
3 databases. The Department may also develop a system for the
4 reporting of comprehensive, integrated data to identify
5 and address unusual occurrences of disease symptoms and
6 other medical complexes affecting the public's health.

7 (B) The Department may enter into contracts or
8 agreements with individuals, corporations, hospitals,
9 universities, not-for-profit corporations, governmental
10 entities, or other organizations, whereby those
11 individuals or entities agree to provide assistance in the
12 compilation of the syndromic data collection and reporting
13 system.

14 (C) The Department shall not release any syndromic data
15 or information obtained pursuant to this subsection to any
16 individuals or entities for purposes other than the
17 protection of the public health. All access to data by the
18 Department, reports made to the Department, the identity of
19 or facts that would tend to lead to the identity of the
20 individual who is the subject of the report, and the
21 identity of or facts that would tend to lead to the
22 identity of the author of the report shall be strictly
23 confidential, are not subject to inspection or
24 dissemination, and shall be used only for public health
25 purposes by the Department, local public health
26 authorities, or the Centers for Disease Control and

1 Prevention. Entities or individuals submitting reports or
2 providing access to the Department shall not be held liable
3 for the release of information or confidential data to the
4 Department in accordance with this subsection.

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

7 (j) This Section shall be considered supplemental to the
8 existing authority and powers of the Department and shall not
9 be construed to restrain or restrict the Department in
10 protecting the public health under any other provisions of the
11 law.

12 (k) Any person who knowingly or maliciously disseminates
13 any false information or report concerning the existence of any
14 dangerously contagious or infectious disease in connection
15 with the Department's power of quarantine, isolation and
16 closure or refuses to comply with a quarantine, isolation or
17 closure order is guilty of a Class A misdemeanor.

18 (l) The Department of Public Health may establish and
19 maintain a chemical and bacteriologic laboratory for the
20 examination of water and wastes, and for the diagnosis of
21 diphtheria, typhoid fever, tuberculosis, malarial fever and
22 such other diseases as it deems necessary for the protection of
23 the public health.

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

1 The terms "sanitary investigations and inspections" and
2 "sanitary practices" as used in this Act shall not include or
3 apply to "Public Water Supplies" or "Sewage Works" as defined
4 in the Environmental Protection Act. The Department may adopt
5 rules that are reasonable and necessary to implement and
6 effectuate this amendatory Act of the 93rd General Assembly.
7 (Source: P.A. 93-829, eff. 7-28-04.)

8 Section 99. Effective date. This Act takes effect upon
9 becoming law.