



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB4070

by Rep. Mary E. Flowers

SYNOPSIS AS INTRODUCED:

20 ILCS 2305/2

from Ch. 111 1/2, par. 22

Amends the Department of Public Health Act. In a provision concerning Department powers, provides that the Department may levy a fine on any institution or entity that it licenses or regulates for failing to comply with a lawful order made by the Department or for otherwise violating an Act that the Department has the responsibility of administering. Provides that any institution or entity licensed under the Nursing Home Care Act and subject to fines and penalties under that Act is exempt from the provision concerning fines for failure to comply with a lawful order made by the Department. Makes other changes. Effective immediately.

LRB097 15760 RPM 60904 b

FISCAL NOTE ACT
MAY APPLY

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 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 ~~state~~ or any locality shall enforce the
17 rules and regulations so adopted and orders issued by the
18 Department 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 (a-5) The Department of Public Health may levy a fine on
23 any institution or entity that it licenses or regulates for
24 failing to comply with a lawful order made by the Department or
25 for otherwise violating an Act that the Department has the
26 responsibility of administering. Any institution or entity

1 licensed under the Nursing Home Care Act and subject to fines
2 and penalties under that Act is exempt from the provisions of
3 this subsection (a-5).

4 (b) Subject to the provisions of subsection (c), the
5 Department may order a person or group of persons to be
6 quarantined or isolated or may order a place to be closed and
7 made off limits to the public to prevent the probable spread of
8 a dangerously contagious or infectious disease, including
9 non-compliant tuberculosis patients, until such time as the
10 condition can be corrected or the danger to the public health
11 eliminated or reduced in such a manner that no substantial
12 danger to the public's health any longer exists. Orders for
13 isolation of a person or quarantine of a place to prevent the
14 probable spread of a sexually transmissible disease shall be
15 governed by the provisions of Section 7 of the Illinois
16 Sexually Transmissible Disease Control Act and not this
17 Section.

18 (c) Except as provided in this Section, no person or a
19 group of persons may be ordered to be quarantined or isolated
20 and no place may be ordered to be closed and made off limits to
21 the public except with the consent of the person or owner of
22 the place or upon the prior order of a court of competent
23 jurisdiction. The Department may, however, order a person or a
24 group of persons to be quarantined or isolated or may order a
25 place to be closed and made off limits to the public on an
26 immediate basis without prior consent or court order if, in the

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

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

24 (d) The Department may order physical examinations and
25 tests and collect laboratory specimens as necessary for the
26 diagnosis or treatment of individuals in order to prevent the

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

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

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

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

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

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

16 (g) To prevent the spread of a dangerously contagious or
17 infectious disease among humans, the Department may examine,
18 test, disinfect, seize, or destroy animals or other related
19 property believed to be sources of infection. An owner of such
20 animal or other related property shall be given written notice
21 regarding such examination, testing, disinfection, seizure, or
22 destruction. When the Department determines that any animal or
23 related property is infected with or has been exposed to a
24 dangerously contagious or infectious disease, it may agree with
25 the owner upon the value of the animal or of any related
26 property that it may be found necessary to destroy, and in case

1 such an agreement cannot be made, the animals or related
2 property shall be appraised by 3 competent and disinterested
3 appraisers, one to be selected by the Department, one by the
4 claimant, and one by the 2 appraisers thus selected. The
5 appraisers shall subscribe to an oath made in writing to fairly
6 value the animals or related property in accordance with the
7 requirements of this Act. The oath, together with the valuation
8 fixed by the appraisers, shall be filed with the Department and
9 preserved by it. Upon the appraisal being made, the owner or
10 the Department shall immediately destroy the animals by "humane
11 euthanasia" as that term is defined in Section 2.09 of the
12 Humane Care for Animals Act. Dogs and cats, however, shall be
13 euthanized pursuant to the provisions of the Humane Euthanasia
14 in Animal Shelters Act. The owner or the Department shall
15 additionally, dispose of the carcasses, and disinfect, change,
16 or destroy the premises occupied by the animals, in accordance
17 with rules prescribed by the Department governing such
18 destruction and disinfection. Upon his or her failure so to do
19 or to cooperate with the Department, the Department shall cause
20 the animals or related property to be destroyed and disposed of
21 in the same manner, and thereupon the owner shall forfeit all
22 right to receive any compensation for the destruction of the
23 animals or related property. All final administrative
24 decisions of the Department hereunder shall be subject to
25 judicial review pursuant to the provisions of the
26 Administrative Review Law, and all amendments and

1 modifications thereof, and the rules adopted pursuant thereto.
2 The term "administrative decision" is defined as in Section
3 3-101 of the Code of Civil Procedure.

4 (h) To prevent the spread of a dangerously contagious or
5 infectious disease, the Department, local boards of health, and
6 local public health authorities shall have emergency access to
7 medical or health information or records or data upon the
8 condition that the Department, local boards of health, and
9 local public health authorities shall protect the privacy and
10 confidentiality of any medical or health information or records
11 or data obtained pursuant to this Section in accordance with
12 federal and State law. Additionally, any such medical or health
13 information or records or data shall be exempt from inspection
14 and copying under the Freedom of Information Act. Other than a
15 hearing for the purpose of this Act, any information, records,
16 reports, statements, notes, memoranda, or other data in the
17 possession of the Department, local boards of health, or local
18 public health authorities shall not be admissible as evidence,
19 nor discoverable in any action of any kind in any court or
20 before any tribunal, board, agency, or person. The access to or
21 disclosure of any of this information or data by the
22 Department, a local board of health, or a local public
23 authority shall not waive or have any effect upon its
24 non-discoverability or non-admissibility. Any person,
25 facility, institution, or agency that provides emergency
26 access to health information and data under this subsection

1 shall have immunity from any civil or criminal liability, or
2 any other type of liability that might otherwise result by
3 reason of these actions except in the event of willful and
4 wanton misconduct. The privileged quality of communication
5 between any professional person or any facility shall not
6 constitute grounds for failure to provide emergency access.
7 Nothing in this subsection shall prohibit the sharing of
8 information as authorized in Section 2.1 of this Act. The
9 disclosure of any of this information, records, reports,
10 statements, notes, memoranda, or other data obtained in any
11 activity under this Act, except that necessary for the purposes
12 of this Act, is unlawful, and any person convicted of violating
13 this provision is guilty of a Class A misdemeanor.

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

24 (B) The Department may enter into contracts or
25 agreements with individuals, corporations, hospitals,
26 universities, not-for-profit corporations, governmental

1 entities, or other organizations, whereby those
2 individuals or entities agree to provide assistance in the
3 compilation of the syndromic data collection and reporting
4 system.

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

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

24 (j) This Section shall be considered supplemental to the
25 existing authority and powers of the Department and shall not
26 be construed to restrain or restrict the Department in

1 protecting the public health under any other provisions of the
2 law.

3 (k) Any person who knowingly or maliciously disseminates
4 any false information or report concerning the existence of any
5 dangerously contagious or infectious disease in connection
6 with the Department's power of quarantine, isolation and
7 closure or refuses to comply with a quarantine, isolation or
8 closure order is guilty of a Class A misdemeanor.

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

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

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

24 (m) The public health measures set forth in subsections (a)
25 through (h) of this Section may be used by the Department to
26 respond to chemical, radiological, or nuclear agents or events.

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

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

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.