

AMENDED IN SENATE JUNE 24, 2010

AMENDED IN ASSEMBLY APRIL 28, 2010

AMENDED IN ASSEMBLY APRIL 13, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2541

Introduced by Assembly Members Portantino and Fletcher

February 19, 2010

An act to amend ~~Section 120130~~ *Sections 120130 and 121022* of the Health and Safety Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

AB 2541, as amended, Portantino. Reporting of certain communicable diseases.

Existing law establishes various communicable disease prevention and control programs. Existing law requires the State Department of Public Health to establish a list of reportable diseases and conditions and authorizes the department to adopt regulations requiring isolation or quarantine for any contagious, infectious, or communicable diseases, if necessary, for the protection of the public health.

Existing law requires the local health officer to report the listed diseases to the department, and requires that, within one year after the establishment of a state electronic laboratory reporting system, reports generated by a laboratory be submitted electronically in a manner specified by the department, except for reports of HIV infections. Existing law requires health care providers and laboratories to report cases of HIV infection to the local health officer using patient names.

This bill would delete the exemption from electronic reporting for HIV infections and would make conforming changes. *This bill would*

provide that health care providers and laboratories report cases of HIV infection to the local health officer using patient names and set guidelines regarding such reports. To the extent that this bill would impose additional requirements on a local public health officer and because this bill changes the definition of a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 120130 of the Health and Safety Code
2 is amended to read:
3 120130. (a) The department shall establish a list of reportable
4 diseases and conditions. For each reportable disease and condition,
5 the department shall specify the timeliness requirements related
6 to the reporting of each disease and condition, and the mechanisms
7 required for, and the content to be included in, reports made
8 pursuant to this section. The list of reportable diseases and
9 conditions may include both communicable and noncommunicable
10 diseases. The list may include those diseases that are either known
11 to be, or suspected of being, transmitted by milk or milk-based
12 products. The list shall also include, but not be limited to,
13 diphtheria, listeria, salmonella, shigella, streptococcal infection in
14 food handlers or dairy workers, and typhoid. The list may be
15 modified at any time by the department, after consultation with
16 the California Conference of Local Health Officers. Modification
17 of the list shall be exempt from the administrative regulation and
18 rulemaking requirements of Chapter 3.5 (commencing with Section
19 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
20 and shall be implemented without being adopted as a regulation,

1 except that the revised list shall be filed with the Secretary of State
2 and printed in the California Code of Regulations as required under
3 subdivision (d). Those diseases listed as reportable shall be properly
4 reported as required to the department by the health officer.

5 (b) The department may from time to time adopt and enforce
6 regulations requiring strict or modified isolation, or quarantine,
7 for any of the contagious, infectious, or communicable diseases,
8 if in the opinion of the department the action is necessary for the
9 protection of the public health.

10 (c) The health officer may require strict or modified isolation,
11 or quarantine, for any case of contagious, infectious, or
12 communicable disease, when this action is necessary for the
13 protection of the public health.

14 (d) The list established pursuant to subdivision (a) and any
15 subsequent modifications shall be published in Title 17 of the
16 California Code of Regulations.

17 (e) Notwithstanding any other provision of law, no civil or
18 criminal penalty, fine, sanction, finding, or denial, suspension, or
19 revocation of licensure for any person or facility may be imposed
20 based upon a failure to provide the notification of a reportable
21 disease or condition that is required under this section, unless the
22 disease or condition that is required to be reported was printed in
23 the California Code of Regulations at least six months prior to the
24 date of the claimed failure to report.

25 (f) Commencing July 1, 2009, or within one year of the
26 establishment of a state electronic laboratory reporting system,
27 whichever is later, a report generated pursuant to this section, or
28 Section 121022, by a laboratory shall be submitted electronically
29 in a manner specified by the department. The department shall
30 allow laboratories that receive incomplete patient information to
31 report the name of the provider who submitted the request to the
32 local health officer.

33 (g) The department may ~~on its~~ *through its Internet* Web site and
34 via electronic mail advise out-of-state laboratories that are known
35 to the department to test specimens from California residents of
36 the new reporting requirements.

37 *SEC. 2. Section 121022 of the Health and Safety Code is*
38 *amended to read:*

39 121022. (a) To ensure knowledge of current trends in the HIV
40 epidemic and to ~~assure~~ *ensure* that California remains competitive

1 for federal HIV and AIDS funding, health care providers and
2 laboratories shall report cases of HIV infection to the local health
3 officer using patient names. Local health officers shall report
4 unduplicated HIV cases by name to the department.

5 (b) (1) *Health care providers and local health officers shall*
6 *submit cases of HIV infection pursuant to subdivision (a) by courier*
7 *service, United States Postal Service express mail or registered*
8 *mail, other traceable mail, person-to-person transfer, facsimile,*
9 *or electronically by a secure and confidential electronic reporting*
10 *system established by the department.*

11 (2) *This subdivision shall be implemented using the existing*
12 *resources of the department.*

13 ~~(b)~~

14 (c) The department and local health officers shall ensure
15 continued reasonable access to anonymous HIV testing through
16 alternative testing sites, as established by Section 120890, and in
17 consultation with HIV planning groups and affected stakeholders,
18 including representatives of persons living with HIV and health
19 officers.

20 ~~(e)~~

21 (d) The department shall promulgate emergency regulations to
22 conform the relevant provisions of Article 3.5 (commencing with
23 Section 2641.5) of Chapter 4 of Title 17 of the California Code of
24 Regulations, consistent with this chapter, within one year of the
25 effective date of this section.

26 ~~(d)~~

27 (e) Pursuant to Section 121025, reported cases of HIV infection
28 shall not be disclosed, discoverable, or compelled to be produced
29 in any civil, criminal, administrative, or other proceeding.

30 ~~(e)~~

31 (f) State and local health department employees and contractors
32 shall be required to sign confidentiality agreements developed by
33 the department that include information related to the penalties for
34 a breach of confidentiality; and the procedures for reporting a
35 breach of confidentiality, prior to accessing confidential
36 HIV-related public health records. Those agreements shall be
37 reviewed annually by either the department or the appropriate local
38 health department.

39 ~~(f)~~

1 (g) No person shall disclose identifying information reported
2 pursuant to subdivision (a) to the federal government, including,
3 but not limited to, any agency, employee, agent, contractor, or
4 anyone else acting on behalf of the federal government, except as
5 permitted under subdivision (b) of Section 121025.

6 ~~(g)~~

7 (h) (1) Any potential or actual breach of confidentiality of
8 HIV-related public health records shall be investigated by the local
9 health officer, in coordination with the department, when
10 appropriate. The local health officer shall immediately report any
11 evidence of an actual breach of confidentiality of HIV-related
12 public health records at a city or county level to the department
13 and the appropriate law enforcement agency.

14 (2) The department shall investigate any potential or actual
15 breach of confidentiality of HIV-related public health records at
16 the state level, and shall report any evidence of such a breach of
17 confidentiality to an appropriate law enforcement agency.

18 ~~(h)~~

19 (i) Any willful, negligent, or malicious disclosure of cases of
20 HIV infection reported pursuant to subdivision (a) shall be subject
21 to the penalties prescribed in Section 121025.

22 ~~(i)~~

23 (j) Nothing in this section shall be construed to limit other
24 remedies and protections available under state or federal law.

25 ~~SEC. 2.~~

26 *SEC. 3.* No reimbursement is required by this act pursuant to
27 Section 6 of Article XIII B of the California Constitution for certain
28 costs that may be incurred by a local agency or school district
29 because, in that regard, this act creates a new crime or infraction,
30 eliminates a crime or infraction, or changes the penalty for a crime
31 or infraction, within the meaning of Section 17556 of the
32 Government Code, or changes the definition of a crime within the
33 meaning of Section 6 of Article XIII B of the California
34 Constitution.

35 However, if the Commission on State Mandates determines that
36 this act contains other costs mandated by the state, reimbursement
37 to local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

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