

ASSEMBLY BILL

No. 1898

Introduced by Assembly Member Brown

February 19, 2014

An act to amend Section 121025 of the Health and Safety Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

AB 1898, as introduced, Brown. Public health records: reporting: HIV/AIDS.

Existing law, with specified exceptions, prohibits the disclosure of public health records containing personally identifiable information relating to human immunodeficiency virus (HIV) or acquired immunodeficiency syndrome (AIDS) that were developed or acquired by a state or local public health agency. Existing law authorizes specified disclosures of that information for the purpose of enhancing the completeness of HIV/AIDS, tuberculosis, and sexually transmitted disease coinfection reporting to the federal Centers for Disease Control and Prevention (CDC), including authorizing local public agency tuberculosis control staff to disclose the information to certain state public health agency staff who may further disclose the information to the CDC, as specified.

This bill would include other communicable and chronic diseases of public health importance, as specified, for HIV/AIDS coinfection reporting to the CDC. The bill would additionally authorize local public health agency communicable disease staff to further disclose the information to state public health agency staff, who may further disclose the information, without disclosing patient identifying information, to the CDC, to the extent it is requested by the CDC.

Existing law authorizes local public health agency sexually transmitted disease control and tuberculosis control staff to disclose the HIV/AIDS-related information to state or local public health agency sexually transmitted disease control and tuberculosis control staff, the HIV-positive person, or his or her health care provider, for the purpose of facilitating appropriate medical care and treatment of persons coinfectd with HIV, tuberculosis, syphilis, gonorrhea, or chlamydia.

This bill would instead authorize any local public health agency staff to disclose that information to any appropriate state or local public health agency staff for the purpose of facilitating appropriate medical care and treatment of persons coinfectd with HIV and those diseases, or other communicable or chronic diseases of public health importance, as specified.

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

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

- 1 SECTION 1. Section 121025 of the Health and Safety Code
- 2 is amended to read:
- 3 121025. (a) Public health records relating to human
- 4 immunodeficiency virus (HIV) or acquired immunodeficiency
- 5 syndrome (AIDS), containing personally identifying information,
- 6 that were developed or acquired by a state or local public health
- 7 agency, or an agent of that agency, shall be confidential and shall
- 8 not be disclosed, except as otherwise provided by law for public
- 9 health purposes or pursuant to a written authorization by the person
- 10 who is the subject of the record or by his or her guardian or
- 11 conservator.
- 12 (b) In accordance with subdivision (g) of Section 121022, a
- 13 state or local public health agency, or an agent of that agency, may
- 14 disclose personally identifying information in public health records,
- 15 as described in subdivision (a), to other local, state, or federal
- 16 public health agencies or to corroborating medical researchers,
- 17 when the confidential information is necessary to carry out the
- 18 duties of the agency or researcher in the investigation, control, or
- 19 surveillance of disease, as determined by the state or local public
- 20 health agency.
- 21 (c) Except as provided in paragraphs (1) to (3), inclusive, any
- 22 disclosure authorized by subdivision (a) or (b) shall include only

1 the information necessary for the purpose of that disclosure and
2 shall be made only upon agreement that the information will be
3 kept confidential and will not be further disclosed without written
4 authorization, as described in subdivision (a).

5 (1) Notwithstanding any other ~~provision of law~~, the following
6 disclosures shall be authorized for the purpose of enhancing *the*
7 completeness of *reporting to the federal Centers for Disease*
8 *Control and Prevention (CDC) of HIV/AIDS; and coinfection with*
9 ~~tuberculosis, and sexually transmitted disease coinfection reporting~~
10 ~~to the federal Centers for Disease Control and Prevention (CDC)~~
11 *syphilis, gonorrhea, chlamydia, or other communicable and*
12 *chronic diseases of public health importance, as determined by*
13 *the state or local public health agency, including, but not limited*
14 *to, hepatitis B, hepatitis C, salmonellosis, meningococcal infection,*
15 *and listeriosis:*

16 (A) The local public health agency HIV surveillance staff may
17 further disclose the information to the health care provider who
18 provides HIV care to the HIV-positive person who is the subject
19 of the record for the purpose of assisting in compliance with
20 subdivision (a) of Section 121022.

21 (B) Local public health agency tuberculosis control staff may
22 further disclose the information to state public health agency
23 tuberculosis control staff, who may further disclose the information,
24 without disclosing patient identifying information, to the CDC, to
25 the extent the information is requested by the CDC and permitted
26 by subdivision (b), for purposes of the investigation, control, or
27 surveillance of HIV and tuberculosis coinfections.

28 (C) Local public health agency sexually transmitted disease
29 control staff may further disclose the information to state public
30 health agency sexually transmitted disease control staff, who may
31 further disclose the information, without disclosing patient
32 identifying information, to the CDC, to the extent it is requested
33 by the CDC; and permitted by subdivision (b), for the purposes of
34 the investigation, control, or surveillance of HIV and syphilis,
35 gonorrhea, or chlamydia coinfection.

36 (D) *Local public health agency communicable disease staff may*
37 *further disclose the information to state public health agency staff,*
38 *who may further disclose the information, without disclosing*
39 *patient identifying information, to the CDC, to the extent it is*
40 *requested by the CDC and permitted by subdivision (b), for the*

1 *purposes of the investigation, control, or surveillance of coinfection*
2 *with HIV and other communicable and chronic diseases of public*
3 *health importance, as determined by the state or local public health*
4 *agency, including, but not limited to, hepatitis B, hepatitis C,*
5 *salmonellosis, meningococcal infection, and listeriosis.*

6 (2) Notwithstanding any other ~~provision of~~ law, the following
7 disclosures shall be authorized for the purpose of facilitating
8 appropriate HIV/AIDS medical care and treatment:

9 (A) State public health agency HIV surveillance staff, AIDS
10 Drug Assistance Program staff, and care services staff may further
11 disclose the information to local public health agency staff, who
12 may further disclose the information to the HIV-positive person
13 who is the subject of the record, or the health care provider who
14 provides his or her HIV care, for the purpose of proactively offering
15 and coordinating care and treatment services to him or her.

16 (B) AIDS Drug Assistance Program staff and care services staff
17 in the State Department of Public Health may further disclose the
18 information directly to the HIV-positive person who is the subject
19 of the record or the health care provider who provides his or her
20 HIV care, for the purpose of proactively offering and coordinating
21 care and treatment services to him or her.

22 (C) Local public health agency staff may further disclose
23 acquired or developed information to the HIV-positive person who
24 is the subject of the record or the health care provider who provides
25 his or her HIV care for the purpose of proactively offering and
26 coordinating care and treatment services to him or her.

27 (3) Notwithstanding any other ~~provision of~~ law, for the purpose
28 of facilitating appropriate medical care and treatment of persons
29 coinfecting with HIV; *and tuberculosis, and syphilis, gonorrhea,*
30 ~~or chlamydia, or other communicable and chronic disease of public~~
31 *health importance, as determined by the state or local public health*
32 *agency, local public health agency sexually transmitted disease*
33 ~~control and tuberculosis control~~ staff may further disclose the
34 information to *appropriate* state or local public health agency
35 ~~sexually transmitted disease control and tuberculosis control~~ staff,
36 the HIV-positive person who is the subject of the record, or the
37 health care provider who provides ~~his or her HIV, tuberculosis,~~
38 ~~and sexually transmitted disease~~ care *for the patient coinfecting*
39 *with HIV and tuberculosis, syphilis, gonorrhea, chlamydia, or*
40 *other communicable and chronic disease.*

1 (4) For the purposes of paragraphs (2) and (3), “staff” shall not
2 include nongovernmental entities, but shall include state and local
3 contracted employees who work within state and local public health
4 departments.

5 (d) ~~No~~—A confidential public health record, as defined in
6 subdivision (c) of Section 121035, shall *not* be disclosed,
7 discoverable, or compelled to be produced in any civil, criminal,
8 administrative, or other proceeding.

9 (e) (1) A person who negligently discloses the content of a
10 confidential public health record, as defined in subdivision (c) of
11 Section 121035, to ~~any~~ a third party, except pursuant to a written
12 authorization, as described in subdivision (a), or as otherwise
13 authorized by law, shall be subject to a civil penalty in an amount
14 not to exceed five thousand dollars (\$5,000), plus court costs, as
15 determined by the ~~court, which~~ court. *The* penalty and costs shall
16 be paid to the person whose record was disclosed.

17 (2) ~~Any~~—A person who willfully or maliciously discloses the
18 content of any confidential public health record, as defined in
19 subdivision (c) of Section 121035, to ~~any~~ a third party, except
20 pursuant to a written authorization, or as otherwise authorized by
21 law, shall be subject to a civil penalty in an amount not less than
22 five thousand dollars (\$5,000) and not more than twenty-five
23 thousand dollars (\$25,000), plus court costs, as determined by the
24 ~~court, which~~ court. *The* penalty and costs shall be paid to the person
25 whose confidential public health record was disclosed.

26 (3) ~~Any~~—A person who willfully, maliciously, or negligently
27 discloses the content of ~~any~~ a confidential public health record, as
28 defined in subdivision (c) of Section 121035, to ~~any~~ a third party,
29 except pursuant to a written authorization, or as otherwise
30 authorized by law, that results in economic, bodily, or
31 psychological harm to the person whose confidential public health
32 record was disclosed, is guilty of a misdemeanor, punishable by
33 imprisonment in a county jail for a period not to exceed one year,
34 or a fine of not to exceed twenty-five thousand dollars (\$25,000),
35 or both, plus court costs, as determined by the ~~court, which~~ court.
36 *The* penalty and costs shall be paid to the person whose confidential
37 public health record was disclosed.

38 (4) ~~Any~~—A person who commits ~~any~~ an act described in
39 paragraph (1), (2), or (3), shall be liable to the person whose
40 confidential public health record was disclosed for all actual

1 damages for economic, bodily, or psychological harm that is a
2 proximate result of the act.

3 (5) Each violation of this section is a separate and actionable
4 offense.

5 (6) ~~Nothing in this section limits or expands~~ *This section does*
6 *not limit or expand* the right of an injured person whose
7 confidential public health record was disclosed to recover damages
8 under any other applicable law.

9 (f) In the event that a confidential public health record, as
10 defined in subdivision (c) of Section 121035, is disclosed, the
11 information shall not be used to determine employability, or
12 insurability of ~~any~~ a person.