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# OHIO LEGISLATIVE SERVICE COMMISSION

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H.B. 599  
133<sup>rd</sup> General Assembly

## Bill Analysis

**Version:** As Introduced

**Primary Sponsors:** Reps. Blair and O'Brien

Lisa Musielewicz, Attorney

### SUMMARY

- Requires a health care facility or coroner, upon becoming aware of a patient's presumptive positive case for COVID-19 or another class A disease, to promptly determine whether the patient was treated, handled, or transported by an emergency medical services (EMS) worker or handled by a funeral service worker in the past 30 days.
- Requires the health care facility or coroner to promptly notify each affected EMS worker or funeral services worker and confirm to the Director of Health that the notification was made.
- Requires the Director, when a presumptive case is confirmed, to notify each affected EMS worker or funeral services worker.
- Requires that the notifications be exempt from an existing prohibition on release of protected health information, and exempts it from the Public Records Law.
- Specifies that a health care facility or coroner that fails to comply with the bill's requirements is guilty of a minor misdemeanor on a first offense and a misdemeanor of the fourth degree on each subsequent offense.
- Limits the bill's application to the state of emergency declared by the Governor on March 9, 2020, in connection with the COVID-19 pandemic.
- Declares an emergency.

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## DETAILED ANALYSIS

### COVID-19 test result notices to EMS and funeral services workers

#### Presumptive positive cases

The bill requires a health care facility or coroner that becomes aware of a patient's presumptive positive case of COVID-19 to promptly determine whether the patient was treated, handled, or transported for medical care by an emergency medical services (EMS) worker or was handled by a funeral services worker in the 30 days before becoming aware of the presumptive positive case.<sup>1</sup> A "presumptive positive case" means at least one specimen taken from the patient has tested positive for the virus, bacterium, or other microorganism that causes a contagious or infectious disease.<sup>2</sup> An "emergency medical services worker" is a peace officer; an employee of an emergency medical services organization; a firefighter employed by a political subdivision; a volunteer firefighter, emergency operator, or rescue operator; or an employee of a private organization that renders rescue services, emergency medical services, or emergency medical transportation to accident victims and persons suffering serious illness or injury.<sup>3</sup>

If the patient was treated, handled, or transported by one or more EMS workers or funeral services workers under those circumstances, the health care facility or coroner must promptly provide verbal notification of the presumptive positive case to each EMS worker or funeral services worker involved with the patient's treatment, handling, or transportation. The health care facility or coroner also must notify the Director of Health in writing that the notification was made.<sup>4</sup>

The bill specifies that these requirements on health care facilities and coroners apply notwithstanding an existing law that authorizes an EMS worker or funeral services worker to independently submit a request to a health care facility or coroner to be notified of the results of any test performed on a patient thought to have significantly exposed the worker to a contagious or infectious disease.<sup>5</sup>

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<sup>1</sup> Section 1(C).

<sup>2</sup> Section 1(A)(2).

<sup>3</sup> Section 1(A)(1), referencing the definition in R.C. 3701.248, not in the bill.

<sup>4</sup> Section 1(C).

<sup>5</sup> Section 1(C), referencing R.C. 3701.248, not in the bill.

## Confirmed cases

On receipt of a report required by current law that a case of COVID-19 has been confirmed,<sup>6</sup> the bill requires the Director of Health to promptly determine whether the Director received a written notification described above in connection with that patient. If the Director did receive a written notification, the Director must provide verbal notification of the patient's confirmed case of COVID-19 to each EMS worker or funeral services worker who received a verbal notification as described above in connection with that patient.<sup>7</sup>

## Exemption from prohibition on release of protected health information

Generally, the Director of Health is prohibited under existing law from releasing protected health information without the consent of the individual to whom the information pertains. However, the Director may release protected health information if the Director determines that the release is necessary, based on the evaluation of relevant information, to avert or mitigate a clear threat to an individual or to the public health. Information that is released pursuant to this exception may be released only to those persons or entities necessary to control, prevent, or mitigate disease.<sup>8</sup> The bill requires the Director to determine that the release of COVID-19 test results in accordance with the bill comes within this exception and may be released without patient consent.<sup>9</sup>

## Penalties

The bill specifies that whoever violates the bill's provisions is guilty of a minor misdemeanor on a first offense and a misdemeanor of the fourth degree on each subsequent offense.<sup>10</sup>

## Duration

The bill specifies that its provisions apply only during the period of the state of emergency declared by the Governor in Executive Order 2020-01, issued on March 9, 2020, in connection with the COVID-19 pandemic.<sup>11</sup>

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<sup>6</sup> R.C. 3701.23 and Ohio Administrative Code (O.A.C.) 3701-3-06. *See also* Ohio Department of Health, Director's Journal Entry, *In Re: Amended Reporting Requirements for 2019 – Novel Coronavirus Under Ohio Revised Code 3701.14 and 3701.23*, March 14, 2020.

<sup>7</sup> Section 1(D).

<sup>8</sup> R.C. 3701.17.

<sup>9</sup> Section 1(G).

<sup>10</sup> Section 1(H).

<sup>11</sup> Section 1(B).

## Emergency clause

The bill declares that it is an emergency measure due to the ongoing COVID-19 pandemic and that its provisions are not subject to the referendum and go immediately into effect upon enactment.<sup>12</sup>

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## COMMENT

On April 14, 2020, the Director of Health issued an order requiring local health departments to provide the name and address of individuals who test positive for COVID-19 to emergency dispatch agencies in that jurisdiction.<sup>13</sup> The dispatch agencies are permitted to share this information only with first responders who are responding to or may be called to respond to the address of an individual who has tested positive for COVID-19.

The order requires that the information be used solely as necessary to control, mitigate, or prevent the spread of COVID-19 during an interaction between a first responder and the individual who has tested positive for COVID-19. The order states that unauthorized use of the information is subject to criminal penalties. It also requires that the information of an individual be “removed from the dispatch agency’s system” once that person has recovered from COVID-19 and that all information be removed on termination of the statewide public health emergency.

The order acknowledges that the information to be disclosed is protected health information. As described above (see “**Exemption from prohibition on release of protected health information**”) existing Ohio law restricts the Department of Health’s use of protected health information in most instances; however, it makes an exception to permit disclosure if “[t]he director determines the release of the information is necessary, based on an evaluation of relevant information, to avert or mitigate a clear threat to an individual or to the public health.”

The order remains in effect until the state of emergency declared by the Governor no longer exists or until the Director rescinds or modifies the order.

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## HISTORY

Action	Date
Introduced	04-06-20

H0599-I-133/ec

<sup>12</sup> Section 2.

<sup>13</sup> Ohio Department of Health, Amy Acton, M.D., MPH, Director, *Director’s Order to Release Protected Health Information to Ohio’s First Responders*, available at <https://coronavirus.ohio.gov/static/publicorders/Directors-Order-to-Release-Information-to-Ohios-First-Responders.pdf>.