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# OHIO LEGISLATIVE SERVICE COMMISSION

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H.B. 624  
133<sup>rd</sup> General Assembly

## Bill Analysis

**Version:** As Introduced

**Primary Sponsor:** Rep. Grendell

Audra Tidball, Attorney

### SUMMARY

- Requires boards of health, health care providers, and coroners or medical examiners to report to the Ohio Department of Health (ODH) each COVID-19 test that is administered, along with the date of the test and residential information for the individual tested.
- Requires the reports to be updated with the results of each test, as well as information related to hospitalizations and deaths.
- Establishes fines and criminal penalties for violations of the reporting requirements.
- Requires ODH, when it releases information related to cases of COVID-19, to release the reported information in the form of a chart or table, broken down by zip code, as well as infection rates for congregate settings such as nursing homes, hospitals, and prisons.
- Requires ODH, when it releases modeling projections related to COVID-19, to release supporting information and documents, as well as a margin of error.
- Declares an emergency.

### DETAILED ANALYSIS

#### Reporting and release of COVID-19 testing information

During the period of emergency due to COVID-19, as declared by the Governor's Executive Order<sup>1</sup> dated March 9, 2020, the bill requires (1) health care providers<sup>2</sup> and others to report to the Ohio Department of Health (ODH) detailed information related to each COVID-19

<sup>1</sup> Executive Order 2020-01D.

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

test that is administered and (2) ODH to include the reported information in the form of a chart or table as part of its release of information related to COVID-19.

## **Report of COVID-19 testing information**

The bill's reporting requirements related to COVID-19 testing are in addition to the disease reporting requirements that are currently in place. Current law requires the reporting of contagious or infectious diseases, illnesses, and health conditions, as specified by the Director of Health, by the following reporters: boards of health; health authorities;<sup>3</sup> health care providers, such as hospitals, medical labs, physicians, nurses, and other health care providers; and corners or medical examiners.<sup>4</sup> The Director's January 23, 2020, Journal Entry declared COVID-19 to be a disease of major public concern and requires confirmed or suspected cases to be reported immediately to ODH in accordance with administrative rules.<sup>5</sup> Under ODH's rules, reports are generally first submitted to local boards of health, which then transmit the information to ODH.<sup>6</sup>

### **Reportable information**

Under the bill's additional reporting requirements, reporters must promptly report to ODH each COVID-19 test that is administered, along with all of the following:<sup>7</sup>

1. The date the test was administered;
2. The zip code of residence of the individual tested or, if unknown or not located in Ohio, the zip code of the testing location;
3. Indication of whether the individual tested resides in a congregate setting, such as a nursing home, residential care facility, hospital, or prison, and if so, identification of the congregate setting.

Reporters must promptly update reports of the above information with all of the following:<sup>8</sup>

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<sup>3</sup> Current law does not identify the meaning of "health authority"; it is possible that it refers to the authority having the duties of a board of health in a city health district that has chosen to have a local public health system other than a board of health, as described in R.C. 3709.05, not in the bill.

<sup>4</sup> R.C. 3701.23(A) and (B)(5), not in the bill.

<sup>5</sup> Ohio Department of Health, *In Re: Reporting Requirements for 2019 – Novel Coronavirus Under Ohio Revised Code 3701.14 and 3701.23*, available at: [https://odh.ohio.gov/wps/wcm/connect/gov/d82ea367-a55a-4792-8c2d-f2743f08f8cc/DJE+2019+nCov+1-23-2020.pdf?MOD=AJPERES&CONVERT\\_TO=url&CACHEID=ROOTWORKSPACE.Z18\\_M1HGGIK0N0JO00QO9DDDDM3000-d82ea367-a55a-4792-8c2d-f2743f08f8cc-m.CYwlc](https://odh.ohio.gov/wps/wcm/connect/gov/d82ea367-a55a-4792-8c2d-f2743f08f8cc/DJE+2019+nCov+1-23-2020.pdf?MOD=AJPERES&CONVERT_TO=url&CACHEID=ROOTWORKSPACE.Z18_M1HGGIK0N0JO00QO9DDDDM3000-d82ea367-a55a-4792-8c2d-f2743f08f8cc-m.CYwlc).

<sup>6</sup> See Ohio Administrative Code (O.A.C.) 3701-3-02(A)(16), 3701-3-03, 3701-3-04, 3701-3-05(A), and 3701-3-06.

<sup>7</sup> Section 1(B)(1)(a).

<sup>8</sup> Section 1(B)(1)(b).

1. The results of the test, whether positive or negative, and the date the results were confirmed;
2. If the reporter is a hospital, the date of admission to the hospital for treatment of COVID-19 and the date of discharge or death, as applicable;
3. Each death resulting from COVID-19, the date of death, the age of the deceased, and whether the death was attributable solely to COVID-19 or there were additional complication factors, which must be identified if there were.

After the bill was introduced, the Director issued an additional order regarding laboratory reporting of COVID-19 test results. The order requires labs to report aggregate test results each day for positive, negative, pending, and invalid tests.<sup>9</sup>

### **Penalty for failure to comply with reporting requirements**

The bill prohibits a person from knowingly failing to comply with its reporting requirements. Penalties for a violation include the same fines and criminal penalties for failure to report contagious or infectious diseases under current law.<sup>10</sup> The fines, which are set by rule, range from \$100 to \$750 per incident.<sup>11</sup> The criminal penalty is a minor misdemeanor for the first offense and a fourth degree misdemeanor for each subsequent offense.<sup>12</sup>

### **Protected health information**

Current law defines “protected health information” as information in any form that describes an individual’s past, present, or future physical or mental health status or condition, receipt of treatment or care, or purchase of health products, if the information (1) reveals the identity of the individual who is the subject of the information or (2) could be used to reveal the identity of the individual who is the subject of the information, either by using the information alone or with other information that is available to predictable recipients of the information.<sup>13</sup> The bill specifies that to the extent that any of the information that is reportable under the bill is protected health information, it can be released only in accordance with current law that governs such information.<sup>14</sup>

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<sup>9</sup> Ohio Department of Health, *Re: Director’s Order to Laboratories in Ohio to Report Results of COVID-19 Tests*, May 13, 2020, <https://coronavirus.ohio.gov/static/publicorders/Laboratories-Ohio-Report-Results-COVID19-Tests.pdf>.

<sup>10</sup> Section 1(A)(1)(c) and (f).

<sup>11</sup> R.C. 3701.571, not in the bill; O.A.C. 3701-73-02.

<sup>12</sup> R.C. 3701.99(A), not in the bill.

<sup>13</sup> R.C. 3701.17, not in the bill.

<sup>14</sup> Section 1(B)(1)(e); R.C. 3701.17, not in the bill.

## **ODH release of COVID-19 testing information**

### **Information to be released**

The bill requires that when ODH releases information related to cases of COVID-19, each day's figures must accurately reflect information reported to ODH as of the date of the release.<sup>15</sup> The information released must be in the form of a chart or table that includes all of the following information, broken down by zip code:<sup>16</sup>

1. The number of individuals tested for COVID-19 each day;
2. The number of positive tests and the number of negative tests, and the date each result was confirmed;
3. The total number of individuals who have been hospitalized for COVID-19, as well as the number of current hospitalizations;
4. The number of deaths by date that are attributable solely to COVID-19, as well as age ranges for the deceased;
5. The number of deaths by date that involve individuals with COVID-19 who also had additional complication factors, and identification of those complication factors.

Additionally, ODH must release COVID-19 infection rates for congregate settings such as nursing homes, residential care facilities, hospitals, and prisons.<sup>17</sup>

### **Probable and presumed cases**

The zip code information and congregate setting information must include only confirmed COVID-19 cases, not probable or presumed cases. ODH must separately release the information as it relates to probable or presumed cases of COVID-19, including the basis for determining a case is probable or presumed.<sup>18</sup>

### **Modeling projections**

The bill provides that when modeling projections related to COVID-19 are released by ODH, supporting information and documents, including a margin of error, must be released. ODH also must release any adjustments to modeling projections.<sup>19</sup>

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<sup>15</sup> Section 1(B)(2)(a).

<sup>16</sup> Section 1(B)(2)(b).

<sup>17</sup> Section 1(B)(2)(c).

<sup>18</sup> Section 1(B)(2)(d).

<sup>19</sup> Section 1(B)(2)(e).

## Effective date

As an emergency measure, the bill will go into effect immediately and is not subject to the referendum.<sup>20</sup>

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## HISTORY

Action	Date
Introduced	05-11-20

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H0624-I-133/ks

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<sup>20</sup> Section 2.