

B-Engrossed
Senate Bill 159

Ordered by the House May 13
Including Senate Amendments dated April 2 and House Amendments
dated May 13

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor Theodore R. Kulongoski for Department of Human Services)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Authorizes certain public officials to inspect and obtain information pertinent to investigation of communicable disease. Protects confidentiality of information obtained during investigation. Allows release of information about communicable diseases if necessary to protect public health. Specifies evidentiary standard for release of information to certain persons. Provides immunity from civil and criminal liability that might arise from providing information for investigation.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to communicable diseases; amending ORS 433.001, 433.004 and 433.008; and declaring an
3 emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 433.001 is amended to read:

6 433.001. As used in ORS 433.001 to 433.045 and 433.110 to 433.770 unless the context requires
7 otherwise:

8 (1) "Communicable disease" has the meaning given that term in ORS 431.260.

9 [(2) "*Condition of public health importance*" has the meaning given that term in ORS 431.260.]

10 (2) **"Control" means a person without a reportable disease about whom information is**
11 **collected for purposes of comparison to a person or persons with the reportable disease.**

12 (3) "Department" means the Department of Human Services.

13 (4) "Director" means the Director of Human Services.

14 (5) **"Disease outbreak" has the meaning given that term in ORS 431.260.**

15 (6) **"Epidemic" has the meaning given that term in ORS 431.260.**

16 (7) **"Health care provider" has the meaning given that term in ORS 433.443.**

17 (8) **"Individual" means a natural person.**

18 (9) **"Individually identifiable health information" has the meaning given that term in ORS**
19 **433.443.**

20 [(5)] (10) "Isolation" means the physical separation and confinement of a person or group of
21 persons who are infected or reasonably believed to be infected with a communicable disease or
22 possibly communicable disease from nonisolated persons to prevent or limit the transmission of the
23 disease to nonisolated persons.

24 [(6)] (11) "Local public health administrator" has the meaning given that term in ORS 431.260.

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 [(7) *“Local public health authority” has the meaning given that term in ORS 431.260.*]

2 [(8)] (12) “Property” means animals, inanimate objects, vessels, public conveyances, buildings
3 and all other real or personal property.

4 [(9)] (13) “Public health measure” has the meaning given that term in ORS 431.260.

5 [(10)] (14) “Quarantine” means the physical separation and confinement of a person or group of
6 persons who have been or may have been exposed to a communicable disease or possibly
7 communicable disease and who do not show signs or symptoms of a communicable disease, from
8 persons who have not been exposed to a communicable disease or possibly communicable disease,
9 to prevent or limit the transmission of the disease to other persons.

10 [(11)] (15) “Reportable disease” has the meaning given that term in ORS 431.260.

11 [(12)] (16) “Toxic substance” has the meaning given that term in ORS 431.260.

12 **SECTION 2.** ORS 433.004 is amended to read:

13 433.004. (1) The Department of Human Services shall by rule:

14 (a) Specify reportable diseases;

15 (b) Identify those categories of persons who must report reportable diseases and the circum-
16 stances under which the reports must be made;

17 (c) Prescribe the procedures and forms for making such reports and transmitting the reports to
18 the department; and

19 (d) Prescribe measures **and methods** for investigating the source and controlling reportable
20 diseases.

21 (2) Persons required under the rules to report reportable diseases shall do so by reporting to the
22 local public health administrator. The local public health administrator shall transmit such reports
23 to the department.

24 (3) **The department or local public health administrator may investigate a case of a re-
25 portable disease, disease outbreak or epidemic. The investigation may include, but is not
26 limited to:**

27 (a) **Interviews of:**

28 (A) **The subject of a reportable disease report;**

29 (B) **Controls;**

30 (C) **Health care providers; or**

31 (D) **Employees of a health care facility.**

32 (b) **Requiring a health care provider, any public or private entity, or an individual who
33 has information necessary for the investigation to:**

34 (A) **Permit inspection of the information by the department or local public health ad-
35 ministrator; and**

36 (B) **Release the information to the department or local public health administrator.**

37 (c) **Inspection, sampling and testing of real or personal property with consent of the
38 owner or custodian of the property or with an administrative warrant.**

39 (4)(a) **The department shall establish by rule the manner in which information may be
40 requested and obtained under subsection (3) of this section.**

41 (b) **Information requested may include, but is not limited to, individually identifiable
42 health information related to:**

43 (A) **The case;**

44 (B) **An individual who may be the potential source of exposure or infection;**

45 (C) **An individual who has been or may have been exposed to or affected by the disease;**

1 **(D) Policies, practices, systems or structures that may have affected the likelihood of**
2 **disease transmission; and**

3 **(E) Factors that may influence an individual's susceptibility to the disease or likelihood**
4 **of being diagnosed with the disease.**

5 [(3)] **(5)** In addition to other grounds for which a state agency may exercise disciplinary action
6 against its licensees or certificate holders, the substantial or repeated failure of a licensee or cer-
7 tificate holder to report when required to do so under subsection (2) **or (3)** of this section shall be
8 cause for the exercise of any of the agency's disciplinary powers.

9 [(4)] **(6)** Any person making a report **or providing information** under this section is immune
10 from any civil or criminal liability that might otherwise be incurred or imposed with respect to the
11 making of a report **or providing information** under this section [*or to the contents of the report*].

12 **SECTION 3.** ORS 433.008 is amended to read:

13 433.008. *[(1) Notwithstanding ORS 192.410 to 192.505, the Department of Human Services, the local*
14 *public health administrator, all officers and employees thereof and all persons to whom disclosures are*
15 *made under this subsection or subsection (2) of this section shall not disclose the name or address of,*
16 *or otherwise disclose the identity of, any person reported under ORS 433.004 except to officers or em-*
17 *ployees of federal, state or local government public health agencies as may be necessary for the ad-*
18 *ministration or enforcement of public health laws or rules.]*

19 **(1)(a) Except as provided in subsection (2) of this section, information obtained by the**
20 **Department of Human Services or a local public health administrator in the course of an**
21 **investigation of a reportable disease or disease outbreak is confidential and is exempt from**
22 **disclosure under ORS 192.410 to 192.505.**

23 **(b) Except as required for the administration or enforcement of public health laws or**
24 **rules, a state or local public health official or employee may not be examined in an admin-**
25 **istrative or judicial proceeding about the existence or contents of a reportable disease report**
26 **or other information received by the department or local public health administrator in the**
27 **course of an investigation of a reportable disease or disease outbreak.**

28 *[(2) If the department or local public health administrator has determined that a reported person's*
29 *disease or condition is in a contagious state and that the person is violating the rules of the department*
30 *pertaining to control of that disease, it may disclose that person's name and address to persons other*
31 *than those stated in subsection (1) of this section if clear and convincing evidence in the particular in-*
32 *stance requires disclosure to avoid a clear and immediate danger to other individuals or to the public*
33 *generally.]*

34 **(2) The department or a local public health administrator may release information ob-**
35 **tained during an investigation of a reportable disease or disease outbreak to:**

36 **(a) State, local or federal agencies authorized to receive the information under state or**
37 **federal law;**

38 **(b) Health care providers if necessary for the evaluation or treatment of a reportable**
39 **disease;**

40 **(c) Law enforcement officials to the extent necessary to carry out the authority granted**
41 **to the Public Health Director and local public health administrators under ORS 433.121,**
42 **433.128, 433.131, 433.138 and 433.142;**

43 **(d) A person who may have been exposed to a communicable disease;**

44 **(e) A person with information necessary to assist the department or local public health**
45 **administrator in identifying an individual who may have been exposed to a communicable**

1 **disease; and**

2 **(f) The individual who is the subject of the information or the legal representative of that**
3 **individual.**

4 **(3) The department or local public health administrator may release individually iden-**
5 **tifiable information under subsection (2)(d) or (e) of this section only if there is clear and**
6 **convincing evidence that the release is necessary to avoid an immediate danger to other in-**
7 **dividuals or to the public.**

8 **(4) The department or local public health administrator may release only the minimum**
9 **amount of information necessary to carry out the purpose of the release pursuant to sub-**
10 **section (2) of this section.**

11 **(5) A decision not to disclose information under this subsection, if made in good faith, shall not**
12 **subject the entity or person withholding the information to any liability.**

13 *[(3) Except where required in connection with the administration or enforcement of public health*
14 *laws or rules, no public health official or employee shall be examined in an administrative or judicial*
15 *proceeding as to the existence or contents of a report under ORS 433.004 or any record thereof.]*

16 *[(4) The disclosures and examination prohibited by this section may otherwise be authorized by the*
17 *specific written consent of the person who is the subject of the report or the authorized representative*
18 *of the person.]*

19 **(6) Nothing in this section:**

20 **(a) Prevents the department or a local public health administrator from publishing sta-**
21 **tistical compilations and reports relating to reportable disease investigations if the compila-**
22 **tions and reports do not identify individual cases or sources of information;**

23 **(b) Affects the confidentiality or admissibility into evidence of information not otherwise**
24 **confidential or privileged that is obtained from sources other than the department; or**

25 **(c) Prevents dispositions of information pursuant to ORS 192.105.**

26 **SECTION 4. This 2009 Act being necessary for the immediate preservation of the public**
27 **peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect**
28 **on its passage.**

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