

March 15, 2021

Chair Patterson and Members of the Committee:

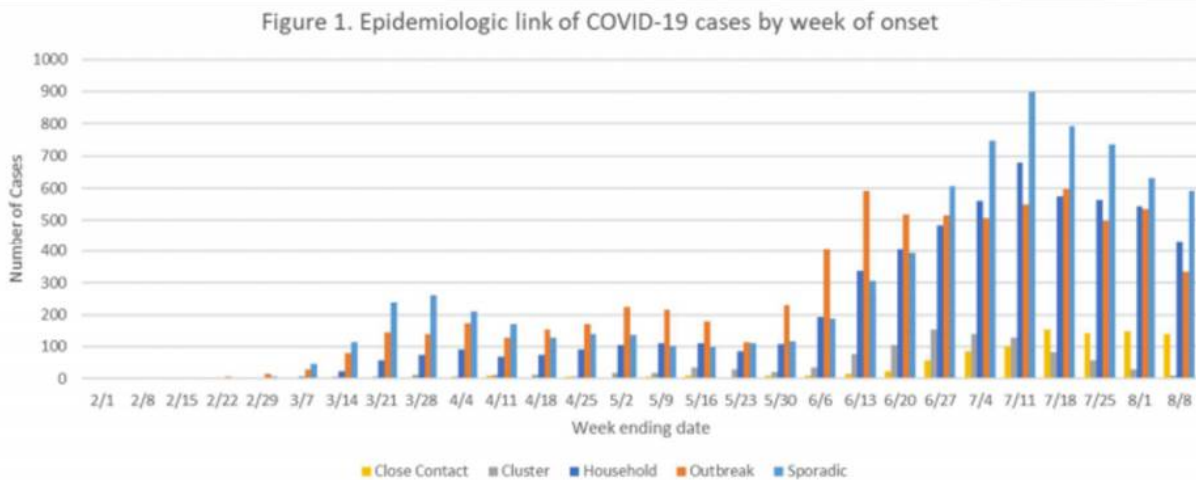
SB719 is narrowly drawn to correct an unfortunate pattern of overreach by the Oregon Health Authority in regard to release of high-level, aggregated information derived from communicable disease information that is subject to mandatory, individualized reporting.

Longstanding Oregon law, ORS433.008, appropriately protects individually identifiable information reported to Public Health. The Health Authority maintains a database of this information.

During the pandemic, as one might expect, OHA routinely has used information derived from this database to drive its policy recommendations and decisions around COVID response. However, OHA routinely has denied public records requests for the rolled up, aggregated statistics it uses to make these decisions, claiming that the confidentiality of individual reports means that aggregated information derived from them is confidential – even though the agency in fact released it in forms of its choosing in service to its communications strategy.

A case in point:

Last summer, OHA released the graphic below, with an approximate scale, of COVID-19 cases by week. Reporter Brad Schmidt of OregonLive asked for the actual numbers used for this graphic. Anyone who has produced a bar or pie chart knows there is a simple spreadsheet behind such charts, yet OHA denied the request. When called on it in subsequent reporting and editorials, OHA did not say, “Sorry, that was a mistake, here’s the spreadsheet of the actual numbers.” OHA doubled down, citing ORS433.008.



Unfortunately, it is not an isolated case. OHA’s denials, even while spinning the same data for PR purposes, goes well beyond an innocent misreading of the law and warrants correction by the Legislature.

The Health Authority has and continues to make recommendations and decisions that affect all Oregonians, and there is a clear public interest in the high-level data used to make those recommendations and decisions. And not just vague charts or other summaries selectively released by an agency.

Please note what this bill does not require:

- Nothing in the bill requires OHA to create aggregated data reports in response to an information request.
- Nothing in the bill requires release of sensitive, individually identifiable information. In fact, it specifically exempts from disclosure information “that reasonably could lead to the identification of an individual.” For example, if the rollup of small numbers of disease cases in a community or a very lightly populated geography reasonably could lead to identification of an individual, then a public health agency could deny its release.
- It does not change the confidentiality of individual disease reports.
- It does not require the release of a report that includes individually identifiable information.

What SB719 does require:

- Release of aggregated information that agencies have at their fingertips.

The language of SB719 was drafted with the legitimate need to protect the confidentiality of the ultimate source information in mind.

This bill, in summary, would remove excuses too often used to deny access to high-level data of great public interest.

Respectfully submitted,

Tom Holt  
for Society of Professional Journalists