

1 H.98

2 Introduced by Representative Till of Jericho

3 Referred to Committee on

4 Date:

5 Subject: Health; public health; reportable diseases; registries; data

6 Statement of purpose of bill as introduced: This bill proposes to allow the
7 Commissioner of Health to provide confidential information from Vermont's
8 Cancer Registry to the National Breast and Cervical Cancer Early Detection
9 Program. It also requires data on HIV/AIDS to be stored on networked
10 computers in the same manner as data on other reportable diseases. The bill
11 proposes to expand access to a student's immunization records to a school
12 administrator and to enable interstate sharing of records within the State's
13 Immunization Registry.

14 An act relating to reportable disease registries and data

15 It is hereby enacted by the General Assembly of the State of Vermont:

16 Sec. 1. 18 V.S.A. chapter 4 is amended to read:

17 CHAPTER 4. CANCER REGISTRY

18 * * *

1 § 153. PARTICIPATION IN PROGRAM

2 (a) Any health care facility diagnosing or providing treatment to ~~cancer~~
3 patients with cancer shall report each case of cancer to the ~~commissioner~~
4 Commissioner or his or her authorized representative in a format prescribed by
5 the ~~commissioner~~ Commissioner within ~~120~~ 180 days of admission or
6 diagnosis. If the facility fails to report in a format prescribed by the
7 ~~commissioner~~ Commissioner, the ~~commissioner's~~ Commissioner's authorized
8 representative may enter the facility, obtain the information, and report it in the
9 appropriate format. In these cases, the facility shall reimburse the
10 ~~commissioner~~ Commissioner or the authorized representative for the cost of
11 obtaining and reporting the information.

12 (b) Any health care provider diagnosing or providing treatment to ~~cancer~~
13 patients with cancer shall report each cancer case to the ~~commissioner~~
14 Commissioner or his or her authorized representative within ~~120~~ 180 days of
15 diagnosis. Those cases diagnosed or treated at a Vermont facility or previously
16 admitted to a Vermont facility for diagnosis or treatment of that instance of
17 cancer are exceptions and do not need to be reported by the health care
18 provider.

19 (c) All health care facilities and health care providers who provide
20 diagnostic or treatment services to patients with cancer shall report to the
21 ~~commissioner~~ Commissioner any further demographic, diagnostic, or treatment

1 information requested by the ~~commissioner~~ Commissioner concerning any
2 person now or formerly receiving services, diagnosed as having or having had
3 a malignant tumor. Additionally, the ~~commissioner~~ Commissioner or his or
4 her authorized representative shall have physical access to all records ~~which~~
5 that would identify cases of cancer or would establish characteristics of the
6 cancer, treatment of the cancer, or medical status of any identified ~~cancer~~
7 patient with cancer. Willful failure to grant access to such records shall be
8 punishable by a fine of up to \$500.00 for each day access is refused. Any fines
9 collected pursuant to this subsection shall be deposited in the ~~general fund~~
10 General Fund.

11 * * *

12 § 155. DISCLOSURE

13 (a) The ~~commissioner~~ Commissioner may enter into agreements to
14 exchange confidential information with other cancer registries in order to
15 obtain complete reports of Vermont residents diagnosed or treated in other
16 states and to provide information to other states regarding their residents
17 diagnosed or treated in Vermont.

18 (b) The ~~commissioner~~ Commissioner may furnish confidential information
19 to the National Breast and Cervical Cancer Early Detection Program, other
20 states' cancer registries, federal cancer control agencies, or health researchers
21 in order to collaborate in a national cancer registry or to collaborate in cancer

1 control and prevention research studies. However, before releasing
2 confidential information, the ~~commissioner~~ Commissioner shall first obtain
3 from such state registries, agencies, or researchers an agreement in writing to
4 keep the identifying information confidential and privileged. In the case of
5 researchers, the ~~commissioner~~ Commissioner shall also first obtain evidence of
6 the approval of their academic committee for the protection of human subjects
7 established in accordance with ~~part 46 of Title 45 of the Code of Federal~~
8 ~~Regulations~~ 45 C.F.R. part 46.

9 * * *

10 Sec. 2. 18 V.S.A. § 1001 is amended to read:

11 § 1001. REPORTS TO COMMISSIONER OF HEALTH

12 (a) When a physician, health care provider, nurse practitioner, nurse,
13 physician assistant, or school health official has reason to believe that a person
14 is sick or has died of a diagnosed or suspected disease, identified by the
15 Department of Health as a reportable disease and dangerous to the public
16 health, or if a laboratory director has evidence of such sickness or disease, he
17 or she shall transmit within 24 hours a report thereof and identify the name and
18 address of the patient and the name of the patient's physician to the
19 Commissioner of Health or designee. ~~In the case of the human~~
20 ~~immunodeficiency virus (HIV), "reason to believe" shall mean personal~~
21 ~~knowledge of a positive HIV test result.~~ The Commissioner, with the approval

1 of the Secretary of Human Services, shall by rule establish a list of those
2 diseases dangerous to the public health that shall be reportable. ~~Nonmedical~~
3 ~~community-based organizations shall be exempt from this reporting~~
4 ~~requirement.~~ All information collected pursuant to this section and in support
5 of investigations and studies undertaken by the ~~commissioner~~ Commissioner
6 for the purpose of determining the nature or cause of any disease outbreak shall
7 be privileged and confidential. The ~~Health~~ Department of Health shall, by
8 rule, require that any person required to report under this section has in place a
9 procedure that ensures confidentiality. ~~In addition, in relation to the reporting~~
10 ~~of HIV and the acquired immune deficiency syndrome (AIDS), the Health~~
11 ~~Department shall, by rule:~~

12 ~~(1) develop procedures, in collaboration with individuals living with~~
13 ~~HIV or AIDS and with representatives of the Vermont AIDS service~~
14 ~~organizations, to ensure confidentiality of all information collected pursuant to~~
15 ~~this section; and~~

16 ~~(2) develop procedures for backing up encrypted, individually~~
17 ~~identifying information, including procedures for storage, location, and transfer~~
18 ~~of data.~~

19 ~~(b)(1) Public health records that relate to HIV or AIDS that contain any~~
20 ~~personally identifying information, or any information that may indirectly~~
21 ~~identify a person and was developed or acquired by state or local public health~~

1 ~~agencies, shall be confidential and shall only be disclosed following notice to~~
2 ~~the individual subject of the public health record or the individual's legal~~
3 ~~representative and pursuant to a written authorization voluntarily executed by~~
4 ~~the individual or the individual's legal representative. Except as provided in~~
5 ~~subdivision (2) of this subsection, notice and authorization is required prior to~~
6 ~~all disclosures, including disclosures to other states, the federal government,~~
7 ~~and other programs, departments, or agencies of state government.~~

8 ~~(2) Notwithstanding the provisions of subdivision (1) of this subsection,~~
9 ~~disclosure without notification shall be permitted to other states' infectious~~
10 ~~disease surveillance programs for the sole purpose of comparing the details of~~
11 ~~case reports identified as possibly duplicative, provided such information shall~~
12 ~~be shared using the least identifying information first so that the individual's~~
13 ~~name shall be used only as a last resort. [Repealed.]~~

14 ~~(c) A disclosure made pursuant to subsection (b) of this section shall~~
15 ~~include only the information necessary for the purpose for which the disclosure~~
16 ~~is made. The disclosure shall be made only on agreement that the information~~
17 ~~shall remain confidential and shall not be further disclosed without additional~~
18 ~~notice to the individual and written authorization by the individual subject as~~
19 ~~required by subsection (b) of this section. [Repealed.]~~

20 (d) A confidential public health record, including any information obtained
21 pursuant to this section, shall not be:

1 (1) disclosed or discoverable in any civil, criminal, administrative, or
2 other proceeding;

3 (2) used to determine issues relating to employment or insurance for any
4 individual;

5 (3) used for any purpose other than public health surveillance, and
6 epidemiological follow-up.

7 (e) ~~Any person who:~~

8 ~~(1) Willfully or maliciously discloses the content of any confidential
9 public health record without written authorization or other than as authorized
10 by law or in violation of subsection (b), (c), or (d) of this section shall be
11 subject to a civil penalty of not less than \$10,000.00 and not more than
12 \$25,000.00, costs and attorney's fees as determined by the court, compensatory
13 and punitive damages, or equitable relief, including restraint of prohibited acts,
14 costs, reasonable attorney's fees, and other appropriate relief.~~

15 ~~(2) Negligently discloses the content of any confidential public health
16 record without written authorization or other than as authorized by law or in
17 violation of subsection (b), (c), or (d) of this section shall be subject to a civil
18 penalty in an amount not to exceed \$2,500.00 plus court costs, as determined
19 by the court, which penalty and costs shall be paid to the subject of the
20 confidential information.~~

1 ~~(3) Willfully, maliciously, or negligently discloses the results of an HIV~~
2 ~~test to a third party in a manner that identifies or provides identifying~~
3 ~~characteristics of the person to whom the test results apply without written~~
4 ~~authorization or other than as authorized by law or in violation of subsection~~
5 ~~(b), (c), or (d) of this section and that results in economic, bodily, or~~
6 ~~psychological harm to the subject of the test is guilty of a misdemeanor,~~
7 ~~punishable by imprisonment for a period not to exceed one year or a fine not to~~
8 ~~exceed \$25,000.00, or both.~~

9 ~~(4) Commits any act described in subdivision (1), (2), or (3) of this~~
10 ~~subsection shall be liable to the subject for all actual damages, including~~
11 ~~damages for any economic, bodily, or psychological harm that is a proximate~~
12 ~~result of the act. Each disclosure made in violation of this chapter is a separate~~
13 ~~and actionable offense. Nothing in this section shall limit or expand the right~~
14 ~~of an injured subject to recover damages under any other applicable law.~~

15 [Repealed.]

16 ~~(f) Except as provided in subdivision (a)(2) of this section, the Health~~
17 ~~Department is prohibited from collecting, processing, or storing any~~
18 ~~individually identifying information concerning HIV/AIDS on any networked~~
19 ~~computer or server, or any laptop computer or other portable electronic device.~~
20 ~~On rare occasion, not as common practice, the Department may accept~~
21 ~~HIV/AIDS individually identifying information electronically. Once that~~

1 ~~information is collected, the Department shall, in a timely manner, transfer the~~
2 ~~information in compliance with this subsection. [Repealed.]~~

3 (g) ~~Health care providers must, prior to performing an HIV test, inform the~~
4 ~~individual to be tested that a positive result will require reporting of the result~~
5 ~~and the individual's name to the Department, and that there are testing sites~~
6 ~~that provide anonymous testing that are not required to report positive results.~~
7 ~~The Department shall develop and make widely available a model notification~~
8 ~~form. [Repealed.]~~

9 (h) Nothing in this section shall affect the ongoing availability of
10 anonymous testing for HIV. Anonymous HIV testing results shall not be
11 required to be reported under this section.

12 (i) ~~No later than November 1, 2007, the Health Department shall conduct~~
13 ~~an information and security audit in relation to the information collected~~
14 ~~pursuant to this section, including evaluation of the systems and procedures it~~
15 ~~developed to implement this section and an examination of the adequacy of~~
16 ~~penalties for disclosure by state personnel. No later than January 15, 2008, the~~
17 ~~Department shall report to the Senate Committee on Health and Welfare and~~
18 ~~the House Committee on Human Services concerning options available, and~~
19 ~~the costs those options would be expected to entail, for maximizing protection~~
20 ~~of the information collected pursuant to this section. That report shall also~~
21 ~~include the Department's recommendations on whether the General Assembly~~

1 ~~should impose or enhance criminal penalties on health care providers for~~
2 ~~unauthorized disclosures of medical information. The Department shall solicit~~
3 ~~input from AIDS service organizations and the community advisory group~~
4 ~~regarding the success of the Department's security measures and their~~
5 ~~examination of the adequacy of penalties as they apply to HIV/AIDS and~~
6 ~~include this input in the report to the Legislature. [Repealed.]~~

7 (j) ~~No later than January 1, 2008, the Department shall plan and commence~~
8 ~~a public campaign designed to educate the general public about the value of~~
9 ~~obtaining an HIV test. [Repealed.]~~

10 (k) The Commissioner shall maintain a separate database of reports
11 received pursuant to subsection 1141(i) of this title for the purpose of tracking
12 the number of tests performed pursuant to ~~subchapter 5 of chapter 21,~~
13 subchapter 5 of this title and ~~such~~ other information as the Department of
14 Health ~~determines to be~~ finds necessary and appropriate. The database shall
15 not include any information that personally identifies a patient.

16 Sec. 3. 18 V.S.A. § 1129 is amended to read:

17 § 1129. IMMUNIZATION REGISTRY

18 (a) A health care provider shall report to the ~~department~~ Department all
19 data regarding immunizations of adults and of children under ~~the age of 18~~
20 years of age within seven days of the immunization, provided that required
21 reporting of immunizations of adults shall commence within one month after

1 the health care provider has established an electronic health records system and
2 data interface pursuant to the e-health standards developed by the Vermont
3 ~~information technology leaders~~ Information Technology Leaders. A health
4 insurer shall report to the ~~department~~ Department all data regarding
5 immunizations of adults and of children under ~~the age of 18~~ years of age at
6 least quarterly. All data required pursuant to this subsection shall be reported
7 in a form required by the ~~department~~ Department.

8 (b) The ~~department~~ Department may use the data to create a registry of
9 immunizations. Except as provided by this subchapter, registry information
10 shall remain confidential and privileged. Registry information regarding a
11 particular adult shall be provided, upon request, to the adult, the adult's health
12 care provider, and the adult's health insurer. A minor child's record also may
13 be provided, upon request, to school nurses, school administrators, and upon
14 request and with written parental consent, to licensed day care providers, to
15 document compliance with Vermont immunization laws. Registry information
16 regarding a particular child shall be provided, upon request, to the child after
17 the child reaches the age of majority and to the child's parent, guardian, health
18 insurer, and health care provider. ~~Registry information shall be kept~~
19 ~~confidential and privileged and may be shared only in summary, statistical, or~~
20 ~~other form in which particular individuals are not identified.~~

1 (c) The Department may exchange confidential registry information with
2 the immunization registries of other states in order to obtain comprehensive
3 immunization records for Vermont residents.

4 (d) The Department may provide confidential registry information to health
5 care provider networks serving Vermont patients and, with the approval of the
6 Commissioner, to researchers who present evidence of approval from an
7 institutional review board in accordance with 45 C.F.R. § 164.512.

8 (e) Prior to releasing confidential information pursuant to subsections (c)
9 and (d) of this section, the Commissioner shall obtain from state registries,
10 health care provider networks, and researchers a written agreement to keep any
11 identifying information confidential and privileged.

12 (f) Registry information may be shared for public health purposes in
13 summary, statistical, or other form in which particular individuals are not
14 identified.

15 Sec. 4. EFFECTIVE DATE

16 This act shall take effect on July 1, 2015.