

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Human Services to which was referred House Bill No. 98  
3 entitled “An act relating to reportable disease registries and data” respectfully  
4 reports that it has considered the same and recommends that the bill be  
5 amended by striking out all after the enacting clause and inserting in lieu  
6 thereof the following:

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

8 CHAPTER 4. CANCER REGISTRY

9 \* \* \*

10 § 153. PARTICIPATION IN PROGRAM

11 (a) Any health care facility diagnosing or providing treatment to ~~cancer~~  
12 patients with cancer shall report each case of cancer to the ~~commissioner~~  
13 Commissioner or his or her authorized representative in a format prescribed by  
14 the ~~commissioner~~ Commissioner within ~~120~~ 180 days of admission or  
15 diagnosis. If the facility fails to report in a format prescribed by the  
16 ~~commissioner~~ Commissioner, the ~~commissioner's~~ Commissioner's authorized  
17 representative may enter the facility, obtain the information, and report it in the  
18 appropriate format. In these cases, the facility shall reimburse the  
19 ~~commissioner~~ Commissioner or the authorized representative for the cost of  
20 obtaining and reporting the information.

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

8 (c) All health care facilities and health care providers who provide  
9 diagnostic or treatment services to patients with cancer shall report to the  
10 ~~commissioner~~ Commissioner any further demographic, diagnostic, or treatment  
11 information requested by the ~~commissioner~~ Commissioner concerning any  
12 person now or formerly receiving services, diagnosed as having or having had  
13 a malignant tumor. Additionally, the ~~commissioner~~ Commissioner or his or  
14 her authorized representative shall have physical access to all records ~~which~~  
15 that would identify cases of cancer or would establish characteristics of the  
16 cancer, treatment of the cancer, or medical status of any identified ~~cancer~~  
17 patient with cancer. Willful failure to grant access to such records shall be  
18 punishable by a fine of up to \$500.00 for each day access is refused. Any fines  
19 collected pursuant to this subsection shall be deposited in the ~~general fund~~  
20 General Fund.

21 \* \* \*

1 § 155. DISCLOSURE

2 (a) The ~~commissioner~~ Commissioner may enter into agreements to  
3 exchange confidential information with other cancer registries in order to  
4 obtain complete reports of Vermont residents diagnosed or treated in other  
5 states and to provide information to other states regarding their residents  
6 diagnosed or treated in Vermont.

7 (b) The ~~commissioner~~ Commissioner may furnish confidential information  
8 to the National Breast and Cervical Cancer Early Detection Program, other  
9 states' cancer registries, federal cancer control agencies, or health researchers  
10 in order to collaborate in a national cancer registry or to collaborate in cancer  
11 control and prevention research studies. However, before releasing  
12 confidential information, the ~~commissioner~~ Commissioner shall first obtain  
13 from such state registries, agencies, or researchers an agreement in writing to  
14 keep the identifying information confidential and privileged. In the case of  
15 researchers, the ~~commissioner~~ Commissioner shall also first obtain evidence of  
16 the approval of their academic committee for the protection of human subjects  
17 established in accordance with ~~part 46 of Title 45 of the Code of Federal~~  
18 ~~Regulations~~ 45 C.F.R. part 46.

19 \* \* \*

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

2 § 1001. REPORTS TO COMMISSIONER OF HEALTH

3 (a) When a physician, health care provider, nurse practitioner, nurse,  
4 physician assistant, or school health official has reason to believe that a person  
5 is sick or has died of a diagnosed or suspected disease, identified by the  
6 Department of Health as a reportable disease and dangerous to the public  
7 health, or if a laboratory director has evidence of such sickness or disease, he  
8 or she shall transmit within 24 hours a report thereof and identify the name and  
9 address of the patient and the name of the patient’s physician to the  
10 Commissioner of Health or designee. **In the case of the human**  
11 **immunodeficiency virus (HIV), “reason to believe” shall mean personal**  
12 **knowledge of a positive HIV test result.** The Commissioner, with the approval  
13 of the Secretary of Human Services, shall by rule establish a list of those  
14 diseases dangerous to the public health that shall be reportable. **Nonmedical**  
15 **community-based organizations shall be exempt from this reporting**  
16 **requirement.** All information collected pursuant to this section and in support  
17 of investigations and studies undertaken by the ~~commissioner~~ Commissioner  
18 for the purpose of determining the nature or cause of any disease outbreak shall  
19 be privileged and confidential. The ~~Health~~ Department of Health shall, by  
20 rule, require that any person required to report under this section has in place a  
21 procedure that ensures confidentiality. ~~In addition, in relation to the reporting~~

1 of HIV and the acquired immune deficiency syndrome (AIDS), the Health  
2 Department shall, by rule:

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

7 ~~(2) develop procedures for backing up encrypted, individually~~  
8 ~~identifying information, including procedures for storage, location, and transfer~~  
9 ~~of data.~~

10 ~~(b)(1) Public health records that relate to HIV or AIDS that contain any~~  
11 ~~personally identifying information, or any information that may indirectly~~  
12 ~~identify a person and was developed or acquired by state or local public health~~  
13 ~~agencies, shall be confidential and shall only be disclosed following notice to~~  
14 ~~the individual subject of the public health record or the individual's legal~~  
15 ~~representative and pursuant to a written authorization voluntarily executed by~~  
16 ~~the individual or the individual's legal representative. Except as provided in~~  
17 ~~subdivision (2) of this subsection, notice and authorization is required prior to~~  
18 ~~all disclosures, including disclosures to other states, the federal government,~~  
19 ~~and other programs, departments, or agencies of state government.~~

20 ~~(2) Notwithstanding the provisions of subdivision (1) of this subsection,~~  
21 ~~disclosure without notification shall be permitted to other states' infectious~~

1 ~~disease surveillance programs for the sole purpose of comparing the details of~~  
2 ~~case reports identified as possibly duplicative, provided such~~ Public health  
3 records developed or acquired by State or local public health agencies that  
4 relate to HIV or AIDS and that contain either personally identifying  
5 information or information that may indirectly identify a person shall be  
6 confidential and only disclosed following notice to and written authorization  
7 from the individual subject of the public health record or the individual's legal  
8 representative. Notice otherwise required pursuant to this section shall not be  
9 required for disclosures to the federal government; other departments,  
10 agencies, or programs of the State; or other states' infectious disease  
11 surveillance programs if the disclosure is for the purpose of comparing the  
12 details of potentially duplicative case reports, provided the information shall be  
13 shared using the least identifying information first so that the individual's  
14 name shall be used only as a last resort.

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

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

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

5 (2) used to determine issues relating to employment or insurance for any  
6 individual;

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

9 (e) *[VDH wants subsection out; Kletecka/Zatz want subsection in; ACLU is*  
10 *open to a hybrid]*

11 Any person who:

12 ~~(1) Willfully or maliciously discloses the content of any confidential~~  
13 ~~public health record without written authorization or other than as authorized~~  
14 ~~by law or in violation of subsection (b), (c), or (d) of this section shall be~~  
15 ~~subject to a civil penalty of not less than \$10,000.00 and not more than~~  
16 ~~\$25,000.00, costs and attorney's fees as determined by the court, compensatory~~  
17 ~~and punitive damages, or equitable relief, including restraint of prohibited acts,~~  
18 ~~costs, reasonable attorney's fees, and other appropriate relief.~~

19 ~~(2) Negligently discloses the content of any confidential public health~~  
20 ~~record without written authorization or other than as authorized by law or in~~  
21 ~~violation of subsection (b), (c), or (d) of this section shall be subject to a civil~~

1 ~~penalty in an amount not to exceed \$2,500.00 plus court costs, as determined~~  
2 ~~by the court, which penalty and costs shall be paid to the subject of the~~  
3 ~~confidential information.~~

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

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

18 [Repealed.]

19 **[OR potential hybrid:]**

20 **(e) Any person who willfully or maliciously discloses the content of or**  
21 **breaches confidentiality in relation to any confidential public health record**



1 other than as authorized by law or in violation of subsection (b) or (d) of this  
2 section shall be subject to a civil penalty of not less than \$10,000.00 and not  
3 more than \$25,000.00, costs and attorney's fees as determined by the court,  
4 compensatory and punitive damages, or equitable relief, including restraint of  
5 prohibited acts, costs, reasonable attorney's fees, and other appropriate relief.  
6 A person committing an act subject to a civil penalty under this section shall  
7 also be liable to the subject for all actual damages, including damages for any  
8 economic, bodily, or psychological harm that is a proximate result of the act.]

9 (f) ~~Except as provided in subdivision (a)(2) of this section, the Health~~  
10 ~~Department is prohibited from collecting, processing, or storing any~~  
11 ~~individually identifying information concerning HIV/AIDS on any networked~~  
12 ~~computer or server, or any laptop computer or other portable electronic device.~~  
13 ~~On rare occasion, not as common practice, the Department may accept~~  
14 ~~HIV/AIDS individually identifying information electronically. Once that~~  
15 ~~information is collected, the Department shall, in a timely manner, transfer the~~  
16 ~~information in compliance with this subsection. [Repealed.]~~

17 (g) Health care providers must, prior to performing an HIV test, inform the  
18 individual to be tested that a positive result will require reporting of the result  
19 and the individual's name to the Department, and that there are testing sites  
20 that provide anonymous testing that are not required to report positive results.

1 **The Department shall develop and make widely available a model notification**  
2 **form.**

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

6 (i) ~~No later than November 1, 2007, the Health Department shall conduct~~  
7 ~~an information and security audit in relation to the information collected~~  
8 ~~pursuant to this section, including evaluation of the systems and procedures it~~  
9 ~~developed to implement this section and an examination of the adequacy of~~  
10 ~~penalties for disclosure by state personnel. No later than January 15, 2008, the~~  
11 ~~Department shall report to the Senate Committee on Health and Welfare and~~  
12 ~~the House Committee on Human Services concerning options available, and~~  
13 ~~the costs those options would be expected to entail, for maximizing protection~~  
14 ~~of the information collected pursuant to this section. That report shall also~~  
15 ~~include the Department's recommendations on whether the General Assembly~~  
16 ~~should impose or enhance criminal penalties on health care providers for~~  
17 ~~unauthorized disclosures of medical information. The Department shall solicit~~  
18 ~~input from AIDS service organizations and the community advisory group~~  
19 ~~regarding the success of the Department's security measures and their~~  
20 ~~examination of the adequacy of penalties as they apply to HIV/AIDS and~~  
21 ~~include this input in the report to the Legislature.~~ **The Department shall**

1 annually evaluate the systems and confidentiality procedures developed to  
2 implement networked and non-networked electronic reporting, including  
3 system breaches and penalties for disclosure to State personnel. The  
4 Department shall provide the results of this evaluation to and solicit input from  
5 the Vermont HIV/AIDS Community Advisory Group.

6 (j) ~~No later than January 1, 2008, the Department shall plan and commence~~  
7 ~~a public campaign designed to educate the general public about the value of~~  
8 ~~obtaining an HIV test.~~ The Department shall collaborate with  
9 community-based organizations to educate the public and health care providers  
10 about the benefits of HIV testing and the use of current testing technologies.

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

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

18 § 1129. IMMUNIZATION REGISTRY

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

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

9 (b) The ~~department~~ Department may use the data to create a registry of  
10 immunizations. Registry information shall remain confidential and privileged,  
11 except as provided in subsections (c) and (d) of this section. Registry  
12 information regarding a particular adult shall be provided, upon request, to the  
13 adult, the adult's health care provider, and the adult's health insurer. A minor  
14 child's record also Registry information regarding a particular minor child may  
15 be provided, upon request, to school nurses, or in the absence of a nurse on  
16 staff, administrators as defined in 16 V.S.A. § 1691a, and upon request and  
17 with written parental consent, to licensed day care providers, to document  
18 compliance with Vermont immunization laws. Registry information regarding  
19 a particular child shall be provided, upon request, to the child after the child  
20 reaches the age of majority and to the child's parent, guardian, health insurer,  
21 and health care provider. ~~Registry information shall be kept confidential and~~

1 ~~privileged and may be shared only in summary, statistical, or other form in~~  
2 ~~which particular individuals are not identified.~~

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

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

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

14 (f) [VDH] The Department may update the registry based on other data  
15 sources, including vital records, the Safe at Home program, and other public  
16 health registries, to ensure that records within the registry are accurate.

17 (g) Registry information may be shared for public health purposes in  
18 summary, statistical, or other form in which particular individuals are not  
19 identified.

20 Sec. 4. EFFECTIVE DATE

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

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7 (Committee vote: \_\_\_\_\_)

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\_\_\_\_\_

9

Representative \_\_\_\_\_

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FOR THE COMMITTEE