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**SB-1333 Communicable diseases: HIV reporting.** (2023-2024)

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**Senate Bill No. 1333**

**CHAPTER 472**

An act to amend Sections 121022 and 121025 of the Health and Safety Code, relating to public health.

[ Approved by Governor September 22, 2024. Filed with Secretary of State September 22, 2024. ]

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1333, Eggman. Communicable diseases: HIV reporting.

Existing law requires all health care providers and laboratories to report cases of human immunodeficiency virus (HIV) infection to the local health officer and requires the local health officer to report unduplicated HIV cases to the State Department of Public Health. Existing law requires state and local health department employees and contractors to sign confidentiality agreements prior to accessing confidential HIV-related public health records. Existing law requires the department or appropriate local health department to annually review the agreements.

This bill would require employees and contractors to annually sign the agreement and would repeal the annual review of the agreements. By increasing obligations on local health departments to annually obtain signed agreements, this bill would impose a state-mandated local program.

Existing law requires public health records related to HIV or acquired immunodeficiency syndrome (AIDS), containing personally identifying information, that were developed or acquired by a state or local public health agency, or an agent of that agency, to be confidential and not disclosed, except as otherwise provided by law for public health purposes or pursuant to a written authorization by the person who is the subject of the record or by their guardian or conservator. Existing law authorizes certain state or local public health officials to disclose those records to other local, state, or federal public health agencies or to medical researchers when the confidential information is necessary to carry out the duties of the agency or researcher in the investigation, control, or surveillance of disease.

This bill would additionally authorize disclosure when the confidential information is necessary for the coordination of, linkage to, or reengagement in care for a person.

Existing law authorizes local public health agency staff to disclose information to state and federal public health agency staff for purposes of enhancing the completeness of reporting to the federal Centers for Disease Control and Prevention (CDC) of persons coinfecting with HIV and specified transmittable diseases.

This bill would repeal that authority.

This bill would make legislative findings and declarations as to the benefits of HIV-related data sharing and would state the intent of the Legislature to enhance these data sharing practices.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

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## THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

### **SECTION 1.** (a) The Legislature finds and declares all of the following:

(1) According to the State Department of Public Health, more than 142,700 people in California are living with diagnosed HIV infection.

(2) Approximately 73.7 percent of people living with diagnosed HIV infection in California are in HIV care and 64.7 percent have achieved viral suppression.

(3) The goals of the Ending the HIV Epidemic in the U.S. (EHE) plan include increasing linkage to care and viral suppression to 95 percent by 2025.

(4) Evidence-based data sharing practices allow state and local health departments to leverage public health and health care systems data to more effectively serve people living with HIV.

(b) It is the intent of the Legislature to enhance data sharing practices concerning people living with HIV, while continuing to prioritize privacy and safety measures to ensure responsible dissemination of sensitive health data and coordination of, linkage to, or reengagement in care.

### **SEC. 2.** Section 121022 of the Health and Safety Code is amended to read:

**121022.** (a) To ensure knowledge of current trends in the HIV epidemic and to ensure that California remains competitive for federal HIV and AIDS funding, health care providers and laboratories shall report all cases of HIV infection to the local health officer using patient names on a form developed by the department. Both the local health officer and the department shall be authorized to access reports of HIV infection that are electronically submitted by laboratories pursuant to subdivision (g) of Section 120130. Local health officers shall report unduplicated HIV cases by name to the department on a form developed by the department.

(b) (1) Health care providers and local health officers shall submit cases of HIV infection pursuant to subdivision (a) by courier service, United States Postal Service express mail or registered mail, other traceable mail, person-to-person transfer, facsimile, or electronically by a secure and confidential electronic reporting system established by the department.

(2) This subdivision shall be implemented using the existing resources of the department.

(c) The department and local health officers shall ensure continued reasonable access to anonymous HIV testing through alternative testing sites, as established by Section 120890, and in consultation with HIV planning groups and affected stakeholders, including representatives of persons living with HIV and health officers.

(d) The department shall promulgate emergency regulations to conform the relevant provisions of Article 3.5 (commencing with Section 2641.5) of Subchapter 1 of Chapter 4 of Division 1 of Title 17 of the California Code of Regulations, consistent with this chapter, by April 17, 2007. Notwithstanding the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), if the department revises the form used for reporting pursuant to subdivision (a) after consideration of the reporting guidelines published by the federal Centers for Disease Control and Prevention, the revised form shall be implemented without being adopted as a regulation, and shall be filed with the Secretary of State and printed in Title 17 of the California Code of Regulations.

(e) Pursuant to Section 121025, reported cases of HIV infection shall not be disclosed, discoverable, or compelled to be produced in any civil, criminal, administrative, or other proceeding.

(f) State and local health department employees and contractors shall be required to sign, on an annual basis, confidentiality agreements developed by the department that include information related to the penalties for a breach of confidentiality and the procedures for reporting a breach of confidentiality, prior to accessing confidential HIV-related public health records.

(g) A person shall not disclose identifying information reported pursuant to subdivision (a) to the federal government, including, but not limited to, any agency, employee, agent, contractor, or anyone else acting on behalf of the federal government, except as permitted under subdivision (b) of Section 121025.

(h) (1) Any potential or actual breach of confidentiality of HIV-related public health records shall be investigated by the local health officer, in coordination with the department, when appropriate. The local health officer shall immediately report any evidence of an actual breach of confidentiality of HIV-related public health records at a city or county level to the department and the appropriate law enforcement agency.

(2) The department shall investigate any potential or actual breach of confidentiality of HIV-related public health records at the state level, and shall report any evidence of such a breach of confidentiality to an appropriate law enforcement agency.

(i) Any willful, negligent, or malicious disclosure of cases of HIV infection reported pursuant to subdivision (a) shall be subject to the penalties prescribed in Section 121025.

(j) This section does not limit any other remedies and protections available under state or federal law.

**SEC. 3.** Section 121025 of the Health and Safety Code is amended to read:

**121025.** (a) Public health records relating to human immunodeficiency virus (HIV) or acquired immunodeficiency syndrome (AIDS), containing personally identifying information, that were developed or acquired by a state or local public health agency, or an agent of that agency, are confidential and shall not be disclosed, except as otherwise provided by law for public health purposes or pursuant to a written authorization by the person who is the subject of the record or by the person's guardian or conservator.

(b) A state or local public health agency, or an agent of that agency, may disclose personally identifying information in public health records, as described in subdivision (a), to other local, state, or federal public health agencies including, but not limited to, the federal Centers for Disease Control and Prevention (CDC), or to collaborating researchers, when the confidential information is necessary to carry out the duties of the agency or researcher in the investigation, control, or surveillance of disease, or the coordination of, linkage to, or reengagement in care for a person or persons, as determined by the state or local public health agency.

(c) Any disclosures authorized by subdivision (a), (b), or this subdivision shall include only the information necessary for the purpose of that disclosure and shall be made only upon the agreement that the information will be kept confidential as described in subdivision (a). Any unauthorized further disclosure shall be subject to the penalties described in subdivision (e).

(1) Notwithstanding any other law, the state or local public health agency staff may further disclose the information to a health care provider who provides care to the HIV-positive person who is the subject of the record for the purpose of assisting in compliance with subdivision (a) of Section 121022.

(2) Notwithstanding any other law, the following disclosures are authorized for the purpose of facilitating appropriate HIV/AIDS medical care and treatment:

(A) State public health agency HIV surveillance staff, HIV prevention staff, AIDS Drug Assistance Program staff, and care services staff may further disclose the information to local public health agency staff, who may further disclose the information to the HIV-positive person who is the subject of the record, or a health care provider who provides the person's care, for the purpose of proactively offering and coordinating care and treatment services to the HIV-positive person.

(B) HIV surveillance staff, HIV prevention staff, AIDS Drug Assistance Program staff, and care services staff in the State Department of Public Health may further disclose the information directly to the HIV-positive person who is the subject of the record or the health care provider who provides their HIV care, for the purpose of proactively offering and coordinating care and treatment services to them.

(C) Local public health agency staff may further disclose acquired or developed information to the HIV-positive person who is the subject of the record or the health care provider who provides their HIV care for the purpose of proactively offering and coordinating care and treatment services to them.

(3) Notwithstanding any other law, for the purpose of facilitating appropriate case management or care coordination or delivery of medical care and treatment of persons coinfectd with HIV and tuberculosis, syphilis, gonorrhea, chlamydia, hepatitis B, hepatitis C, meningococcal infection, or other reportable diseases under Section 2500 or Section 2505 of Title 17 of the California Code of Regulations, state or local public health agency staff may further disclose the information to other state or local public health agency staff, the HIV-positive person who is the subject of the record, or the HIV-positive person's health care provider.

(4) For the purposes of paragraphs (2) and (3), "staff" does not include nongovernmental entities, but shall include state and local contracted employees who work within state and local public health departments.

(d) A confidential public health record, as defined in subdivision (c) of Section 121035, shall not be disclosed, discoverable, or compelled to be produced in any civil, criminal, administrative, or other proceeding.

(e) (1) A person who negligently discloses the content of a confidential public health record, as defined in subdivision (c) of Section 121035, to a third party, except pursuant to a written authorization, as described in subdivision (a), or as otherwise authorized by law, shall be subject to a civil penalty in an amount not to exceed five thousand dollars (\$5,000), plus court costs, as determined by the court. The penalty and costs shall be paid to the person whose record was disclosed.

(2) A person who willfully or maliciously discloses the content of any confidential public health record, as defined in subdivision (c) of Section 121035, to a third party, except pursuant to a written authorization, or as otherwise authorized by law, shall be subject to a civil penalty in an amount not less than five thousand dollars (\$5,000) and not more than twenty-five thousand dollars (\$25,000), plus court costs, as determined by the court. The penalty and costs shall be paid to the person whose confidential public health record was disclosed.

(3) A person who willfully, maliciously, or negligently discloses the content of a confidential public health record, as defined in subdivision (c) of Section 121035, to a third party, except pursuant to a written authorization, or as otherwise authorized by law, that results in economic, bodily, or psychological harm to the person whose confidential public health record was disclosed, is guilty of a misdemeanor, punishable by imprisonment in a county jail for a period not to exceed one year, or a fine not to exceed twenty-five thousand dollars (\$25,000), or both, plus court costs, as determined by the court. The penalty and costs shall be paid to the person whose confidential public health record was disclosed.

(4) A person who commits an act described in paragraph (1), (2), or (3) is liable to the person whose confidential public health record was disclosed for all actual damages for economic, bodily, or psychological harm that is a proximate result of the act.

(5) Each violation of this section is a separate and actionable offense.

(6) This section does not limit or expand the right of an injured person whose confidential public health record was disclosed to recover damages under any other applicable law.

(f) If a confidential public health record, as defined in subdivision (c) of Section 121035, is disclosed, the information shall not be used to determine employability or insurability of a person.

**SEC. 4.** If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.