

2020 Regular Session

SENATE BILL NO. 449

BY SENATOR BOUDREAUX

DISEASE CONTROL. Requires reporting of contagious or infectious diseases to first responders. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 44:4.1(B)(26) and to enact R.S. 40:1272.2, relative to disease
3 control; to require certain reporting by local health authorities of individuals with
4 contagious or infectious disease to first responders; and to provide for related
5 matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 40:1272.2 is hereby enacted to read as follows:

8 **§1272.2. Notification of contagious or infectious disease to first responders**

9 **A. As used in this Section:**

10 **(1) "Local public health authority" or "authority" means the political**
11 **subdivision charged with the responsibility of preserving the public health**
12 **under state law.**

13 **(2) "Contagious or infectious disease" means COVID-19 or any other**
14 **disease capable of being transmitted from one person on an organism to another**
15 **person either directly or indirectly.**

16 **(3) "First responder" means all of the following:**

17 **(a) A peace officer as defined in R.S. 40:2402.**

1 **(b) An employee of an ambulance provider as defined in R.S. 40:1131.**

2 **(c) A firefighter employed by a political subdivision.**

3 **(d) A volunteer fireman as defined in R.S. 37:1735, emergency operator,**
4 **or rescue operator.**

5 **(4) "Violation " means an occasion of noncompliance with this Section**
6 **involving a single injured individual.**

7 **B. A local public health authority that becomes aware of a patient's**
8 **presumptive positive case for a contagious or infectious disease shall promptly**
9 **determine whether the patient was treated, handled, or transported for medical**
10 **care by a first responder in the thirty days prior to becoming aware of the**
11 **presumptive positive case. If the patient was treated, handled, or transported**
12 **by one or more first responders under these circumstances, the authority shall**
13 **promptly provide verbal notification of the presumptive positive case to each**
14 **first responder involved with the patient's treatment, handling, or**
15 **transportation, as well as that responder's employer.**

16 **C. A first responder or that responder's employer who received verbal**
17 **notification under Subsection B of this Section may request to be notified of the**
18 **results, whether positive or negative, of any test performed on the patient to**
19 **determine the presence of a contagious or infectious disease.**

20 **D. The authority shall provide a list of the names, addresses, and test**
21 **results, (whether positive, negative or pending) of all individuals it knows to**
22 **have been tested or received treatment for a contagious or infectious disease to**
23 **an ambulance provider for use on a per-call basis. The ambulance provider**
24 **shall be allowed to use information on the list to inform its personnel who are**
25 **responding to any particular emergency call so that the personnel can take**
26 **extra precautions or use personal protective equipment.**

27 **E. No person or government entity shall knowingly fail to comply with**
28 **either Subsections B. C, or D of this Section.**

29 **F.(1) Any notification and record of a notification made under this**

1 Section shall be confidential and not a public record under the Public Records
2 Law.

3 (2) No person to whom notification has been disclosed pursuant to this
4 Section shall disclose the information to another person except as authorized by
5 this Section.

6 G. An authority that knowingly violates Subsections B, C, or D of this
7 Section may be found liable in a civil action, which may be brought by any
8 individual injured by the violation. Except as otherwise provided in Subsection
9 H of this Section, the court may award compensatory damages and any
10 equitable relief, including injunctive relief, it finds appropriate. If an award is
11 made in favor of the plaintiff, the court may award reasonable attorney's fees
12 to the plaintiff after a hearing to determine the amount of the fees.

13 H. An authority that acts in good faith in accordance with Subjection B,
14 C, or D of this Section shall not be liable for damages in a civil action brought
15 pursuant to this Section.

16 I. A civil action under this Section shall be barred unless the action is
17 commenced within one year after the cause of action accrued.

18 J. The remedies provided in this section shall be the exclusive civil
19 remedies for an individual injured by noncompliance with Subjection B, C, or
20 D of this Section.

21 K. Whoever violates Subdivision E of this Section shall be guilty of a
22 misdemeanor and fined not more than five thousand dollars. In addition,
23 violation shall constitute grounds for suspension or revocation of the
24 professional license or certificate of the violator or for other disciplinary action
25 by the respective professional regulatory board.

26 L.(1) No ambulance service provider who in good faith establishes and
27 implements protocols for the donning and doffing of personal protective
28 equipment and/or workforce reentry in accordance with the Centers for Disease
29 Control guideline or any rule established by the Louisiana Department of

1 Health in the rendering of care or services to a person or persons suspected of
2 having a contagious or infectious disease shall be liable for any civil damages as
3 a result of any emergency medical technician who provided such care or
4 services who later tests positive for that same contagious or infectious disease.

5 (2) No ambulance service provider who in good faith establishes and
6 implements protocols for the donning and doffing of personal protective
7 equipment and/or workforce reentry in accordance with the Centers for Disease
8 Control guideline or any rule established by the Louisiana Department of
9 Health in the rendering of care or services to a person or persons suspected of
10 having a contagious disease as defined in this Section shall be liable for any civil
11 damages as a result of any emergency medical technician who provided such
12 care or services who later tests positive for that same contagious disease.

13 (3) For purposes of this Subsection, "emergency medical technician"
14 means a certified first responder and an EMS practitioner as defined in R.S.
15 40:1131(12).

16 M. The Louisiana Department of Health through the office of public
17 health shall promulgate rules and regulations to implement this Section.

18 N. The provisions of this Section shall supersede any conflicting
19 provision of law.

20 Section 2. R.S. 44:4(B)(26) is hereby amended and reenacted to read as follows:

21 §4.1. Exceptions

22 * * *

23 B. The legislature further recognizes that there exist exceptions, exemptions,
24 and limitations to the laws pertaining to public records throughout the revised
25 statutes and codes of this state. Therefore, the following exceptions, exemptions, and
26 limitations are hereby continued in effect by incorporation into this Chapter by
27 citation:

28 * * *

29 (26) R.S. 40:3.1, 31.14, 31.27, 39.1, 41, 73, 95, 96, 526, 528, 973.1, 978.2.1,

1 1007, 1061.21, 1079.18, 1081.10, 1105.6, 1105.8, 1133.8, 1168.3, 1171.4, 1203.4,
2 1231.4, **1272.2(F)**, 1379.1.1(D), 1379.3, 2009.8, 2009.14, 2010.5, 2017.9, 2018,
3 2018.5, 2019, 2020, 2106, 2138, 2175.7(B)(1), 2532, 2845.1.

4 * * *

5 Section 2. This Act shall become effective upon signature by the governor or, if not
6 signed by the governor, upon expiration of the time for bills to become law without signature
7 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
8 vetoed by the governor and subsequently approved by the legislature, this Act shall become
9 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Jerry J. Guillot.

DIGEST

SB 449 Original 2020 Regular Session Boudreaux

Proposed law defines:

- (1) "Local public health authority" or "authority" means the political subdivision charged with the responsibility of preserving the public health under state law.
- (2) "Contagious or infectious disease" means COVID-19 or any other disease capable of being transmitted from one person on an organism to another person either directly or indirectly.
- (3) "First responder" means all of the following:
 - (a) A peace officer.
 - (b) An employee of an ambulance provider.
 - (c) A firefighter employed by a political subdivision.
 - (d) A volunteer firefighter, emergency operator, or rescue operator.
- (4) "Violation " means an occasion of noncompliance with proposed law involving a single injured individual.

Proposed law requires a local health authority that becomes aware of a patient's presumptive positive case for a contagious or infectious disease to promptly determine whether the patient was treated, handled, or transported for medical care by a first responder in the 30 days prior to becoming aware of the presumptive positive case. Requires that if the patient was treated, handled, or transported by one or more first responders under those circumstances, the local health authority promptly provide verbal notification of the presumptive positive case to each first responder involved with the patient's treatment, handling, or transportation, as well as that responder's employer.

Provides that a first responder or that worker's employer who has received verbal notification under proposed law may request to be notified of the results, whether positive or negative,

of any test performed on the patient to determine the presence of a contagious or infectious disease.

Requires that the local health authority provide a list of the names, addresses, and test results, (whether positive, negative or pending) of all individuals it knows to have been tested or received treatment for contagious or infectious disease to an ambulance provider for use on a per-call basis. Authorizes an ambulance provider to use information on the list to inform its personnel who are responding to any particular emergency call so that the personnel can take extra precautions or use personal protective equipment.

Provides that any notification and record of a notification made under proposed law shall be confidential and not a public record. Provides that no person to whom notification is disclosed shall not disclose the information to another person except as authorized by proposed law.

Provides that no person or government entity shall knowingly fail to comply with either the above provisions.

Provides that a local health authority that knowingly violates any of the above provisions may be found liable in a civil action, which may be brought by any individual injured by the violation.

Provides that the court may award compensatory damages and any equitable relief, including injunctive relief, it finds appropriate, and, if an award is made in favor of the plaintiff, the court may award reasonable attorney's fees to the plaintiff after a hearing to determine the amount of the fees.

However, an authority that acts in good faith in accordance with the above provisions shall not be liable for damages in a civil action brought pursuant proposed law.

Provides that a civil action under proposed law is barred unless the action is commenced within one year after the cause of action accrued.

Provides that the remedies provided in proposed law shall be the exclusive civil remedies for an individual injured by noncompliance with notification and list provisions of proposed law.

Provides that whoever violates proposed law by knowingly fail to comply with either the notification or list provisions of proposed law shall be guilty of a misdemeanor and fined not more than \$5,000. In addition, violation shall constitute grounds for suspension or revocation of the professional license or certificate of the violator or for other disciplinary action by the respective professional regulatory board.

Provides that no ambulance service provider who in good faith establishes and implements protocols for the donning and doffing of personal protective equipment and/or workforce reentry in accordance with the Centers for Disease Control guideline or any rule established by the La. Department of Health in the rendering of care or services to a person or persons suspected of having a contagious or infectious disease shall be liable for any civil damages as a result of any emergency medical technician who provided such care or services who later tests positive for that same contagious or infectious disease. Defines, "emergency medical technician" as an EMS practitioner and a certified first responder.

Provides that the La. Department of Health through the office of public health shall promulgate rules and regulations to implement proposed law.

Provides that proposed law shall supersede any conflicting provision of present law.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 44:4.1(B)(26); adds R.S. 40:1272.2)