

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 SENATE BILL 255

By: Dahm

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6
7 AS INTRODUCED

8 An Act relating to prevention and control of disease;
9 defining terms; specifying applicability of act;
10 authorizing conduction of contact tracing under
11 certain conditions; providing for qualifications and
12 training requirements for contact tracers; requiring
13 execution and maintenance of certain sworn affidavit;
14 prohibiting certain disclosure of identity; limiting
15 collection of data; prohibiting production of contact
16 data under subpoena except under certain conditions;
17 imposing certain requirements relating to contact
18 data; specifying confidentiality of contact data;
19 stating voluntary nature of contact tracing;
20 providing certain liability protections; prohibiting
21 certain use of location data; allowing individual to
22 voluntarily authorize use of location data for
23 specified purpose; prohibiting certain collection,
24 maintenance and obtainment of certain data; providing
25 exceptions; directing implementation and maintenance
26 of certain procedures; requiring destruction of
27 certain contact data through specified means;
28 providing for certain civil action; creating
29 misdemeanor offense; specifying that actions and
30 remedies are cumulative; directing promulgation of
31 rules; amending the Oklahoma Open Records Act;
32 providing exception; providing for codification; and
33 declaring an emergency.

34 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

1 SECTION 1. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1-508.1 of Title 63, unless
3 there is created a duplication in numbering, reads as follows:

4 As used in this act:

5 1. "Contact" means an individual who is known to have
6 associated with an infected individual and who has the opportunity
7 to become infected;

8 2. "Contact data" means information collected through contact
9 tracing. The term includes names or medical, epidemiological,
10 individual mobility or other data;

11 3. "Contact tracer" means a person employed, contracted, or
12 engaged by the State Department of Health, a county health
13 department or a city-county health department to conduct contact
14 tracing;

15 4. "Contact tracing" means identifying individuals who may have
16 been exposed to an infected individual for the purpose of containing
17 the spread of a communicable disease by notifying a contact of the
18 exposure and need for testing and self-quarantine; and

19 5. "Infected individual" means an individual known or
20 reasonably suspected to be infected with a communicable disease.

21 SECTION 2. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 1-508.2 of Title 63, unless
23 there is created a duplication in numbering, reads as follows:
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1 A. This act shall not apply to a law enforcement agency or
2 peace officer.

3 B. This state, a political subdivision of this state, or an
4 agent of this state or of a political subdivision of this state may
5 conduct contact tracing only in accordance with this act.

6 C. Subject to the availability of funds, the State Department
7 of Health, a county health department or a city-county health
8 department may employ, contract for, or engage the services of
9 contact tracers if the department determines that contact tracing is
10 necessary to perform a public health duty required by law.

11 SECTION 3. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 1-508.3 of Title 63, unless
13 there is created a duplication in numbering, reads as follows:

14 A. The State Commissioner of Health by rule shall prescribe
15 qualification and training requirements for contact tracers to
16 ensure contact tracers comply with this act. A contact tracer shall
17 not conduct contact tracing under this act unless the contact tracer
18 satisfies the qualification and training requirements prescribed by
19 rules of the Commissioner.

20 B. Before collecting any contact data, a contact tracer shall
21 execute a sworn affidavit in the form prescribed by the State
22 Department of Health acknowledging the contact tracer's familiarity
23 with the requirements of this act, including confidentiality.

1 C. The State Department of Health, a county health department
2 or a city-county health department employing, contracting with or
3 engaging the services of a contact tracer shall maintain a copy of
4 the contact tracer's affidavit until the later of:

5 1. The first anniversary of the date the contact tracer's
6 duties end; or

7 2. The date the retention period for the affidavit expires
8 under an applicable records retention schedule.

9 SECTION 4. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 1-508.4 of Title 63, unless
11 there is created a duplication in numbering, reads as follows:

12 A. A contact tracer shall not disclose to a contact the
13 identity of an infected individual.

14 B. A contact tracer may collect only contact data specifically
15 authorized by rules of the Commissioner.

16 C. The State Department of Health, a county health department,
17 a city-county health department or a contact tracer shall not
18 produce contact data under a subpoena unless the subpoena is:

19 1. Issued by a court; and

20 2. Accompanied by a valid protective order preventing further
21 disclosure of the data.

22 D. The State Department of Health, a county health department,
23 a city-county health department or a contact tracer:

1 1. Shall use contact data for contact tracing purposes only and
2 is prohibited from using the contact data for any other purpose;

3 2. Shall ensure the contact data remains confidential;

4 3. Shall not release or disclose the contact data unless the
5 release or disclosure:

6 a. is necessary to conduct contact tracing, and

7 b. complies with the laws of this state governing
8 prevention and control of disease including, but not
9 limited to, Section 1-501 et seq. of Title 63 of the
10 Oklahoma Statutes; and

11 4. Shall ensure the contact data is safely and securely
12 destroyed in accordance with department rule when the contact data
13 is no longer necessary for contact tracing.

14 E. Contact data collected under this act shall be confidential
15 and shall not be subject to disclosure under the Oklahoma Open
16 Records Act.

17 SECTION 5. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 1-508.5 of Title 63, unless
19 there is created a duplication in numbering, reads as follows:

20 A. The State Department of Health, a county health department,
21 a city-county health department or a contact tracer shall not
22 require an individual to participate in contact tracing or prohibit
23 an individual from participating in contact tracing.

1 B. A contact or infected individual who in good faith discloses
2 to a contact tracer information requested by the contact tracer in
3 accordance with this act is not criminally or civilly liable for the
4 disclosure.

5 C. A contact or infected individual who fails to participate in
6 contact tracing is not criminally or civilly liable for the failure
7 to participate.

8 SECTION 6. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 1-508.6 of Title 63, unless
10 there is created a duplication in numbering, reads as follows:

11 A. Except as provided by subsection B of this section, the
12 State Department of Health, a county health department, a city-
13 county health department or a contact tracer shall not use location
14 data obtained from a cell phone, or other device through which
15 personal wireless services are transmitted, to identify or track
16 directly or indirectly the movement of individuals for contact
17 tracing purposes.

18 B. An individual may voluntarily elect to authorize the State
19 Department of Health, a county health department, a city-county
20 health department or a contact tracer to utilize the individual's
21 location data for contact tracing purposes.

22 C. A contact tracer shall not require a third party to collect
23 or maintain location data regarding contacts or infected individuals
24 for contact tracing purposes.

1 D. Except as provided by subsection E of this section, a
2 contact tracer shall not obtain contact data related to a contact or
3 infected individual from a third party.

4 E. A contact tracer may obtain contact data voluntarily
5 collected and maintained by a third party only if:

6 1. The third party provides the data to the contact tracer
7 voluntarily and with the consent of the infected individual or
8 contact whose information is disclosed; or

9 2. The data is provided pursuant to a valid warrant.

10 F. The State Department of Health, a county health department
11 or a city-county health department shall implement and maintain
12 reasonable procedures including any appropriate corrective action to
13 protect from unlawful use or disclosure any contact data collected
14 or maintained by the department under this act.

15 G. The State Department of Health, a county health department
16 or a city-county health department shall destroy or arrange for the
17 destruction of contact data the department is not required to retain
18 that is within the department's custody or control by shredding,
19 erasing or otherwise modifying the contact data to ensure it is
20 unreadable or indecipherable through any means.

21 SECTION 7. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 1-508.7 of Title 63, unless
23 there is created a duplication in numbering, reads as follows:
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1 A. A person may bring a civil action to enjoin a violation of
2 this act.

3 B. A person commits an offense if the person knowingly violates
4 this act. An offense under this subsection shall be a misdemeanor.

5 C. The actions and remedies provided by this act are not
6 exclusive and are in addition to any other action or remedy provided
7 by law.

8 SECTION 8. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 1-508.8 of Title 63, unless
10 there is created a duplication in numbering, reads as follows:

11 The State Commissioner of Health shall adopt rules necessary to
12 implement this act.

13 SECTION 9. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 24A.33 of Title 51, unless there
15 is created a duplication in numbering, reads as follows:

16 Contact data collected by the State Department of Health, a
17 county health department, a city-county health department or a
18 contact tracer under this act shall be confidential and may be kept
19 confidential by the department.

20 SECTION 10. It being immediately necessary for the preservation
21 of the public peace, health or safety, an emergency is hereby
22 declared to exist, by reason whereof this act shall take effect and
23 be in full force from and after its passage and approval.

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