

Legislative Analysis



REPORTING OF COMMUNICABLE DISEASES & AUTHORITY OF LOCAL HEALTH DEPTS

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House Bill 4899 as introduced
Sponsor: Rep. Kate Segal

House Bill 4900 as introduced
Sponsor: Rep. Tim Moore

House Bill 4901 as introduced
Sponsor: Rep. Lesia Liss
Committee: Health Policy

First Analysis (5-12-09)

BRIEF SUMMARY: House Bill 4899 would update the process for DCH to designate diseases as communicable and require reporting by physicians and laboratories. House Bill 4901 would make technical amendments consistent with the changes in House Bill 4899. House Bill 4900 would increase the penalty for violating a local health department regulation and extend the penalty to a violation of an order by a local health officer.

FISCAL IMPACT: As introduced, House Bills 4899 and 4901 will not have fiscal implications for the Department of Community Health. The bills would have no significant impact on the Department of Corrections.

To the extent that House Bill 4900 increased the number or severity of misdemeanor sentences, local costs of misdemeanor probation supervision or jail incarceration, both of which vary with jurisdiction, could increase. Any increase in penal fine revenues could benefit local libraries, which are the constitutionally-designated recipients of those revenues.

THE APPARENT PROBLEM:

Many provisions of the Public Health Code have not been updated since the 1978 recodification. In particular, recent events surrounding the emergence of the N₁H₁ strain of influenza underscore the necessity for the department to have a rapid designation system by which an emerging disease or infection can be placed on the list of communicable diseases and infections for which confirmed cases must be reported to the department. Currently, such designation and mandated reporting can only happen via the rules process – a process that can take months to years to complete.

In a related matter, local health departments are statutorily empowered to carry out the policies of the Department of Community Health and to protect the public health. One way they do this is by issuing regulations. Sometimes, however, a local health official may need to issue an order, for instance, prohibiting a person with a highly

communicable disease or infection from engaging in certain activities such as boarding a plane. Currently, however, an order by a local health officer carries no weight of law unless a local ordinance prescribes a penalty for violating it. Some feel that in light of our mobile society, having consistent policies statewide is a better approach. Therefore, it has been recommended that the penalty currently in place for violating a regulation issued by a local health department be expanded to apply to orders issued by local health officers and the penalty for a violation be increased.

THE CONTENT OF THE BILLS:

House Bills 4899 and 4901

House Bill 4899 would require the Department of Community Health to maintain, review, and revise a list of reportable diseases, infections, and disabilities that would designate and classify them into specific categories. House Bill 4901 would amend a different act to adopt technical amendments consistent with the revisions of House Bill 4899. The bills are tie-barred to each other, meaning that neither could take effect unless both are enacted into law.

House Bill 4899 would amend the Public Health Code (MCL 333.5101 et al.). Currently, under the provisions of Section 5111(1), the Department of Community Health may promulgate rules to designate and classify communicable, serious communicable, chronic, other noncommunicable diseases, infections, and disabilities. Under Section 5111(2), those rules must specify the communicable diseases and serious communicable diseases or infections covered under the rules, including, but not limited to, hepatitis B (HBV), venereal disease, and tuberculosis. However, the code specifies that these rules do not apply to the serious diseases or infections of HIV infection, or to AIDS.

The bill would amend the code to delete the above provisions and instead require DCH to maintain a list of reportable diseases, infections, and disabilities. The list would have to designate and classify communicable, serious communicable, chronic, or noncommunicable diseases, infections, and disabilities. DCH would have to review and revise the list at least once a year. In addition, numerous revisions of a technical nature to conform other provisions to the bill's changes would be made.

(Section 5111(2) also requires the DCH to promulgate rules to provide for the confidentiality of reports, records, and data pertaining to testing, care, treatment, reporting, and research associated with communicable diseases and serious communicable diseases or infections. This requirement would not be affected.)

House Bill 4901 would amend the Corrections Code (MCL 791.267b). Corrections officers who have been exposed to the bodily fluids of prisoners, may, under certain conditions, request that the prisoner be tested for HIV infection and/or HBV infection and then be notified of the results. The notice must adhere to confidentiality requirements of several statutory provisions, including rules promulgated under Section 5111(2) of the Public Health Code. To conform to the changes made to Section 5111 by House Bill

4899, the bill would change a reference to Section 5111(2) in the Corrections Code to instead reference rules promulgated under Section 5111. The bill would also make numerous technical revisions.

House Bill 4900

The bill would increase the penalty for violating a regulation of a local health department and also make it a criminal offense to violate an order of a local health department officer.

Local health departments are required by statute to continually and diligently endeavor to prevent disease, prolong life, and promote the public health through a variety of means, including organized programs, prevention and control of environmental health hazards, prevention and control of diseases, and, to the extent provided by law, regulation of health care facilities and health services delivery systems.

House Bill 4900 would amend the Public Health Code (MCL 333.2441) to specify that except as otherwise provided in the code, a person who violates a regulation of a local health department or order of a local health officer would be guilty of a misdemeanor punishable by imprisonment for not more than six months or a fine of not more than \$200, or both.

Currently, violating a regulation of a local health department is a misdemeanor punishable by not more than 90 days imprisonment and/or a \$200 fine.

ARGUMENTS:

For:

With increased access to various modes of travel, people, and whatever communicable medical conditions they may be carriers of, can travel from one side of the globe to the other in a matter of hours, days, or weeks. Thus, virulent strains of diseases, or even unknown diseases, can quickly appear. This has been evidenced by the emergence of SARS a few years ago and the recent emergence of the N₁H₁ strain of influenza. DCH has a system to designate which diseases, infections, and other medical conditions should mandate reporting by health providers, but is required by statute to go through the administrative rule process – a lengthy and cumbersome process that can take many months, sometimes years, to complete.

House Bill 4899 would instead allow the DCH to maintain a list of those diseases, infections, and disabilities serious enough to require mandatory reporting of confirmed cases by health care providers, without having to go through the rules process. For instance, under current law, the department can request, but not require, health providers to report confirmed cases of N₁H₁. The list of diseases requiring reporting does include flu, but providers only have to report the total number of cases weekly. For a strain of flu that is particularly virulent and spreading quickly, weekly reporting is unacceptable and endangers the public health by not allowing health officials to effectively track the spread

of disease because the spread of the disease may outpace the reporting. Under the bill, the department could move quickly in the face of serious health threats to designate a particular illness as serious and require health professionals to report confirmed cases.

Response:

It is important to note that neither the current system nor the bill would require providers to test every patient for diseases on the mandatory reporting list. The legislation just means that a quickly spreading or dangerous disease could be placed on the mandatory list sooner than current law provides. It is still up to the health provider to appropriately diagnose a patient based on standard of care practices and then to report those cases confirmed by a diagnoses to the department.

For:

Currently, unless a local ordinance provides otherwise, there are no “teeth” so to speak to enforce an order issued by a local health officer. House Bill 4900 would provide for statewide uniformity. Again, this is an important step in empowering local health departments and health officials in their mission of protecting the health of the public. Whether ordering an individual to be tested for a suspected communicable disease or illness (as allowed under law), or prohibiting a person carrying a known communicable disease from certain activities (such as traveling with an active case of TB in a confined mode of transportation), local health officials need the weight of law.

POSITIONS:

The Department of Community Health supports the bills. (5-12-09)

The Michigan Association for Local Public Health indicated support for the bills. (5-12-09)

The Michigan Health & Hospital Association indicated support for the bills. (5-12-09)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.