87R3364 SCL-D

By:  Patterson H.B. No. 888

A BILL TO BE ENTITLED

AN ACT

relating to regulation of contact tracing for communicable diseases; creating a criminal offense.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.  Chapter 81, Health and Safety Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. CONTACT TRACING

Sec. 81.451.  DEFINITIONS. In this subchapter:

(1)  "Contact" means an individual who is known to have associated with an infected individual and who has the opportunity to become infected.

(2)  "Contact data" means information collected through contact tracing. The term includes names or medical, epidemiological, individual mobility, or other data.

(3)  "Contact tracer" means a person employed, contracted, or engaged by the department or a health authority to conduct contact tracing.

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

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

Sec. 81.452.  APPLICABILITY OF SUBCHAPTER. This subchapter does not apply to a law enforcement agency or peace officer.

Sec. 81.453.  CONTACT TRACING RESTRICTION. This state, a political subdivision of this state, or an agent of this state or of a political subdivision of this state may conduct contact tracing only in accordance with this subchapter.

Sec. 81.454.  AUTHORIZED CONTACT TRACER SERVICES. Subject to the availability of funds, the department or a health authority may employ, contract for, or engage the services of contact tracers if the department or health authority determines that contact tracing is necessary to perform a public health duty required by law.

Sec. 81.455.  CONTACT TRACER QUALIFICATION AND TRAINING REQUIREMENTS. (a) The executive commissioner by rule shall prescribe qualification and training requirements for contact tracers to ensure contact tracers comply with this subchapter.

(b)  A contact tracer may not conduct contact tracing under this subchapter unless the contact tracer satisfies the qualification and training requirements prescribed by department rule.

Sec. 81.456.  CONTACT TRACER AFFIDAVIT. (a) Before collecting any contact data, a contact tracer shall execute a sworn affidavit in the form prescribed by the department acknowledging the contact tracer's familiarity with the requirements of this subchapter, including confidentiality.

(b)  The department or a health authority employing, contracting with, or engaging the services of a contact tracer shall maintain a copy of the contact tracer's affidavit until the later of:

(1)  the first anniversary of the date the contact tracer's duties end; or

(2)  the date the retention period for the affidavit expires under an applicable records retention schedule.

Sec. 81.457.  CONTACT DATA CONFIDENTIALITY AND SCOPE. (a) A contact tracer may not disclose to a contact the identity of an infected individual.

(b)  A contact tracer may collect only contact data specifically authorized by department rule.

(c)  The department, a health authority, or a contact tracer may not produce contact data under a subpoena unless the subpoena is:

(1)  issued by a court; and

(2)  accompanied by a valid protective order preventing further disclosure of the data.

(d)  The department, a health authority, or a contact tracer:

(1)  shall use contact data for contact tracing purposes only and is prohibited from using the contact data for any other purpose;

(2)  shall ensure the contact data remains confidential;

(3)  may not release or disclose the contact data unless the release or disclosure:

(A)  is necessary to conduct contact tracing; and

(B)  complies with the requirements of Section 81.046; and

(4)  shall ensure the contact data is safely and securely destroyed in accordance with department rule when the contact data is no longer necessary for contact tracing.

(e)  Contact data collected under this subchapter is confidential and not subject to disclosure under Chapter 552, Government Code.

Sec. 81.458.  CONTACT TRACING PARTICIPATION. (a) The department, a health authority, or a contact tracer may not require an individual to participate in contact tracing or prohibit an individual from participating in contact tracing.

(b)  A contact or infected individual who in good faith discloses to a contact tracer information requested by the contact tracer in accordance with this subchapter is not criminally or civilly liable for the disclosure.

(c)  A contact or infected individual who fails to participate in contact tracing is not criminally or civilly liable for the failure to participate.

Sec. 81.459.  CONTACT TRACING PROHIBITIONS AND REQUIREMENTS. (a) Except as provided by Subsection (b), the department, a health authority, or a contact tracer may not use location data obtained from a cell phone, or other device through which personal wireless services are transmitted, to identify or track directly or indirectly the movement of individuals for contact tracing purposes.

(b)  An individual may voluntarily elect to authorize the department, a health authority, or a contact tracer to utilize the individual's location data for contact tracing purposes.

(c)  A contact tracer may not require a third party to collect or maintain location data regarding contacts or infected individuals for contact tracing purposes.

(d)  Except as provided by Subsection (e), a contact tracer may not obtain contact data related to a contact or infected individual from a third party.

(e)  A contact tracer may obtain contact data voluntarily collected and maintained by a third party only if:

(1)  the third party provides the data to the contact tracer voluntarily and with the consent of the infected individual or contact whose information is disclosed; or

(2)  the data is provided pursuant to a valid warrant.

Sec. 81.460.  PROTECTION OF CONTACT DATA REQUIRED. (a) The department or a health authority shall implement and maintain reasonable procedures, including any appropriate corrective action, to protect from unlawful use or disclosure any contact data collected or maintained by the department or health authority under this subchapter.

(b)  The department or a health authority shall destroy or arrange for the destruction of contact data the department or health authority is not required to retain that is within the department's or health authority's custody or control by shredding, erasing, or otherwise modifying the contact data to ensure it is unreadable or indecipherable through any means.

Sec. 81.461.  CONTACT TRACER TORT CLAIMS. A contact tracer employed by, contracted by, or otherwise providing services to the department or a health authority is considered an employee of the department or political subdivision that appointed the health authority, as applicable, for purposes of Chapter 101, Civil Practice and Remedies Code.

Sec. 81.462.  INJUNCTION. A person may bring a civil action to enjoin a violation of this subchapter.

Sec. 81.463.  OFFENSE. (a) A person commits an offense if the person knowingly violates this subchapter.

(b)  An offense under Subsection (a) is a Class C misdemeanor.

Sec. 81.464.  CUMULATIVE REMEDIES. The actions and remedies provided by this subchapter are not exclusive and are in addition to any other action or remedy provided by law.

Sec. 81.465.  RULES. The executive commissioner shall adopt rules necessary to implement this subchapter.

SECTION 2.  (a) Not later than January 1, 2022, the executive commissioner of the Health and Human Services Commission shall adopt rules necessary to implement Subchapter K, Chapter 81, Health and Safety Code, as added by this Act.

(b)  Notwithstanding Section 81.455, Health and Safety Code, as added by this Act, and until the executive commissioner of the Health and Human Services Commission adopts rules under Subsection (a) of this section, the Department of State Health Services or a health authority may employ, contract with, or engage the services of a contact tracer if the contact tracer:

(1)  is under the supervision of the department or health authority, as applicable; and

(2)  otherwise complies with Subchapter K, Chapter 81, Health and Safety Code, as added by this Act.

SECTION 3.  This Act takes effect September 1, 2021.