

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

1 does not apply to a law enforcement agency or peace officer.

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

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

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

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

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

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

1 later of:

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

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

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

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

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

14 (1) issued by a court; and

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

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

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

21 (2) shall ensure the contact data remains
22 confidential;

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

25 (A) is necessary to conduct contact tracing; and

26 (B) complies with the requirements of Section

27 81.046; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 Sec. 81.461. CONTACT TRACER TORT CLAIMS. A contact tracer
26 employed by, contracted by, or otherwise providing services to the
27 department or a health authority is considered an employee of the

1 department or political subdivision that appointed the health
2 authority, as applicable, for purposes of Chapter 101, Civil
3 Practice and Remedies Code.

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

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

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

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

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

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

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

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

27 (2) otherwise complies with Subchapter K, Chapter 81,

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1 Health and Safety Code, as added by this Act.

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