

AN ACT

To amend sections 149.43, 339.89, 3701.03, 3701.04, 3701.06, 3701.07, 3701.13, 3701.14, 3701.15, 3701.16, 3701.17, 3701.19, 3701.22, 3701.23, 3701.24, 3701.241, 3701.25, 3701.34, 3701.35, 3701.352, 3701.501, 3701.56, 3701.57, 3701.99, 3707.06, 3707.99, 3715.02, 3901.46, and 4736.01; to amend, for the purpose of adopting new section numbers as indicated in parentheses, sections 3701.16 (3701.161), 3701.17 (3701.162), 3701.23 (3701.221), and 3707.33 (3707.38); and to enact new sections 3701.16, 3701.17, and 3701.23 and sections 3701.072, 3701.146, 3701.201, 3701.231, 3701.232, 3701.571, and 3707.34 of the Revised Code to modify the powers and duties of the Department of Health, Public Health Council, and boards of health relative to bioterrorism and other public health matters.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 149.43, 339.89, 3701.03, 3701.04, 3701.06, 3701.07, 3701.13, 3701.14, 3701.15, 3701.16, 3701.17, 3701.19, 3701.22, 3701.23, 3701.24, 3701.241, 3701.25, 3701.34, 3701.35, 3701.352, 3701.501, 3701.56, 3701.57, 3701.99, 3707.06, 3707.99, 3715.02, 3901.46, and 4736.01 be amended; sections 3701.16 (3701.161), 3701.17 (3701.162), 3701.23 (3701.221), and 3707.33 (3707.38) be amended for the purpose of adopting new section numbers as indicated in parentheses; and new sections 3701.16, 3701.17, and 3701.23 and sections 3701.072, 3701.146, 3701.201, 3701.231, 3701.232, 3701.571, and 3707.34 of the Revised Code be enacted to read as follows:

Sec. 149.43. (A) As used in this section:

(1) "Public record" means records kept by any public office, including, but not limited to, state, county, city, village, township, and school district

units, and records pertaining to the delivery of educational services by an alternative school in Ohio kept by a nonprofit or for profit entity operating such alternative school pursuant to section 3313.533 of the Revised Code. "Public record" does not mean any of the following:

- (a) Medical records;
- (b) Records pertaining to probation and parole proceedings or to proceedings related to the imposition of community control sanctions and post-release control sanctions;
- (c) Records pertaining to actions under section 2151.85 and division (C) of section 2919.121 of the Revised Code and to appeals of actions arising under those sections;
- (d) Records pertaining to adoption proceedings, including the contents of an adoption file maintained by the department of health under section 3705.12 of the Revised Code;
- (e) Information in a record contained in the putative father registry established by section 3107.062 of the Revised Code, regardless of whether the information is held by the department of job and family services or, pursuant to section 3111.69 of the Revised Code, the office of child support in the department or a child support enforcement agency;
- (f) Records listed in division (A) of section 3107.42 of the Revised Code or specified in division (A) of section 3107.52 of the Revised Code;
- (g) Trial preparation records;
- (h) Confidential law enforcement investigatory records;
- (i) Records containing information that is confidential under section 2317.023 or 4112.05 of the Revised Code;
- (j) DNA records stored in the DNA database pursuant to section 109.573 of the Revised Code;
- (k) Inmate records released by the department of rehabilitation and correction to the department of youth services or a court of record pursuant to division (E) of section 5120.21 of the Revised Code;
- (l) Records maintained by the department of youth services pertaining to children in its custody released by the department of youth services to the department of rehabilitation and correction pursuant to section 5139.05 of the Revised Code;
- (m) Intellectual property records;
- (n) Donor profile records;
- (o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;
- (p) Peace officer, firefighter, or EMT residential and familial information;

(q) In the case of a county hospital operated pursuant to Chapter 339. of the Revised Code, information that constitutes a trade secret, as defined in section 1333.61 of the Revised Code;

(r) Information pertaining to the recreational activities of a person under the age of eighteen;

(s) Records provided to, statements made by review board members during meetings of, and all work products of a child fatality review board acting under sections 307.621 to 307.629 of the Revised Code, other than the report prepared pursuant to section 307.626 of the Revised Code;

(t) Records provided to and statements made by the executive director of a public children services agency or a prosecuting attorney acting pursuant to section 5153.171 of the Revised Code other than the information released under that section;

(u) Test materials, examinations, or evaluation tools used in an examination for licensure as a nursing home administrator that the board of examiners of nursing home administrators administers under section 4751.04 of the Revised Code or contracts under that section with a private or government entity to administer;

(v) Records the release of which is prohibited by state or federal law;

(w) Proprietary information of or relating to any person that is submitted to or compiled by the Ohio venture capital authority created under section 150.01 of the Revised Code;

(x) Information reported and evaluations conducted pursuant to section 3701.072 of the Revised Code.

(2) "Confidential law enforcement investigatory record" means any record that pertains to a law enforcement matter of a criminal, quasi-criminal, civil, or administrative nature, but only to the extent that the release of the record would create a high probability of disclosure of any of the following:

(a) The identity of a suspect who has not been charged with the offense to which the record pertains, or of an information source or witness to whom confidentiality has been reasonably promised;

(b) Information provided by an information source or witness to whom confidentiality has been reasonably promised, which information would reasonably tend to disclose the source's or witness's identity;

(c) Specific confidential investigatory techniques or procedures or specific investigatory work product;

(d) Information that would endanger the life or physical safety of law enforcement personnel, a crime victim, a witness, or a confidential information source.

(3) "Medical record" means any document or combination of documents, except births, deaths, and the fact of admission to or discharge from a hospital, that pertains to the medical history, diagnosis, prognosis, or medical condition of a patient and that is generated and maintained in the process of medical treatment.

(4) "Trial preparation record" means any record that contains information that is specifically compiled in reasonable anticipation of, or in defense of, a civil or criminal action or proceeding, including the independent thought processes and personal trial preparation of an attorney.

(5) "Intellectual property record" means a record, other than a financial or administrative record, that is produced or collected by or for faculty or staff of a state institution of higher learning in the conduct of or as a result of study or research on an educational, commercial, scientific, artistic, technical, or scholarly issue, regardless of whether the study or research was sponsored by the institution alone or in conjunction with a governmental body or private concern, and that has not been publicly released, published, or patented.

(6) "Donor profile record" means all records about donors or potential donors to a public institution of higher education except the names and reported addresses of the actual donors and the date, amount, and conditions of the actual donation.

(7) "Peace officer, firefighter, or EMT residential and familial information" means either of the following:

(a) Any information maintained in a personnel record of a peace officer, firefighter, or EMT that discloses any of the following:

(i) The address of the actual personal residence of a peace officer, firefighter, or EMT, except for the state or political subdivision in which the peace officer, firefighter, or EMT resides;

(ii) Information compiled from referral to or participation in an employee assistance program;

(iii) The social security number, the residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of, or any medical information pertaining to, a peace officer, firefighter, or EMT;

(iv) The name of any beneficiary of employment benefits, including, but not limited to, life insurance benefits, provided to a peace officer, firefighter, or EMT by the peace officer's, firefighter's, or EMT's employer;

(v) The identity and amount of any charitable or employment benefit deduction made by the peace officer's, firefighter's, or EMT's employer from the peace officer's, firefighter's, or EMT's compensation unless the amount

of the deduction is required by state or federal law;

(vi) The name, the residential address, the name of the employer, the address of the employer, the social security number, the residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of the spouse, a former spouse, or any child of a peace officer, firefighter, or EMT.

(b) Any record that identifies a person's occupation as a peace officer, firefighter, or EMT other than statements required to include the disclosure of that fact under the campaign finance law.

As used in divisions (A)(7) and (B)(5) of this section, "peace officer" has the same meaning as in section 109.71 of the Revised Code and also includes the superintendent and troopers of the state highway patrol; it does not include the sheriff of a county or a supervisory employee who, in the absence of the sheriff, is authorized to stand in for, exercise the authority of, and perform the duties of the sheriff.

As used in divisions (A)(7) and (B)(5) of this section, "firefighter" means any regular, paid or volunteer, member of a lawfully constituted fire department of a municipal corporation, township, fire district, or village.

As used in divisions (A)(7) and (B)(5) of this section, "EMT" means EMTs-basic, EMTs-I, and paramedics that provide emergency medical services for a public emergency medical service organization. "Emergency medical service organization," "EMT-basic," "EMT-I," and "paramedic" have the same meanings as in section 4765.01 of the Revised Code.

(8) "Information pertaining to the recreational activities of a person under the age of eighteen" means information that is kept in the ordinary course of business by a public office, that pertains to the recreational activities of a person under the age of eighteen years, and that discloses any of the following:

(a) The address or telephone number of a person under the age of eighteen or the address or telephone number of that person's parent, guardian, custodian, or emergency contact person;

(b) The social security number, birth date, or photographic image of a person under the age of eighteen;

(c) Any medical record, history, or information pertaining to a person under the age of eighteen;

(d) Any additional information sought or required about a person under the age of eighteen for the purpose of allowing that person to participate in any recreational activity conducted or sponsored by a public office or to use or obtain admission privileges to any recreational facility owned or operated by a public office.

(9) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code.

(10) "Post-release control sanction" has the same meaning as in section 2967.01 of the Revised Code.

(B)(1) Subject to division (B)(4) of this section, all public records shall be promptly prepared and made available for inspection to any person at all reasonable times during regular business hours. Subject to division (B)(4) of this section, upon request, a public office or person responsible for public records shall make copies available at cost, within a reasonable period of time. In order to facilitate broader access to public records, public offices shall maintain public records in a manner that they can be made available for inspection in accordance with this division.

(2) If any person chooses to obtain a copy of a public record in accordance with division (B)(1) of this section, the public office or person responsible for the public record shall permit that person to choose to have the public record duplicated upon paper, upon the same medium upon which the public office or person responsible for the public record keeps it, or upon any other medium upon which the public office or person responsible for the public record determines that it reasonably can be duplicated as an integral part of the normal operations of the public office or person responsible for the public record. When the person seeking the copy makes a choice under this division, the public office or person responsible for the public record shall provide a copy of it in accordance with the choice made by the person seeking the copy.

(3) Upon a request made in accordance with division (B)(1) of this section, a public office or person responsible for public records shall transmit a copy of a public record to any person by United States mail within a reasonable period of time after receiving the request for the copy. The public office or person responsible for the public record may require the person making the request to pay in advance the cost of postage and other supplies used in the mailing.

Any public office may adopt a policy and procedures that it will follow in transmitting, within a reasonable period of time after receiving a request, copies of public records by United States mail pursuant to this division. A public office that adopts a policy and procedures under this division shall comply with them in performing its duties under this division.

In any policy and procedures adopted under this division, a public office may limit the number of records requested by a person that the office will transmit by United States mail to ten per month, unless the person certifies to the office in writing that the person does not intend to use or forward the

requested records, or the information contained in them, for commercial purposes. For purposes of this division, "commercial" shall be narrowly construed and does not include reporting or gathering news, reporting or gathering information to assist citizen oversight or understanding of the operation or activities of government, or nonprofit educational research.

(4) A public office or person responsible for public records is not required to permit a person who is incarcerated pursuant to a criminal conviction or a juvenile adjudication to inspect or to obtain a copy of any public record concerning a criminal investigation or prosecution or concerning what would be a criminal investigation or prosecution if the subject of the investigation or prosecution were an adult, unless the request to inspect or to obtain a copy of the record is for the purpose of acquiring information that is subject to release as a public record under this section and the judge who imposed the sentence or made the adjudication with respect to the person, or the judge's successor in office, finds that the information sought in the public record is necessary to support what appears to be a justiciable claim of the person.

(5) Upon written request made and signed by a journalist on or after December 16, 1999, a public office, or person responsible for public records, having custody of the records of the agency employing a specified peace officer, firefighter, or EMT shall disclose to the journalist the address of the actual personal residence of the peace officer, firefighter or EMT and, if the peace officer's, firefighter's or EMT's spouse, former spouse, or child is employed by a public office, the name and address of the employer of the peace officer's, firefighter's, or EMT's spouse, former spouse, or child. The request shall include the journalist's name and title and the name and address of the journalist's employer and shall state that disclosure of the information sought would be in the public interest.

As used in division (B)(5) of this section, "journalist" means a person engaged in, connected with, or employed by any news medium, including a newspaper, magazine, press association, news agency, or wire service, a radio or television station, or a similar medium, for the purpose of gathering, processing, transmitting, compiling, editing, or disseminating information for the general public.

(C) If a person allegedly is aggrieved by the failure of a public office to promptly prepare a public record and to make it available to the person for inspection in accordance with division (B) of this section, or if a person who has requested a copy of a public record allegedly is aggrieved by the failure of a public office or the person responsible for the public record to make a copy available to the person allegedly aggrieved in accordance with division

(B) of this section, the person allegedly aggrieved may commence a mandamus action to obtain a judgment that orders the public office or the person responsible for the public record to comply with division (B) of this section and that awards reasonable attorney's fees to the person that instituted the mandamus action. The mandamus action may be commenced in the court of common pleas of the county in which division (B) of this section allegedly was not complied with, in the supreme court pursuant to its original jurisdiction under Section 2 of Article IV, Ohio Constitution, or in the court of appeals for the appellate district in which division (B) of this section allegedly was not complied with pursuant to its original jurisdiction under Section 3 of Article IV, Ohio Constitution.

(D) Chapter 1347. of the Revised Code does not limit the provisions of this section.

(E)(1) The bureau of motor vehicles may adopt rules pursuant to Chapter 119. of the Revised Code to reasonably limit the number of bulk commercial special extraction requests made by a person for the same records or for updated records during a calendar year. The rules may include provisions for charges to be made for bulk commercial special extraction requests for the actual cost of the bureau, plus special extraction costs, plus ten per cent. The bureau may charge for expenses for redacting information, the release of which is prohibited by law.

(2) As used in divisions (B)(3) and (E)(1) of this section:

(a) "Actual cost" means the cost of depleted supplies, records storage media costs, actual mailing and alternative delivery costs, or other transmitting costs, and any direct equipment operating and maintenance costs, including actual costs paid to private contractors for copying services.

(b) "Bulk commercial special extraction request" means a request for copies of a record for information in a format other than the format already available, or information that cannot be extracted without examination of all items in a records series, class of records, or data base by a person who intends to use or forward the copies for surveys, marketing, solicitation, or resale for commercial purposes. "Bulk commercial special extraction request" does not include a request by a person who gives assurance to the bureau that the person making the request does not intend to use or forward the requested copies for surveys, marketing, solicitation, or resale for commercial purposes.

(c) "Commercial" means profit-seeking production, buying, or selling of any good, service, or other product.

(d) "Special extraction costs" means the cost of the time spent by the lowest paid employee competent to perform the task, the actual amount paid

to outside private contractors employed by the bureau, or the actual cost incurred to create computer programs to make the special extraction. "Special extraction costs" include any charges paid to a public agency for computer or records services.

(3) For purposes of divisions (E)(1) and (2) of this section, "commercial surveys, marketing, solicitation, or resale" shall be narrowly construed and does not include reporting or gathering news, reporting or gathering information to assist citizen oversight or understanding of the operation or activities of government, or nonprofit educational research.

Sec. 339.89. Sections 339.71 to 339.88 of the Revised Code, and the rules for tuberculosis adopted under section ~~3701.14~~ 3701.146 of the Revised Code, do not require a person to undergo testing, medical treatment, or detention in a hospital or other place for treatment if the person, or, in the case of a child, the child's parents, rely exclusively on spiritual treatment through prayer, in lieu of medical treatment, in accordance with a recognized, religious method of healing. The person may be quarantined or otherwise safely isolated in the home or another place that is suitable to the health of the person and has been approved by the tuberculosis control unit as a place that provides appropriate protection to other persons and the community.

Sec. 3701.03. (A) The director of health shall perform ~~such~~ duties as ~~that~~ are incident to ~~his~~ the director's position as chief executive officer of the department of health. ~~He~~ The director shall administer the laws relating to health and sanitation and the ~~regulations~~ rules of the department of health. ~~He~~ The director may designate employees of the department and, during a public health emergency, other persons to administer the laws and rules on the director's behalf.

(B) Nothing in this section authorizes any action that prevents the fulfillment of duties or impairs the exercise of authority established by law for any other person or entity.

(C) The director shall prepare sanitary and public health ~~regulations~~ rules for consideration by the public health council and ~~shall~~ submit to ~~said~~ the council recommendations for new legislation. The director shall sit at meetings of the council but shall have no vote.

Sec. 3701.04. (A) The director of health shall:

(1) Require ~~such~~ reports and make ~~such~~ inspections and investigations as that the director considers necessary;

(2) Provide ~~such methods of~~ administration, appoint ~~such~~ personnel, make ~~such~~ reports, and take ~~such~~ other action as ~~may be~~ necessary to comply with the requirements of the ~~federal act~~ "Construction and

Modernization of Hospitals and Other Medical Facilities Act," Title VI of the "Public Health Service Act," 60 Stat. 1041 (1946), 42 U.S.C. 291, as amended, and the regulations thereunder adopted under that act;

(3) Procure by contract the temporary or intermittent services of experts ~~or~~, consultants, or organizations ~~thereof~~ when ~~such~~ those services are to be performed on a part-time or fee-for-service basis and do not involve the performance of administrative duties;

(4) Enter into agreements for the utilization of the facilities and services of other departments, agencies, and institutions, public or private;

(5) On behalf of the state, solicit, accept, hold, administer, and deposit in the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code, any grant, gift, devise, bequest, or contribution made to assist in meeting the cost of carrying out the director's responsibilities and expend the grant, gift, ~~devise~~ devise, bequest, or contribution for the purpose for which made. Fees collected by the director in connection with meetings and conferences shall also be credited to the fund and expended for the purposes for which paid.

(6) Make an annual report to the governor on activities and expenditures, including recommendations for such additional legislation as the director considers appropriate to furnish adequate hospital, clinic, and similar facilities to the people of this state.

(B) The director of health may enter into agreements to sell services offered by the department of health to boards of health of city and general health districts and to other departments, agencies, and institutions of ~~the this state, other states, or the United States~~. Fees collected by the director for the sale of services ~~under this division~~ shall be deposited into the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code.

Sec. 3701.06. The director of health and any person ~~authorized by him~~ the director authorizes may, without fee or hindrance, enter, examine, and survey all grounds, vehicles, apartments, buildings, and places in furtherance of any duty laid upon the director or department of health or where ~~he~~ the director has reason to believe there exists a violation of any health law or ~~of the sanitary code rule~~.

Sec. 3701.07. (A) The public health council shall adopt rules in accordance with Chapter 119. of the Revised Code defining and classifying hospitals and dispensaries and providing for the reporting of information by hospitals and dispensaries. The Except as otherwise provided in the Revised Code, the rules providing for the reporting of information shall not require inclusion of any confidential patient data or any information concerning the

financial condition, income, expenses, or net worth of the facilities other than that financial information already contained in those portions of the medicare or medicaid cost report that is necessary for the department of health to certify the per diem cost under section 3701.62 of the Revised Code. The rules may require the reporting of information in the following categories:

- (1) Information needed to identify and classify the institution;
- (2) Information on facilities and type and volume of services provided by the institution;
- (3) The number of beds listed by category of care provided;
- (4) The number of licensed or certified professional employees by classification;
- (5) The number of births that occurred at the institution the previous calendar year;
- (6) Any other information that the council considers relevant to the safety of patients served by the institution.

Every hospital and dispensary, public or private, annually shall register with and report to the department of health. Reports shall be submitted in the manner prescribed in ~~rule~~ rules adopted under this division.

(B) Every governmental entity or private nonprofit corporation or association whose employees or representatives are defined as residents' rights advocates under divisions (E)(1) and (2) of section 3721.10 or division (A)(10) of section 3722.01 of the Revised Code shall register with the department of health on forms furnished by the director of health and shall provide such reasonable identifying information as the director may prescribe.

The department shall compile a list of the governmental entities, corporations, or associations registering under this division and shall update the list annually. Copies of the list shall be made available to nursing home administrators as defined in division (C) of section 3721.10 of the Revised Code and to adult care facility managers as defined in section 3722.01 of the Revised Code.

(C) Every governmental entity or private nonprofit corporation or association whose employees or representatives act as residents' rights advocates for community alternative homes pursuant to section 3724.08 of the Revised Code shall register with the department of health on forms furnished by the director of health and shall provide such reasonable identifying information as the director may prescribe.

The department shall compile a list of the governmental entities, corporations, and associations registering under this division and shall

update the list annually. Copies of the list shall be made available to operators or residence managers of community alternative homes as defined in section 3724.01 of the Revised Code.

Sec. 3701.072. (A) As used in this chapter:

(1) "Bioterrorism" has the same meaning as in section 3701.232 of the Revised Code.

(2) "Surveillance" in the public health service means the systematic collection, analysis, interpretation, and dissemination of health data on an ongoing basis, to gain knowledge of the pattern of disease occurrence and potential in a community in order to control and prevent disease in the community.

(3) "Trauma center" has the same meaning as in section 4765.01 of the Revised Code.

(B) The public health council shall adopt rules in accordance with Chapter 119. of the Revised Code that require a trauma center to report information to the director of health describing the trauma center's preparedness and capacity to respond to disasters, mass casualties, and bioterrorism. The council's rules may require the reporting of any information the council considers necessary for an accurate description of a trauma center's preparedness and capacity to respond to disasters, mass casualties, and bioterrorism. Information reported pursuant to this division is not a public record under section 149.43 of the Revised Code.

(C) Upon request, the department of health shall provide a summary report of the public health council's rules adopted pursuant to this section.

(D) The director shall review all information received pursuant to this section. After reviewing the information, the director may conduct an evaluation of a trauma center's preparedness and capacity to respond to disasters, mass casualties, and bioterrorism. An evaluation conducted pursuant to this division is not a public record under section 149.43 of the Revised Code.

Sec. 3701.13. The department of health shall have supervision of all matters relating to the preservation of the life and health of the people and have ~~supreme~~ ultimate authority in matters of quarantine and isolation, which it may declare and enforce, when ~~none~~ neither exists, and modify, relax, or abolish, when ~~it~~ either has been established. It may approve means of immunization against mumps, poliomyelitis, rubeola, diphtheria, rubella (German measles), pertussis, tetanus, and hepatitis B for the purpose of carrying out the provisions of section 3313.671 of the Revised Code and take such actions as are necessary to encourage vaccination against those diseases. It may make special or standing orders or rules for preventing the

use of fluoroscopes for nonmedical purposes which emit doses of radiation likely to be harmful to any person, for preventing the spread of contagious or infectious diseases, for governing the receipt and conveyance of remains of deceased persons, and for such other sanitary matters as are best controlled by a general rule. Whenever possible, the department shall work in cooperation with the health commissioner of a general or city health district. It may make and enforce orders in local matters when an emergency exists, or when the board of health of a general or city health district has neglected or refused to act with sufficient promptness or efficiency, or when such board has not been established as provided by sections 3709.02, 3709.03, 3709.05, 3709.06, 3709.11, 3709.12, and 3709.14 of the Revised Code. In such cases the necessary expense incurred shall be paid by the general health district or city for which the services are rendered.

The department may make evaluative studies of the nutritional status of Ohio residents, and of the food and nutrition-related programs operating within the state. Every agency of the state, at the request of the department, shall provide information and otherwise assist in the execution of such studies.

Sec. 3701.14. (A) The director of health shall investigate or make inquiry as to the cause of disease, ~~especially when~~ or illness, including contagious, infectious, epidemic, pandemic, or endemic conditions, and take prompt action to control and suppress it. The reports of births and deaths, the sanitary conditions and effects of localities and employments, the personal and business habits of the people that affect their health, and the relation of the diseases of man and beast, shall be subjects of study by the director. The director may make and execute orders necessary to protect the people against diseases of lower animals, and shall collect and preserve information in respect to such matters and kindred subjects as may be useful in the discharge of the director's duties, and for dissemination among the people. When called upon by the state or local governments, or the board of health of a general or city health district, the director shall promptly investigate and report upon the water supply, sewerage, disposal of excreta of any locality, and the heating, plumbing, and ventilation of a public building.

(B) ~~With regard to tuberculosis, the following apply:~~

~~(1) The director shall make payments to boards of county commissioners in accordance with section 339.77 of the Revised Code;~~

~~(2) The director shall maintain registries of hospitals, clinics, physicians, or other care providers to whom the director shall refer persons who make inquiries to the department of health regarding possible exposure~~

to tuberculosis;

~~(3) The director shall engage in tuberculosis surveillance activities, including the collection and analysis of epidemiological information relative to the frequency of tuberculosis infection, demographic and geographic distribution of tuberculosis cases, and trends pertaining to tuberculosis;~~

~~(4) The director shall maintain a tuberculosis registry to record the incidence of tuberculosis in this state;~~

~~(5) The director may appoint physicians to serve as tuberculosis consultants for geographic regions of the state specified by the director. Each tuberculosis consultant shall act in accordance with guidelines established by the director and shall be responsible for advising and assisting physicians and other health care practitioners who participate in tuberculosis control activities and for reviewing medical records pertaining to the treatment provided to individuals with tuberculosis.~~

~~(6) The public health council shall adopt rules establishing standards for the following:~~

~~(a) Performing tuberculosis screenings;~~

~~(b) Performing examinations of individuals who have been exposed to tuberculosis and individuals who are suspected of having tuberculosis;~~

~~(c) Providing treatment to individuals with tuberculosis;~~

~~(d) Methods of preventing individuals with communicable tuberculosis from infecting other individuals;~~

~~(e) Performing laboratory tests for tuberculosis and studies of the resistance of tuberculosis to one or more drugs;~~

~~(f) Selecting laboratories that provide in a timely fashion the results of a laboratory test for tuberculosis. The standards shall include a requirement that first consideration be given to laboratories located in this state.~~

~~The rules shall be adopted in accordance with Chapter 119. of the Revised Code and shall be consistent with any recommendations or guidelines on tuberculosis issued by the United States centers for disease control and prevention or by the American thoracic society. The rules shall apply to county or district tuberculosis control units, physicians who examine and treat individuals for tuberculosis, and laboratories that perform tests for tuberculosis Information obtained during an investigation or inquiry that the director currently is conducting pursuant to division (A) of this section and that is not yet complete is confidential during the course of that investigation or inquiry and shall not be released except pursuant to division (D) or (J) of this section or under one of the following conditions:~~

~~(1) The confidential information is released pursuant to a search warrant or subpoena issued by or at the request of a grand jury or prosecutor, as~~

defined in section 2935.01 of the Revised Code.

(2) The director has entered into a written agreement to share or exchange the information with a person or government entity, and that agreement requires the person or entity to comply with the confidentiality requirements established under this section.

(3) The information is contained in a preliminary report released by the director pursuant to division (G)(1) of this section.

(C) Division (B) of this section applies during any investigation or inquiry the director makes pursuant to division (A) of this section, notwithstanding any other provision of the Revised Code that establishes the manner of maintaining confidentiality or the release of information, except that the confidentiality and release of protected health information under section 3701.17 of the Revised Code is governed by that section.

(D) Nothing in this section bars the release of information that is in summary, statistical, or aggregate form and that does not identify a person. Information that is in summary, statistical, or aggregate form and that does not identify a person is a public record under section 149.43 of the Revised Code.

(E) Nothing in this section authorizes the director to conduct an independent criminal investigation without the consent of each local law enforcement agency with jurisdiction to conduct the criminal investigation.

(F) Except for information released pursuant to division (G) or (J) of this section, any disclosure pursuant to this section shall be in writing and accompanied by a written statement that includes the following or substantially similar language: "This information has been disclosed to you from confidential records protected from disclosure by state law. If this information has been released to you in other than a summary, statistical, or aggregate form, you shall make no further disclosure of this information without the specific, written, and informed release of the person to whom it pertains, or as otherwise permitted by state law. A general authorization for the release of medical or other information is not sufficient for the release of information pursuant to this section."

(G)(1) If an investigation or inquiry the director currently is conducting pursuant to division (A) of this section is not completed within six months after the date of commencement, the director shall prepare and release a report containing preliminary findings. Every six months thereafter, the director shall prepare and release a supplementary preliminary report until such time as the investigation or inquiry is completed.

(2) Upon completion of an investigation or inquiry conducted pursuant to division (A) of this section, the director shall prepare and release a final

report containing the director's findings.

(H) No report prepared by the director pursuant to this section shall contain protected health information, as defined in section 3701.17 of the Revised Code.

(I) The director shall adopt, in accordance with Chapter 119. of the Revised Code, rules establishing the manner in which the reports prepared by the director pursuant to this section are to be released.

(J) The director shall release information obtained during an investigation or inquiry that the director currently is conducting pursuant to division (A) of this section and that is not yet complete, if the director determines the release of the information is necessary, based on an evaluation of relevant information, to avert or mitigate a clear threat to an individual or to the public health. Information released pursuant to this division shall be limited to the release of the information to those persons necessary to control, prevent, or mitigate disease or illness.

Sec. 3701.146. (A) In taking actions regarding tuberculosis, the director of health has all of the following duties and powers:

(1) The director shall make payments to boards of county commissioners in accordance with section 339.77 of the Revised Code.

(2) The director shall maintain registries of hospitals, clinics, physicians, or other care providers to whom the director shall refer persons who make inquiries to the department of health regarding possible exposure to tuberculosis.

(3) The director shall engage in tuberculosis surveillance activities, including the collection and analysis of epidemiological information relative to the frequency of tuberculosis infection, demographic and geographic distribution of tuberculosis cases, and trends pertaining to tuberculosis.

(4) The director shall maintain a tuberculosis registry to record the incidence of tuberculosis in this state.

(5) The director may appoint physicians to serve as tuberculosis consultants for geographic regions of the state specified by the director. Each tuberculosis consultant shall act in accordance with rules the director establishes and shall be responsible for advising and assisting physicians and other health care practitioners who participate in tuberculosis control activities and for reviewing medical records pertaining to the treatment provided to individuals with tuberculosis.

(B)(1) The public health council shall adopt rules establishing standards for the following:

(a) Performing tuberculosis screenings;

(b) Performing examinations of individuals who have been exposed to

tuberculosis and individuals who are suspected of having tuberculosis;

(c) Providing treatment to individuals with tuberculosis;

(d) Preventing individuals with communicable tuberculosis from infecting other individuals;

(e) Performing laboratory tests for tuberculosis and studies of the resistance of tuberculosis to one or more drugs;

(f) Selecting laboratories that provide in a timely fashion the results of a laboratory test for tuberculosis. The standards shall include a requirement that first consideration be given to laboratories located in this state.

(2) Rules adopted pursuant to this section shall be adopted in accordance with Chapter 119. of the Revised Code and may be consistent with any recommendations or guidelines on tuberculosis issued by the United States centers for disease control and prevention or by the American thoracic society. The rules shall apply to county or district tuberculosis control units, physicians who examine and treat individuals for tuberculosis, and laboratories that perform tests for tuberculosis.

Sec. 3701.15. Each year, the director of health shall make a report to the governor, which shall include so much of the proceedings of the department of health, ~~such~~ information concerning vital statistics and diseases, ~~such~~ instructions on the subject of hygiene for dissemination among the people and ~~such~~ suggestions as to legislation, as ~~he~~ the director deems proper. The director shall include in ~~his~~ the director's annual report a full statement of all examinations made in the department's ~~chemical and bacteriological~~ public health laboratory authorized by section 3701.22 of the Revised Code, with a detailed account of all expenses.

Sec. 3701.16. The director of health may purchase, store, and distribute antitoxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents or medical supplies that the director deems advisable in the interest of preparing for or responding to a public health emergency. The discretion granted to the director by this section does not relieve the director of the duty to act under section 3701.161 of the Revised Code.

~~Sec. 3701.16~~ 3701.161. The director of health shall make necessary arrangements for the production and distribution of diphtheria antitoxin. Such antitoxin shall in all respects be equal in purity and potency to the standard of requirements of the United States public health service for antitoxin for interstate commerce. Diphtheria antitoxin shall be distributed in accordance with ~~such rules and regulations as may be adopted by~~ the public health council adopts pursuant to Chapter 119. of the Revised Code.

~~Sec. 3701.17~~ 3701.162. Any licensed physician practicing in ~~the~~ this state, or the superintendent of any state or county institution, may receive

without charge ~~such~~ the quantities of antitoxin as ~~he~~ the physician or superintendent requires for the treatment or prevention of diphtheria in indigent persons, provided such antitoxin shall be used only for persons residing in the state, and that a sufficient supply is available for distribution.

Sec. 3701.17. (A) As used in this section:

(1) "Prosecutor" has the same meaning as in section 2935.01 of the Revised Code.

(2) "Protected health information" means information, in any form, including oral, written, electronic, visual, pictorial, or physical that describes an individual's past, present, or future physical or mental health status or condition, receipt of treatment or care, or purchase of health products, if either of the following applies:

(a) The information reveals the identity of the individual who is the subject of the information.

(b) The information could be used to reveal the identity of the individual who is the subject of the information, either by using the information alone or with other information that is available to predictable recipients of the information.

(B) Protected health information reported to or obtained by the director of health, the department of health, or a board of health of a city or general health district is confidential and shall not be released without the written consent of the individual who is the subject of the information unless the information is released pursuant to division (C) of this section or one of the following applies:

(1) The release of the information is necessary to provide treatment to the individual and the information is released pursuant to a written agreement that requires the recipient of the information to comply with the confidentiality requirements established under this section.

(2) The release of the information is necessary to ensure the accuracy of the information and the information is released pursuant to a written agreement that requires the recipient of the information to comply with the confidentiality requirements established under this section.

(3) The information is released pursuant to a search warrant or subpoena issued by or at the request of a grand jury or prosecutor in connection with a criminal investigation or prosecution.

(4) The director determines the release of the information is necessary, based on an evaluation of relevant information, to avert or mitigate a clear threat to an individual or to the public health. Information may be released pursuant to this division only to those persons or entities necessary to control, prevent, or mitigate disease.

(C) Information that does not identify an individual is not protected health information and may be released in summary, statistical, or aggregate form. Information that is in a summary, statistical, or aggregate form and that does not identify an individual is a public record under section 149.43 of the Revised Code and, upon request, shall be released by the director.

(D) Except for information released pursuant to division (B)(4) of this section, any disclosure pursuant to this section shall be in writing and accompanied by a written statement that includes the following or substantially similar language: "This information has been disclosed to you from confidential records protected from disclosure by state law. If this information has been released to you in other than a summary, statistical, or aggregate form, you shall make no further disclosure of this information without the specific, written, and informed release of the individual to whom it pertains, or as otherwise permitted by state law. A general authorization for the release of medical or other information is not sufficient for the release of information pursuant to this section."

Sec. 3701.19. As used in ~~this section and in section 3701.20~~ sections 3701.19 to 3701.201 of the Revised Code:

(A) "Poison prevention and treatment center" means an entity designated as a poison prevention and treatment center by the director of health under section 3701.20 of the Revised Code.

(B) "Harm" means injury, death, or loss to person or property.

(C) "Tort action" means a civil action for damages for injury, death, or loss to person or property. "Tort action" includes a product liability claim that is subject to sections 2307.71 to 2307.80 of the Revised Code, but does not include a civil action for a breach of contract or another agreement between persons.

(D)(1) Subject to division (D)(2) of this section, "volunteer" means a trustee, officer, or agent of a poison prevention and treatment center, or another person associated with such a center, who satisfies both of the following:

(a) Performs services for or on behalf of, and under the authority or auspices of, the center;

(b) Does not receive compensation, either directly or indirectly, for performing those services.

(2) For purposes of division (D)(1) of this section, "compensation" does not include any of the following:

(a) Actual and necessary expenses that are incurred by a volunteer in connection with the services performed for a center, and that are reimbursed to the volunteer or otherwise paid;

(b) Insurance premiums paid on behalf of a volunteer, and amounts paid or reimbursed, pursuant to division (E) of section 1702.12 of the Revised Code;

(c) Modest perquisites.

Sec. 3701.201. (A) As used in this section, "bioterrorism" has the same meaning as in section 3701.232 of the Revised Code.

(B) The public health council shall adopt rules in accordance with Chapter 119. of the Revised Code under which a poison prevention and treatment center or other health-related entity is required to report events that may be caused by bioterrorism, epidemic or pandemic disease, or established or novel infectious agents or biological or chemical toxins posing a risk of human fatality or disability. Rules adopted under this section may require a report of any of the following:

(1) An unexpected pattern or increase in the number of telephone inquiries or requests to provide information about poison prevention and treatment and available services;

(2) An unexpected pattern or increase in the number of requests to provide specialized treatment, consultation, information, and educational programs to health care professionals and the public;

(3) An unexpected pattern or increase in the number of requests for information on established or novel infectious agents or biological or chemical toxins posing a risk of human fatality or disability that is relatively uncommon and may have been caused by bioterrorism.

(C) Each poison prevention and treatment center and other health-related entity shall comply with any reporting requirement established in rules adopted under division (B) of this section.

(D) Information reported under this section that is protected health information pursuant to section 3701.17 of the Revised Code shall be released only in accordance with that section. Information that does not identify an individual may be released in summary, statistical, or aggregate form.

Sec. 3701.22. The department of health shall maintain a ~~chemical and bacteriological~~ public health laboratory for the following:

(A) Examination of public water supplies and the effluent of sewage purification works;

(B) Diagnosis of ~~diphtheria, typhoid fever, hydrophobia, glanders, and such other~~ screening for, or confirmation of diseases or pathogens as it deems necessary;

(C) Performance of biological, chemical, or radiological analyses or examinations as it deems necessary;

(D) Analysis of patient specimens and food samples necessary for investigation of foodborne illnesses. In foodborne illness investigations, the laboratory shall cooperate and consult with the director of agriculture acting pursuant to section 3715.02 of the Revised Code.

Sec. ~~3701.23~~ 3701.221. (A) The director of health shall have charge of the public health laboratory authorized by section 3701.22 of the Revised Code. The director may employ an assistant for the laboratory who shall be a person skilled in chemistry and bacteriology, and receive ~~such~~ compensation as the director ~~may allow~~ determines. All expenses of ~~such~~ the laboratory shall be paid from appropriations made for the department of health.

(B) The public health council, in accordance with Chapter 119. of the Revised Code, shall adopt, and may amend or rescind, rules establishing reasonable fees ~~to be charged~~ for services ~~that~~ the laboratory performs. The council need not prescribe fees ~~to be charged in any case~~ where the council believes that ~~the~~ charging of fees would significantly and adversely affect the public health. All fees collected for services ~~that~~ the laboratory performs shall be deposited into the state treasury to the credit of the "laboratory handling fee fund," which is hereby created for the purpose of defraying expenses of operating the laboratory.

Sec. 3701.23. (A) As used in this section, "health care provider" means any person or government entity that provides health care services to individuals. "Health care provider" includes, but is not limited to, hospitals, medical clinics and offices, special care facilities, medical laboratories, physicians, pharmacists, dentists, physician assistants, registered and licensed practical nurses, laboratory technicians, emergency medical service organization personnel, and ambulance service organization personnel.

(B) Boards of health, health authorities or officials, health care providers in localities in which there are no health authorities or officials, and coroners or medical examiners shall report promptly to the department of health the existence of any of the following:

(1) Asiatic cholera;

(2) Yellow fever;

(3) Diphtheria;

(4) Typhus or typhoid fever;

(5) As specified by the public health council, other contagious or infectious diseases, illnesses, health conditions, or unusual infectious agents or biological toxins posing a risk of human fatality or disability.

(C) No person shall fail to comply with the reporting requirements established under division (B) of this section.

(D) The reports required by this section shall be submitted on forms, as required by statute or rule, and in the manner the director of health prescribes.

(E) Information reported under this section that is protected health information pursuant to section 3701.17 of the Revised Code shall be released only in accordance with that section. Information that does not identify an individual may be released in summary, statistical, or aggregate form.

Sec. 3701.231. If a medical laboratory outside this state performs a test or other diagnostic or investigative analysis that results in information pertaining to a resident of this state that must be reported under section 3701.23 or 3707.06 of the Revised Code, the entity using the laboratory shall ensure that the laboratory complies with reporting and confidentiality requirements and shall verify to the director of health that the laboratory complies with reporting and confidentiality requirements. The director shall establish procedures by which an entity may verify the laboratory's compliance.

Sec. 3701.232. (A) As used in this section:

(1) "Bioterrorism" means the intentional use of any microorganism, virus, infectious substance, or biological product that may be engineered as a result of biotechnology, or any naturally occurring or bioengineered component of a microorganism, virus, infectious substance, or biological product, to cause death, disease, or other biological malfunction in a human, animal, plant, or other living organism as a means of influencing the conduct of government or intimidating or coercing a population.

(2) "Pharmacist" means an individual licensed under Chapter 4729. of the Revised Code to engage in the practice of pharmacy as a pharmacist.

(3) "Pharmacy" and "prescription" have the same meanings as in section 4729.01 of the Revised Code.

(B) The public health council shall adopt rules in accordance with Chapter 119. of the Revised Code under which a pharmacy or pharmacist is required to report significant changes in medication usage that may be caused by bioterrorism, epidemic or pandemic disease, or established or novel infectious agents or biological toxins posing a risk of human fatality or disability. Rules adopted under this section may require a report of any of the following:

(1) An unexpected increase in the number of prescriptions for antibiotics;

(2) An unexpected increase in the number of prescriptions for medication to treat fever or respiratory or gastrointestinal complaints;

(3) An unexpected increase in sales of, or the number of requests for information on, over-the-counter medication to treat fever or respiratory or gastrointestinal complaints;

(4) Any prescription for medication used to treat a disease that is relatively uncommon and may have been caused by bioterrorism.

(C) No person shall fail to comply with any reporting requirement established in rules adopted under division (B) of this section.

(D) Information reported under this section that is protected health information pursuant to section 3701.17 of the Revised Code shall be released only in accordance with that section. Information that does not identify an individual may be released in summary, statistical, or aggregate form.

Sec. 3701.24. (A) As used in this section and sections 3701.241 to 3701.249 of the Revised Code:

(1) "AIDS" means the illness designated as acquired immunodeficiency syndrome.

(2) "HIV" means the human immunodeficiency virus identified as the causative agent of AIDS.

(3) "AIDS-related condition" means symptoms of illness related to HIV infection, including AIDS-related complex, that are confirmed by a positive HIV test.

(4) "HIV test" means any test for the antibody or antigen to HIV that has been approved by the director of health under division (B) of section 3701.241 of the Revised Code.

(5) "Health care facility" has the same meaning as in section 1751.01 of the Revised Code.

(6) "Director" means the director of health or any employee of the department of health acting on the director's behalf.

(7) "Physician" means a person who holds a current, valid certificate issued under Chapter 4731. of the Revised Code authorizing the practice of medicine or surgery and osteopathic medicine and surgery.

(8) "Nurse" means a registered nurse or licensed practical nurse who holds a license or certificate issued under Chapter 4723. of the Revised Code.

(9) "Anonymous test" means an HIV test administered so that the individual to be tested can give informed consent to the test and receive the results by means of a code system that does not link the identity of the individual tested to the request for the test or the test results.

(10) "Confidential test" means an HIV test administered so that the identity of the individual tested is linked to the test but is held in confidence

to the extent provided by ~~section~~ sections 3701.24 to 3701.248 of the Revised Code.

(11) "Health care provider" means an individual who provides diagnostic, evaluative, or treatment services. Pursuant to Chapter 119. of the Revised Code, the public health council may adopt rules further defining the scope of the term "health care provider."

(12) "Significant exposure to body fluids" means a percutaneous or mucous membrane exposure of an individual to the blood, semen, vaginal secretions, or spinal, synovial, pleural, peritoneal, pericardial, or amniotic fluid of another individual.

(13) "Emergency medical services worker" means all of the following:

- (a) A peace officer;
- (b) An employee of an emergency medical service organization as defined in section 4765.01 of the Revised Code;
- (c) A firefighter employed by a political subdivision;
- (d) A volunteer firefighter, emergency operator, or rescue operator;
- (e) An employee of a private organization that renders rescue services, emergency medical services, or emergency medical transportation to accident victims and persons suffering serious illness or injury.

(14) "Peace officer" has the same meaning as in division (A) of section 109.71 of the Revised Code, except that it also includes a sheriff and the superintendent and troopers of the state highway patrol.

~~(B) Boards of health, health authorities or officials, and physicians in localities in which there are no health authorities or officials, shall report promptly to the department of health the existence of any one of the following diseases:~~

- ~~(1) Asiatic cholera;~~
- ~~(2) Yellow fever;~~
- ~~(3) Diphtheria;~~
- ~~(4) Typhus or typhoid fever;~~
- ~~(5) Any other contagious or infectious diseases that the public health council specifies.~~

~~(C)~~ Persons designated by rule adopted by the public health council under section 3701.241 of the Revised Code shall report promptly every case of AIDS, every AIDS-related condition, and every confirmed positive HIV test to the department of health on forms and in a manner prescribed by the director. In each county the director shall designate the health commissioner of a health district in the county to receive the reports.

(C) No person shall fail to comply with the reporting requirements established under division (B) of this section.

(D) Information reported under this ~~division~~ section that identifies an individual is confidential and may be released only with the written consent of the individual except as the director determines necessary to ensure the accuracy of the information, as necessary to provide treatment to the individual, as ordered by a court pursuant to section 3701.243 or 3701.247 of the Revised Code, or pursuant to a search warrant or a subpoena issued by or at the request of a grand jury, prosecuting attorney, city director of law or similar chief legal officer of a municipal corporation, or village solicitor, in connection with a criminal investigation or prosecution. Information that does not identify an individual may be released in summary, statistical, or ~~other~~ aggregate form.

Sec. 3701.241. (A) The director of health shall develop and administer the following:

(1) A surveillance system to determine the number of cases of AIDS and the HIV infection rate in various population groups;

(2) Counseling and testing programs for groups determined by the director to be at risk of HIV infection, including procedures for both confidential and anonymous tests, counseling training programs for health care providers, and development of counseling guidelines;

(3) A confidential partner notification system to alert and counsel sexual contacts of individuals with HIV infection;

(4) Risk reduction and education programs for groups determined by the director to be at risk of HIV infection, and, in consultation with a wide range of community leaders, education programs for the public;

(5) Pilot programs for the long-term care of individuals with AIDS or AIDS-related condition, including care in nursing homes and in alternative settings;

(6) Programs to expand regional outpatient treatment of individuals with AIDS or AIDS-related condition;

(7) A program to assist communities, including communities of less than one hundred thousand population, in establishing AIDS task forces and support groups for individuals with AIDS, AIDS-related condition, and HIV infection. The program may include the award of grants if they are matched by local funds.

Information obtained or maintained under the partner notification system is not a public record under section 149.43 of the Revised Code and may be released only in accordance with division (C) of section 3701.243 of the Revised Code.

(B) The director shall:

(1) Approve a test or tests to be used to determine whether an individual

has HIV infection, define a confirmed positive test result, and develop guidelines for interpreting test results;

(2) Establish sites for confidential and anonymous HIV tests, and prepare a list of sites where an individual may obtain an anonymous test;

(3) Prepare a list of counseling services;

(4) Make available a copy of the list of anonymous testing sites or a copy of the list of counseling services to anyone who requests it.

(C) The director of health shall require the director or administrator of each site where anonymous or confidential HIV tests are given to submit a report every three months evaluating from an epidemiologic perspective the effectiveness of the HIV testing program at that site. Not later than January 31, 1991, and each year thereafter, the director of health shall make a report evaluating the anonymous and confidential testing programs throughout the state with regard to their effectiveness as epidemiologic programs. The report shall be submitted to the speaker of the house of representatives and the president of the senate and shall be made available to the public.

The public health council shall adopt rules pursuant to Chapter 119. of the Revised Code for the implementation of the requirements of division (B)(1) of this section and division ~~(C)~~(D) of section 3701.24 of the Revised Code.

(D) The director of health shall administer funds received under Title XXVI of the "Public Health Services Act," 104 Stat. 576 (1990), 42 U.S.C.A. 2601, as amended, for programs to improve the quality and availability of care for individuals with AIDS, AIDS-related condition, and HIV infection. In administering these funds, the director may enter into contracts with any person or entity for the purpose of administering the programs, including contracts with the department of job and family services for establishment of a program of reimbursement of drugs used for treatment and care of such individuals. The director of health may adopt rules in accordance with Chapter 119. of the Revised Code and issue orders as necessary for administration of the funds. If the department of job and family services enters into a contract under this division, the director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code as necessary for carrying out the department's duties under the contract.

Sec. 3701.25. (A) Every physician attending on or called in to visit a patient whom ~~he~~ the physician believes to be suffering from poisoning from lead, cadmium, phosphorus, arsenic, brass, wood alcohol, mercury, or their compounds, ~~or from anthrax~~ or from compressed air illness and such other occupational diseases and ailments as the department of health shall require

to be reported, shall within forty-eight hours from the time of first attending such patient send to the director of health a report stating:

~~(A)~~(1) Name, address, and occupation of patient;

~~(B)~~(2) Name, address, and business of employer;

~~(C)~~(3) Nature of disease;

~~(D)~~(4) Such other information as may be reasonably required by the department.

(B) No person shall fail to comply with the reporting requirements established under division (A) of this section.

(C) The reports required by this section shall be made on, or in conformity with, the standard schedule blanks provided for in section 3701.26 of the Revised Code. The mailing of the report, within the time required, in a stamped envelope addressed to the office of the director, shall be in compliance with this section.

(D) Such reports shall not be evidence of the facts therein stated in any action arising out of the disease therein reported.

(E) Information reported under this section that is protected health information pursuant to section 3701.17 of the Revised Code shall be released only in accordance with that section. Information that does not identify an individual may be released in summary, statistical, or aggregate form.

Sec. 3701.34. (A) The public health council shall:

~~(A)~~(1) Adopt, and may amend or rescind, sanitary rules to be of general application throughout the state. ~~The sanitary rules shall be known as the sanitary code.~~

~~(B) Take evidence in appeals from the decision of the director of health in a matter relative to the approval or disapproval of plans, locations, estimates of cost, or other matters coming before the director for official action. In the hearing of such appeals the director may be represented in person or by the attorney general.~~

~~(C)~~;

~~(2) Conduct hearings in cases where the law requires that the department shall give such hearings and reach decisions on the evidence presented, which shall govern subsequent actions of the director with reference thereto;~~

~~(D)~~(3) Prescribe, by rule, the number and functions of divisions and bureaus and the qualifications of chiefs or divisions and bureaus within the department;

~~(E)~~(4) Enact and amend bylaws in relation to its meetings and the transaction of its business;

~~(F)~~(5) Consider any matter relating to the preservation and improvement of the public health and advise the director thereon with such recommendations as it considers wise.

(B) The council shall neither have nor exercise executive or administrative duties.

Sec. 3701.35. Every ~~regulation, adopted by rule~~ rule the public health council, adopts shall state the date on which it takes effect, and a copy thereof, signed by the secretary of the council, shall be filed in the office of the secretary of state, and a copy thereof shall be sent by the director of health to each board of health of a general or a city health district, health officer, or person performing the duties of health officer, within the state, and shall be published in such manner as the council may determine. Every provision of the ~~sanitary code~~ council's rules shall apply to and be effective in all portions of the state.

Sec. 3701.352. No person shall violate any rule ~~of the public health council of the, director of health, or department of health adopted under section 3701.34 of the Revised Code~~ adopts or any order ~~of the director or department of health issued~~ issues under ~~Chapter 3701. of the Revised Code~~ this chapter to prevent a threat to the public caused by a pandemic, epidemic, or bioterrorism event.

Sec. 3701.501. (A)(1) Except as provided in division (A)(2) of this section, all newborn children shall be screened for the presence of the genetic, endocrine, and metabolic disorders specified in rules, adopted pursuant to this section.

(2) Division (A)(1) of this section does not apply if the parents of the child object thereto on the grounds that the screening conflicts with their religious tenets and practices.

(B) There is hereby created the newborn screening advisory council to advise the director of health regarding the screening of newborn children for genetic, endocrine, and metabolic disorders. The council shall engage in an ongoing review of the newborn screening requirements established under this section and shall provide recommendations and reports to the director as the director requests and as the council considers necessary. The director may assign other duties to the council, as the director considers appropriate.

The council shall consist of fourteen members appointed by the director. In making appointments, the director shall select individuals and representatives of entities with interest and expertise in newborn screening, including such individuals and entities as health care professionals, hospitals, children's hospitals, regional genetic centers, regional sickle cell centers, newborn screening coordinators, and members of the public.

The department of health shall provide meeting space, staff services, and other technical assistance required by the council in carrying out its duties. Members of the council shall serve without compensation, but shall be reimbursed for their actual and necessary expenses incurred in attending meetings of the council or performing assignments for the council.

The council is not subject to sections 101.82 to 101.87 of the Revised Code.

(C)(1) The director of health shall adopt rules in accordance with Chapter 119. of the Revised Code specifying the disorders for which each newborn child must be screened.

(2) The newborn screening advisory council shall evaluate genetic, metabolic, and endocrine disorders to assist the director in determining which disorders should be included in the screenings required under this section. In determining whether a disorder should be included, the council shall consider all of the following:

- (a) The disorder's incidence, mortality, and morbidity;
- (b) Whether the disorder causes disability if diagnosis, treatment, and early intervention are delayed;
- (c) The potential for successful treatment of the disorder;
- (d) The expected benefits to children and society in relation to the risks and costs associated with screening for the disorder;
- (e) Whether a screening for the disorder can be conducted without taking an additional blood sample or specimen.

(3) Based on the considerations specified in division (C)(2) of this section, the council shall make recommendations to the director of health for the adoption of rules under division (C)(1) of this section. The director shall promptly and thoroughly review each recommendation the council submits.

(D) The director shall adopt rules in accordance with Chapter 119. of the Revised Code establishing standards and procedures for the screenings required by this section. The rules shall include standards and procedures for all of the following:

- (1) Causing rescreenings to be performed when initial screenings have abnormal results;
- (2) Designating the person or persons who will be responsible for causing screenings and rescreenings to be performed;
- (3) Giving to the parents of a child notice of the required initial screening and the possibility that rescreenings may be necessary;
- (4) Communicating to the parents of a child the results of the child's screening and any rescreenings that are performed;
- (5) Giving notice of the results of an initial screening and any

rescreenings to the person who caused the child to be screened or rescreened, or to another person or government entity when the person who caused the child to be screened or rescreened cannot be contacted;

(6) Referring children who receive abnormal screening or rescreening results to providers of follow-up services, including the services made available through funds disbursed under division (F) of this section.

(E)(1) Except as provided in divisions (E)(2) and (3) of this section, all newborn screenings required by this section shall be performed by the public health laboratory authorized under section 3701.22 of the Revised Code.

(2) If the director determines that the public health laboratory ~~authorized under section 3701.22 of the Revised Code~~ is unable to perform screenings for all of the disorders specified in the rules adopted under division (C) of this section, the director shall select another laboratory to perform the screenings. The director shall select the laboratory by issuing a request for proposals. The director may accept proposals submitted by laboratories located outside this state. At the conclusion of the selection process, the director shall enter into a written contract with the selected laboratory. If the director determines that the laboratory is not complying with the terms of the contract, the director shall immediately terminate the contract and another laboratory shall be selected and contracted with in the same manner.

(3) Any rescreening caused to be performed pursuant to this section may be performed by the public health laboratory ~~authorized by section 3701.22 of the Revised Code~~ or one or more other laboratories designated by the director. Any laboratory the director considers qualified to perform rescreenings may be designated, including a laboratory located outside this state. If more than one laboratory is designated, the person responsible for causing a rescreening to be performed is also responsible for selecting the laboratory to be used.

(F)(1) The director shall adopt rules in accordance with Chapter 119. of the Revised Code establishing a fee that shall be charged and collected in addition to or in conjunction with any laboratory fee that is charged and collected for performing the screenings required by this section. The fee, which shall be not less than fourteen dollars, shall be disbursed as follows:

(a) Not less than ten dollars and twenty-five cents shall be deposited in the state treasury to the credit of the genetics services fund, which is hereby created. Not less than seven dollars and twenty-five cents of each fee credited to the genetics services fund shall be used to defray the costs of the programs authorized by section 3701.502 of the Revised Code. Not less than three dollars from each fee credited to the genetics services fund shall be

used to defray costs of phenylketonuria programs.

(b) Not less than three dollars and seventy-five cents shall be deposited into the state treasury to the credit of the sickle cell fund, which is hereby created. Money credited to the sickle cell fund shall be used to defray costs of programs authorized by section 3701.131 of the Revised Code.

(2) In adopting rules under division (F)(1) of this section, the director shall not establish a fee that differs according to whether a screening is performed by the public health laboratory ~~authorized under section 3701.22 of the Revised Code~~ or by another laboratory selected by the director pursuant to division (E)(2) of this section.

Sec. 3701.56. Boards of health of a general or city health district, health authorities and officials, officers of state institutions, police officers, sheriffs, constables, and other officers and employees of the state or any county, city, or township, shall enforce ~~the quarantine and sanitary isolation orders, and the rules and regulations adopted by~~ the department of health adopts.

Sec. 3701.57. All prosecutions and proceedings by the department of health for the violation of sections 3701.01 to 3701.56, 3705.01 to 3705.29, 3707.06, 3709.01 to 3709.04, 3709.07 to 3709.11, 3709.13, 3709.17, 3709.18, and 3709.21 to 3709.36 of the Revised Code, or for the violation of any of the orders or rules of the department, shall be instituted by the director of health. ~~All~~ Except as provided in division (C) of section 3701.571 of the Revised Code, all fines or judgments ~~collected by the department~~ collects shall be paid into the state treasury to the credit of the general revenue fund.

The director of health, the board of health of a general or city health district, or any person charged with enforcing the rules of the department of health as provided in section 3701.56 of the Revised Code may petition the court of common pleas for injunctive or other appropriate relief requiring any person violating a rule adopted by the public health council under section 3701.34 of the Revised Code or any order issued by the director of health under this chapter to comply with such rule or order. The court of common pleas of the county in which the offense is alleged to be occurring may grant such injunctive or other appropriate relief as the equities of the case require.

Sec. 3701.571. (A) The director of health shall adopt rules pursuant to Chapter 119. of the Revised Code that establish a graduated system of fines based on the scope and severity of violations and the history of compliance, not to exceed seven hundred fifty dollars per incident, and in an adjudication under Chapter 119. of the Revised Code, may impose a fine against any

person who violates division (C) of section 3701.23, division (C) of section 3701.232, division (C) of section 3701.24, division (B) of section 3701.25, or division (B) of section 3707.06 of the Revised Code or against any poison prevention and treatment center or other health-related entity that fails to comply with division (C) of section 3701.201 of the Revised Code.

(B) On request of the director, the attorney general shall bring and prosecute to judgment a civil action to collect any fine imposed under division (A) of this section that remains unpaid.

(C) All fines collected under this section shall be deposited into the state treasury to the credit of the general operations fund created under section 3701.83 of the Revised Code.

Sec. 3701.99. (A) Whoever violates division (C) of section 3701.23, division (C) of section 3701.232, division (C) of section 3701.24, division (B) of section 3701.25 of the Revised Code is guilty of a minor misdemeanor on a first offense; on each subsequent offense, the person is guilty of a misdemeanor of the second degree.

~~(B) Whoever violates, division (I) of section 3701.262, division (D) of section 3701.263, or section 3701.352 or sections 3701.46 to 3701.55 of the Revised Code is guilty of a minor misdemeanor on a first offense; on each subsequent offense, the person is guilty of a misdemeanor of the fourth degree.~~

~~(C)(B) Whoever violates section 3701.82 of the Revised Code is guilty of a misdemeanor of the first degree.~~

~~(D)(C) Whoever violates section 3701.352 or 3701.81 of the Revised Code is guilty of a misdemeanor of the second degree.~~

~~(E) Whoever violates division (G) of section 3701.88 of the Revised Code shall be fined not more than one hundred dollars. Each day the violation continues is a separate offense.~~

Sec. 3707.06. (A) Each physician or other person called to attend a person suffering from cholera, plague, yellow fever, typhus fever, diphtheria, typhoid fever, or any other disease dangerous to the public health, or required by the department of health to be reported, shall report to the health commissioner within whose jurisdiction the sick person is found the name, age, sex, and color of the patient, and the house and place in which the sick person may be found. In like manner, the owner or agent of the owner of a building in which a person resides who has any of the listed diseases, or in which are the remains of a person having died of any of the listed diseases, and the head of the family, immediately after becoming aware of the fact, shall give notice thereof to the health commissioner.

(B) No person shall fail to comply with the reporting requirements of

division (A) of this section.

(C) Information reported under this section that is protected health information pursuant to section 3701.17 of the Revised Code shall be released only in accordance with that section. Information that does not identify an individual may be released in summary, statistical, or aggregate form.

Sec. 3707.34. (A) The health commissioner appointed by a board of health of a general or city health district may act on behalf of the board in administering the provision of sections 3707.04 to 3707.32 of the Revised Code regarding quarantine and isolation if the commissioner acts pursuant to a policy the board adopts as described in division (B) of this section and either of the following applies:

(1) Circumstances render a meeting of the board impractical or impossible.

(2) Delaying action until a meeting of the board compromises the public health.

(B) Each board of health shall adopt a policy, subject to the approval of the district advisory council or city council for city health districts not governed by an advisory council, specifying the actions that a health commissioner may take pursuant to this section. Any action a health commissioner takes in accordance with the board's policy is deemed an action taken by the board unless the board votes to nullify the commissioner's action.

~~Sec. 3707.33~~ 3707.38. The board of health of a city or general health district may appoint, define the duties of, and fix the compensation of the number of inspectors of shops, wagons, appliances, and food, and the number of other persons necessary to carry out this chapter and Chapter 3717. of the Revised Code and, if applicable, to carry out any duties assumed by the board under an agreement entered into under division (B) of section 917.02 of the Revised Code. Inspectors for those purposes may enter any house, vehicle, or yard. The board may authorize the health commissioner to perform the duties of the inspectors.

Sec. 3707.99. (A) Whoever violates section 3707.03 of the Revised Code, unless good and sufficient reason therefor is shown, is guilty of a minor misdemeanor.

(B) Whoever violates division (B) of section 3707.06 or section 3707.48 of the Revised Code is guilty of a minor misdemeanor on a first offense; on each subsequent offense ~~such~~, the person is guilty of a misdemeanor of the fourth degree.

Sec. 3715.02. (A) The director of agriculture shall adopt rules in

accordance with Chapter 119. of the Revised Code that establish, when otherwise not established by a law of this state, definitions for a food or class of food and standards for the following items as they pertain to the food or class of food:

- (1) Quality, identity, purity, grade, and strength;
- (2) Packaging and labeling;
- (3) Food processing equipment;
- (4) Processing procedures;
- (5) Fill of containers.

The standards and definitions, where applicable, shall conform to the standards for foods adopted by the United States department of agriculture and the United States food and drug administration. Portions of Titles 7, 9, and 21 of the Code of Federal Regulations or the regulations adopted for the enforcement of the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301 et seq., as amended, may be adopted as rules by referencing the federal regulations, subject to the approval of the joint committee on agency rule review.

In adopting rules that establish definitions and standards of identity for a food or class of food in which only a limited number of optional ingredients are permitted, the director shall designate the optional ingredients that must be listed on the label.

(B) The director shall adopt rules in accordance with Chapter 119. of the Revised Code that establish procedures for the performance of sample analyses of food, food additives, and food packaging materials. The circumstances under which a sample analysis may be required include the following:

- (1) When a food, food additive, or food packaging material is the subject of a consumer complaint;
- (2) When requested by a consumer after a physician has isolated an organism from the consumer as the physician's patient;
- (3) When a food, food additive, or food packaging material is suspected of having caused an illness;
- (4) When a food, food additive, or food packaging material is suspected of being adulterated or misbranded;
- (5) When a food, food additive, or food packaging material is subject to verification of food labeling and standards of identity;
- (6) At any other time the director considers a sample analysis necessary.

(C) In foodborne illness investigations, the director of agriculture shall cooperate and consult with the public health laboratory maintained by the department of health under section 3701.22 of the Revised Code.

(D) The director or the director's designee shall do all of the following:

(1) Inspect drugs, food, or drink manufactured, stored, or offered for sale in this state;

(2) Prosecute or cause to be prosecuted each person engaged in the unlawful manufacture or sale of an adulterated drug or article of food or drink, in violation of law;

(3) Enforce all laws against fraud, adulteration, or impurities in drugs, foods, or drinks and unlawful labeling within this state.

(E) The director may appoint or contract for one or more qualified persons to enforce the provisions of this chapter.

Sec. 3901.46. As used in this section, "membership organization" means a fraternal or other association or group of individuals involved in the same occupation, activity, or interest that is organized and maintained in good faith for purposes other than to obtain insurance and is not organized or maintained for the purpose of engaging in activities for gain or profit.

(A) In underwriting an individual policy of life or sickness and accident insurance or a group policy of life or sickness and accident insurance providing coverage for members of a membership organization, an insurer may require an applicant for coverage under the policy to submit to an HIV test only in conjunction with tests for other health conditions. No applicant shall be required to submit to an HIV test on the basis of ~~his~~ the applicant's sexual orientation or factors described in division (C)(1) of section 3901.45 of the Revised Code that are used to ascertain ~~his~~ the applicant's sexual orientation.

(B)(1) An insurer that requests an applicant to take an HIV test shall obtain the applicant's written consent for the test and shall inform the applicant of the purpose of the test. The consent form shall include information about the tests to be performed, the confidentiality of the results, procedures for notifying the applicant of the results, and a general interpretation of test results.

(2) The superintendent of insurance shall adopt rules under Chapter 119. of the Revised Code establishing the form and content of the consent required under division (B)(1) of this section.

(C) An insurer may disclose the results of a positive HIV test only to the following persons:

(1) The applicant;

(2) The applicant's or insured's physician or other health care provider if the applicant or insured provides the insurer with prior written consent for disclosure;

(3) Another person that the applicant or insured specifically designates

in writing;

(4) A medical information exchange for insurers operated under procedures intended to ensure confidentiality, including the use of general codes for results of tests for a number of diseases and conditions as well as for AIDS or an AIDS-related condition.

(D) The HIV test or tests to be given the applicant shall be a test or tests approved by the director of health pursuant to division (B) of section 3701.241 of the Revised Code. Test results shall be interpreted strictly in accordance with guidelines for the use of the tests adopted by the director.

(E) The requirements of division ~~(C)~~(B) of section 3701.24 and sections 3701.242 and 3701.243 of the Revised Code do not apply to insurers in the underwriting of an individual policy of life or sickness and accident insurance or of a group policy of life or sickness and accident insurance providing coverage for members of a membership organization, except that an insurer may make use of the procedures in division (C) of section 3701.243 of the Revised Code.

(F) In underwriting a group policy of life or sickness and accident insurance, no insurer shall require an individual seeking coverage, other than an individual seeking coverage under the policy of a membership organization, to submit to an HIV test.

(G) A violation of this section is an unfair insurance practice under sections 3901.19 to 3901.26 of the Revised Code.

Sec. 4736.01. As used in this chapter:

(A) "Environmental health science" means the aspect of public health science that includes, but is not limited to, the following bodies of knowledge: air quality, food quality and protection, hazardous and toxic substances, consumer product safety, housing, institutional health and safety, community noise control, radiation protection, recreational facilities, solid and liquid waste management, vector control, drinking water quality, milk sanitation, and rabies control.

(B) "Sanitarian" means a person who performs for compensation educational, investigational, technical, or administrative duties requiring specialized knowledge and skills in the field of environmental health science.

(C) "Registered sanitarian" means a person who is registered as a sanitarian in accordance with Chapter 4736. of the Revised Code.

(D) "Sanitarian-in-training" means a person who is registered as a sanitarian-in-training in accordance with Chapter 4736. of the Revised Code.

(E) "Practice of environmental health" means consultation, instruction,

investigation, inspection, or evaluation by an employee of a city health district, a general health district, the Ohio environmental protection agency, the department of health, or the department of agriculture requiring specialized knowledge, training, and experience in the field of environmental health science, with the primary purpose of improving or conducting administration or enforcement under any of the following:

- (1) Chapter 911., 913., 917., 3717., 3721., or 3733. of the Revised Code;
- (2) Chapter 3734. of the Revised Code as it pertains to solid waste;
- (3) Section 955.26, 3701.344, 3707.01, or 3707.03, sections ~~3707.33~~ 3707.38 to 3707.99, or section 3715.21 of the Revised Code;
- (4) Rules adopted under section 3701.34 of the Revised Code pertaining to home sewage, rabies control, or swimming pools.

"Practice of environmental health" does not include sampling, testing, controlling of vectors, reporting of observations, or other duties that do not require application of specialized knowledge and skills in environmental health science performed under the supervision of a registered sanitarian.

The state board of sanitarian registration may further define environmental health science in relation to specific functions in the practice of environmental health through rules adopted by the board under Chapter 119. of the Revised Code.

SECTION 2. That existing sections 149.43, 339.89, 3701.03, 3701.04, 3701.06, 3701.07, 3701.13, 3701.14, 3701.15, 3701.16, 3701.17, 3701.19, 3701.22, 3701.23, 3701.24, 3701.241, 3701.25, 3701.34, 3701.35, 3701.352, 3701.501, 3701.56, 3701.57, 3701.99, 3707.06, 3707.33, 3707.99, 3715.02, 3901.46, and 4736.01 of the Revised Code are hereby repealed.

SECTION 3. Section 149.43 of the Revised Code is presented in this act as a composite of the section as amended by Am. Sub. H.B. 490, Am. Sub. S.B. 180, and Sub. S.B. 258 of the 124th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ___ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____