

**SENATE JUDICIARY COMMITTEE**  
**Senator Thomas Umberg, Chair**  
**2023-2024 Regular Session**

SB 1333 (Eggman)  
Version: February 16, 2024  
Hearing Date: April 9, 2024  
Fiscal: Yes  
Urgency: No  
AM

**SUBJECT**

Communicable diseases: HIV reporting

**DIGEST**

This bill authorize the California Department of Public Health (CDPH) and local health departments (LHDs) to disclose personally identifying information in public health records of persons with HIV or AIDS for the coordination of, linkage to, or reengagement in care, as determined by CDPH or a LHD. The bill removes certain limitations on disclosure, such as that disclosure is authorized only when certain coinfections are involved. The bill requires CDPH and LHD employees and their contractors to sign confidentiality agreements annually, rather than signing the agreements once, and deletes the requirement that CDPH and LHDs review the confidentiality agreements annually.

**EXECUTIVE SUMMARY**

The mpox outbreak in 2022 highlighted a deficit in California's existing statutes related to the ability of state and local public health officials to access and share personal information about those infected with HIV or AIDS. The existing statutes only allow information to be disclosed if a person has HIV alone or HIV and certain coinfections that are specified in statute. As mpox, was not one of the specified coinfections health officials were unable to effectively track how mpox was affecting the population of those with HIV. This bill will allow state and local health officials to disclose information for any coinfection, which will allow them to be prepared for any future outbreaks that may occur, subject to existing confidentiality provisions. The bill would also requires CDPH and LHD employees and their contractors to sign confidentiality agreements annually, rather than signing the agreements once. The bill is sponsored by APLA Health, the California Legislative LGBTQ Caucus, Equality California, and the San Francisco Aids Foundation. The bill is supported by numerous organizations representing the LGBTQ community. This bill passed the Senate Health Committee on a vote of 11 to 0.

## PROPOSED CHANGES TO THE LAW

### Existing federal law:

- 1) Establishes the Health Insurance Portability and Accountability Act (HIPAA), which provides privacy protections for patients' protected health information and generally prohibits a covered entity, as defined (health plan, health care provider, and health care clearing house), from using or disclosing protected health information except as specified or as authorized by the patient in writing. (45 C.F.R. § 164.500 et seq.)
- 2) Provides that if HIPAA's provisions conflict with a provision of state law, the provision that is the most protective of patient privacy prevails. (45 C.F.R. § 164.500 et seq.)

### Existing state law:

- 1) Establishes the Confidentiality of Medical Information Act, which establishes protections for the use of medical information. (Civ. Code § 56 et seq.)
  - a) Prohibits providers of health care, health care service plans, or contractors, as defined, from sharing medical information without the patient's written authorization, subject to certain exceptions. (Civ. Code § 56.10.)
- 2) Requires CDPH to establish a list of diseases and conditions to be reported by local health officers (LHOs) to CDPH.
  - a) CDPH must specify requirements related to the timeliness of reporting each disease and condition, the mechanisms required for reports, and the content that must be included in the reports.
  - b) Authorizes the list to include both communicable and non-communicable diseases.
  - c) Authorizes the list to be modified at any time by CDPH, after consultation with the California Conference of Local Health Officers. (Health & Saf. Code § 120130.)
- 3) Requires health care providers and laboratories to report cases of HIV infection to the LHO using patient names on a form developed by CDPH.
  - a) CDPH and LHD employees and contractors are required to sign confidentiality agreements, which include information related to the penalties for a breach of confidentiality and the procedures for reporting a breach of confidentiality, prior to accessing confidential HIV-related public health records.
  - b) Those agreements are required to be reviewed annually by either CDPH or the appropriate LHD. (Health & Saf. Code § 121022.)

- 4) Prohibits public health records relating to HIV/AIDS containing personally identifying information that were developed or acquired by CDPH or an LHD, or their agent, from being disclosed, except for public health purposes or pursuant to a written authorization by the person who is the subject of the record or by that person's guardian or conservator. (Health & Saf. Code §121025(a).)
  - a) Authorizes CDPH or an LHD, or their agent, to disclose personally identifying information in public health records to other local, state, or federal public health agencies or to corroborating medical researchers, when the confidential information is necessary to carry out the duties of the agency or researcher in the investigation, control, or surveillance of disease, as determined by CDPH or an LHD. (*Id.* at (b).)
  - b) Any disclosures made are to include only the information necessary for the purpose of the disclosure and only upon agreement that the information will be kept confidential. (*Id.* at (c).)
  
- 5) Authorizes the following disclosures for the purpose of enhancing the completeness of reporting to the federal Centers for Disease Control and Prevention (CDC) of HIV/AIDS and coinfection with certain diseases:
  - a) disclosure to the health care provider who provides HIV care to the HIV-positive person who is the subject of the record by LHD HIV surveillance staff;
  - b) disclosure by LHD tuberculosis control staff to CDPH tuberculosis control staff, who are authorized to further disclose information to the CDC, except for identifying patient information and only to the extent the information is requested by the CDC for purposes of the investigation, control, or surveillance of HIV and tuberculosis coinfections;
  - c) disclosure by LHD sexually transmitted disease (STD) control staff to CDPH STD control staff, who are authorized to further disclose information to the CDC, except for identifying patient information and only to the extent the information is requested by the CDC for the purposes of the investigation, control, or surveillance of HIV and syphilis, gonorrhea, or chlamydia coinfection; and
  - d) disclosure by LHD staff to CDPH staff for purposes of the investigation, control, or surveillance of HIV and its coinfection with hepatitis B, hepatitis C, and meningococcal infection, who are authorized to further disclose information to the CDC, except for identifying patient information and only to the extent the information is requested by the CDC. (Health & Saf. Code § 121025(c)(1).)
  
- 6) Authorizes specified LHD staff to further disclose information to CDPH or control staff, for the purpose of facilitating appropriate medical care and treatment of persons coinfecting with HIV and tuberculosis, syphilis, gonorrhea, chlamydia, hepatitis B, hepatitis C, or meningococcal infection, the HIV-positive person who is

the subject of the record or the health care provider who provides their care. (Health & Saf. Code § 121025(c)(3).)

This bill:

- 1) Authorizes CDPH and LHDs to disclose personally identifying information in public health records for the coordination of, linkage to, or reengagement in care, as determined by CDPH or a LHD.
  - a) Removes the limitations on disclosure described in 5)(b) through d), above.
  - b) Removes the requirement that the disclosure is for the purpose of enhancing the completeness of reporting to the CDC of HIV/AIDS and coinfection with certain diseases.
- 2) Authorizes LHD HIV surveillance staff to disclose information to a health care provider who provides care to the HIV-positive person who is the subject of the record for the purpose of facilitating appropriate case management or care coordination or delivery of medical care and treatment.
- 3) Requires CDPH and LHD employees and their contractors to sign confidentiality agreements annually, rather than signing the agreements once, and deletes the requirement that CDPH and LHDs review the agreements annually.

### COMMENTS

#### 1. Stated need for the bill

The authors write:

California law only allows state and local public health personnel to communicate with each other or with health care providers about a person's HIV status to facilitate medical care and treatment if the person has HIV alone or has HIV coinfection with specific diseases (tuberculosis, hepatitis B, hepatitis C, meningococcal infection, chlamydia, gonorrhea, syphilis, or meningococcal infection). Sharing of information for other reportable communicable diseases, such as hepatitis A, mpox, or Shigella, is not allowed. During the 2022-23 mpox outbreak, CDPH could not disclose a patient's HIV status to an LHD or health care provider even when responding to an urgent request for clinical consultation on a complex mpox case, potentially resulting in more fragmented patient care and delaying appropriate treatment risking more severe infections. Not being able to record an mpox case's HIV status in the secure and confidential data systems for mpox investigations meant that LHDs were also unable to determine whether people diagnosed with mpox needed linkages to HIV care or prevention services, resulting in missed opportunities to prevent HIV transmission. California laws limiting the sharing of HIV data has seriously hindered the ability of LHDs and health care

providers to triage mpox cases and delivery of timely, client-centered mpox services for the people at highest risk of mpox complications. This bill will improve California's ability to ensure timely, quality health care for people with HIV and other reportable communicable diseases.

2. Recent outbreak of mpox revealed deficiency in current statutes related to authority of CDPH and LHDs to share confidential personally identifying information of persons affected with HIV or AIDS to coordinate care

Under existing law, CDPH and LHDs are only authorized to share personally identifying information of a person infected with HIV if they have HIV alone or have a coinfection with one or more of seven reportable diseases: chlamydia, gonorrhea, hepatitis B, hepatitis C, meningococcal infection, syphilis, and tuberculosis. In 2022, there was an mpox outbreak in the U.S., and since mpox was not included on this list of conditions for which CDPH and LHDs can cross reference HIV data, both local and state public health officials were unable to document and understand whether people with mpox were infected with HIV. This delayed their ability to understand if those infected with HIV were adversely impacted by mpox and subsequently delayed the ability to develop specific guidance and outreach, which would have more promptly enabled local public health and clinical partners to prevent severe mpox disease in this population.

As noted in the Senate Health Committee analysis of this bill:

According to CDPH, the recent mpox outbreak disproportionately affected people with HIV. The CDC estimates 38% of mpox infections nationally from May through July 2022 were among people with HIV. According to CDC, people with HIV, particularly people whose HIV is not virally suppressed, are more likely to be hospitalized and can be at the highest risk of severe mpox infection and death if they are infected with mpox compared with people who are infected with mpox who do not have HIV. Through March 2024, 40.2% of mpox infections in California have occurred in people with HIV. All three of the mpox deaths in California during the recent outbreak were among people with advanced AIDS. People with advanced HIV are most likely to experience severe manifestations of their mpox infection; these are also the patients about whom CDPH was most often consulted on at the height of the mpox outbreak in 2022. People with HIV whose viral load is not fully suppressed have a greater clinical need both for mpox vaccination and for mpox treatment due to increased risk for severe disease and death. CDC recommends considering administration of mpox treatment for people with HIV who are not virally suppressed, and knowing this information is critical to facilitate prompt treatment which can prevent severe health outcomes of HIV/mpox coinfection, including death.<sup>1</sup>

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<sup>1</sup> Sen. Health Comm. analysis of SB 1333 (2023-24 reg. session) as introduced Feb. 16, 2024 at p. 3.

In response to the experience of CDPH and LDHs during the mpox outbreak, this bill seeks to remove the existing limitations on disclosing personally identifying information to only those instances where coinfection of specified diseases exist to enable public health officials to have the necessary tools to respond to any future outbreaks of disease. The author and sponsors of the bill state that this will lead to better public health outcomes for those infected with HIV and the state as a whole. The bill still keeps all existing confidentiality requirements around sharing of personally identifying information and requires CDPH and LHD employees and their contractors to sign confidentiality agreements annually, as opposed to only signing the agreements once.

### 3. Statements in support

The sponsors of the bill write:

[C]urrent law prohibits state and local public health officials from sharing HIV information with health care providers for a person coinfecting with a communicable disease not specified in the law, even in response to requests for CDPH clinical consultation during a public health emergency (such as COVID-19 or mpox). As a result, people coinfecting with HIV and other communicable diseases are at increased risk for severe health outcomes when their care is delayed or suboptimal because their health care provider is unable to consider the patient's HIV status as a part of their care and treatment plan.

SB 1333 will allow confidential HIV reporting and data sharing between public health officials and health care providers for all reportable communicable diseases to promote the health and wellbeing of people with HIV, without needing to amend California law for each new or existing reportable infection. Expanding the sharing of HIV data for all reportable communicable diseases will allow CDPH to respond quickly to an emerging disease affecting people with HIV, including during a public health emergency, and promote improved health outcomes for people with HIV. Strong federal and state privacy laws will remain in place to protect the confidentiality and privacy rights of patients while better addressing the health needs of people with HIV.

### SUPPORT

APLA Health (sponsor)  
California Legislative LGBTQ Caucus (sponsor)  
County Health Executives Association of California  
Equality California (sponsor)  
San Francisco Aids Foundation (sponsor)  
Amador County Arts Council  
Bienestar Human Services

Christie's Place  
Courage California  
End the Epidemics  
GLIDE  
Los Angeles LGBT Center  
PRC  
Pride Panthers Coalition Inc.  
Radiant Health Centers  
The Source LGBT+ Center  
One individual

**OPPOSITION**

None received

**RELATED LEGISLATION**

Pending Legislation: None known.

Prior Legislation: SB 246 (Leno, Ch. 445, Stats. 2013), among other things, authorized CDPH and LHD to access reports of HIV infection that are electronically submitted by laboratories, and authorized LHD staff to further disclose information to the HIV-positive person or the health care provider.

**PRIOR VOTES**

Senate Health Committee (Ayes 11, Noes 0)

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