

**As Introduced**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**H. B. No. 618**

**Representative Becker**

**Cosponsors: Representatives Keller, Wiggam, Jordan, Brinkman, Riedel, Dean,  
Hood, Cross, Zeltwanger, Merrin, Lang, Vitale**

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**A BILL**

To amend sections 161.09, 3701.13, 3701.14, 1  
3707.04, 3707.05, 3707.26, 3709.20, and 3709.21 2  
and to enact section 107.22 of the Revised Code 3  
to limit the authority of the Governor and the 4  
Department of Health to issue orders regarding 5  
contagious or infectious diseases, to prohibit 6  
any order from affecting the conduct of an 7  
election, to designate its provisions as the 8  
"Need Ohio Working (NOW) Act," and to declare an 9  
emergency. 10

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 161.09, 3701.13, 3701.14, 11  
3707.04, 3707.05, 3707.26, 3709.20, and 3709.21 be amended and 12  
section 107.22 of the Revised Code be enacted to read as 13  
follows: 14

Sec. 107.22. Any special or standing order of the governor 15  
for preventing the spread of contagious or infectious diseases 16  
is advisory only and has no legal effect unless approved by the 17  
general assembly. 18

**Sec. 161.09.** In the event of an emergency resulting from 19  
enemy attack, the governor, ~~his~~ the governor's successor, or 20  
interim successor, shall, ~~when in his judgment after determining~~ 21  
that the public interest requires, postpone any state or local 22  
election for a period not exceeding six months. When, because of 23  
conditions resulting from an enemy attack, a scheduled election 24  
is not held or scheduled appointments cannot be made, the 25  
elected or appointed incumbents of affected offices, or their 26  
emergency interim successors, shall continue to hold office 27  
until their successors are elected or appointed and duly 28  
qualified. Notwithstanding any contrary provision of the Revised 29  
Code, in no other circumstance shall an election be postponed or 30  
canceled or be conducted in any manner other than the manner 31  
prescribed in the Revised Code. 32

**Sec. 3701.13.** ~~The~~ (A) On the approval of the general 33  
assembly, the department of health ~~shall have supervision of all~~ 34  
may supervise matters relating to the preservation of the life 35  
and health of the people and ~~have ultimate authority in matters~~ 36  
of quarantine and isolation, ~~which it may declare and enforce~~ 37  
quarantine or isolation, when neither exists, and may modify, 38  
relax, or abolish quarantine or isolation, when either has been 39  
established. ~~The~~ 40

The department may approve methods of immunization against 41  
the diseases specified in section 3313.671 of the Revised Code 42  
for the purpose of carrying out the provisions of that section 43  
and take such actions as are necessary to encourage vaccination 44  
against those diseases. 45

~~The~~ (B) (1) Subject to division (B) (2) of this section, the 46  
department may make special or standing orders or rules for 47  
preventing ~~the use of fluoroscopes for nonmedical purposes that~~ 48

~~emit doses of radiation likely to be harmful to any person, for~~ 49  
~~preventing the spread of contagious or infectious diseases, for~~ 50  
~~governing.~~ 51

(2) (a) In the case of a special or standing order or rule 52  
for preventing the spread of contagious or infectious diseases, 53  
such order or rule shall be advisory only unless approved by the 54  
general assembly and shall not include a state of emergency 55  
declaration. 56

(b) The department shall not issue any order or rule 57  
affecting the conduct of an election. 58

(C) In addition to the authority granted by division (B) 59  
(1) of this section, the department may make special or standing 60  
orders or rules for any of the following purposes: 61

(1) To prevent the use of fluoroscopes for nonmedical 62  
purposes that emit doses of radiation likely to be harmful to 63  
any person; 64

(2) To govern the receipt and conveyance of remains of 65  
deceased persons, and for such; 66

(3) To address any other sanitary matters as are best 67  
controlled by a general rule. ~~Whenever~~ 68

(D) Whenever possible, the department shall work in 69  
cooperation with the health commissioner of a general or city 70  
health district. ~~The~~ 71

In any of the following circumstances, the department may 72  
make and enforce orders in local matters or reassign substantive 73  
authority for mandatory programs from a general or city health 74  
district to another general or city health district; when an 75  
emergency exists, ~~or~~ when the board of health of a general or 76

city health district has neglected or refused to act with 77  
sufficient promptness or efficiency, or when such board has not 78  
been established as provided by sections 3709.02, 3709.03, 79  
3709.05, 3709.06, 3709.11, 3709.12, and 3709.14 of the Revised 80  
Code. In such cases, the necessary expense incurred shall be 81  
paid by the general health district or city for which the 82  
services are rendered. 83

The department of health may require general or city 84  
health districts to enter into agreements for shared services 85  
under section 9.482 of the Revised Code. The department shall 86  
prepare and offer to boards of health a model contract and 87  
memorandum of understanding that are easily adaptable for use by 88  
boards of health when entering into shared services agreements. 89  
The department also may offer financial and other technical 90  
assistance to boards of health to encourage the sharing of 91  
services. 92

As a condition precedent to receiving funding from the 93  
department of health, the director of health may require general 94  
or city health districts to apply for accreditation by July 1, 95  
2018, and be accredited by July 1, 2020, by an accreditation 96  
body approved by the director. The director of health, by July 97  
1, 2016, shall conduct an evaluation of general and city health 98  
district preparation for accreditation, including an evaluation 99  
of each district's reported public health quality indicators as 100  
provided for in section 3701.98 of the Revised Code. 101

(E) The department may make evaluative studies of the 102  
nutritional status of Ohio residents, and of the food and 103  
nutrition-related programs operating within the state. Every 104  
agency of the state, at the request of the department, shall 105  
provide information and otherwise assist in the execution of 106

such studies. 107

**Sec. 3701.14.** (A) (1) The director of health shall 108  
investigate or make inquiry as to the cause of disease or 109  
illness, including contagious, infectious, epidemic, pandemic, 110  
or endemic conditions, and subject to division (A) (2) of this 111  
section, shall take prompt action to control and suppress it. 112  
~~The~~ 113

The reports of births and deaths, the sanitary conditions 114  
and effects of localities and employments, the personal and 115  
business habits of the people that affect their health, and the 116  
relation of the diseases of man and beast, shall be subjects of 117  
study by the director. The director may make and execute orders 118  
necessary to protect the people against diseases of lower 119  
animals, and shall collect and preserve information in respect 120  
to such matters and kindred subjects as may be useful in the 121  
discharge of the director's duties, and for dissemination among 122  
the people. ~~When~~ 123

When called upon by the state or local governments, or the 124  
board of health of a general or city health district, the 125  
director shall promptly investigate and report upon the water 126  
supply, sewerage, disposal of excreta of any locality, and the 127  
heating, plumbing, and ventilation of a public building. 128

(2) The director shall not take action to control or 129  
suppress a contagious or infectious disease or epidemic, 130  
pandemic, or endemic condition until the director has the 131  
approval of the general assembly for such action. 132

(B) Information obtained during an investigation or 133  
inquiry that the director currently is conducting pursuant to 134  
division (A) of this section and that is not yet complete is 135

confidential during the course of that investigation or inquiry 136  
and shall not be released except pursuant to division (D) or (J) 137  
of this section or under one of the following conditions: 138

(1) The confidential information is released pursuant to a 139  
search warrant or subpoena issued by or at the request of a 140  
grand jury or prosecutor, as defined in section 2935.01 of the 141  
Revised Code. 142

(2) The director has entered into a written agreement to 143  
share or exchange the information with a person or government 144  
entity, and that agreement requires the person or entity to 145  
comply with the confidentiality requirements established under 146  
this section. 147

(3) The information is contained in a preliminary report 148  
released by the director pursuant to division (G)(1) of this 149  
section. 150

(C) Division (B) of this section applies during any 151  
investigation or inquiry the director makes pursuant to division 152  
(A) of this section, notwithstanding any other provision of the 153  
Revised Code that establishes the manner of maintaining 154  
confidentiality or the release of information, except that the 155  
confidentiality and release of protected health information 156  
under section 3701.17 of the Revised Code is governed by that 157  
section. 158

(D) Nothing in this section bars the release of 159  
information that is in summary, statistical, or aggregate form 160  
and that does not identify a person. Information that is in 161  
summary, statistical, or aggregate form and that does not 162  
identify a person is a public record under section 149.43 of the 163  
Revised Code. 164

(E) Nothing in this section authorizes the director to 165  
conduct an independent criminal investigation without the 166  
consent of each local law enforcement agency with jurisdiction 167  
to conduct the criminal investigation. 168

(F) Except for information released pursuant to division 169  
(G) or (J) of this section, any disclosure pursuant to this 170  
section shall be in writing and accompanied by a written 171  
statement that includes the following or substantially similar 172  
language: "This information has been disclosed to you from 173  
confidential records protected from disclosure by state law. If 174  
this information has been released to you in other than a 175  
summary, statistical, or aggregate form, you shall make no 176  
further disclosure of this information without the specific, 177  
written, and informed release of the person to whom it pertains, 178  
or as otherwise permitted by state law. A general authorization 179  
for the release of medical or other information is not 180  
sufficient for the release of information pursuant to this 181  
section." 182

(G) (1) If an investigation or inquiry the director 183  
currently is conducting pursuant to division (A) of this section 184  
is not completed within six months after the date of 185  
commencement, the director shall prepare and release a report 186  
containing preliminary findings. Every six months thereafter, 187  
the director shall prepare and release a supplementary 188  
preliminary report until such time as the investigation or 189  
inquiry is completed. 190

(2) Upon completion of an investigation or inquiry 191  
conducted pursuant to division (A) of this section, the director 192  
shall prepare and release a final report containing the 193  
director's findings. 194

(H) No report prepared by the director pursuant to this 195  
section shall contain protected health information, as defined 196  
in section 3701.17 of the Revised Code. 197

(I) The director shall adopt, in accordance with Chapter 198  
119. of the Revised Code, rules establishing the manner in which 199  
the reports prepared by the director pursuant to this section 200  
are to be released. 201

(J) The director shall release information obtained during 202  
an investigation or inquiry that the director currently is 203  
conducting pursuant to division (A) of this section and that is 204  
not yet complete, if the director determines the release of the 205  
information is necessary, based on an evaluation of relevant 206  
information, to avert or mitigate a clear threat to an 207  
individual or to the public health. Information released 208  
pursuant to this division shall be limited to the release of the 209  
information to those persons necessary to control, prevent, or 210  
mitigate disease or illness. 211

**Sec. 3707.04.** ~~In~~ Subject to division (C) of section 212  
3709.20 of the Revised Code, in time of epidemic or threatened 213  
epidemic, or when a dangerous communicable disease is unusually 214  
prevalent, the board of health of a city or general health 215  
district, after a personal investigation by its members or 216  
executive officer to establish the facts in the case, and not 217  
otherwise, may impose a quarantine on vessels, railroads, or 218  
other public or private vehicles conveying persons, baggage, or 219  
freight, or used for such purpose. The board may make and 220  
enforce such rules and regulations as are wise and necessary for 221  
the protection of the health of the people of the community or 222  
state, but the running of any train or car on any steam or 223  
electric railroad, or of steamboats, vessels, or other public 224



conveyances shall not be prohibited. 225

A true copy of such quarantine rules and regulations shall 226  
be immediately furnished by such board to the department of 227  
health, and thereafter no change shall be made except by the 228  
order of the department or the board to meet a new and sudden 229  
emergency. 230

**Sec. 3707.05.** ~~The~~ Subject to division (C) of section 231  
3709.20 of the Revised Code, the board of health of a city or 232  
general health district shall not close public highways or 233  
prohibit travel thereon, interfere with public officers not 234  
afflicted with or directly exposed to a contagious or infectious 235  
disease, in the discharge of their official duties, or establish 236  
a quarantine of one municipal corporation or township against 237  
another municipal corporation or township, as such, without 238  
permission first obtained from the department of health and 239  
under regulations established by the department. 240

**Sec. 3707.26.** Semiannually, and more often, if in its 241  
judgment necessary, the board of health of a city or general 242  
health district shall inspect the sanitary condition of all 243  
schools and school buildings within its jurisdiction, and may 244  
disinfect any school building. ~~During~~ Subject to division (C) of 245  
section 3709.20 of the Revised Code, during an epidemic or 246  
threatened epidemic, or when a dangerous communicable disease is 247  
unusually prevalent, the board may close any school and prohibit 248  
public gatherings for such time as is necessary. 249

**Sec. 3709.20.** (A) ~~The~~ Subject to division (C) of this 250  
section, the board of health of a city health district may make 251  
such orders and regulations as are necessary for its own 252  
government, for the public health, the prevention ~~of~~ or 253  
restriction of disease, and the prevention, abatement, or 254

suppression of nuisances. Orders and regulations not for the 255  
government of the board, but intended for the general public, 256  
shall be adopted, advertised, recorded, and certified as are 257  
ordinances of municipal corporations and the record thereof 258  
shall be given in all courts the same effect as is given such 259  
ordinances. In cases of emergency caused by epidemics of 260  
contagious or infectious diseases, or conditions or events 261  
endangering the public health, the board may declare such orders 262  
and regulations to be emergency measures, and such orders and 263  
regulations shall become effective immediately without such 264  
advertising, recording, and certifying. 265

(B) In any hearing conducted by the board of health of a 266  
city health district, general health district, or combined 267  
health district, the board may appoint a referee or examiner to 268  
conduct the hearing. In a hearing conducted by a board of health 269  
of a city health district, a combined health district, or a 270  
general health district at least one member of the board shall 271  
be present. 272

The referee or examiner appointed to conduct the hearing 273  
shall have the same powers and authority in conducting the 274  
hearing as is granted to the board. The referee or examiner 275  
shall have been admitted to the practice of law in the state and 276  
be possessed of such additional qualifications as the board may 277  
require. The referee or examiner shall submit to the board a 278  
written report setting forth ~~his~~ the referee's or examiner's 279  
findings of fact and conclusions of law and a recommendation of 280  
the action to be taken by the board. A copy of such written 281  
report and recommendation of the referee or examiner shall, 282  
within five days of the date of filing thereof, be served upon 283  
the party or ~~his~~ the party's attorney or other representative of 284  
record, by certified mail. The party may, within ten days of 285

receipt of the copy of the written report or recommendation, 286  
file with the board written objections to the report and 287  
recommendation, which objections shall be considered by the 288  
board before approving, modifying, or disapproving the 289  
recommendation. The board may grant extensions of time to the 290  
party within which to file such objections. 291

No recommendation of the referee or examiner shall be 292  
approved, modified, or disapproved by the board until ten days 293  
after the service of the report and recommendation as provided 294  
in this section. The board may order additional testimony to be 295  
taken or permit the introduction of further documentary 296  
evidence. No recommendation shall be final until approved by a 297  
quorum of the entire board as indicated by an order on its 298  
record of proceedings. 299

(C) The board of health of a city health district, general 300  
health district, or combined health district shall not issue any 301  
order affecting the conduct of an election. 302

**Sec. 3709.21.** The Subject to division (C) of section 303  
3709.20 of the Revised Code, the board of health of a general 304  
health district may make such orders and regulations as are 305  
necessary for its own government, for the public health, the 306  
prevention or restriction of disease, and the prevention, 307  
abatement, or suppression of nuisances. Such board may require 308  
that no human, animal, or household wastes from sanitary 309  
installations within the district be discharged into a storm 310  
sewer, open ditch, or watercourse without a permit therefor 311  
having been secured from the board under such terms as the board 312  
requires. All orders and regulations not for the government of 313  
the board, but intended for the general public, shall be 314  
adopted, recorded, and certified as are ordinances of municipal 315

corporations and the record thereof shall be given in all courts 316  
the same effect as is given such ordinances, but the 317  
advertisements of such orders and regulations shall be by 318  
publication in a newspaper of general circulation within the 319  
district. Publication shall be made once a week for two 320  
consecutive weeks or as provided in section 7.16 of the Revised 321  
Code, and such orders and regulations shall take effect and be 322  
in force ten days from the date of the first publication. In 323  
cases of emergency caused by epidemics of contagious or 324  
infectious diseases, or conditions or events endangering the 325  
public health, the board may declare such orders and regulations 326  
to be emergency measures, and such orders and regulations shall 327  
become effective immediately without such advertising, 328  
recording, and certifying. 329

**Section 2.** That existing sections 161.09, 3701.13, 330  
3701.14, 3707.04, 3707.05, 3707.26, 3709.20, and 3709.21 of the 331  
Revised Code are hereby repealed. 332

**Section 3.** Any special or standing order of the Governor 333  
or the Director of Health for preventing the spread of 334  
contagious or infectious diseases in effect on the effective 335  
date of this act has no legal effect and is advisory only as of 336  
the effective date of this act. 337

**Section 4.** This act shall be known as the "Need Ohio 338  
Working (NOW)" Act. 339

**Section 5.** This act is hereby declared to be an emergency 340  
measure necessary for the immediate preservation of the public 341  
peace, health, and safety. The reason for such necessity is that 342  
an order to prevent the spread of contagious or infectious 343  
diseases in effect for a prolonged time period harms the 344  
economic well-being of Ohio's citizens and businesses. 345

Therefore, this act shall go into immediate effect.

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