



Alan Van Dyne

*Bill Analysis*  
*Legislative Service Commission*

**S.B. 173**  
123rd General Assembly  
(As Introduced)

**Sens. Drake, Kearns**

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**BILL SUMMARY**

- Requires that each board of county commissioners designate a county tuberculosis control unit or join with other counties to form a district tuberculosis control unit.
- Requires that a tuberculosis control unit ensure that tuberculosis treatment services are made available to all persons with tuberculosis who reside in the area served by the unit, and specifies that services may include making referrals for receipt of treatment or temporary housing.
- Requires physicians to make reports to tuberculosis control units on confirmed cases of tuberculosis, suspected cases, drug-resistant cases, and patient adherence to treatment regimens.
- Authorizes a tuberculosis control unit to issue orders requiring that a person with tuberculosis (1) comply with the bill's requirements to complete a prescribed treatment regimen, (2) provide notice of intent to travel, and (3) remain separated from public gatherings while the tuberculosis is in a communicable stage.
- Permits the probate court to issue an injunction compelling a person to comply with an order from a tuberculosis control unit, and, if noncompliance continues, to authorize the unit to detain the person in a hospital or other facility.
- Requires the Director of Health to make annual reimbursements to boards of county commissioners for expenses incurred in detaining individuals with tuberculosis who are indigent.

- Requires the Director of Health to maintain a tuberculosis registry and to engage in tuberculosis surveillance activities, and permits the Director to appoint physicians as tuberculosis consultants.
- Provides that the prohibition against payment of county funds to a sectarian institution does not apply when payment is for the treatment of persons with tuberculosis who are indigent or disabled.

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## CONTENT AND OPERATION

### Overview

Since 1908, boards of county commissioners have had statutory authority to establish county hospitals for tuberculosis. Formation of district tuberculosis hospitals was authorized in 1909. These statutes, which have been revised on several occasions, include provisions for closure of tuberculosis hospitals when no longer needed. According to a spokesperson from the American Lung Association of Ohio, hospitals used exclusively for treatment of tuberculosis no longer exist in this state.

The bill repeals statutes related to tuberculosis hospitals and eliminates other statutory references to those hospitals. In the place of tuberculosis hospitals, the bill creates a system of tuberculosis prevention and control through county or district tuberculosis control units.

### Tuberculosis control units

(sec. 339.72)

The bill requires that the board of county commissioners of each county provide for the county to be served by a tuberculosis control unit. This may be accomplished by designating a county unit or by entering into an agreement with one or more other counties under which a district control unit is designated. The entity designated as a county or district tuberculosis control unit may be any of the following:

- (1) A communicable disease control program operated by a board of health;
- (2) A tuberculosis program operated by a county that receives existing state funding for the treatment of tuberculosis;
- (3) A tuberculosis clinic established by a board of county commissioners;
- (4) A hospital that provides tuberculosis clinic services under contract with a board of county commissioners.

### **Availability of services**

(sec. 339.73)

Each tuberculosis control unit is required by the bill to ensure that tuberculosis treatment services are made available to all individuals with tuberculosis who reside in the area served by the unit. Services must be made available to any resident, regardless of the length of time that the individual has resided in the area or the individual's income and resources. The services must at least include treatment by a physician and provision of anti-tuberculosis medication. They may include referrals for receipt of treatment or temporary housing.

### **Funding of tuberculosis treatment**

(secs. 339.77 and 5705.20; Section 3)

Under current law, the Department of Health may provide financial assistance for treatment of tuberculosis patients in counties that operate an acceptable tuberculosis program. The amount paid annually is based on state appropriations and the number of tuberculosis cases with documented completion of an approved course of treatment during the previous fiscal year. The bill transfers from the Public Health Council to the Director of Health the duties of providing forms for documentation and making determinations of what constitutes an acceptable tuberculosis program, an approved course of treatment, and an active case.

Current law permits the board of county commissioners to levy a tax, with voter approval, for the support of tuberculosis clinics. The tax may be levied if the amount raised within the ten-mill limitation for supplementing the county's general funds will be insufficient for supporting tuberculosis clinics. The total levy cannot exceed 0.65 mill. The bill specifies that a board of county commissioners that has taken measures for the prevention and control of tuberculosis must maintain at least the same level of effort.

### **Contracts for services**

(sec. 339.75; Section 3; sec. 3701.84 (repealed))

Current law permits a board of county commissioners to contract with hospitals or the Director of Health for the care of persons with tuberculosis. The bill expands the contracting authority by permitting contracts to be entered into with a local board of health or any hospital, clinic, or other health care entity. It specifies that the board of county commissioners must negotiate modifications in

any existing contracts or other agreements so that they will be brought into compliance with the system of tuberculosis prevention and control established under the bill. The bill eliminates the duty of a board of county commissioners to pay for the transportation of patients and attendants.

The bill eliminates from existing law references to contracts with the Director of Health, since the Department of Health is no longer involved in providing clinic services for tuberculosis. The bill repeals a statute that gives the Department of Health authority to operate out-patient clinics for tuberculosis services.

### **County tuberculosis clinics**

(sec. 339.76)

The bill continues the authority of boards of county commissioners to maintain tuberculosis clinics or joint county tuberculosis clinics. In so doing, it maintains the boards' authority to provide by levying taxes, or otherwise, the funds necessary to operate the clinics. A tuberculosis clinic must be supervised by a board of three trustees, which has the same powers as a board of trustees for a county hospital, or by a board of health.

### **Reports by physicians**

(sec. 339.78(A))

The bill requires physicians to make reports to tuberculosis control units. Each report must contain the information requested by the unit, and the information must be provided at intervals specified by the unit. Specifically, the bill requires reports to be made as follows:

- (1) When a physician completes diagnostic studies confirming that an individual has tuberculosis;
- (2) Prior to completion of diagnostic studies, if the signs and symptoms demonstrated are sufficient for the physician to suspect tuberculosis;
- (3) At any time it is determined that an individual's tuberculosis is resistant to one or more drugs;
- (4) If an attending physician finds that an individual is not adhering to the prescribed treatment regimen. The bill establishes a requirement that attending physicians document adherence to tuberculosis treatment regimens.

### **Reports by health facilities, laboratories, and others**

(sec. 339.78(B))

In addition to accepting reports made by physicians, a tuberculosis control unit must accept reports made by health facility administrators, laboratories, and others. A report must be made by the administrator of a hospital, clinic, or other facility that is providing services to an individual who is confirmed to have or is suspected of having tuberculosis. A report must be made by a laboratory administrator for each positive tuberculosis test result obtained from a human specimen. Any other person is authorized under the bill to make a report, if the person suspects that an individual has tuberculosis.

### **Investigations of reports**

(sec. 339.80)

When a tuberculosis control unit receives a report of a confirmed case of tuberculosis, the bill requires that the unit conduct an investigation that includes personal contact with the individual with tuberculosis. The investigation must commence not later than three working days after receipt of the report. When a report of suspected tuberculosis is received, the tuberculosis control unit must conduct an investigation to determine whether the individual has tuberculosis. Pending confirmation of tuberculosis, the unit is authorized to contact the individual and proceed with an investigation as though the suspected case is a confirmed case of tuberculosis.

### **Confidentiality of information**

(sec. 339.81)

The bill provides that any information, data, and reports regarding a case of tuberculosis that are furnished to or procured by a tuberculosis control unit or the Department of Health is confidential and can be used only for statistical, scientific, and medical research aimed at controlling tuberculosis in Ohio. The bill provides that a physician, hospital, or other entity that furnishes this information cannot, by reason of furnishing the information, be deemed to have violated a confidential relationship, be held to answer for willful betrayal of a professional confidence, or be held liable in damages to any person.

### **Distinctions between "communicable" and "active" tuberculosis**

(sec. 339.71)

The bill defines "tuberculosis" as the infectious disease caused in humans by one of the following microorganisms: *Mycobacterium tuberculosis*, *Mycobacterium bovis*, and *Mycobacterium africanum*. Tuberculosis is "active" when present in an individual who has not completed an appropriate course of anti-tuberculosis medication. Active tuberculosis can be demonstrated by clinical, bacteriological, or radiographic evidence. It includes both pulmonary and extrapulmonary tuberculosis. Pulmonary tuberculosis is tuberculosis that affects the lungs. Extrapulmonary tuberculosis is tuberculosis that affects tissues other than the lungs.

When tuberculosis is active, it is not necessarily "communicable." Communicable tuberculosis is active pulmonary tuberculosis that has been determined, through examination of a culture of specimens obtained from an individual's respiratory tract, to be in a stage at which it can be transmitted to another individual.

### **Protecting the public from persons with tuberculosis**

(secs. 339.40 (repealed), 339.84, and 339.99 (repealed))

Current law authorizes a board of health to order a person who has or is suspected of having tuberculosis to submit to examination until it is determined that the person is free from tuberculosis in a communicable stage. A person who violates the order or interferes with the execution of the order may be punished by fine (\$100), imprisonment (90 days), or both.

The bill eliminates the role of boards of health. Instead, tuberculosis control units are given authority to issue orders requiring that a person comply with the bill's requirements for tuberculosis prevention and control.

### **Required treatment for individuals with active tuberculosis**

(sec. 339.82)

Under the bill, an individual diagnosed with active tuberculosis must complete the entire treatment regimen prescribed by a physician. The regimen must include a course of anti-tuberculosis medication, recommendations for management of tuberculosis, and instructions for following contagion precautions to prevent the spread of tuberculosis. If an individual fails to take anti-tuberculosis medication, the bill requires that the tuberculosis control unit establish a procedure

under which the individual is required to be witnessed ingesting the medication by individuals the unit designates. The bill requires the person with tuberculosis to take the medication in accordance with the unit's procedure.

### **Travel restrictions**

(sec. 339.82(C))

An individual with active tuberculosis who intends to travel or relocate is required by the bill to notify a tuberculosis control unit. The unit, then, is required to notify the unit serving the area to which the person intends to travel or relocate. If another state is involved, the unit must notify the appropriate public health authority in that state.

### **Separation of individuals with communicable tuberculosis**

(sec. 339.82(B))

Under the bill, an individual with communicable tuberculosis who is not hospitalized or otherwise confined must not attend any public gathering or be in any public place that the tuberculosis control unit determines cannot be maintained in a manner adequate to protect others from the spread of the disease. An individual who cannot be maintained outside a hospital in a manner adequate to protect others is required by the bill to submit to hospitalization and remain hospitalized.

### **Enforcement**

#### **Orders**

(secs. 339.83 and 339.84)

When a tuberculosis control unit becomes aware that an individual with tuberculosis is not complying with the bill's requirements, the unit must inform the individual that Ohio law requires compliance and that the unit may issue an order compelling the individual to comply. The bill authorizes the tuberculosis control units to issue such orders.

#### **Injunctions**

(sec. 339.85)

If an order is issued, and the individual fails to comply, the tuberculosis control unit may apply to the probate court for an injunction prohibiting continued violation of the order. If the unit believes that an individual's failure to comply

involves an immediate danger to the public health, the unit may request that the court (1) issue an injunction without granting an opportunity for a hearing or (2) hold an expedited hearing on the matter.

### **Detention**

(sec. 339.86)

If an individual fails to comply with an injunction, the tuberculosis control unit may request that the probate court issue an order under which the unit is granted authority to detain the individual in a hospital or other place to be treated or examined. In addition to identifying the individual by name, the unit must specify in the request all of the following: (1) the purpose of making the request for detention, (2) an assessment that describes the circumstances and the individual's behavior on which the request is based, (3) the recommended length of detention, and (4) a recommendation of a hospital or other place to be used for the detention.

The bill authorizes the court to issue a detention order for an initial period of not more than 180 days. At the end of the initial detention period, the court must review the case and extend the order for subsequent periods of not more than 90 days. At the end of each subsequent period, the court must review the case. When it receives satisfactory evidence that the individual no longer has active tuberculosis, the court must terminate the order for detention.

With respect to the rights of an individual subject to detention, the bill specifies the following:

(1) The individual may provide the tuberculosis control unit with the names, addresses, and telephone numbers of relatives and friends to be notified of the detention, and the unit must make all or a reasonable number of the requested notifications.

(2) The individual is not subject to forcible administration of anti-tuberculosis medication.

(3) The individual may, at any time, submit a request for release from detention.

(4) The individual may be represented by counsel during any proceeding pertaining to detention or proposed detention. If indigent, the individual may apply for court-appointed counsel and the court may make the appointment.

**Emergency detention**

(sec. 339.87)

When a tuberculosis control unit has reasonable grounds to believe that an individual who has or is suspected of having active tuberculosis poses a substantial danger to the health of other individuals, the bill authorizes the unit to issue an emergency detention order. In the order, the unit directs a sheriff or other law enforcement officer to remove the individual to a hospital or other place to be examined and treated for tuberculosis.

Not later than the end of the third business day after an emergency detention, the unit is required to apply to the probate court for a regular detention order. If a request is not filed in that time, the bill requires that the individual be released immediately. When released for this reason, the individual cannot be detained by a subsequent emergency detention order unless the tuberculosis control unit first obtains a regular detention order.

**Expenses for detention**

(secs. 339.77(B) and 339.88)

Under the bill, expenses for the detention or emergency detention of an individual are to be paid by the individual who is detained, unless the individual is indigent. Expenses for an indigent individual are to be paid by the board of county commissioners of the county from which the individual was removed.

The bill permits a board of county commissioners to apply to the Director of Health for reimbursement of the expenses incurred in detaining indigent individuals. The bill requires that the Director annually reimburse the boards of county commissioners for these expenses at a rate the Director must prescribe. The bill limits the Director's total payment to the boards to the amount appropriated for detaining indigent individuals, but the bill does not include an appropriation. The bill provides that any of the funds not expended by the end of the fiscal year are to be disbursed by the Director to counties with acceptable tuberculosis control programs for use in treatment of tuberculosis patients.

**Tuberculosis record bureau**

(sec. 339.74)

The bill retains the duty to maintain a county or district tuberculosis record bureau, but transfers the duty from the board of county commissioners to the

tuberculosis control unit. The unit must maintain records on all known cases of tuberculosis within the area served by the unit.

**Local reports to the state**

(sec. 339.79)

A tuberculosis control unit is required by the bill to make a report to the Department of Health each time it receives a report of a suspected or confirmed case of tuberculosis or a case of drug-resistant tuberculosis. If the report pertains to someone who does not reside in Ohio, the unit must also report to the state or local public health agency that serves the state in which the person resides.

**State tuberculosis registries**

(sec. 3701.14(B)(2) and (4))

Current law requires that the Director of Health maintain registries of hospitals, clinics, physicians, and other care providers for purposes of giving referrals to persons who inquire about their possible exposure to tuberculosis. The bill expands this requirement by requiring that the Director maintain a tuberculosis registry to record the incidence of tuberculosis in Ohio.

**State tuberculosis surveillance activities**

(sec. 3701.74(B)(3))

The bill requires that the Director of Health engage in tuberculosis surveillance activities. These activities must include 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.

**State tuberculosis consultants**

(sec. 3701.14(B)(5))

The bill permits the Director of Health to appoint physicians to serve as tuberculosis consultants for geographic regions of the state specified by the Director. Each tuberculosis consultant appointed must act in accordance with guidelines established by the Director. A tuberculosis consultant is responsible for advising and assisting physicians and other health care practitioners who participate in the prevention, care, treatment, and control of tuberculosis. A tuberculosis consultant also is responsible for reviewing medical records pertaining to the treatment provided to individuals with tuberculosis.

### **Adoption of rules**

(sec. 3701.14(B)(6))

The bill requires the Public Health Council to adopt rules establishing standards for the following: (1) performing tuberculosis screenings, (2) performing examinations of individuals who have been exposed to tuberculosis or who are suspected of having tuberculosis, (3) providing treatment to individuals with tuberculosis, (4) methods of preventing individuals with communicable tuberculosis from infecting others, (5) performing laboratory tests for tuberculosis and studies of drug-resistant tuberculosis, and (6) selecting laboratories that provide in a timely fashion the results of tuberculosis tests, with first consideration given to laboratories in Ohio.

The bill specifies that the rules adopted apply to tuberculosis control units, physicians who examine and treat individuals for tuberculosis, and laboratories that perform tests for tuberculosis. It requires that the rules be adopted in accordance with the Administrative Procedure Act (R.C. Chapter 119.) and that they be consistent with any recommendations or guidelines on tuberculosis issued by the U.S. Centers for Disease Control and Prevention or by the American Thoracic Society.

### **Schools for children with tuberculosis**

(sec. 3313.55)

The bill eliminates a provision that authorizes the board of education of any school district to establish special schools for persons with tuberculosis. It also eliminates a provision that allows children with tuberculosis to be excluded from the regular schools.

### **Care for the indigent and disabled by counties**

(sec. 339.11)

Existing law permits a board of county commissioners to provide care for the indigent sick and disabled by entering into an agreement with corporations and associations organized either for charitable purposes or for the purpose of operating a hospital in any county. However, payment of public funds to a sectarian institution is prohibited. The bill eliminates the prohibition when payment is for treatment of persons with tuberculosis.

**References to tuberculosis hospitals**

The bill eliminates references to tuberculosis hospitals in the following Revised Code sections: 124.11, 329.05, 339.16, 339.17, 3317.03, 3701.01, 3702.62, 3727.01, 5705.01, 5705.191, and 5705.25.

**Technical correction**

(sec. 3107.18)

The bill eliminates from the laws pertaining to adoption an incorrect cross-reference to the duties of the Director of Health to control and study infectious diseases, epidemics, and other public health matters.

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**HISTORY**

ACTION	DATE	JOURNAL ENTRY
Introduced	07-22-99	p. 910

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