

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2455 Session of 2020

INTRODUCED BY LAWRENCE, TOOIL AND RYAN, APRIL 27, 2020

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, AS AMENDED, MAY 4, 2020

AN ACT

1 Amending the act of April 9, 1929 (P.L.177, No.175), entitled  
2 "An act providing for and reorganizing the conduct of the  
3 executive and administrative work of the Commonwealth by the  
4 Executive Department thereof and the administrative  
5 departments, boards, commissions, and officers thereof,  
6 including the boards of trustees of State Normal Schools, or  
7 Teachers Colleges; abolishing, creating, reorganizing or  
8 authorizing the reorganization of certain administrative  
9 departments, boards, and commissions; defining the powers and  
10 duties of the Governor and other executive and administrative  
11 officers, and of the several administrative departments,  
12 boards, commissions, and officers; fixing the salaries of the  
13 Governor, Lieutenant Governor, and certain other executive  
14 and administrative officers; providing for the appointment of  
15 certain administrative officers, and of all deputies and  
16 other assistants and employes in certain departments, boards,  
17 and commissions; providing for judicial administration; and  
18 prescribing the manner in which the number and compensation  
19 of the deputies and all other assistants and employes of  
20 certain departments, boards and commissions shall be  
21 determined," in powers and duties of the Department of Health  
22 and its departmental administrative and advisory boards,  
23 providing for local health department COVID-19 antibody  
24 testing; and providing for COVID-19 emergency testing  
25 ~~procurement and disbursement~~ PLAN AND REPORTING. <--

26 The General Assembly of the Commonwealth of Pennsylvania  
27 hereby enacts as follows:

28 Section 1. The act of April 9, 1929 (P.L.177, No.175), known  
29 as The Administrative Code of 1929, is amended by adding a

1 section to read:

2 Section 2127. Local Health Department COVID-19 Antibody  
3 Testing.--(a) A LOCAL health department may notify the <--  
4 secretary of the LOCAL health department's intention to <--  
5 implement serology tests to identify antibodies to the COVID-19  
6 virus in coordination with the guidance provided in the  
7 policy. Notification under this subsection shall be made in  
8 writing to the secretary by the health director or equivalent  
9 employee of a LOCAL health department. <--

10 (b) Within seventy-two (72) hours of receipt of the  
11 notification under subsection (a), the secretary shall  
12 authorize, in writing, State laboratories holding a Clinical  
13 Laboratory Improvement Amendments (CLIA) certificate and that  
14 meet CLIA requirements to perform high-complexity testing, to  
15 facilitate and coordinate testing with the respective LOCAL <--  
16 health department. The following shall apply:

17 (1) A LOCAL health department shall reimburse a State <--  
18 laboratory for costs incurred by the State laboratory for  
19 services performed under this subsection.

20 (2) An individual tested under this subsection shall:  
21 (i) Be notified in writing at the time of initial testing of  
22 the applicable provisions of section (IV) (D) of the policy.  
23 (ii) Be advised of test results as soon as practicable in a  
24 manner determined by the LOCAL health department. <--

25 (3) A LOCAL health department performing serology tests <--  
26 under this subsection shall report the total number of positive,  
27 false positive, negative and false negative test results to the  
28 Department of Health of the Commonwealth on a daily basis.

29 (c) This section shall expire sixty (60) days after the  
30 expiration or termination of the proclamation of disaster

1 emergency issued by the Governor on March 6, 2020, published at  
2 50 Pa.B. 1644 (March 21, 2020), and any renewal of the state of  
3 disaster emergency.

4 (d) As used in this section, the following words and phrases  
5 shall have the meanings given to them in this subsection unless  
6 the context clearly indicates otherwise:

7 "Health "LOCAL HEALTH department." A county or municipal <--  
8 health department in this Commonwealth.

9 "Policy." The Policy for Diagnostic Tests for Coronavirus  
10 Disease-2019 during the Public Health Emergency, docket number  
11 FDA-2020-D-0987, available on the publicly accessible Internet  
12 website of the Food and Drug Administration on March 16, 2020.

13 "Secretary." The Secretary of Health of the Commonwealth.

14 "STATE LABORATORY." A STATE PUBLIC HEALTH LABORATORY AS <--  
15 AUTHORIZED UNDER SECTION 8(D) OF THE ACT OF APRIL 27, 1905  
16 (P.L.312, NO.218), ENTITLED "AN ACT CREATING A DEPARTMENT OF  
17 HEALTH, AND DEFINING ITS POWERS AND DUTIES."

18 Section 2. The act is amended by adding an article to read:

19 ARTICLE XXI-C

20 COVID-19 EMERGENCY

21 TESTING PROCUREMENT AND DISBURSEMENT PLAN AND REPORTING <--

22 Section 2101-C. Definitions.

23 The following words and phrases when used in this article  
24 shall have the meanings given to them in this section unless the  
25 context clearly indicates otherwise:

26 "COVID-19." The novel coronavirus as defined in the  
27 Governor's Proclamation of Disaster Emergency issued on March 6,  
28 2020, published at 50 Pa.B. 1644 (March 21, 2020).

29 Section 2102 C. Procurement and disbursement plan. <--

30 (a) Submission of plan. No later than seven days after the

1 ~~effective date of this section, the Governor, in consultation~~  
2 ~~with the Secretary of Health, shall submit a plan for the~~  
3 ~~procurement and disbursement of testing kits or equipment~~  
4 ~~necessary to test for COVID-19 to the chair and minority chair~~  
5 ~~of the Appropriations Committee of the Senate and the chair and~~  
6 ~~minority chair of the Appropriations Committee of the House of~~  
7 ~~Representatives.~~

8 ~~(b) Contents. The plan under subsection (a) shall include~~  
9 ~~all of the following:~~

10 ~~(1) A review of the type and quantity of testing kits~~  
11 ~~and equipment proposed to be procured.~~

12 ~~(2) A proposed timeline for the procurement of the~~  
13 ~~testing kits and equipment.~~

14 ~~(3) A proposed plan to disburse the testing kits and~~  
15 ~~equipment across this Commonwealth.~~

16 ~~(4) A list of categories of individuals who serve an~~  
17 ~~essential health and safety function or who are at a high~~  
18 ~~risk of contracting COVID-19 to be given initial priority to~~  
19 ~~be tested. The list shall include:~~

20 ~~(i) Health care staff.~~

21 ~~(ii) Staff and residents of nursing homes, long term~~  
22 ~~care nursing facilities, assisted living residences,~~  
23 ~~personal care homes and hospices.~~

24 ~~(iii) Staff and clients of home care providers, home~~  
25 ~~health care providers, mental health providers,~~  
26 ~~behavioral health providers, children's services,~~  
27 ~~intellectual disability providers and drug and alcohol~~  
28 ~~providers.~~

29 ~~(iv) Emergency service and public safety personnel.~~

30 ~~(v) Any other category of individuals who serve an~~

~~essential health and safety function or who are at high risk of contracting COVID-19.~~

~~(vi) An estimate of the amount of funding needed to implement the plan.~~

~~(5) A description of how the plan supports the efforts to limit the spread of COVID-19 at life sustaining businesses which have been permitted to continue to operate under the orders from the Governor and the Secretary of Health since the Governor's Proclamation of Disaster Emergency issued on March 6, 2020, published at 50 Pa.B. 1644 (March 21, 2020).~~

~~(6) A description of how the plan supports the efforts to limit the spread of COVID-19 at businesses other than businesses listed under paragraph (5) and which would be permitted to resume operations under subsequent orders or revisions to orders by the Governor and the Secretary of Health.~~

~~(c) Approval. A plan submitted under subsection (a) shall be deemed approved upon the enactment of an appropriation for the procurement of testing kits or equipment necessary from funds provided under the Federal Coronavirus Aid, Relief, and Economic Security Act (Public Law 116-136, 134 Stat. 281).~~

"STATE LABORATORY." A STATE PUBLIC HEALTH LABORATORY AS AUTHORIZED UNDER SECTION 8(D) OF THE ACT OF APRIL 27, 1905 (P.L.312, NO.218), ENTITLED "AN ACT CREATING A DEPARTMENT OF HEALTH, AND DEFINING ITS POWERS AND DUTIES.

SECTION 2102-C. COVID-19 TESTING PLAN.

(A) SUBMISSION.--CONSISTENT WITH THE PAYCHECK PROTECTION PROGRAM AND HEALTH CARE ENHANCEMENT ACT (PUBLIC LAW 116-139), THE GOVERNOR OR AN AUTHORIZED DESIGNEE SHALL SUBMIT A PLAN FOR COVID-19 TESTING TO THE SECRETARY OF THE UNITED STATES

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1 DEPARTMENT OF HEALTH AND HUMAN SERVICES.

2 (B) CONTENTS.--THE PLAN UNDER SUBSECTION (A) SHALL DELINEATE  
3 GOALS, BEGINNING AFTER THE EFFECTIVE DATE OF THIS SECTION, FOR  
4 THE REMAINDER OF THE CALENDAR YEAR 2020, AND SHALL INCLUDE ALL  
5 OF THE FOLLOWING:

6 (1) THE NUMBER OF TESTS NEEDED, MONTH-BY-MONTH,  
7 INCLUDING DIAGNOSTIC, SEROLOGICAL AND OTHER TESTS, AS  
8 APPROPRIATE.

9 (2) MONTH-BY-MONTH ESTIMATES OF LABORATORY AND TESTING  
10 CAPACITY, INCLUDING CAPACITY RELATED TO WORKFORCE, EQUIPMENT  
11 AND SUPPLIES AND AVAILABLE TESTS.

12 (3) A DESCRIPTION OF HOW THE COMMONWEALTH WILL USE  
13 FEDERAL MONEY APPROPRIATED FOR COVID-19 TESTING, INCLUDING AS  
14 IT RELATES TO EASING ANY COVID-19 COMMUNITY MITIGATION ORDERS  
15 ISSUED BY THE GOVERNOR.

16 (C) APPROVAL OR ACCEPTANCE.--UPON APPROVAL OR ACCEPTANCE OF  
17 A PLAN UNDER THIS SECTION, THE GENERAL ASSEMBLY SHALL  
18 APPROPRIATE FUNDS FOR COVID-19 TESTING AS PROVIDED UNDER  
19 SUBSECTIONS (D) AND (E).

20 (D) USE OF FUNDING.--FUNDS APPROPRIATED UNDER SUBSECTION (C)  
21 MAY BE USED FOR ANY OF THE FOLLOWING:

22 (1) NECESSARY EXPENSES TO RESEARCH, DEVELOP, VALIDATE,  
23 MANUFACTURE, PURCHASE, ADMINISTER AND EXPAND CAPACITY FOR  
24 COVID-19 TESTS TO EFFECTIVELY MONITOR AND SUPPRESS COVID-19,  
25 INCLUDING MOLECULAR, ANTIGEN AND SEROLOGICAL TESTS.

26 (2) MANUFACTURING, PROCUREMENT AND DISTRIBUTION OF  
27 TESTS, TESTING EQUIPMENT AND TESTING SUPPLIES, INCLUDING  
28 PERSONAL PROTECTIVE EQUIPMENT NEEDED FOR ADMINISTERING TESTS.

29 (3) THE DEVELOPMENT AND VALIDATION OF RAPID, MOLECULAR  
30 POINT-OF-CARE TESTS AND OTHER TESTS.

1           (4) SUPPORT FOR WORKFORCE AND EPIDEMIOLOGY.

2           (5) SCALING UP ACADEMIC, COMMERCIAL, PUBLIC HEALTH AND  
3 HOSPITAL LABORATORIES, HEALTH CARE FACILITIES AND COMMUNITY-  
4 BASED COVID-19 TESTING SITES.

5           (6) CONDUCTING SURVEILLANCE AND CONTACT TRACING.

6           (7) SUPPORTING DEVELOPMENT OF COVID-19 TESTING PLANS.

7           (E) TESTING PRIORITIZATION.--INDIVIDUALS WHO SERVE AN  
8 ESSENTIAL HEALTH AND SAFETY FUNCTION OR WHO ARE AT A HIGH-RISK  
9 OF CONTRACTING COVID-19 SHALL BE GIVEN INITIAL PRIORITY TO BE  
10 TESTED. THE FOLLOWING SHALL ALSO BE GIVEN PRIORITY:

11           (1) EMPLOYEES OF HEALTH CARE PROVIDERS.

12           (2) STAFF AND RESIDENTS OF NURSING HOME FACILITIES,  
13 ASSISTED LIVING RESIDENCES, PERSONAL CARE HOMES, HOSPICES AND  
14 OTHER CONGREGATE CARE SETTINGS.

15           (3) STAFF AND RECIPIENTS OF HOME CARE PROVIDERS, HOME  
16 HEALTH CARE PROVIDERS, BEHAVIORAL HEALTH CARE PROVIDERS,  
17 INTELLECTUAL DISABILITY PROVIDERS AND SUBSTANCE ABUSE  
18 DISORDER PROVIDERS.

19           (4) EMERGENCY SERVICE AND PUBLIC SAFETY PERSONNEL.

20           (5) EMPLOYEES OF ANY BUSINESS OR INDUSTRY DEEMED  
21 ESSENTIAL.

22           (6) ANY OTHER CATEGORY OF INDIVIDUALS WHO SERVE AN  
23 ESSENTIAL HEALTH AND SAFETY FUNCTION OR WHO ARE AT HIGH-RISK  
24 OF CONTRACTING COVID-19.

25 SECTION 2103-C. COVID-19 TESTING REPORTING.

26           (A) TESTING REPORT REQUIRED.--BEGINNING ON THE DAY AFTER THE  
27 EFFECTIVE DATE OF THIS SECTION, AND EACH WEEK THEREAFTER, THE  
28 DEPARTMENT OF HEALTH SHALL SUBMIT A REPORT REGARDING THE  
29 DEPARTMENT'S TESTING OF COVID-19 TO THE PRESIDENT PRO TEMPORE OF  
30 THE SENATE, THE MAJORITY LEADER AND MINORITY LEADER OF THE

1 SENATE, THE CHAIRPERSON AND MINORITY CHAIRPERSON OF THE  
2 APPROPRIATIONS COMMITTEE OF THE SENATE, THE SPEAKER OF THE HOUSE  
3 OF REPRESENTATIVES, THE MAJORITY LEADER AND MINORITY LEADER OF  
4 THE HOUSE OF REPRESENTATIVES AND THE CHAIRPERSON AND MINORITY  
5 CHAIRPERSON OF THE APPROPRIATIONS COMMITTEE OF THE HOUSE OF  
6 REPRESENTATIVES.

7 (B) TESTING REPORT CONTENTS.--THE REPORT SHALL CONTAIN A  
8 SUMMARY OF THE FOLLOWING INFORMATION:

9 (1) THE TECHNOLOGY AND SUPPLIES PROCURED OR ACQUIRED BY  
10 THE COMMONWEALTH RELATED TO COVID-19 TESTING.

11 (2) THE ADMINISTRATIVE AND OPERATING COSTS OF A STATE  
12 LABORATORY RELATED TO COVID-19 TESTING.

13 (3) THE NUMBER AND TYPE OF COMPLETED TESTS BY A STATE  
14 LABORATORY. THIS INFORMATION SHALL INCLUDE DIAGNOSTIC TESTS  
15 AND SEROLOGY TESTS.

16 (4) THE NUMBER OF POSITIVE, FALSE POSITIVE, NEGATIVE AND  
17 FALSE NEGATIVE COVID-19 TEST RESULTS FROM THE COMPLETED  
18 TESTING UNDER PARAGRAPH (3).

19 (5) A DESCRIPTION OF STATE LABORATORY COVID-19 TESTING  
20 LIMITATIONS, INCLUDING LIMITATIONS RELATING TO ACQUIRING  
21 REAGENTS OR OTHER COMPONENTS OF THE TESTING PROCESS.

22 (6) DEMOGRAPHIC TEST RESULT DATA, INCLUDING AGE, SEX,  
23 RACE AND ETHNICITY, AS PROVIDED UNDER SUBSECTION (C).

24 (C) REPORTING REQUIREMENTS.--A HEALTH CARE PROVIDER ORDERING  
25 COVID-19 TESTING SHALL REPORT, AS PRESCRIBED BY THE DEPARTMENT  
26 OF HEALTH, A PATIENT'S SELF-REPORTED DEMOGRAPHIC DATA INCLUDING  
27 AGE, SEX, RACE AND ETHNICITY.

28 (D) EXPIRATION.--THIS SECTION SHALL EXPIRE 60 DAYS AFTER THE  
29 EXPIRATION OR TERMINATION OF THE PROCLAMATION OF DISASTER  
30 EMERGENCY ISSUED BY THE GOVERNOR ON MARCH 6, 2020, PUBLISHED AT



1 50 PA.B. 1644 (MARCH 21, 2020), AND ANY RENEWAL OF THE DISASTER  
2 EMERGENCY DECLARATION.

3 Section 3. This act shall take effect immediately.