



Board of Commissioners of Cook County

118 North Clark Street
Chicago, IL

Legislation Text

File #: 20-2615, **Version:** 1

VETO MESSAGE OF THE PRESIDENT

Department: County Clerk

Summary: In accordance with Section 2-6008 of the Cook County Code, I am transmitting a Veto message from Toni Preckwinkle, President of the Cook County Board of Commissioners, for Legislative File ID 20-2378, a Resolution to Share Addresses for Emergencies (SAFE) with First Responders that was passed by the County Board on May 21, 2020.

May 26, 2020

Via: Email

Honorable Karen A. Yarbrough
Cook County Clerk
69 W. Washington, 5th Floor
Chicago, Illinois 60602

Re: Veto of Item 20-2378 - Resolution to Share Addresses for Emergencies (SAFE) with First Responders

Dear Clerk Yarbrough:

On April 13, 2020, I informed the Cook County Board of Commissioners (“Board”) in writing that COVID-19 is widespread across Illinois and the safety of our health care workers, first responders and law enforcement partners are of great importance. I am grateful for the dedication provided by these front-line responders and their commitment to help others. In order to ensure that these front-line responders are safe - I advised the Board that we must continue to work together with our federal and State partners to provide personal protective equipment to help fight the spread of COVID-19.

Some of our suburban first responders and law enforcement agencies as well as suburban municipalities have requested additional detail and data regarding positive COVID-19 cases in their respective jurisdictions from the Cook County Department of Public Health (“CCDPH”) and Cook County (“County”). Furthermore, the Northwest Central Dispatch System went so far as to file a complaint for declaratory relief against the County and further requested a temporary restraining order against the County in an effort to force the release of COVID-19 positive patient names and addresses by CCDPH to first responders. The County and CCDPH fought the temporary restraining order and the Court determined that neither the County nor CCDPH were legally mandated to release private health information to first responders and the request for a temporary restraining order was denied.

In my April 13, 2020 communication to the Board, I indicated that it is important to conduct a balancing test prior to the release of any patient positive information. We would need to determine the legal parameters of such a release, if the release of such data would provide additional protection to our first responders, determine the ability to communicate such information in the limited means necessary to comply with the Health Insurance Portability and Accountability Act (HIPPA), potential impacts of such disclosures and the confidentiality of patient information and patient privacy.

We internally debated this issue and thoroughly contemplated whether CCDPH should release patient information to first responders. In reviewing the guidance provided by the Illinois Department of Public Health (“IDPH”) and discussing such a release with our CCDPH medical experts, I wholly supported CCDPH’s decision to follow IDPH guidance and not release patient information to first responders or to the dispatch jurisdictions in Cook County.

As previously communicated to the Board, IDPH has advised that there are likely a large number of asymptomatic cases in each community that have not been confirmed by a test; many people who are symptomatic may not have been tested yet and many who have tested positive for COVID-19 are no longer contagious. IDPH has indicated that providing first responders and law enforcement with the “identity of positive COVID-19 cases has limited epidemiologic and infection control value and therefore IDPH does not recommend notification to law enforcement of individuals who have tested positive for COVID-19. Rather, IDPH recommends that first responders and law enforcement take appropriate protective precautions when responding to all calls.”

Our continued goal should be to support and listen to our public health experts and continue to work with our federal and State partners to utilize universal precautions in order to help protect our first responders and law enforcement partners.

In an effort to continue to maintain patient privacy but equip our first responders with information and personal protective equipment Cook County has engaged in the following:

Cook County through CCDPH’s ShinyApp displays COVID-19 data for suburban Cook County under the jurisdiction of CCDPH. This data includes case counts by municipality which provides additional information to first responders regarding hot zones. This information can be accessed at <https://ccdphcd.shinyapps.io/covid19/>.

Cook County is also assisting first responders and law enforcement through the Cook County 911 Emergency Systems Telephone Board and the Cook County Sheriff’s Office. Smart911 technology is available to Cook County residents. The software provides citizens with the ability to enter information that they want to make available to 9-1-1 call takers through a secure website at www.Smart911.com. Smart911 then delivers this information automatically with any 9-1-1 calls that are routed to the Cook County Sheriff’s Office 9-1-1 center. Smart911 allows residents to store any critical care and emergency rescue information online in advance of any emergency. We encourage our residents to take advantage of this important tool and disclose medical conditions, home addresses of mobile phone callers, and other rescue-related information to help prepare our first responders. In addition, 9-1-1 operators have an additional protocol and include questions to the caller regarding COVID-19 or respiratory related symptoms to also better inform and equip our first responders answering emergency calls.

Lastly and most important, the Cook County Department of Emergency Management and Regional Security (DEMRS), continues to secure and distribute personal protective equipment (PPE) to municipalities, first responders and law enforcement in suburban Cook County.

Despite my objection, the objection of various members of the Board, and the position of our CCDPH public health experts, on May 21, 2020, the Board narrowly passed Item No. 20-2378 a Resolution calling for CCDPH to temporarily share addresses of COVID-19 positive patients to municipal first responders through Public Safety Answering Point (“PSAP) dispatch systems.

The May 21, 2020 action by the Board to release COVID-19 positive patient information to PSAPs violates the public health guidance provided by health experts, discredits the guidance provided by both IDPH and CCDPH, puts COVID-19 patients and County residents at risk and provides our first responders with a false sense of security. I cannot support the release of this information and am wholly disappointed in the decision to dispute the opinions of our public health experts, including the advice provided by CCDPH’s medical expert, Dr. Rachel Rubin.

Please be advised that in accordance with the authority granted to me by Section 2-6008 of the Counties Code, I am exercising my veto authority as President of the Board of Commissioners of Cook County and hereby veto Item 20-2378 passed by the Board on May 21, 2020. See, 55 ILCS 5/2-6008. As such, Item 20-2378 is hereby vetoed and CCDPH is no

longer mandated to release the information addressed in Item 20-2378 to PSAPs.

In support of this veto it is important to note that at the direction of CCDPH, CCDPH has found it necessary and appropriate to release some information publicly to protect the public health of County residents and our first responders. For example, CCDPH provides reporting at a community level regarding the number of infections in a particular area through the use of the ShinyApp which is available to our first responders and the public. As another example, CCDPH has determined that it may be appropriate to release the name of a location at which an outbreak of a foodborne or communicable illness has occurred. However, as previously indicated by Dr. Rachel Rubin of CCDPH, patients have strong privacy rights under principles of medical ethics as well as various laws. Good public health practice typically does not require the release of names or other identifying information of individuals with infectious diseases. We should absolutely adhere to the guidance of our health experts and not create our own policy in this area.

As the President of the Board and the Cook County Board of Public Health this veto is imperative because CCDPH has already considered and balanced the need to release appropriate information against the individuals' strong and legitimate privacy expectations. Among the privacy concerns CCDPH considers when releasing personal health information ("PHI") in the context of communicable diseases generally, and specifically in the context of what information to release regarding COVID-19, include:

a) The potential stigma that individuals or groups may face because of their diagnosis. A classic example of this was the HIV/AIDS epidemic, in which overcoming stigma through public education and awareness was a major part of public health officials' battle;

b) The potential for individual harassment;

c) The potential that information may be used by law enforcement to identify and target undocumented persons; and

d) The fact that such an approach tends to discourage individuals from coming forward to receive testing and treatment.

CCDPH has indicated that it is very concerned about how potential stigma would impact our efforts to respond to the health crisis in the County. For instance, CCDPH has advised that current data suggests that COVID-19 disproportionately impacts the African American and Latinx communities. As of May 24, 2020, IDPH has advised that African Americans comprise 30.3% of COVID-19 related deaths and Latinx comprise 19% of COVID-19 deaths in Illinois. According to CCDPH, the Chicago Department of Public Health and the Cook County Medical Examiner's Office, African Americans account for 22.6% of COVID-19 cases and 35.7% of COVID-19 deaths in Cook County. Latinx account for 34.3% of all COVID-19 cases and 18.3% of COVID-19 deaths in all of Cook County.

CCDPH, as a public health authority, understands that African Americans and members of the Latinx population may have a longstanding distrust of public health authorities, stemming from their previous experiences with the healthcare system. Disclosure of PHI may create an additional barrier to access healthcare, frustrating CCDPH's efforts to respond to the COVID-19 pandemic.

In addition to considering the potential impact of providing information about those diagnosed with COVID-19 to first responders, CCDPH had indicated that providing such information will not make first responders safer and may actually put them at greater risk, this view is also shared by IDPH, which on April 1, 2020 issued guidance on this issue. The specific features of the COVID-19 pandemic make it such that information about individuals' diagnosis is not particularly helpful and could give first responders a false sense of security when considering when to take precautions.

CCDPH has recommended that first responders follow the guidance of the Center for Disease Control ("CDC"), IDPH, and CCDPH in the course of their work. This guidance includes discussion of modified caller queries to help call centers identify persons who may be infected with the virus. It also discusses the wearing of personal protective equipment (PPE)

as well as following hand hygiene and environmental disinfection procedures. These recommendations apply in every case and would not change in instances when a person has been identified as having tested positive for COVID-19.

Providing consistent guidance and training for our first responders, improving testing, and increasing our PPE and other medical resources, are key to combating the pandemic within Cook County. However, providing first responders with the addresses of persons diagnosed with COVID-19, contributes minimally, if at all, to public health, and is outweighed by the imperative to protect individuals' privacy.

For these reasons, I urge the Board to follow the guidance provided by IDPH, CDC and CCDPH.

In accordance with the authority granted to me by Section 2-6008 of the Counties Code and for the reasons stated herein, please transmit this veto message on the agenda for the next meeting of the Cook County Board of Commissioner, June 18, 2020.

Sincerely,

Toni Preckwinkle
President

**20-2378
RESOLUTION**

Sponsored by

**THE HONORABLE SCOTT R. BRITTON, JOHN P. DALEY, DONNA MILLER,
SEAN M. MORRISON, LARRY SUFFREDIN AND LUIS ARROYO JR.,
AND PETER N. SILVESTRI, COUNTY COMMISSIONERS**

**A RESOLUTION TO SHARE ADDRESSES FOR EMERGENCIES (SAFE)
WITH FIRST RESPONDERS**

WHEREAS, COVID-19 is widespread across Illinois and the safety of our health care workers, first responders, and law enforcement partners are of great importance; and

WHEREAS, we are grateful for the dedication provided by these front-line responders and their commitment to help others and take seriously the need to ensure their safety; and

WHEREAS, we must continue to work together with our federal and state partners to provide personal protective equipment (PPE) to help fight the spread of COVID-19; and

WHEREAS, the Cook County Department of Emergency Management and Regional Security (DEMRS) has, as of April 9, 2020, distributed 659,524 pieces of PPE; and

WHEREAS, the County understands that access to testing is limited, many residents may be asymptomatic, and many who have tested positive for COVID-19 are no longer contagious, therefore it may not be possible at this time to identify every individual who is positive for COVID-19; and

WHEREAS, the Illinois Department of Public Health (IDPH) released guidelines for use of PPE by first responders to safeguard their wellbeing, including wearing PPE on all calls when possible, assessing risk at a distance of at least six feet before entering a home, minimizing patient contact, and limiting the number of providers in the patient compartment during transport; and

WHEREAS, PPE is often in short supply, difficult to attain, and artificially inflated in cost; and

WHEREAS, more can be done to provide for the safety of first responders as they perform their essential duties and keep the public safe and healthy; and

WHEREAS, confirming, even in a limited way, which first responders had contact with a particular infected person can contribute to the safety of all first-responders (their families) and those they serve; and

WHEREAS, both the U.S. Department of Health & Human Services and the Illinois Office of Attorney General (OAG) have determined that protected health information (PHI), such as home addresses, can be disclosed without Health Insurance Portability and Accountability Act (HIPAA) authorization when first responders may be at risk for an infection; and

WHEREAS, an April 3, 2020, OAG Memorandum concluded that Illinois law allows the disclosure of one's COVID-19 status to first responders, including non-law-enforcement first responders, for purposes of protecting these workers and preventing the further spread of the virus; and

WHEREAS, the Cook County State's Attorney Office confirms that, "federal law clearly allows for the disclosure of a person's COVID-19 status for purposes of protecting the spread of a communicable disease," and "adopt[s] the reasoning of the OAG in concluding that state law also allows this disclosure to first responders."; and

WHEREAS, neighboring counties and counties across the state are releasing information about COVID-19 cases to first responders; and

WHEREAS, the McHenry County Health Department was ordered by the 22nd Judicial Circuit Court to disclose the names and addresses of all individuals that reside within McHenry County that are positive for COVID-19 to the McHenry County Emergency Telephone System Board for use by all police officers in McHenry County.

NOW, THEREFORE, BE IT RESOLVED, the Board of Commissioners as the Board of Health directs the Cook County Department of Public Health (CCDPH) to temporarily share the address information of confirmed COVID-19 positive patients received from the Illinois Department of Public Health with applicable municipal first responders via the PSAP (Public Safety Answering Point) dispatch system in Cook County, on a daily basis, in an effort to further ensure the safety of residents and first responders alike; and

BE IT FURTHER RESOLVED, that this information be disseminated to first responders for the sole purpose of awareness of necessary medical precautions to take when responding to an emergency at an address of confirmed COVID-19 positive patients and should be used in tandem with IDPH guidelines for first responders; and

BE IT FURTHER RESOLVED, that all efforts be made to ensure CCDPH communicates such information in the most minimal means necessary and in such a way to mitigate potential impacts of such disclosures and secure the confidentiality of patient information and patient privacy, in compliance with the Health Insurance Portability and Accountability Act (HIPAA), including but not limited to requiring execution of a Memorandum of Understanding (MOU) with any agency receiving such information; and

BE IT FURTHER RESOLVED, the information disclosed pursuant to this Resolution shall be purged by the receiving entities as required by CCDPH's MOU; and

BE IT FURTHER RESOLVED, that this information be distributed for a period of 60 days, at which time the Board of Commissioners, as the Board of Health may decide to extend the period of dissemination in 30-day increments. The length of time this information will be shared is to be decided by the number of cases in Cook County and across the state; and

BE IT FURTHER RESOLVED, that the MOU drafted by CCDPH will include language on the proper usage and disclosure of this information; and

BE IT FURTHER RESOLVED, that once the COVID-19 pandemic has subsided and the protected health information (PHI) for COVID-19 positive patients is no longer needed, the record will be disbanded and no longer shared.

Approved and adopted this 21st of May 2020.

TONI PRECKWINKLE, President
Cook County Board of Commissioners

Attest: KAREN A. YARBROUGH, County Clerk