



City of Chicago



O2018-9307

Office of the City Clerk

Document Tracking Sheet

Meeting Date: 12/12/2018

Sponsor(s): Emanuel (Mayor)

Type: Ordinance

Title: Amendment of Municipal Code 2-112-160 adding subpoena power to the Commissioner of Public Health for investigation of serious public health threats or location of persons possibly exposed to a health attack agent

Committee(s) Assignment: Committee on Budget and Government Operations



OFFICE OF THE MAYOR
CITY OF CHICAGO

RAHM EMANUEL
MAYOR

December 12, 2018

TO THE HONORABLE, THE CITY COUNCIL
OF THE CITY OF CHICAGO

Ladies and Gentlemen:

At the request of the Commissioner of Public Health, I transmit herewith an ordinance amending Chapter 2-112 of the Municipal Code regarding subpoena power.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

A handwritten signature in cursive script that reads "Rahm Emanuel".

Mayor

ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. Section 2-112-160 of the Municipal Code of Chicago is hereby amended by inserting the language underscored, as follows:

2-112-160 Commissioner – Additional powers and duties.

The Commissioner of Health shall have the following powers and duties:

- (a) Public health related powers and duties:

(Omitted text is not affected by this ordinance)

(9) To issue subpoenas to compel the attendance and testimony of witnesses and the production of books, papers, records, documents, data and other information relevant to public health investigations that the Commissioner of Health conducts (i) pertaining to a serious public health threat; or (ii) to locate persons who may have been exposed to an agent which can seriously affect their health.

Except as otherwise provided in this subsection, a subpoena shall be served in the same manner as subpoenas issued under the Rules of the Illinois Supreme Court to compel appearance of a deponent, and subject to the same witness and mileage fees fixed by law for such subpoenas.

A subpoena issued under this subsection shall identify the person to whom it is directed and the documents or other items sought thereby, if any, and the date, time and place for the appearance of the witness and production of the documents or other items described in the subpoena. Except for investigations related to a public health emergency, as determined by the Commissioner of Health, the date for examination or production shall not be less than seven days after service of the subpoena. The Commissioner of Health shall determine the date for examination or production for investigations related to a public health emergency on a case-by-case basis, considering the need to preserve the public health and safety. For purposes of this subsection, the term "public health emergency" includes a threat to the public health or safety that is expected to occur within a reasonably short time, or that is present now, although the impact of the threat may not be felt until later.

No later than the time for appearance or production required by the subpoena, the person to whom the subpoena is directed may object to the subpoena, in whole or in part. The objection shall be in writing, delivered to the Commissioner of Health, and shall specify the grounds for the objection. Except in cases of a public health emergency, for seven days after

receipt of a timely objection to a subpoena, no action shall be taken to enforce the subpoena or to initiate prosecution of the person to whom the subpoena is directed. During this seven-day period, the Commissioner of Health shall consider the grounds for the objection and may attempt to resolve the objection through negotiation with the person to whom the subpoena is directed. The seven-day period may be extended by the Commissioner of Health in order to allow completion of any negotiations. The extension shall be in writing addressed to the person to whom the subpoena is directed, and shall specify the date on which the negotiation period will end. Negotiations may include such matters as the scope of the subpoena and the time, place and manner of response thereto. The filing of an objection to a subpoena, and negotiations pursuant to an objection, shall not constitute refusal to comply with the subpoena, or interference with or obstruction of an investigation.

No person shall willfully refuse to comply with a subpoena issued by the Commissioner of Health, or otherwise knowingly interfere with or obstruct an investigation conducted by the Commissioner of Health. Any person who willfully violates this subsection shall be subject to a fine of not less than \$300.00 and not more than \$500.00 for each such offense, or imprisonment for a period of not less than 30 days and not more than six months, or both a fine and imprisonment. Each day that a violation continues shall constitute a separate and distinct offense. Actions seeking the imposition of a fine only shall be filed as quasi-criminal actions subject to the provisions of the Illinois Code of Civil Procedure. Actions seeking incarceration, or incarceration and a fine, shall be filed and prosecuted as misdemeanor actions under the procedure set forth in Section 1-2-1.1 of the Illinois Municipal Code. Only the Corporation Counsel is authorized to initiate actions to enforce subpoenas issued pursuant to this subsection.

Nothing in this section shall affect the right of the recipient of a subpoena issued pursuant to this subsection to seek judicial review in accordance with applicable law.

Nothing provided in this subsection shall be construed to prohibit the Board of Health from taking any action necessary to preserve the public health as provided in Section 2-112-110.

(Omitted text is not affected by this ordinance)

SECTION 2. This ordinance shall take effect 10 days after its passage and publication.