

CS FOR HOUSE BILL NO. 95(HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered: 2/11/05

Referred: Judiciary

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to public health and public health emergencies and disasters; relating**
2 **to duties of the public defender and office of public advocacy regarding public health**
3 **matters; relating to certain claims for public health matters; making conforming**
4 **amendments; relating to the treatment and transportation of dead bodies; amending**
5 **Rules 4, 7, 8, 38, 40, 65, 72, and 77, Alaska Rules of Civil Procedure; and providing for**
6 **an effective date."**

7 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

8 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
9 to read:

10 PURPOSE; INTENT. (a) The purpose of this Act is to

11 (1) protect and promote the health of the citizens of this state to the greatest
12 extent possible through the public health system;

13 (2) further the leadership of the Department of Health and Social Services in

1 protecting and promoting the public health by the department's

2 (A) ensuring the conditions in which people can be healthy;

3 (B) providing or ensuring the provision of essential public health
4 services and functions that are culturally and linguistically appropriate for the
5 population being served;

6 (C) encouraging collaboration among public and private sector
7 partners in the public health system; and

8 (D) seeking adequate financing and other resources to provide
9 essential public health services and functions or to accomplish public health goals
10 through public or private sources.

11 (b) It is the intent of the legislature that this Act not be construed to require an
12 individual or agency within the public health system to provide specific health services or to
13 mandate implementation of unfunded programs.

14 * **Sec. 2.** AS 09.50.250 is amended to read:

15 **Sec. 09.50.250. Actionable claims against the state.** A person or corporation
16 having a contract, quasi-contract, or tort claim against the state may bring an action
17 against the state in a state court that has jurisdiction over the claim. A person who
18 may present the claim under AS 44.77 may not bring an action under this section
19 except as set out in AS 44.77.040(c). A person who may bring an action under
20 AS 36.30.560 - 36.30.695 may not bring an action under this section except as set out
21 in AS 36.30.685. However, an action may not be brought if the claim

22 (1) is an action for tort, and is based upon an act or omission of an
23 employee of the state, exercising due care, in the execution of a statute or regulation,
24 whether or not the statute or regulation is valid; or is an action for tort, and based upon
25 the exercise or performance or the failure to exercise or perform a discretionary
26 function or duty on the part of a state agency or an employee of the state, whether or
27 not the discretion involved is abused;

28 (2) is for damages caused by the imposition or establishment of, **or the**
29 **failure to impose or establish,** a quarantine, **isolation, medical treatment, or other**
30 **actions** by the state **or its agents, officers, or employees under AS 18.15.355 -**
31 **18.15.390;**

1 (3) arises out of assault, battery, false imprisonment, false arrest,
2 malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or
3 interference with contract rights;

4 (4) arises out of the use of an ignition interlock device certified under
5 AS 33.05.020(c); or

6 (5) arises out of injury, illness, or death of a seaman that occurs or
7 manifests itself during or in the course of, or arises out of, employment with the state;
8 AS 23.30 provides the exclusive remedy for such a claim, and no action may be
9 brought against the state, its vessels, or its employees under the Jones Act (46 U.S.C.
10 688), in admiralty, or under the general maritime law.

11 * **Sec. 3.** AS 14.07.020(a) is amended to read:

12 (a) The department shall

13 (1) exercise general supervision over the public schools of the state
14 except the University of Alaska;

15 (2) study the conditions and needs of the public schools of the state,
16 adopt or recommend plans, administer and evaluate grants to improve school
17 performance awarded under AS 14.03.125, and adopt regulations for the
18 improvement of the public schools;

19 (3) provide advisory and consultative services to all public school
20 governing bodies and personnel;

21 (4) prescribe by regulation a minimum course of study for the public
22 schools; the regulations must provide that, if a course in American Sign Language is
23 given, the course shall be given credit as a course in a foreign language;

24 (5) establish, in coordination with the Department of Health and Social
25 Services, a program for the continuing education of children who are held in detention
26 facilities in the state during the period of detention;

27 (6) accredit those public schools that meet accreditation standards
28 prescribed by regulation by the department; these regulations shall be adopted by the
29 department and presented to the legislature during the first 10 days of any regular
30 session, and become effective 45 days after presentation or at the end of the session,
31 whichever is earlier, unless disapproved by a resolution concurred in by a majority of

1 the members of each house;

2 (7) prescribe by regulation, after consultation with the state fire
3 marshal and the state sanitarian, standards [IN ADDITION TO THE
4 REQUIREMENTS OF AS 18.15.145] that will assure healthful and safe conditions in
5 the public and private schools of the state, including a requirement of physical
6 examinations and immunizations in pre-elementary schools; the standards for private
7 schools may not be more stringent than those for public schools;

8 (8) exercise general supervision over pre-elementary schools that
9 receive direct state or federal funding;

10 (9) exercise general supervision over elementary and secondary
11 correspondence study programs offered by municipal school districts or regional
12 educational attendance areas; the department may also offer and make available to any
13 Alaskan through a centralized office a correspondence study program;

14 (10) accredit private schools that request accreditation and that meet
15 accreditation standards prescribed by regulation by the department; nothing in this
16 paragraph authorizes the department to require religious or other private schools to be
17 licensed;

18 (11) review plans for construction of new public elementary and
19 secondary schools and for additions to and major rehabilitation of existing public
20 elementary and secondary schools and, in accordance with regulations adopted by the
21 department, determine and approve the extent of eligibility for state aid of a school
22 construction or major maintenance project; for the purposes of this paragraph, "plans"
23 include educational specifications, schematic designs, and final contract documents;

24 (12) provide educational opportunities in the areas of vocational
25 education and training, and basic education to individuals over 16 years of age who
26 are no longer attending school;

27 (13) administer the grants awarded under AS 14.11;

28 (14) establish, in coordination with the Department of Public Safety, a
29 school bus driver training course;

30 (15) require the reporting of information relating to school disciplinary
31 and safety programs under AS 14.33.120 and of incidents of disruptive or violent

1 behavior.

2 * **Sec. 4.** AS 18.05.010 is repealed and reenacted to read:

3 **Sec. 18.05.010. Administration of laws by department.** (a) The department
4 shall administer the statutes and regulations relating to the promotion and protection of
5 the public health as provided by law.

6 (b) In performing its duties under this chapter and AS 18.15.355 - 18.15.390,
7 the department may

8 (1) flexibly use the broad range of powers set out in this title assigned
9 to the department to protect and promote the public health;

10 (2) provide public health information programs or messages to the
11 public that promote healthy behaviors or lifestyles or educate individuals about health
12 issues;

13 (3) promote efforts among public and private sector partners to
14 develop and finance programs or initiatives that identify and ameliorate health
15 problems;

16 (4) establish, finance, provide, or endorse performance management
17 standards for the public health system;

18 (5) develop, adopt, and implement public health plans and formal
19 policies through regulations adopted under AS 44.62 or collaborative
20 recommendations that guide or support individual and community public health
21 efforts;

22 (6) establish formal or informal relationships with public or private
23 sector partners within the public health system;

24 (7) identify, assess, prevent, and ameliorate conditions of public health
25 importance through surveillance; epidemiological tracking, program evaluation, and
26 monitoring; testing and screening programs; treatment; administrative inspections; or
27 other techniques;

28 (8) promote the availability and accessibility of quality health care
29 services through health care facilities or providers;

30 (9) promote availability of and access to preventive and primary health
31 care when not otherwise available through the private sector, including acute and

1 episodic care, prenatal and postpartum care, child health, family planning, school
 2 health, chronic disease prevention, child and adult immunization, testing and screening
 3 services, dental health, nutrition, and health education and promotion services;

4 (10) systematically and regularly review the public health system and
 5 recommend modifications in its structure or other features to improve public health
 6 outcomes; and

7 (11) collaborate with public and private sector partners, including
 8 municipalities, Alaska Native organizations, health care providers, and health insurers,
 9 within the public health system to achieve the mission of public health.

10 * **Sec. 5.** AS 18.05.040(a) is amended to read:

11 (a) The commissioner shall adopt regulations consistent with existing law for

12 (1) **the time, manner, information to be reported, and persons**
 13 **responsible for reporting for each disease or other condition of public health**
 14 **importance on the list developed under AS 18.15.370** [THE DEFINITION,
 15 REPORTING, AND CONTROL OF DISEASES OF PUBLIC HEALTH
 16 SIGNIFICANCE];

17 (2) cooperation with local boards of health and health officers;

18 (3) protection and promotion of the public health and prevention of
 19 disability and mortality;

20 (4) the transportation of dead bodies, **except that the commissioner**
 21 **may not require that a dead body be embalmed unless the body is known to carry**
 22 **a communicable disease or embalment is otherwise required for the protection**
 23 **of the public health or for compliance with federal law**;

24 (5) carrying out the purposes of this chapter;

25 (6) the conduct of its business and for carrying out the provisions of
 26 laws of the United States and the state relating to public health;

27 (7) establishing the divisions and local offices and advisory groups
 28 necessary or considered expedient to carry out or assist in carrying out a duty or power
 29 assigned to it;

30 (8) the voluntary certification of laboratories to perform diagnostic,
 31 quality control, or enforcement analyses or examinations based on recognized or

1 tentative standards of performance relating to analysis and examination of food,
 2 **including** [TO INCLUDE] seafood, milk, water, and specimens from human beings
 3 submitted by licensed physicians and nurses for analysis;

4 (9) the regulation of quality and purity of commercially compressed
 5 oxygen sold for human respiration;

6 (10) the licensure of midwifery birth centers, except that the
 7 commissioner may not require the presence of a physician or nurse midwife at a birth
 8 resulting from a **low-risk** [LOW RISK] pregnancy attended by a direct-entry midwife
 9 certified in this state;

10 **(11) establishing confidentiality and security standards for**
 11 **information and records received under AS 18.15.355 - 18.15.390.**

12 * **Sec. 6.** AS 18.05.061 is amended to read:

13 **Sec. 18.05.061. Penalty for violation.** A person who violates a provision of
 14 **AS 18.05.040 or 18.05.042** [AS 18.05.040 - 18.05.046] or a regulation adopted under
 15 **AS 18.05.040 or 18.05.042** [AS 18.05.040 - 18.05.046] is guilty of a misdemeanor
 16 and, upon conviction, is punishable by a fine of not more than \$500, or by
 17 imprisonment for not more than one year. Each day that a person continues a
 18 violation is a separate offense.

19 * **Sec. 7.** AS 18.05.070 is amended by adding a new paragraph to read:

20 (4) "condition of public health importance" means a disease,
 21 syndrome, symptom, injury, or other threat to health that is identifiable on an
 22 individual or community level and can reasonably be expected to lead to adverse
 23 health effects in the community.

24 * **Sec. 8.** AS 18.15 is amended by adding new sections to read:

25 **Article 7A. Public Health Authority and Powers.**

26 **Sec. 18.15.355. Prevention and control of conditions of public health**
 27 **importance.** (a) The department may use the powers and provisions set out in
 28 AS 18.15.355 - 18.15.390 to prevent, control, or ameliorate conditions of public health
 29 importance or accomplish other essential public health services and functions.

30 (b) In performing its duties under AS 18.15.355 - 18.15.390, the department
 31 may

1 (1) establish standards

2 (A) for the prevention, control, or amelioration of conditions of
3 public health importance;

4 (B) to accomplish other essential public health services and
5 functions; and

6 (2) adopt regulations to implement and interpret AS 18.15.355 -
7 18.15.390.

8 **Sec. 18.15.360. Data collection.** (a) The department is authorized to collect,
9 analyze, and maintain databases of information related to

10 (1) risk factors identified for conditions of public health importance;

11 (2) morbidity and mortality rates for conditions of public health
12 importance;

13 (3) community indicators relevant to conditions of public health
14 importance; and

15 (4) any other data needed to accomplish or further the mission or goals
16 of public health or provide essential public health services and functions.

17 (b) The department is authorized to obtain information from federal, state, and
18 local governmental agencies, Alaska Native organizations, health care providers, pre-
19 hospital emergency medical services, or other private and public organizations
20 operating in the state. The department may also use information available from other
21 governmental and private sources, reports of hospital discharge data, information
22 included in death certificates, other vital statistics, environmental data, and public
23 information. The department may request information from and inspect health care
24 records maintained by health care providers that identify individuals or characteristics
25 of individuals with reportable diseases or other conditions of public health importance.

26 (c) The department may collect information to establish and maintain a
27 comprehensive vaccination registry to aid, coordinate, and promote effective and cost-
28 efficient disease prevention and control efforts in the state.

29 (d) The department may not acquire identifiable health information without
30 complying with the provisions of AS 18.15.355 - 18.15.390 and regulations adopted
31 under those statutes.

1 **Sec. 18.15.365. Information security safeguards.** The department shall
 2 acquire, use, disclose, and store identifiable health information in a confidential
 3 manner that safeguards the security of the information, and maintain the information
 4 in a physically and technologically secure environment.

5 **Sec. 18.15.370. Reportable disease list.** The department shall maintain a list
 6 of reportable diseases or other conditions of public health importance that must be
 7 reported to the department. The list may include birth defects, cancers, injuries, and
 8 diseases or other conditions caused by exposure to microorganisms; pathogens; or
 9 environmental, toxic, or other hazardous substances. The department shall regularly
 10 maintain and may revise the list. The department may also establish registries for
 11 diseases and conditions that must be reported to the department.

12 **Sec. 18.15.375. Epidemiological investigation.** (a) The department may
 13 investigate conditions of public health importance in the state through methods of
 14 epidemiological investigation. The department may also ascertain the existence of
 15 cases of illness or other conditions of public health importance, investigate potential
 16 sources of exposure or infection and ensure that they are subject to proper control
 17 measures, and determine the extent of the disease outbreak, epidemic, risk to health
 18 and safety, or disaster.

19 (b) Investigations under this section may include identification of individuals
 20 who have been or may have been exposed to or affected by a condition of public
 21 health importance, interviewing and testing those individuals, examining facilities or
 22 materials that may pose a threat to the public health, and interviewing other
 23 individuals. In conducting the investigations the department may

24 (1) identify all individuals thought to have been exposed to any agent
 25 that may be a potential cause of the disease outbreak, epidemic, or disaster;

26 (2) interview, test, examine or screen an individual where needed to
 27 assist in the positive identification of those exposed or affected or to develop
 28 information relating to the source or spread of the disease or other condition of public
 29 health importance; and

30 (3) inspect health care records maintained by a health care provider.

31 (c) When testing, screening, or examining an individual under this section, the

1 department shall adhere to the following requirements:

2 (1) the department may not require the testing, examination, or
3 screening of an individual without the consent of the individual or the individual's
4 legal guardian, except as otherwise provided in this section or other law;

5 (2) the department may require testing, examination, or screening of a
6 nonconsenting individual only upon an order of a state medical officer, and only upon
7 a finding that the individual has or may have been exposed to a contagious disease that
8 poses a significant risk to the public health; the order must be personally served on the
9 person to be tested, examined, or screened within a reasonable period of time before
10 the testing, examination, or screening is to take place;

11 (3) the department shall obtain an ex parte order in accordance with (d)
12 of this section if the individual to be tested, examined, or screened objects to the state
13 medical officer's order;

14 (4) a health care practitioner shall perform an examination under this
15 section; the individual to be examined may, under conditions specified by the state
16 medical officer, choose the health care practitioner who will perform the examination;

17 (5) a testing, examination, or screening program shall be conducted for
18 the sole purpose of identifying a condition of public health importance that poses a
19 threat to the public health and may be avoided, cured, alleviated, or made less
20 contagious through safe and effective treatment, modifications in individual behavior,
21 or public health intervention;

22 (6) before testing, examination, or screening, the department shall
23 explain to the individual or individual's legal representative the nature, scope,
24 purposes, benefits, risks, and possible results of the testing, examination, or screening;

25 (7) in conjunction with or directly after the dissemination of the results
26 of the testing, examination, or screening, the department shall fully inform the
27 individual or individual's legal representative of the results of the testing, examination,
28 or screening.

29 (d) A judicial officer may issue an ex parte order for testing, examination, or
30 screening upon a showing of probable cause, supported by oath or affirmation, that the
31 individual has or may have been exposed to a contagious disease that poses a

1 significant risk to the public health. The court shall specify the duration of the ex
 2 parte order for a period not to exceed five days. To conduct the testing, examination,
 3 or screening of an individual who is not being detained under an order of isolation or
 4 quarantine, the court may order a peace officer to take the individual into protective
 5 custody until a hearing is held on the ex parte petition if a hearing is requested.

6 (e) The individual subject to the ex parte order must be given, with the petition
 7 and order, a form to request a hearing to vacate the ex parte order. If a hearing is
 8 requested to vacate the ex parte order, the court shall hold the hearing within three
 9 working days after the date the request is filed with the court. The public shall be
 10 excluded from a hearing under this subsection unless the individual subject to the ex
 11 parte order elects to have the hearing open.

12 **Sec. 18.15.380. Medical treatment.** (a) A health care practitioner or public
 13 health agent who examines or treats an individual who has or may have been exposed
 14 to a contagious disease shall instruct the individual about the measures for preventing
 15 transmission of the disease and the need for treatment.

16 (b) The department may administer medication or other medical treatment,
 17 including the use of directly observed therapy where appropriate, to a consenting
 18 individual who has or may have been exposed to a contagious disease.

19 (c) An individual has the right to refuse treatment and may not be required to
 20 submit to involuntary treatment.

21 **Sec. 18.15.385. Isolation and quarantine.** (a) The department may isolate
 22 or quarantine an individual or group of individuals in accordance with regulations
 23 adopted by the department consistent with the provisions of this section and other law.

24 (b) The department shall adhere to the following conditions and standards
 25 when isolating or quarantining an individual or group of individuals:

26 (1) isolation and quarantine shall be by the least restrictive means
 27 necessary to prevent the spread of a contagious or possibly contagious disease or
 28 hazardous material to others; isolation and quarantine may include confinement to
 29 private homes or other private and public premises;

30 (2) isolated individuals shall be confined separately from quarantined
 31 individuals;

1 (3) the health status of an isolated or quarantined individual shall be
 2 monitored regularly to determine whether the individual continues to require isolation
 3 or quarantine;

4 (4) if a quarantined individual subsequently becomes infected or is
 5 reasonably believed to have become infected with a contagious or possibly contagious
 6 disease, the individual shall promptly be removed to isolation;

7 (5) the department shall immediately terminate an isolation and
 8 quarantine order when an individual poses no substantial risk of transmitting a
 9 contagious or possibly contagious disease to others.

10 (c) The department may authorize a health care practitioner, public health
 11 agent, or another person access to an individual in isolation or quarantine as necessary
 12 to meet the needs of the isolated or quarantined individual. An individual who enters
 13 isolation or quarantine premises with or without authorization of the department may
 14 be isolated or quarantined if needed to protect the public health.

15 (d) Before quarantining or isolating an individual, the department shall obtain
 16 a written order from the superior court authorizing the isolation or quarantine, unless
 17 the individual consents to the quarantine or isolation. The department shall file a
 18 petition for a written order under this subsection. The petition must

19 (1) allege

20 (A) the identity of each individual proposed to be quarantined
 21 or isolated;

22 (B) the premises subject to isolation or quarantine;

23 (C) the date and time the isolation or quarantine is to begin;

24 (D) the suspected contagious disease;

25 (E) that the individual poses a substantial risk to public health;

26 (F) whether testing, screening, examination, treatment, or
 27 related procedures are necessary;

28 (G) that the individual is unable or unwilling to behave so as
 29 not to expose other individuals to danger of infection; and

30 (H) that the department is complying or will comply with (b) of
 31 this section; and

1 (2) be accompanied by an affidavit signed by a state medical officer
2 attesting to the facts asserted in the petition; the petition shall be personally served
3 according to court rules, along with notice of the time and place of the hearing under
4 (f) of this section.

5 (e) Notwithstanding (d) of this section, when the department has probable
6 cause to believe that the delay involved in seeking a court order imposing isolation or
7 quarantine would pose a clear and immediate threat to the public health, a state
8 medical officer in the department may issue an emergency administrative order to
9 temporarily isolate or quarantine an individual or group of individuals. An emergency
10 administrative order of temporary quarantine or isolation by a state medical officer is
11 enforceable by any peace officer in the state. Within 24 hours after implementation of
12 the emergency administrative order, the department shall notify the superior court by
13 filing a petition under (d) of this section that also alleges that the emergency action
14 was necessary to prevent or limit the transmission of a contagious or possibly
15 contagious disease to others that would pose an immediate threat to the public health.
16 The petition must be signed by a state medical officer.

17 (f) An individual served with a petition under (d) of this section or an
18 emergency administrative order to temporarily isolate or quarantine under (e) of this
19 section has the right to a court hearing. The court shall hold a hearing within 48 hours
20 after a petition is filed. The department may request a continuance of the hearing for
21 up to five days. The court may grant the continuance for good cause shown and in
22 extraordinary circumstances, giving due regard to the rights of the affected
23 individuals, the protection of the public health, the severity of the need for isolation or
24 quarantine, and other evidence. During a continuance, an isolated or quarantined
25 individual shall remain in isolation or quarantine. The court may order the
26 consolidation of individual claims into group claims if the number of individuals
27 affected is so large as to render individual participation impractical, there are questions
28 of law or fact common to the individual claims or rights to be determined, the group
29 claims or rights are typical of the affected individuals' claims or rights, and the entire
30 group can be adequately represented. The public shall be excluded from a hearing
31 under this section unless the individual elects to have the hearing open under (g)(2) of

1 this section.

2 (g) During the hearing, the individual has the right to

3 (1) view and copy all petitions and reports in the court file of the
4 individual's case;

5 (2) elect to have the hearing open to the public;

6 (3) have the rules of evidence and civil procedure applied so as to
7 provide for the informal but efficient presentation of evidence;

8 (4) have an interpreter if the individual does not understand English;

9 (5) present evidence on the individual's behalf;

10 (6) cross-examine witnesses who testify against the individual;

11 (7) call experts and other witnesses to testify on the individual's behalf;

12 and

13 (8) participate in the hearing; under this paragraph, participation may
14 be by telephone if the individual presents a substantial risk of transmitting a
15 contagious or possibly contagious disease to others.

16 (h) At the conclusion of the hearing, the court may commit the individual to
17 isolation or quarantine for not more than 30 days if the court finds, by clear and
18 convincing evidence, that the isolation or quarantine is necessary to prevent or limit
19 the transmission to others of a disease that poses a substantial risk to the public health.
20 The court may issue other orders as necessary. Orders are enforceable by a peace
21 officer of this state. The order shall

22 (1) identify the isolated or quarantined individual or group of
23 individuals by name or shared or similar characteristics or circumstances;

24 (2) specify factual findings warranting isolation or quarantine under
25 this section;

26 (3) include any conditions necessary to ensure that isolation or
27 quarantine is carried out within the stated purposes and restrictions of this section; and

28 (4) be served on the affected individual or group of individuals in
29 accordance with existing court rules.

30 (i) Before the expiration of an order issued under (h) of this section, the court
31 may continue isolation or quarantine for additional periods not to exceed 30 days upon

1 a showing by the department by clear and convincing evidence that the action is
2 necessary to prevent or limit the transmission to others of a disease that poses a
3 substantial risk to the public health.

4 (j) An isolated or quarantined individual or group of individuals may apply to
5 the court for an order to show cause why isolation or quarantine should not be
6 terminated. The court shall rule on the application to show cause within 48 hours after
7 filing. An isolated or quarantined individual or group of individuals may request a
8 hearing in the court for remedies regarding breaches of the conditions of isolation or
9 quarantine. A request for a hearing may not stay or enjoin an isolation or quarantine
10 order. Where extraordinary circumstances justify the immediate granting of relief, the
11 court shall fix a date for hearing on the alleged matters within 24 hours after receipt of
12 the request. Otherwise, the court shall fix a date for hearing on the alleged matters
13 within five days after receipt of a request.

14 (k) The provisions of this section apply to minors. All notices required to be
15 served on an individual shall also be served on the parents or guardians of an
16 individual who is an unemancipated minor.

17 (l) The department shall adopt regulations to protect, as much as possible, the
18 privacy rights of individuals subject to isolation or quarantine under this section.

19 **Sec. 18.15.387. Powers of the department in a public health disaster.** If
20 the governor declares a condition of disaster emergency under AS 26.23.020(c) due to
21 an outbreak of disease or a credible threat of an imminent outbreak of disease, the
22 department, in coordination with the Department of Military and Veterans' Affairs,
23 may

24 (1) close, direct, and compel the evacuation of, or decontaminate or
25 cause to be decontaminated, any facility if there is reasonable cause to believe that the
26 facility may endanger the public health;

27 (2) decontaminate or cause to be decontaminated or destroy any
28 material if there is reasonable cause to believe that the material may endanger the
29 public health;

30 (3) inspect, control, restrict, and regulate, by rationing and using
31 quotas, prohibitions on shipments, allocation, or other means, the use, sale, dispensing,

1 distribution, or transportation of food, fuel, clothing, medicines, and other
2 commodities, as may be reasonable and necessary to respond to the disaster;

3 (4) adopt and enforce measures to provide for the safe disposal of
4 infectious waste or contaminated material as may be reasonable and necessary to
5 respond to the disaster; these measures may include the collection, storage, handling,
6 destruction, treatment, transportation, or disposal of infectious waste or contaminated
7 material;

8 (5) require all bags, boxes, or other containers of infectious waste or
9 contaminated material to be clearly identified as containing infectious waste or
10 contaminated material and, if known, the type of infectious waste or contaminated
11 material;

12 (6) adopt and enforce measures to provide for the safe disposal of
13 human remains as may be reasonable and necessary to respond to the disaster; these
14 measures may include the embalming, burial, cremation, interment, disinterment,
15 transportation, or disposal of human remains;

16 (7) take possession or control of any human remains, require clear
17 labeling of human remains before disposal with all available information to identify
18 the decedent and the circumstances of death, and require that the human remains of a
19 deceased individual with a contagious disease or transmissible agent have an external,
20 clearly visible tag indicating that the human remains are infected and, if known, the
21 contagious disease or transmissible agent;

22 (8) require persons in charge of disposing of any human remains to
23 maintain and promptly deliver to the department a written or electronic record of each
24 set of human remains, the disposal of the remains, and all available information to
25 identify the decedent including fingerprints, photographs, dental information, and a
26 deoxyribonucleic acid (DNA) specimen of the human remains;

27 (9) order the disposal of the human remains of an individual who has
28 died of a contagious disease or transmissible agent through burial or cremation within
29 24 hours after death, taking into account the religious, cultural, family, and individual
30 beliefs of the deceased individual and the individual's family;

31 (10) require any business or facility holding a funeral establishment

1 permit issued under AS 08.42.100 to accept human remains, to provide the use of the
 2 business or facility as is reasonable and necessary to respond to the disaster, and, if
 3 necessary, to transfer the management and supervision of the business or facility to the
 4 state during the course of the disaster;

5 (11) procure, by condemnation or otherwise, a business or facility
 6 authorized to embalm, bury, cremate, inter, disinter, transport, and dispose of human
 7 remains under the laws of this state as may be reasonable and necessary to respond to
 8 the disaster, with the right to take immediate possession of the facilities;

9 (12) appoint and prescribe the duties of emergency assistant medical
 10 examiners as may be required for the proper performance of the duties of the office;
 11 the appointment of emergency assistant medical examiners may not exceed the
 12 termination of the declaration of a state of disaster; the department may terminate an
 13 emergency appointment made under this paragraph for any reason.

14 **Sec. 18.15.389. Representation; guardian ad litem.** An individual who is
 15 the respondent in proceedings under AS 18.15.375(e) or 18.15.385 has the right to be
 16 represented by counsel in the proceedings. If the individual cannot afford an attorney,
 17 the court shall direct the Public Defender Agency to provide an attorney. The court
 18 may, on its own motion or upon request of the individual's attorney or a party, direct
 19 the office of public advocacy to provide a guardian ad litem for the individual.

20 **Sec. 18.15.390. Definitions.** In AS 18.15.355 - 18.15.390, unless the context
 21 otherwise requires,

22 (1) "Alaska Native organization" means an organization recognized by
 23 the United States Indian Health Service to provide health-related services;

24 (2) "condition of public health importance" means a disease,
 25 syndrome, symptom, injury, or other threat to health that is identifiable on an
 26 individual or community level and can reasonably be expected to lead to adverse
 27 health effects in the community;

28 (3) "contagious disease" means an infectious disease that can be
 29 transmitted from individual to individual;

30 (4) "contaminated material" means wastes or other materials exposed
 31 to or tainted by chemical, radiological, or biological substances or agents;

1 (5) "court" means a court of competent jurisdiction under state law;

2 (6) "decontaminate" means to remove or neutralize chemical,
3 radiological, or biological substances or residues from individuals, buildings, objects,
4 or areas;

5 (7) "directly observed therapy" means a technique used to ensure that
6 an infectious individual complies with the individual's treatment regimen, whereby a
7 health worker observes the individual to ensure the ingestion of the individual's
8 medication for each dose the individual is required to take over the course of the
9 individual's treatment;

10 (8) "disease outbreak" means the sudden and rapid increase in the
11 number of cases of a disease or other condition of public health importance in a
12 population;

13 (9) "epidemic" means the occurrence in a community or region of a
14 group of similar conditions of public health importance that are in excess of normal
15 expectancy and derived from a common or propagated source;

16 (10) "essential public health services and functions" mean services and
17 functions to

18 (A) monitor health status to identify and solve community
19 health problems;

20 (B) investigate and diagnose health problems and health
21 hazards in the community;

22 (C) inform and educate individuals about and empower them to
23 deal with health issues;

24 (D) mobilize public and private sector collaboration and action
25 to identify and solve health problems;

26 (E) develop policies, plans, and programs that support
27 individual and community health efforts;

28 (F) enforce statutes and regulations of this state that protect
29 health and ensure safety;

30 (G) link individuals to needed health services and facilitate the
31 provision of health care when otherwise unavailable;

1 (H) ensure a competent public health workforce;

2 (I) evaluate effectiveness, accessibility, and quality of personal
3 and population-based health services; or

4 (J) research for new insights and innovative solutions to health
5 problems;

6 (11) "health care practitioner" means a physician, nurse practitioner, or
7 physician assistant authorized to practice their respective professions in this state;

8 (12) "health care provider" means any person that provides health care
9 services; "health care provider" includes a hospital, medical clinic or office, special
10 care facility, medical laboratory, physician, pharmacist, dentist, physician assistant,
11 nurse, paramedic, emergency medical or laboratory technician, community health
12 worker, and ambulance and emergency medical worker;

13 (13) "identifiable health information" means any information, whether
14 oral, written, electronic, visual, pictorial, physical, or any other form, that relates to an
15 individual's past, present, or future physical or mental health status, condition,
16 treatment, service, products purchased, or provisions of care and

17 (A) that reveals the identity of the individual whose health care
18 is the subject of the information; or

19 (B) regarding which there is a reasonable basis to believe that
20 the information could be used, either alone or with other information that is, or
21 should reasonably be known to be, available to predictable recipients of the
22 information, to reveal the identity of that individual;

23 (14) "infectious disease" means a disease caused by a living organism
24 or other pathogen, including a fungus, bacteria, parasite, protozoan, or virus; an
25 infectious disease may be transmissible from individual to individual, animal to
26 individual, or insect to individual;

27 (15) "infectious waste" means

28 (A) biological waste, including blood and blood products,
29 excretions, exudates, secretions, suctioning and other body fluids, and waste
30 materials saturated with blood or body fluids;

31 (B) cultures and stocks, including

- 1 (i) etiologic agents and associated biologicals;
 2 (ii) specimen cultures and dishes and devices used to
 3 transfer, inoculate, and mix cultures;
 4 (iii) wastes from production of biologicals and serums;
 5 and
 6 (iv) discarded, killed, or attenuated vaccines;
 7 (C) except for teeth or formaldehyde or other preservative
 8 agents, pathological waste, including
 9 (i) biopsy materials and all human tissues;
 10 (ii) anatomical parts that emanate from surgery,
 11 obstetrical procedures, necropsy or autopsy, and laboratory procedures;
 12 and
 13 (iii) animal carcasses exposed to pathogens in research
 14 and the bedding and other waste from those animals; and
 15 (D) sharps, including needles, intravenous tubing with needles
 16 attached, scalpel blades, lancets, breakable glass tubes, and syringes that have
 17 been removed from their original sterile containers;
 18 (16) "isolation" means the physical separation and confinement of an
 19 individual who is, or group of individuals who are, infected or reasonably believed to
 20 be infected with a contagious or possibly contagious disease from nonisolated
 21 individuals, to prevent or limit the transmission of the disease to nonisolated
 22 individuals;
 23 (17) "public health agent" means an official or employee of the
 24 department who is authorized to carry out provisions of AS 18.15.355 - 18.15.390;
 25 (18) "public information" means information that is generally open to
 26 inspection or review by the public;
 27 (19) "quarantine" means the physical separation and confinement of an
 28 individual or group of individuals who are or may have been exposed to a contagious
 29 or possibly contagious disease and who do not show signs or symptoms of a
 30 contagious disease from nonquarantined individuals to prevent or limit the
 31 transmission of the disease to nonquarantined individuals;

1 (20) "screening" means the systematic application of a testing or
2 examination to a defined population;

3 (21) "specimen" means blood; sputum; urine; stool; or other bodily
4 fluids, wastes, tissues, and cultures necessary to perform required tests;

5 (22) "state medical officer" means a physician licensed to practice
6 medicine by this state and employed by the department, with responsibilities for public
7 health matters;

8 (23) "testing" means any diagnostic or investigative analysis or
9 medical procedure that determines the presence or absence of or exposure to a
10 condition of public health importance, or its precursor, in an individual;

11 (24) "transmissible agent" means a biological substance capable of
12 causing disease or infection through individual to individual, animal to individual, or
13 other modes of transmission;

14 (25) "vaccination" means a suspension of attenuated or noninfectious
15 microorganisms or derivative antigens administered to stimulate antibody production
16 or cellular immunity against a pathogen for the purpose of preventing, ameliorating, or
17 treating an infectious disease.

18 * **Sec. 9.** AS 18.85.100(a) is amended to read:

19 (a) An indigent person who is under formal charge of having committed a
20 serious crime and the crime has been the subject of an initial appearance or subsequent
21 proceeding, or is being detained under a conviction of a serious crime, or is on
22 probation or parole, or is entitled to representation under the Supreme Court
23 Delinquency or Child in Need of Aid Rules, or is **isolated, quarantined, or required**
24 **to be tested** [DETAINED] under an order issued under **AS 18.15.355 - 18.15.390**
25 [AS 18.15.120 - 18.15.149], or against whom commitment proceedings for mental
26 illness have been initiated, is entitled

27 (1) to be represented, in connection with the crime or proceeding, by
28 an attorney to the same extent as a person retaining an attorney is entitled; and

29 (2) to be provided with the necessary services and facilities of this
30 representation, including investigation and other preparation.

31 * **Sec. 10.** AS 22.15.100 is amended to read:

Sec. 22.15.100. Functions and powers of district judge and magistrate.

Each district judge and magistrate has the power

(1) to issue writs of habeas corpus for the purpose of inquiring into the cause of restraint of liberty, returnable before a judge of the superior court, and the same proceedings shall be had on the writ as if it had been granted by the superior court judge under the laws of the state in such cases;

(2) of a notary public;

(3) to solemnize marriages;

(4) to issue warrants of arrest, summons, and search warrants according to manner and procedure prescribed by law and the supreme court;

(5) to act as an examining judge or magistrate in preliminary examinations in criminal proceedings; to set, receive, and forfeit bail and to order the release of defendants under bail;

(6) to act as a referee in matters and actions referred to the judge or magistrate by the superior court, with all powers conferred upon referees by laws;

(7) of the superior court in all respects including but not limited to contempts, attendance of witnesses, and bench warrants;

(8) to order the temporary detention of a minor, or take other action authorized by law or rules of procedure, in cases arising under AS 47.10 or AS 47.12, when the minor is in a condition or surrounding dangerous or injurious to the welfare of the minor or others that requires immediate action; the action may be continued in effect until reviewed by the superior court in accordance with rules of procedure governing these cases;

(9) to issue a protective order in cases involving

(A) domestic violence as provided in AS 18.66.100 - 18.66.180; or

(B) stalking as provided in AS 18.65.850 - 18.65.870;

(10) to review an administrative revocation of a person's driver's license or nonresident privilege to drive, and an administrative refusal to issue an original license, when designated as a hearing officer by the commissioner of administration and with the consent of the administrative director of the state court

1 system;

2 (11) to establish the fact of death or inquire into the death of a person
3 in the manner prescribed under AS 09.55.020 - 09.55.069;

4 **(12) to issue an ex parte testing, examination, or screening order**
5 **according to the manner and procedure prescribed by AS 18.15.375.**

6 * **Sec. 11.** AS 44.21.410(a) is amended to read:

7 (a) The office of public advocacy shall

8 (1) perform the duties of the public guardian under AS 13.26.360 -
9 13.26.410;

10 (2) provide visitors and experts in guardianship proceedings under
11 AS 13.26.131;

12 (3) provide guardian ad litem services to children in child protection
13 actions under AS 47.17.030(e) and to wards and respondents in guardianship
14 proceedings who will suffer financial hardship or become dependent upon a
15 government agency or a private person or agency if the services are not provided at
16 state expense under AS 13.26.025;

17 (4) provide legal representation in cases involving judicial bypass
18 procedures for minors seeking abortions under AS 18.16.030, in guardianship
19 proceedings to respondents who are financially unable to employ attorneys under
20 AS 13.26.106(b), to indigent parties in cases involving child custody in which the
21 opposing party is represented by counsel provided by a public agency, to indigent
22 parents or guardians of a minor respondent in a commitment proceeding concerning
23 the minor under AS 47.30.775;

24 (5) provide legal representation and guardian ad litem services under
25 AS 25.24.310; in cases arising under AS 47.15 (Uniform Interstate Compact on
26 Juveniles); in cases involving petitions to adopt a minor under AS 25.23.125(b) or
27 petitions for the termination of parental rights on grounds set out in
28 AS 25.23.180(c)(3); in cases involving petitions to remove the disabilities of a minor
29 under AS 09.55.590; in children's proceedings under AS 47.10.050(a) or under
30 AS 47.12.090; in cases involving appointments under AS 18.66.100(a) in petitions for
31 protective orders on behalf of a minor; and in cases involving indigent persons who

1 are entitled to representation under AS 18.85.100 and who cannot be represented by
2 the public defender agency because of a conflict of interests;

3 (6) develop and coordinate a program to recruit, select, train, assign,
4 and supervise volunteer guardians ad litem from local communities to aid in delivering
5 services in cases in which the office of public advocacy is appointed as guardian ad
6 litem;

7 (7) provide guardian ad litem services in proceedings under
8 AS 12.45.046 or AS 18.15.355 - 18.15.390;

9 (8) establish a fee schedule and collect fees for services provided by
10 the office, except as provided in AS 18.85.120 or when imposition or collection of a
11 fee is not in the public interest as defined under regulations adopted by the
12 commissioner of administration;

13 (9) provide visitors and guardians ad litem in proceedings under
14 AS 47.30.839;

15 (10) provide legal representation to an indigent parent of a child with a
16 disability; in this paragraph, "child with a disability" has the meaning given in
17 AS 14.30.350.

18 * **Sec. 12.** The uncodified law of the State of Alaska is amended by adding a new section to
19 read:

20 **INDIRECT COURT RULE AMENDMENTS.** (a) AS 18.15.375(c)(3), (d), and (e)
21 and 18.15.385(d) - (k), as added by sec. 8 of this Act, have the effect of amending Rules 4, 7,
22 8, and 77, Alaska Rules of Civil Procedure, relating to the form and timing of service of
23 process, pleadings, and motions by adding special proceedings, timing, and pleading
24 requirements for matters involving public health.

25 (b) AS 18.15.375(c)(3), (d), and (e) and 18.15.385(d) - (k), as added by sec. 8 of this
26 Act, have the effect of amending Rule 38, Alaska Rules of Civil Procedure, relating to a right
27 to a trial by jury, by requiring a court trial in matters involving public health.

28 (c) AS 18.15.375(c)(3), (d), and (e) and 18.15.385(d) - (k), as added by sec. 8 of this
29 Act, have the effect of amending Rule 40, Alaska Rules of Civil Procedure, relating to the
30 trial calendar and continuances, by requiring expedited hearings and specific standards for and
31 timing of granting of continuances in matters involving public health.

1 (d) AS 18.15.375(c)(3), (d), and (e) and 18.15.385(d) - (k), as added by sec. 8 of this
2 Act, have the effect of amending Rule 65, Alaska Rules of Civil Procedure, relating to
3 injunctions, by allowing temporary and ex parte injunctions to be issued and by expediting the
4 procedures related to injunctive relief in matters involving public health.

5 (e) AS 18.15.387, as added by sec. 8 of this Act, has the effect of amending Rule 72,
6 Alaska Rules of Civil Procedure, relating to eminent domain actions, by authorizing the
7 Department of Health and Social Services to take immediate control over certain businesses
8 and property in cases of public health disasters.

9 * **Sec. 13.** The uncodified law of the State of Alaska is amended by adding a new section to
10 read:

11 TWO-THIRDS VOTE REQUIRED. AS 18.15.375(c)(3), (d), and (e), 18.15.385(d) -
12 (k), and 18.15.387, as added by sec. 8 of this Act, take effect only if sec. 12 of this Act
13 receives the two-thirds vote of each house required by art. IV, sec. 15, Constitution of the
14 State of Alaska.

15 * **Sec. 14.** AS 18.05.044, 18.05.046; AS 18.15.120, 18.15.130, 18.15.131, 18.15.133,
16 18.15.135, 18.15.136, 18.15.137, 18.15.139, 18.15.140, 18.15.143, 18.15.145, 18.15.147,
17 18.15.149, and 18.15.350 are repealed.

18 * **Sec. 15.** This Act takes effect immediately under AS 01.10.070(c).