

CS FOR HOUSE BILL NO. 95(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 3/9/05
Referred: Rules

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 **18.15.395 except in circumstances provided under AS 18.15.388;**

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 - 18.15.395,
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 - 18.15.395.**

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 - 18.15.395 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 - 18.15.395, 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 18.15.395.

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 under this
30 section without complying with the provisions of AS 18.15.355 - 18.15.395 and
31 regulations adopted under those statutes.

1 **Sec. 18.15.362. Acquisition and use of identifiable health information;**
 2 **public health purpose.** The department may acquire and use identifiable health
 3 information collected under AS 18.15.355 - 18.15.395 only if the

4 (1) acquisition and use of the information relates directly to a public
 5 health purpose;

6 (2) acquisition and use of the information is reasonably likely to
 7 contribute to the achievement of a public health purpose; and

8 (3) public health purpose cannot otherwise be achieved at least as well
 9 with nonidentifiable health information.

10 **Sec. 18.15.365. Information security safeguards.** (a) The department shall
 11 acquire, use, disclose, and store identifiable health information collected under
 12 AS 18.15.355 - 18.15.395 in a confidential manner that safeguards the security of the
 13 information, and maintain the information in a physically and technologically secure
 14 environment.

15 (b) The department shall expunge, in a confidential manner, identifiable health
 16 information collected under AS 18.15.355 - 18.15.395 when the use of the information
 17 by the department no longer furthers the public health purpose for which it is required.

18 **Sec. 18.15.370. Reportable disease list.** The department shall maintain a list
 19 of reportable diseases or other conditions of public health importance that must be
 20 reported to the department. The list may include birth defects, cancers, injuries, and
 21 diseases or other conditions caused by exposure to microorganisms; pathogens; or
 22 environmental, toxic, or other hazardous substances. The department shall regularly
 23 maintain and may revise the list. The department may also establish registries for
 24 diseases and conditions that must be reported to the department.

25 **Sec. 18.15.375. Epidemiological investigation.** (a) The department may
 26 investigate conditions of public health importance in the state through methods of
 27 epidemiological investigation. The department may also ascertain the existence of
 28 cases of illness or other conditions of public health importance, investigate potential
 29 sources of exposure or infection and ensure that they are subject to proper control
 30 measures, and determine the extent of the disease outbreak, epidemic, risk to health
 31 and safety, or disaster.

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

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

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

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

13 (c) When testing, screening, or examining an individual under this section, the
 14 department shall adhere to the following requirements:

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

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

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

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

30 (5) a testing, examination, or screening program shall be conducted for
 31 the sole purpose of identifying a condition of public health importance that poses a

1 threat to the public health and may be avoided, cured, alleviated, or made less
 2 contagious through safe and effective treatment, modifications in individual behavior,
 3 or public health intervention;

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

7 (7) in conjunction with or directly after the dissemination of the results
 8 of the testing, examination, or screening, the department shall fully inform the
 9 individual or individual's legal representative of the results of the testing, examination,
 10 or screening.

11 (d) A judicial officer may issue an ex parte order for testing, examination, or
 12 screening upon a showing of probable cause, supported by oath or affirmation, that the
 13 individual has or may have been exposed to a contagious disease that poses a
 14 significant risk to the public health. The court shall specify the duration of the ex
 15 parte order for a period not to exceed five days. To conduct the testing, examination,
 16 or screening of an individual who is not being detained under an order of isolation or
 17 quarantine, the court may order a peace officer to take the individual into protective
 18 custody until a hearing is held on the ex parte petition if a hearing is requested.

19 (e) The individual subject to the ex parte order must be given, with the petition
 20 and order, a form to request a hearing to vacate the ex parte order. If a hearing is
 21 requested to vacate the ex parte order, the court shall hold the hearing within three
 22 working days after the date the request is filed with the court. The public shall be
 23 excluded from a hearing under this subsection unless the individual subject to the ex
 24 parte order elects to have the hearing open.

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

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

1 (c) An individual has the right to refuse treatment and may not be required to
 2 submit to involuntary treatment as long as the individual is willing to take steps
 3 outlined by the state medical officer to prevent the spread of a communicable disease
 4 to others. However, an individual who exercises the right to refuse treatment under
 5 this subsection may be responsible for paying all costs incurred by the state in seeking
 6 and implementing a quarantine or isolation order made necessary by a refusal of
 7 treatment by the individual. The department shall notify an individual who refuses
 8 treatment under this subsection that the refusal may result in an indefinite period of
 9 quarantine or isolation and that the individual may be responsible for payment of the
 10 costs of the quarantine or isolation.

11 **Sec. 18.15.385. Isolation and quarantine.** (a) The department may isolate
 12 or quarantine an individual or group of individuals if isolation or quarantine is the
 13 least restrictive alternative necessary to prevent the spread of a contagious or possibly
 14 contagious disease to others in accordance with regulations adopted by the department
 15 consistent with the provisions of this section and other law.

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

18 (1) isolation and quarantine shall be by the least restrictive means
 19 necessary to prevent the spread of a contagious or possibly contagious disease that
 20 poses a significant risk to public health; isolation and quarantine may include
 21 confinement to private homes or other private and public premises; absent exceptional
 22 circumstances that would jeopardize public health, a person shall be allowed to choose
 23 confinement in the person's home;

24 (2) isolated individuals shall be confined separately from quarantined
 25 individuals;

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

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

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

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

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

13 (1) allege

14 (A) the identity of each individual proposed to be quarantined
15 or isolated;

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

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

18 (D) the suspected contagious disease;

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

20 (F) whether testing, screening, examination, treatment, or
21 related procedures are necessary;

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

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

26 (2) be accompanied by an affidavit signed by a state medical officer
27 attesting to the facts asserted in the petition, including specific facts supporting the
28 allegations required by (1)(D) and (G) of this subsection; the petition shall be
29 personally served according to court rules, along with notice of the time and place of
30 the hearing under (f) of this section.

31 (e) Notwithstanding (d) of this section, when the department has probable

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

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

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

31 (1) view and copy all petitions and reports in the court file of the

1 individual's case;

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

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

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

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

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

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

9 and

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

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

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

21 (2) specify factual findings warranting isolation or quarantine under
22 this section;

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

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

27 (i) Before the expiration of an order issued under (h) of this section, the court
28 may continue isolation or quarantine for additional periods not to exceed 30 days upon
29 a showing by the department by clear and convincing evidence that the action is
30 necessary to prevent or limit the transmission to others of a disease that poses a
31 significant risk to the public health.

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

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

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

16 (m) The department may quarantine or isolate individuals who have been
 17 exposed to hazardous materials that can cause serious illness or injury by transmission
 18 of the hazardous material to others. The provisions of this section concerning
 19 isolation and quarantine of individuals to prevent the spread of contagious or possibly
 20 contagious diseases shall apply to isolation or quarantine of individuals who have been
 21 exposed to hazardous materials.

22 **Sec. 18.15.388. Penalty and civil action for violation.** Notwithstanding
 23 AS 09.50.250, a person who knowingly violates a provision of 18.15.365, 18.15.380
 24 or 18.15.385, is liable in a civil action for compensatory damages and is liable for a
 25 fine of up to \$1000 for each violation.

26 **Sec. 18.15.390. Powers of the department in a public health disaster.** If
 27 the governor declares a condition of disaster emergency under AS 26.23.020(c) due to
 28 an outbreak of disease or a credible threat of an imminent outbreak of disease, the
 29 department, in coordination with the Department of Military and Veterans' Affairs,
 30 may

31 (1) close, direct, and compel the evacuation of, or decontaminate or

1 cause to be decontaminated, any facility if there is reasonable cause to believe that the
2 facility may endanger the public health;

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

6 (3) inspect, control, restrict, and regulate, by rationing and using
7 quotas, prohibitions on shipments, allocation, or other means, the use, sale, dispensing,
8 distribution, or transportation of food, fuel, clothing, medicines, and other
9 commodities, as may be reasonable and necessary to respond to the disaster;

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

15 (5) require all bags, boxes, or other containers of infectious waste or
16 contaminated material to be clearly identified as containing infectious waste or
17 contaminated material and, if known, the type of infectious waste or contaminated
18 material;

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

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

29 (8) require persons in charge of disposing of any human remains to
30 maintain and promptly deliver to the department a written or electronic record of each
31 set of human remains, the disposal of the remains, and all available information to

1 identify the decedent including fingerprints, photographs, dental information, and a
2 deoxyribonucleic acid (DNA) specimen of the human remains;

3 (9) order the disposal of the human remains of an individual who has
4 died of a contagious disease or transmissible agent through burial or cremation within
5 24 hours after death, taking into account the religious, cultural, family, and individual
6 beliefs of the deceased individual and the individual's family;

7 (10) require any business or facility holding a funeral establishment
8 permit issued under AS 08.42.100 to accept human remains, to provide the use of the
9 business or facility as is reasonable and necessary to respond to the disaster, and, if
10 necessary, to transfer the management and supervision of the business or facility to the
11 state during the course of the disaster;

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

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

21 **Sec. 18.15.392. Representation; guardian ad litem.** An individual who is
22 the respondent in proceedings under AS 18.15.375(e) or 18.15.385 has the right to be
23 represented by counsel in the proceedings. If the individual cannot afford an attorney,
24 the court shall direct the Public Defender Agency to provide an attorney. The court
25 may, on its own motion or upon request of the individual's attorney or a party, direct
26 the office of public advocacy to provide a guardian ad litem for the individual.

27 **Sec. 18.15.395. Definitions.** In AS 18.15.355 - 18.15.395, unless the context
28 otherwise requires,

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

31 (2) "condition of public health importance" means a disease,

1 syndrome, symptom, injury, or other threat to health that is identifiable on an
 2 individual or community level and can reasonably be expected to lead to adverse
 3 health effects in the community;

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

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

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

9 (6) "decontaminate" means to remove or neutralize chemical,
 10 radiological, or biological substances or residues from individuals, buildings, objects,
 11 or areas;

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

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

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

23 (10) "essential public health services and functions" mean services and
 24 functions to

25 (A) monitor health status to identify and solve community
 26 health problems;

27 (B) investigate and diagnose health problems and health
 28 hazards in the community;

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

31 (D) mobilize public and private sector collaboration and action

1 to identify and solve health problems;

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

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

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

8 (H) ensure a competent public health workforce;

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

11 (J) research for new insights and innovative solutions to health
12 problems;

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

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

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

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

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

30 (14) "infectious disease" means a disease caused by a living organism
31 or other pathogen, including a fungus, bacteria, parasite, protozoan, or virus; an

1 infectious disease may be transmissible from individual to individual, animal to
2 individual, or insect to individual;

3 (15) "infectious waste" means

4 (A) biological waste, including blood and blood products,
5 excretions, exudates, secretions, suctioning and other body fluids, and waste
6 materials saturated with blood or body fluids;

7 (B) cultures and stocks, including

8 (i) etiologic agents and associated biologicals;

9 (ii) specimen cultures and dishes and devices used to
10 transfer, inoculate, and mix cultures;

11 (iii) wastes from production of biologicals and serums;

12 and

13 (iv) discarded, killed, or attenuated vaccines;

14 (C) except for teeth or formaldehyde or other preservative
15 agents, pathological waste, including

16 (i) biopsy materials and all human tissues;

17 (ii) anatomical parts that emanate from surgery,
18 obstetrical procedures, necropsy or autopsy, and laboratory procedures;

19 and

20 (iii) animal carcasses exposed to pathogens in research
21 and the bedding and other waste from those animals; and

22 (D) sharps, including needles, intravenous tubing with needles
23 attached, scalpel blades, lancets, breakable glass tubes, and syringes that have
24 been removed from their original sterile containers;

25 (16) "isolation" means the physical separation and confinement of an
26 individual who is, or group of individuals who are, infected or reasonably believed to
27 be infected with a contagious or possibly contagious disease from nonisolated
28 individuals, to prevent or limit the transmission of the disease to nonisolated
29 individuals;

30 (17) "least restrictive" means the policy or practice that least infringes
31 on the rights or interests of others;

1 (18) "public health agent" means an official or employee of the
2 department who is authorized to carry out provisions of AS 18.15.355 - 18.15.395;

3 (19) "public health purpose" means the prevention, control, or
4 amelioration of a condition of public health importance, including an analysis or
5 evaluation of a condition of public health importance and an evaluation of a public
6 health program;

7 (20) "public information" means information that is generally open to
8 inspection or review by the public;

9 (21) "quarantine" means the physical separation and confinement of an
10 individual or group of individuals who are or may have been exposed to a contagious
11 or possibly contagious disease and who do not show signs or symptoms of a
12 contagious disease from nonquarantined individuals to prevent or limit the
13 transmission of the disease to nonquarantined individuals;

14 (22) "screening" means the systematic application of a testing or
15 examination to a defined population;

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

18 (24) "state medical officer" means a physician licensed to practice
19 medicine by this state and employed by the department, with responsibilities for public
20 health matters;

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

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

27 (27) "vaccination" means a suspension of attenuated or noninfectious
28 microorganisms or derivative antigens administered to stimulate antibody production
29 or cellular immunity against a pathogen for the purpose of preventing, ameliorating, or
30 treating an infectious disease.

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

1 (a) An indigent person who is under formal charge of having committed a
 2 serious crime and the crime has been the subject of an initial appearance or subsequent
 3 proceeding, or is being detained under a conviction of a serious crime, or is on
 4 probation or parole, or is entitled to representation under the Supreme Court
 5 Delinquency or Child in Need of Aid Rules, or is **isolated, quarantined, or required**
 6 **to be tested** [DETAINED] under an order issued under **AS 18.15.355 - 18.15.395**
 7 [AS 18.15.120 - 18.15.149], or against whom commitment proceedings for mental
 8 illness have been initiated, is entitled

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

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

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

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

15 Each district judge and magistrate has the power

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

20 (2) of a notary public;

21 (3) to solemnize marriages;

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

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

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

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

31 (8) to order the temporary detention of a minor, or take other action

1 authorized by law or rules of procedure, in cases arising under AS 47.10 or AS 47.12,
 2 when the minor is in a condition or surrounding dangerous or injurious to the welfare
 3 of the minor or others that requires immediate action; the action may be continued in
 4 effect until reviewed by the superior court in accordance with rules of procedure
 5 governing these cases;

6 (9) to issue a protective order in cases involving

7 (A) domestic violence as provided in AS 18.66.100 -
 8 18.66.180; or

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

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

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

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

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

20 (a) The office of public advocacy shall

21 (1) perform the duties of the public guardian under AS 13.26.360 -
 22 13.26.410;

23 (2) provide visitors and experts in guardianship proceedings under
 24 AS 13.26.131;

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

30 (4) provide legal representation in cases involving judicial bypass
 31 procedures for minors seeking abortions under AS 18.16.030, in guardianship

1 proceedings to respondents who are financially unable to employ attorneys under
 2 AS 13.26.106(b), to indigent parties in cases involving child custody in which the
 3 opposing party is represented by counsel provided by a public agency, to indigent
 4 parents or guardians of a minor respondent in a commitment proceeding concerning
 5 the minor under AS 47.30.775;

6 (5) provide legal representation and guardian ad litem services under
 7 AS 25.24.310; in cases arising under AS 47.15 (Uniform Interstate Compact on
 8 Juveniles); in cases involving petitions to adopt a minor under AS 25.23.125(b) or
 9 petitions for the termination of parental rights on grounds set out in
 10 AS 25.23.180(c)(3); in cases involving petitions to remove the disabilities of a minor
 11 under AS 09.55.590; in children's proceedings under AS 47.10.050(a) or under
 12 AS 47.12.090; in cases involving appointments under AS 18.66.100(a) in petitions for
 13 protective orders on behalf of a minor; and in cases involving indigent persons who
 14 are entitled to representation under AS 18.85.100 and who cannot be represented by
 15 the public defender agency because of a conflict of interests;

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

20 (7) provide guardian ad litem services in proceedings under
 21 AS 12.45.046 or AS 18.15.355 - 18.15.395;

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

26 (9) provide visitors and guardians ad litem in proceedings under
 27 AS 47.30.839;

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

31 * **Sec. 12.** The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

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

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

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

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

18 (e) AS 18.15.390, as added by sec. 8 of this Act, has the effect of amending Rule 72,
19 Alaska Rules of Civil Procedure, relating to eminent domain actions, by authorizing the
20 Department of Health and Social Services to take immediate control over certain businesses
21 and property in cases of public health disasters.

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

24 TWO-THIRDS VOTE REQUIRED. AS 18.15.375(c)(3), (d), and (e), 18.15.385(d) -
25 (k), and 18.15.390, as added by sec. 8 of this Act, take effect only if sec. 12 of this Act
26 receives the two-thirds vote of each house required by art. IV, sec. 15, Constitution of the
27 State of Alaska.

28 * **Sec. 14.** AS 18.05.044, 18.05.046; AS 18.15.120, 18.15.130, 18.15.131, 18.15.133,
29 18.15.135, 18.15.136, 18.15.137, 18.15.139, 18.15.140, 18.15.143, 18.15.145, 18.15.147,
30 18.15.149, and 18.15.350 are repealed.

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