

**SENATE CS FOR CS FOR HOUSE BILL NO. 95(JUD)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 4/26/05

Referred: Rules

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

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to the duties of the Department of Health and Social Services as those**  
2 **duties pertain to public health and public health emergencies and disasters; relating to**  
3 **medical treatment, information, isolation and quarantine for the prevention and**  
4 **management of conditions of public health importance; relating to duties of the public**  
5 **defender and office of public advocacy regarding public health emergencies and**  
6 **disasters; relating to liability for actions arising from public health procedures; making**  
7 **conforming amendments; relating to the treatment and transportation of dead bodies;**  
8 **amending Rules 4, 7, 8, 38, 40, 65, 72, and 77, Alaska Rules of Civil Procedure; and**  
9 **providing for an effective date."**

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

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

1 INTENT. It is the intent of the legislature that this Act not be construed to require an  
 2 individual or agency within the public health system to provide specific health services or to  
 3 mandate implementation of unfunded programs.

4 \* **Sec. 2.** AS 09.50.250 is amended to read:

5 **Sec. 09.50.250. Actionable claims against the state.** A person or corporation  
 6 having a contract, quasi-contract, or tort claim against the state may bring an action  
 7 against the state in a state court that has jurisdiction over the claim. A person who  
 8 may present the claim under AS 44.77 may not bring an action under this section  
 9 except as set out in AS 44.77.040(c). A person who may bring an action under  
 10 AS 36.30.560 - 36.30.695 may not bring an action under this section except as set out  
 11 in AS 36.30.685. However, an action may not be brought if the claim

12 (1) is an action for tort, and is based upon an act or omission of an  
 13 employee of the state, exercising due care, in the execution of a statute or regulation,  
 14 whether or not the statute or regulation is valid; or is an action for tort, and based upon  
 15 the exercise or performance or the failure to exercise or perform a discretionary  
 16 function or duty on the part of a state agency or an employee of the state, whether or  
 17 not the discretion involved is abused;

18 (2) is for damages caused by the imposition or establishment of, **or the**  
 19 **failure to impose or establish,** a quarantine **or isolation, or by other actions,** by the  
 20 state **or its agents, officers, or employees under AS 18.15.355 - 18.15.395, except**  
 21 **for damages caused by negligent medical treatment provided under AS 18.15.355**  
 22 **- 18.15.395 by a state employee, or except that, if a state employee quarantines or**  
 23 **isolates a person with gross negligence or in intentional violation of AS 18.15.385,**  
 24 **the state shall pay to the person who was quarantined or isolated a penalty of**  
 25 **\$500 for each day of the improper quarantine;**

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

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

31 (5) arises out of injury, illness, or death of a seaman that occurs or

1 manifests itself during or in the course of, or arises out of, employment with the state;  
 2 AS 23.30 provides the exclusive remedy for such a claim, and no action may be  
 3 brought against the state, its vessels, or its employees under the Jones Act (46 U.S.C.  
 4 688), in admiralty, or under the general maritime law.

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

6 (a) The department shall

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

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

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

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

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

21 (6) accredit those public schools that meet accreditation standards  
 22 prescribed by regulation by the department; these regulations shall be adopted by the  
 23 department and presented to the legislature during the first 10 days of any regular  
 24 session, and become effective 45 days after presentation or at the end of the session,  
 25 whichever is earlier, unless disapproved by a resolution concurred in by a majority of  
 26 the members of each house;

27 (7) prescribe by regulation, after consultation with the state fire  
 28 marshal and the state sanitarian, standards [IN ADDITION TO THE  
 29 REQUIREMENTS OF AS 18.15.145] that will assure healthful and safe conditions in  
 30 the public and private schools of the state, including a requirement of physical  
 31 examinations and immunizations in pre-elementary schools; the standards for private

1 schools may not be more stringent than those for public schools;

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

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

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

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

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

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

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

24 (15) require the reporting of information relating to school disciplinary  
25 and safety programs under AS 14.33.120 and of incidents of disruptive or violent  
26 behavior.

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

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

31 (b) In performing its duties under this chapter and AS 18.15.355 - 18.15.395,

1 the department may

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

4 (2) provide public health information programs or messages to the  
5 public that promote healthy behaviors or lifestyles or educate individuals about health  
6 issues;

7 (3) promote efforts among public and private sector partners to  
8 develop and finance programs or initiatives that identify and ameliorate health  
9 problems;

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

12 (5) develop, adopt, and implement public health plans and formal  
13 policies through regulations adopted under AS 44.62 or collaborative  
14 recommendations that guide or support individual and community public health  
15 efforts;

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

18 (7) identify, assess, prevent, and ameliorate conditions of public health  
19 importance through surveillance; epidemiological tracking, program evaluation, and  
20 monitoring; testing and screening programs; treatment; administrative inspections; or  
21 other techniques;

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

24 (9) promote availability of and access to preventive and primary health  
25 care when not otherwise available through the private sector, including acute and  
26 episodic care, prenatal and postpartum care, child health, family planning, school  
27 health, chronic disease prevention, child and adult immunization, testing and screening  
28 services, dental health, nutrition, and health education and promotion services;

29 (10) systematically and regularly review the public health system and  
30 recommend modifications in its structure or other features to improve public health  
31 outcomes; and

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

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

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

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

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

12 (3) protection and promotion of the public health and prevention of  
 13 disability and mortality;

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

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

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

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

24 (8) the voluntary certification of laboratories to perform diagnostic,  
 25 quality control, or enforcement analyses or examinations based on recognized or  
 26 tentative standards of performance relating to analysis and examination of food,  
 27 **including** [TO INCLUDE] seafood, milk, water, and specimens from human beings  
 28 submitted by licensed physicians and nurses for analysis;

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

31 (10) the licensure of midwifery birth centers, except that the

1 commissioner may not require the presence of a physician or nurse midwife at a birth  
 2 resulting from a **low-risk** [LOW RISK] pregnancy attended by a direct-entry midwife  
 3 certified in this state;

4 **(11) establishing confidentiality and security standards for**  
 5 **information and records received under AS 18.15.355 - 18.15.395.**

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

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

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

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

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

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

20 **Sec. 18.15.355. Prevention and control of conditions of public health**  
 21 **importance.** (a) The department may use the powers and provisions set out in  
 22 AS 18.15.355 - 18.15.395 to prevent, control, or ameliorate conditions of public health  
 23 importance or accomplish other essential public health services and functions.

24 (b) In performing its duties under AS 18.15.355 - 18.15.395, the department  
 25 may

26 (1) establish standards

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

29 (B) to accomplish other essential public health services and  
 30 functions; and

31 (2) adopt regulations to implement and interpret AS 18.15.355 -

1 18.15.395.

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

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

5 (2) morbidity and mortality rates for conditions of public health  
6 importance;

7 (3) community indicators relevant to conditions of public health  
8 importance; and

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

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

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

23 (d) The department may not acquire identifiable health information under this  
24 section without complying with the provisions of AS 18.15.355 - 18.15.395 and  
25 regulations adopted under those statutes.

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

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

31 (2) acquisition and use of the information is reasonably likely to

1 contribute to the achievement of a public health purpose; and

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

4 **Sec. 18.15.365. Information security safeguards.** (a) The department shall  
5 acquire, use, disclose, and store identifiable health information collected under  
6 AS 18.15.355 - 18.15.395 in a confidential manner that safeguards the security of the  
7 information, and maintain the information in a physically and technologically secure  
8 environment.

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

12 (c) A person who knowingly discloses identifiable health information in  
13 violation of this section or a regulation adopted under this section is guilty of a class B  
14 misdemeanor. In this subsection, "knowingly" has the meaning given in  
15 AS 11.81.900(a).

16 (d) A person who intentionally discloses identifiable health information in  
17 violation of this section or a regulation adopted under this section is guilty of a class A  
18 misdemeanor. In this subsection, "intentionally" has the meaning given in  
19 AS 11.81.900(a).

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

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

1 measures, and determine the extent of the disease outbreak, epidemic, risk to health  
2 and safety, or disaster.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (b) The department may administer medication or other medical treatment,

1 including the use of directly observed therapy where appropriate, to a consenting  
2 individual who has or may have been exposed to a contagious disease.

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

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

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

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

26 (2) isolated individuals shall be confined separately from quarantined  
27 individuals;

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

31 (4) if a quarantined individual subsequently becomes infected or is

1 reasonably believed to have become infected with a contagious or possibly contagious  
2 disease, the individual shall promptly be removed to isolation;

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

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

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

15 (1) allege

16 (A) the identity of each individual proposed to be quarantined  
17 or isolated;

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

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

20 (D) the suspected contagious disease;

21 (E) that the individual poses a significant risk to public health;

22 (F) whether testing, screening, examination, treatment, or  
23 related procedures are necessary;

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

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

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

1 the hearing under (f) of this section.

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

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

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

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

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

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

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

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

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

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

11 and

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

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

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

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

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

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

29 (i) Before the expiration of an order issued under (h) of this section, the court  
30 may continue isolation or quarantine for additional periods not to exceed 30 days upon  
31 a showing by the department by clear and convincing evidence that the action is

1 necessary to prevent or limit the transmission to others of a disease that poses a  
2 significant risk to the public health.

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

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

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

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

24 (n) A person who knowingly violates this section or a regulation adopted  
25 under this section is guilty of a class B misdemeanor. In this subsection, "knowingly"  
26 has the meaning given in AS 11.81.900(a).

27 (o) A person who intentionally violates this section or a regulation adopted  
28 under this section is guilty of a class A misdemeanor. In this subsection,  
29 "intentionally" has the meaning given in AS 11.81.900(a).

30 **Sec. 18.15.390. Powers of the department in a public health disaster.** If  
31 the governor declares a condition of disaster emergency under AS 26.23.020(c) due to

1 an outbreak of disease or a credible threat of an imminent outbreak of disease, the  
2 department, in coordination with the Department of Military and Veterans' Affairs,  
3 may

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

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

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

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

19 (5) require all bags, boxes, or other containers of infectious waste or  
20 contaminated material to be clearly identified as containing infectious waste or  
21 contaminated material and, if known, the type of infectious waste or contaminated  
22 material;

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

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

1 contagious disease or transmissible agent;

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

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

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

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

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

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

31 **Sec. 18.15.393. Report to legislature.** The department shall annually report

1 to the legislature the activities conducted by the department under AS 18.15.355 -  
 2 18.15.395, including information pertaining to the number of individuals quarantined,  
 3 the purpose for the quarantine, and the length of the quarantine.

4 **Sec. 18.15.395. Definitions.** In AS 18.15.355 - 18.15.395, unless the context  
 5 otherwise requires,

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

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

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

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

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

17 (6) "decontaminate" means to remove or neutralize chemical,  
 18 radiological, or biological substances or residues from individuals, buildings, objects,  
 19 or areas;

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

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

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

31 (10) "essential public health services and functions" mean services and

1 functions to

2 (A) monitor health status to identify and solve community  
3 health problems;

4 (B) investigate and diagnose health problems and health  
5 hazards in the community;

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

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

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

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

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

16 (H) ensure a competent public health workforce;

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

19 (J) research for new insights and innovative solutions to health  
20 problems;

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

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

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

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

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

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

11 (15) "infectious waste" means

12 (A) biological waste, including blood and blood products,  
13 excretions, exudates, secretions, suctioning and other body fluids, and waste  
14 materials saturated with blood or body fluids;

15 (B) cultures and stocks, including

16 (i) etiologic agents and associated biologicals;

17 (ii) specimen cultures and dishes and devices used to  
18 transfer, inoculate, and mix cultures;

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

20 and

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

22 (C) except for teeth or formaldehyde or other preservative  
23 agents, pathological waste, including

24 (i) biopsy materials and all human tissues;

25 (ii) anatomical parts that emanate from surgery,  
26 obstetrical procedures, necropsy or autopsy, and laboratory procedures;  
27 and

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

30 (D) sharps, including needles, intravenous tubing with needles  
31 attached, scalpel blades, lancets, breakable glass tubes, and syringes that have

1           been removed from their original sterile containers;

2           (16) "isolation" means the physical separation and confinement of an  
3 individual who is, or group of individuals who are, infected or reasonably believed to  
4 be infected with a contagious or possibly contagious disease from nonisolated  
5 individuals, to prevent or limit the transmission of the disease to nonisolated  
6 individuals;

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

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

11           (19) "public health purpose" means the prevention, control, or  
12 amelioration of a condition of public health importance, including an analysis or  
13 evaluation of a condition of public health importance and an evaluation of a public  
14 health program;

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

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

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

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

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

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

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

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

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

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

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

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

21 \* **Sec. 10.** AS 22.15.100 is amended to read:

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

23 Each district judge and magistrate has the power

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

28 (2) of a notary public;

29 (3) to solemnize marriages;

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

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

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

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

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

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

15 (A) domestic violence as provided in AS 18.66.100 -  
16 18.66.180; or

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

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

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

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

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

28 (a) The office of public advocacy shall

29 (1) perform the duties of the public guardian under AS 13.26.360 -  
30 13.26.410;

31 (2) provide visitors and experts in guardianship proceedings under

1 AS 13.26.131;

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

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

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

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

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

30 (8) establish a fee schedule and collect fees for services provided by  
31 the office, except as provided in AS 18.85.120 or when imposition or collection of a

1 fee is not in the public interest as defined under regulations adopted by the  
2 commissioner of administration;

3 (9) provide visitors and guardians ad litem in proceedings under  
4 AS 47.30.839;

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

8 \* **Sec. 12.** AS 18.05.044, 18.05.046; AS 18.15.120, 18.15.130, 18.15.131, 18.15.133,  
9 18.15.135, 18.15.136, 18.15.137, 18.15.139, 18.15.140, 18.15.143, 18.15.145, 18.15.147,  
10 18.15.149, and 18.15.350 are repealed.

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

13 **INDIRECT COURT RULE AMENDMENTS.** (a) AS 18.15.375(c)(3), (d), and (e)  
14 and 18.15.385(d) - (k), as added by sec. 8 of this Act, have the effect of amending Rules 4, 7,  
15 8, and 77, Alaska Rules of Civil Procedure, relating to the form and timing of service of  
16 process, pleadings, and motions by adding special proceedings, timing, and pleading  
17 requirements for matters involving public health.

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

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

25 (d) 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 65, Alaska Rules of Civil Procedure, relating to  
27 injunctions, by allowing temporary and ex parte injunctions to be issued and by expediting the  
28 procedures related to injunctive relief in matters involving public health.

29 (e) AS 18.15.390, as added by sec. 8 of this Act, has the effect of amending Rule 72,  
30 Alaska Rules of Civil Procedure, relating to eminent domain actions, by authorizing the  
31 Department of Health and Social Services to take immediate control over certain businesses

1 and property in cases of public health disasters.

2 \* **Sec. 14.** The uncodified law of the State of Alaska is amended by adding a new section to  
3 read:

4 TWO-THIRDS VOTE REQUIRED. AS 18.15.375(c)(3), (d), and (e), 18.15.385(d) -  
5 (k), and 18.15.390, as added by sec. 8 of this Act, take effect only if sec. 13 of this Act  
6 receives the two-thirds vote of each house required by art. IV, sec. 15, Constitution of the  
7 State of Alaska.

8 \* **Sec. 15.** The uncodified law of the State of Alaska is amended by adding a new section to  
9 read:

10 GRANT APPLICATIONS. The Department of Health and Social Services is  
11 encouraged to apply for appropriate funding sources relating to transforming health care  
12 quality through information technology involving one or more of the implementation grants  
13 sponsored by the United States Department of Health and Human Services, the National  
14 Institutes of Health, and the National Library of Medicine.

15 \* **Sec. 16.** This Act takes effect immediately under AS 01.10.070(c).