

CS FOR SENATE BILL NO. 75(HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered: 2/14/05

Referred: State Affairs, Judiciary

Sponsor(s): SENATE 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; and providing for an effective date."**

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

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

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

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

11 (2) further the leadership of the Department of Health and Social Services in
12 protecting and promoting the public health by the department's

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

14 (B) providing or ensuring the provision of essential public health

1 services and functions that are culturally and linguistically appropriate for the
2 population being served;

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

5 (D) seeking adequate financing and other resources to provide
6 essential public health services and functions or to accomplish public health goals
7 through public or private sources.

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

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

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

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

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

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

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

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

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

9 (a) The department shall

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

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

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

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

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

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

30 (7) prescribe by regulation, after consultation with the state fire
31 marshal and the state sanitarian, standards [IN ADDITION TO THE

1 REQUIREMENTS OF AS 18.15.145] that will assure healthful and safe conditions in
 2 the public and private schools of the state, including a requirement of physical
 3 examinations and immunizations in pre-elementary schools; the standards for private
 4 schools may not be more stringent than those for public schools;

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

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

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

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

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

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

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

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

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

31 **Sec. 18.05.010. Administration of laws by department.** (a) The department

1 shall administer the statutes and regulations relating to the promotion and protection of
2 the public health as provided by law.

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

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

7 (2) provide public health information programs or messages to the
8 public that promote healthy behaviors or lifestyles or educate individuals about health
9 issues;

10 (3) promote efforts among public and private sector partners to
11 develop and finance programs or initiatives that identify and ameliorate health
12 problems;

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

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

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

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

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

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

1 (10) systematically and regularly review the public health system and
 2 recommend modifications in its structure or other features to improve public health
 3 outcomes; and

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

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

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

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

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

15 (3) protection and promotion of the public health and prevention of
 16 disability and mortality;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (1) establish standards

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

1 (B) to accomplish other essential public health services and
2 functions; and

3 (2) adopt regulations to implement and interpret AS 18.15.355 -
4 18.15.390.

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

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

8 (2) morbidity and mortality rates for conditions of public health
9 importance;

10 (3) community indicators relevant to conditions of public health
11 importance; and

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

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

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

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

29 **Sec. 18.15.365. Information security safeguards.** The department shall
30 acquire, use, disclose, and store identifiable health information in a confidential
31 manner that safeguards the security of the information, and maintain the information

1 in a physically and technologically secure environment.

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

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

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

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

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

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

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

30 (1) the department may not require the testing, examination, or
31 screening of an individual without the consent of the individual or the individual's

1 legal guardian, except as otherwise provided in this section or other law;

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

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

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

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

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

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

26 (d) A judicial officer may issue an ex parte order for testing, examination, or
27 screening upon a showing of probable cause, supported by oath or affirmation, that the
28 individual has or may have been exposed to a contagious disease that poses a
29 significant risk to the public health. The court shall specify the duration of the ex
30 parte order for a period not to exceed five days. To conduct the testing, examination,
31 or screening of an individual who is not being detained under an order of isolation or

1 quarantine, the court may order a peace officer to take the individual into protective
2 custody until a hearing is held on the ex parte petition if a hearing is requested.

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (1) allege

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

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

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

21 (D) the suspected contagious disease;

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

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

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

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

29 (2) be accompanied by an affidavit signed by a state medical officer
 30 attesting to the facts asserted in the petition; the petition shall be personally served
 31 according to court rules, along with notice of the time and place of the hearing under

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

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 such action is
30 necessary to prevent or limit the transmission to others of a disease that poses a
31 substantial 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 its 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; however, parents or guardians of the
 14 minor do not have party status in the proceedings under this section.

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

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

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

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

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

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

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

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

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

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

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

29 (10) require any business or facility holding a funeral establishment
30 permit issued under AS 08.42.100 to accept human remains, to provide the use of the
31 business or facility as is reasonable and necessary to respond to the disaster, and, if

1 necessary, to transfer the management and supervision of the business or facility to the
2 state during the course of the disaster;

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

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

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

18 **Sec. 18.15.390. Definitions.** In AS 18.15.355 - 18.15.390, unless the context
19 otherwise requires,

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

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

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

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

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

31 (6) "decontaminate" means to remove or neutralize chemical,

1 radiological, or biological substances or residues from individuals, buildings, objects,
2 or areas;

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

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

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

14 (10) "essential public health services and functions" mean services and
15 functions to

16 (A) monitor health status to identify and solve community
17 health problems;

18 (B) investigate and diagnose health problems and health
19 hazards in the community;

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

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

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

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

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

30 (H) assure a competent public health workforce;

31 (I) evaluate effectiveness, accessibility, and quality of personal

1 and population-based health services; or

2 (J) research for new insights and innovative solutions to health
3 problems;

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

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

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

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

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

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

25 (15) "infectious waste" means

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

29 (B) cultures and stocks, including

30 (i) etiologic agents and associated biologicals;

31 (ii) specimen cultures and dishes and devices used to

1 transfer, inoculate, and mix cultures;

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

3 and

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

5 (C) except for teeth or formaldehyde or other preservative
6 agents, pathological waste, including

7 (i) biopsy materials and all human tissues;

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

10 and

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

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

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

21 (17) "public health agent" means an official or employee of the
22 department who is authorized to carry out provisions of AS 18.15.355 - 18.15.390;

23 (18) "public information" means information that is generally open to
24 inspection or review by the public;

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

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

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

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

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

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

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

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

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

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

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

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

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

31 Each district judge and magistrate has the power

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

5 (2) of a notary public;

6 (3) to solemnize marriages;

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

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

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

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

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

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

23 (A) domestic violence as provided in AS 18.66.100 -
24 18.66.180; or

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

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

31 (11) to establish the fact of death or inquire into the death of a person

1 in the manner prescribed under AS 09.55.020 - 09.55.069;

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

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

5 (a) The office of public advocacy shall

6 (1) perform the duties of the public guardian under AS 13.26.360 -
 7 13.26.410;

8 (2) provide visitors and experts in guardianship proceedings under
 9 AS 13.26.131;

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

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

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

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

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

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

11 (9) provide visitors and guardians ad litem in proceedings under
12 AS 47.30.839;

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

16 * **Sec. 12.** AS 18.05.044, 18.05.046; AS 18.15.120, 18.15.130, 18.15.131, 18.15.133,
17 18.15.135, 18.15.136, 18.15.137, 18.15.139, 18.15.140, 18.15.143, 18.15.145, 18.15.147,
18 18.15.149, and 18.15.350 are repealed.

19 * **Sec. 13.** This Act takes effect immediately under AS 01.10.070(c).