

HB

95

SENATE COMMITTEE REPORT

DATE: 4/15/05

FURTHER:

DATE TURNED
IN TO OFFICE: _____

Judiciary Committee considered CS FOR HOUSE BILL NO. 95(RLS) am

HB 95 PUBLIC HEALTH DISASTER EMERGENCIES

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

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

CS Senate Bill:

- Same Title
- New Title

SCS House Bill:

- Same Title
- Technical Title Change
- New Title w/ SCR # _____

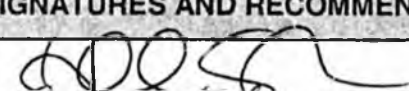



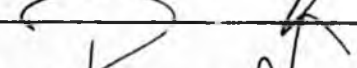
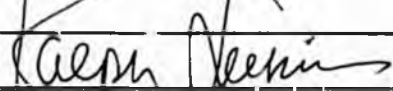
NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
			X	
			✓	
				X
			X	
				
CHAIR: 	✓			

AMENDMENT #1

OFFERED IN THE SENATE JUDICIARY

BY _____

COMMITTEE

TO: SCS CSHB 95 (STA)

1 Page 2, line 21, following "by":

2 Insert "negligent"

3

4 Page 2, line 22, following "state employee":

5 Delete "and"

6 Insert "or"

7

8 Page 2, line 22, following "if":

9 Delete "the"

10 Insert "a state"

11

"damages" vs. "penalty"
"sovereign immunity"
Powers of observation
surveillance = observation

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

FRANK H. MURKOWSKI, GOVERNOR

P.O. BOX 110601
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April 15, 2004

Honorable Ralph Seekins Chair
Senate Judiciary Committee
Alaska State Capitol; Rm. 125
Juneau, AK 99801

Dear Senator Seekins,

The Department of Health and Social Services respectfully requests a hearing in the Senate Judiciary Committee on House Bill 95 "An Act relating to the duties of the Department of Health and Social Services as those duties pertain to public health and public health emergencies and disasters; relating to medical treatment, information, isolation and quarantine for the prevention and management of conditions of public health importance; relating to duties of the public defender and office of public advocacy regarding public health emergencies and disasters; relating to liability for actions arising from public health procedures; making conforming amendments; relating to the treatment and transportation of dead bodies; amending Rules 4, 7, 8, 38, 40, 65, 72, and 77, Alaska Rules of Civil Procedure; and providing for an effective date."

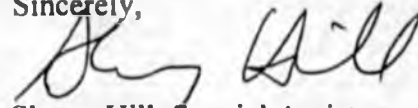
This bill is the culmination of a number of years work to develop a modern public health statute for Alaska.

The Senate State Affairs Committee has heard the bill and recommends it be replaced with a Senate State Affairs Committee Substitute. The department supports the Senate State Affairs Committee version of the bill.

A copy of Governor Murkowski's transmittal letter providing additional information on the bill and the associated fiscal note should be on file with the committee. The department is preparing a detailed sectional analysis of the Senate State Affairs Committee Substitute that will be provided to your committee staff within the next several days.

Your favorable consideration of this request will be appreciated.

Sincerely,



Sherry Hill, Special Assistant
Office of the Commissioner

cc: Kevin Jardell, Legislative Director
Office of the Governor

Dr. Richard Mandsager Director
Division of Public Health

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HB 95
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January 20, 2005

The Honorable John Harris
Speaker of the House
Alaska State Legislature
State Capitol, Room 208
Juneau, AK 99801-1182

Dear Speaker Harris:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to public health and public health emergencies and disasters; relating to duties of the public defender and Office of Public Advocacy regarding public health matters; relating to certain claims for public health matters; and making conforming amendments.

Alaska's disease control laws were originally adopted by the Territorial Legislature in 1949. Some changes have been made to the laws since statehood. However, the recent severe acute respiratory syndrome crisis demonstrated the need to modernize them. Alaska is no longer protected from world disease outbreaks by geographical isolation. Modern air links rapidly put Alaskans at risk from infectious diseases originating on the other side of the globe. In a recent study, Alaska was noted as the only state in the nation with inadequate legal authority to respond to a public health emergency.

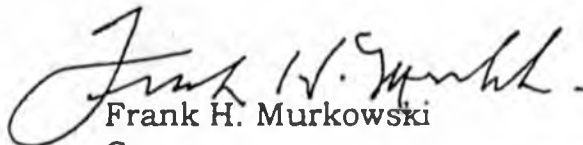
The Department of Health and Social Services (department) routinely uses the traditional public health disease control tools of epidemiological surveillance and investigation, and historically has used isolation and quarantine to stop the spread of disease in the rare times it has been warranted. Today, new global health threats, coupled with heightened expectations in the modern American social and legal environment for protection of individual rights, require the department to have more clearly defined legal authorities to act to protect the public while protecting the due process rights of infected individuals. This bill would give the department the needed flexibility to protect Alaskans from public health threats. The department would be authorized to offer medication to infected individuals who wish to take it. However, the department would not have authority to force medication upon infected individuals.

The Honorable John Harris
January 20, 2005
Page 2

The bill also would provide for powers to deal with public health issues that could arise in a declared disaster emergency.

I urge your support of this important bill.

Sincerely yours,


Frank H. Murkowski
Governor

Enclosure

**SENATE CS FOR CS FOR HOUSE BILL NO. 95(STA)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION**

BY THE SENATE STATE AFFAIRS COMMITTEE

Offered: 4/18/05

Referred: Judiciary

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 (u)
 21 for damages caused by medical treatment provided under AS 18.15.355 -
 22 18.15.395 by a state employee and except that, if the 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, informati 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 (1) 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, epidemio, 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 departme .t 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(c) 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 25.23.18 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).

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HB 95
 (H) Publish Date: 1/21/05
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction):

Title RELATING TO PUBLIC HEALTH AND PUBLIC HEALTH EMERGENCIES

RDU Public Health

Component Public Health Admin Svcs

Sponsor (RLS) BY REQUEST OF THE GOVERNOR

Requester GOVERNOR

Component No. 292

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
CHANGE IN REVENUES (0)						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: _____

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Passage of this legislation is not expected to have a budget impact on the Division of Public Health, as the bill simply clarifies legal authority and provides new due process provisions for programmatic activities already conducted by the Division. The bill does not add new functions or mandates to the Department of Health & Social Services' legal responsibilities.

Prepared by: Richard Mandsager, M.D.
 Division: Public Health
 Approved by: Joel S. Gilbertson, Commissioner
 Agency: Department of Health and Social Services

Phone: 465-3090
 Date/Time: 01/05/2005
 Date: 01/06/2005

Sectional Analysis of Senate CS of CSHB 95 (STA) (Public Health)

*(Prepared by the Department of Law and the Department of Health and Social Services,
April 20, 2005)*

Senate CS of CSHB 95 (STA) would clarify the Department of Health and Social Services' legal authority to detect and respond to a public health threat, including the authority to conduct testing, screening, and examination of individuals, as well as quarantine and isolation powers with court authority; and the authority to collect relevant data; the Department's powers are augmented in conjunction with the Department of Military and Veterans' Affairs when the governor declares a condition of disaster emergency related to public health; and legal representation and court powers are clarified with respect to court proceedings related to conditions of public health importance.

I. Intent (Section 1):

Section 1 sets out the intent of the bill.

II. Changes to kinds of claims that may not be brought against the state or its agents, officers, or employees (Section 2):

Section 2 adds acts or omissions related to isolation, quarantine, or other actions taken under the state's public health authority and power to a list of damages for which an action may not be brought against the state or its agents, officers, or employees. This immunity provision does not cover liability for damages caused by medical treatment under sec. 8, and is limited by requiring the state to pay \$500 per day to a person if an employee quarantines or isolates that person with gross negligence or intentionally violates the provision governing quarantine and isolation.

III. Repeal of statutes and changes to citations of repealed statutes (Sections 3, 6, and 12):

Sec. 3: Section 3 deletes a citation to a statute that would be repealed by the bill regarding tuberculosis screening of public school employees.

Sec. 6: Section 6 rennumbers citations to reflect statutes that would be repealed by the bill regarding registry of person with impairments.

Sec. 12: Section 12 repeals certain statutes regarding registry of persons with impairments and regarding tuberculosis and other disease control.

IV. Changes to general section regarding the Department of Health and Social Services' administration of public health laws (Sections 4, 5, and 7):

Sec. 4: Section 4 rewrites the section on the administration of public health laws to modernize and more clearly and accurately reflect the Department of Health and Social Services' public health powers.

Sec. 5: Section 5 clarifies the nature of the regulations the Department of Health and Social Services is charged with adopting as regards reporting of conditions of public health importance and confidentiality of information received under provisions regarding public health authority and powers. It also limits the commissioner of Health and Social Services' authority to require that a dead body be embalmed to certain situations.

Sec. 7: Section 7 adds a definition of "condition of public health importance" to the chapter regarding the administration of public health laws.

V. Updates to the Department of Health and Social Services' public health powers and authority (Section 8):

Section 8 adds new sections regarding the Department of Health and Social Services' public health authority and powers to the chapter dealing with disease control. These sections replace provisions for two disease-specific conditions (tuberculosis and SARS), repealed under sec. 12, and provide authority that is not specific to a particular disease. The new sections are described as follows:

- prevention and control of conditions of public health importance
- data collection
- acquisition and use of identifiable health information
- requirement to maintain confidentiality of information obtained
- requirement to maintain list of reportable diseases
- power to conduct epidemiological investigation
- medical treatment powers and authority
- isolation and quarantine powers and authority
- criminal penalty for violations of certain provisions
- powers in a public health disaster
- legal representation and guardian ad litem
- requirement of report to legislature
- definitions

Section 8 also balances the state's public health powers with modernized due process provisions for protection of individual rights.

VI. Changes to legal representation and court powers (Sections 9-11):

Sec. 9: Section 9 amends the right of an indigent person to counsel to include when the person is subject to isolation, quarantine, testing, screening, or examination related to disease control. If eligible, such right to counsel may be provided by the Public Defender Agency.

Sec. 10: Section 10 gives magistrates and district court judges the power to issue orders related to testing, screening, and examination of individuals related to disease control.

Sec. 11: Section 11 expands the Office of Public Advocacy's responsibilities to include acting as guardian ad litem for individuals in court proceedings related to testing, screening, examination, isolation, and quarantine related to disease control.

VII. Indirect court rule amendments and vote requirements (Sections 13 and 14):

Sec. 13: Section 13 sets out the indirect court rule amendments certain sections and subsections of this bill would cause, of the following civil rules:

- Rule 4 – the form and timing of service of process
- Rule 7 – form of motions and pleadings allowed
- Rule 8 – general rules of pleading
- Rule 38 – right to trial by jury
- Rule 40 – trial calendar and continuance
- Rule 65 – injunctions
- Rule 72 – eminent domain actions
- Rule 77 – motions

Sec. 14: Section 14 provides that the sections and subsections requiring indirect court rule amendments will only take effect if sec. 13 receives a two-thirds vote in each house.

VIII. Grant applications (Section 15):

Section 15 provides that the Department of Health and Social Services is encouraged to apply for grants related to transforming health care quality through information technology.

IX. Effective date (Section 16):

Section 16 sets out an immediate effective date for the bill.



PUBLIC HEALTH

PROTECTING AND PROMOTING THE HEALTH OF ALL ALASKANS

SCS CSHB 95(STA): An Act Relating to Public Health

Presentation to the Senate Judiciary Committee

April 25, 2005

Richard Mandsager, M.D., Director

Alaska Department of Health & Social Services

Division of Public Health

“Public Health is what we, as a society, do collectively to assure the conditions in which people can be healthy.”

Institute of Medicine

PUBLIC HEALTH IS NOT HEALTH CARE

- Focus on **Populations**, not individuals
- Focus on **Prevention**, not treatment
- **Government** plays a unique role – legal obligations to prevent disease, disability, injury, and illness among populations

Division of Public Health

Core Services

- Infectious Disease Control
- Chronic Disease Control
- Injury Prevention
- Respond to Disasters
- Assure Access to Quality Care
- Protect Against Environmental Health Hazards

How Prepared are we for a Public Health Emergency?

- Strong disease surveillance systems
- Specialized emergency operations plans
- Enhanced communication protocols and systems
- New or enhanced laboratory testing capabilities
- Consultative expertise re: human health effects and remediation of chemical and radiological exposures
- Specialized training for public health and health care providers
- Planning and coordination with others (hospitals, emergency management, law enforcement and FBI, 1st Responders)

PUBLIC HEALTH

**PROTECTING AND PROMOTING THE
HEALTH OF ALL ALASKANS**

Preparedness Weaknesses

- Inadequate legal authorities (SB 75/HB 95)
- Inadequate laboratory facility for virology (SB 73/HB 100/SB 155)
- Dependence on federal funds
- Insufficient staff capacity to allow time for both 1) response to existing priorities, and 2) training and exercises for disasters

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PROTECTING AND PROMOTING THE
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Old Public Health Enemies



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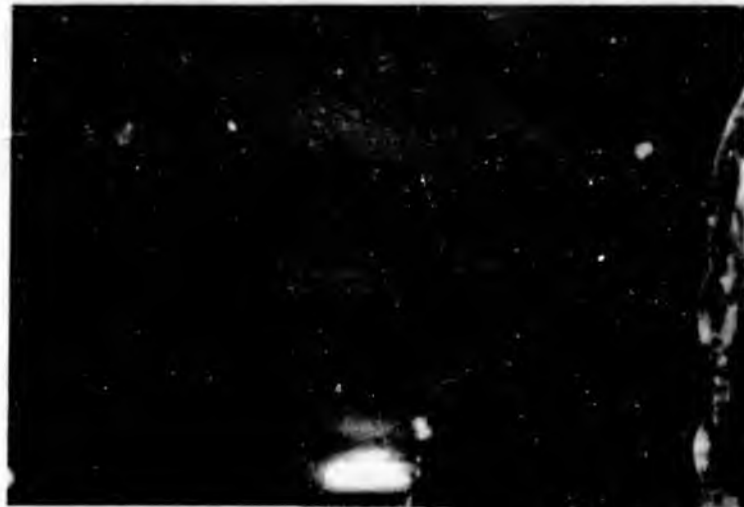
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Traditional Disease Control



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The Next SARS?



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Alaska Public Health Law Reform Proposal

The Problem – *Our laws don't protect us anymore*

- Alaska's public health laws are antiquated and layered – Alaska Law Review, 2000
- Alaska is the only state in the nation that does not have adequate statutory authority to quarantine – Trust for America's Health, 2004

1949: AS 18.05.010

Administration of Laws by the
Department

1995: AS 18.15.120

Tuberculosis Control

2003: AS 18.15.350

SARS Control

Alaska Public Health Law Reform Proposal

The Proposed Solution - Updated Laws that Provide:

- A statutory framework that supports the public health mission, services and role
- Clear authority for control of conditions of public health importance; and,
- Modern due process provisions for the protection of individual rights

An Act Relating to Public Health

- Defines “Essential Public Health Services”
- Describes State’s role in health protection and promotion
- Provides clear authority for disease control through:
 - Surveillance
 - Epidemiologic Investigation
 - Medical Treatment, Quarantine & Isolation
- Requires protection of individual rights - due process
- Strengthens requirements for confidentiality and data security

SCS CSHB 95(STA): An Act Relating to Public Health

- I. Intent (Sec. 1)
- II. Administration of Public Health Laws by the Department (Sec. 4, 5, 7)
- III. Public Health Authority and Powers (Sec. 8)
- IV. Legal Representation and Court Powers
 - a) Right of indigent person to counsel (Sec. 9)
 - b) Judicial powers augmented (Sec. 10)
 - c) Guardian ad litem responsibilities (Sec. 11)
 - d) Indirect court rule amendments (Sec. 13,14)
- V. General Provisions
 - a) State Immunity and Liability (Sec. 2)
 - b) Repeal and changes to citations of statutes (Sec. 3, 6, 12)
 - c) Department encouraged to apply for IT grants (Sec. 15)
 - d) Effective Date (Sec. 16)

PUBLIC HEALTH

**PROTECTING AND PROMOTING THE
HEALTH OF ALL ALASKANS**

SCS CSHB 95(STA): An Act Relating to Public Health

I. Intent (Sec. 1)

- Not intended to mandate provision of certain services or implementation of unfunded programs

II. Administration of Public Health Law by DHSS (Sec. 4, 5, and 7)

- Modernize and clarify department's public health powers
- Clarifies nature of mandated regulations for public health reporting and adds regulatory mandate for data security and confidentiality
- Adds definition of "conditions of public health importance"

III. Public Health Powers and Authority (Sec. 8)

- Prevention and control of conditions of public health importance
- Surveillance through data collection and public health reporting
- Epidemiological investigations
- Medical treatment
- Quarantine and isolation
- Public health disasters

SCS CSHB 95(STA): An Act Relating to Public Health

Balancing Individual Rights vs. Common Good

- Constitutional Constraints on Governmental Public Health Powers
- Constitutional Protections of Individual Rights
- Limitations Imposed by Provisions in Bill
- Due Process Provisions in Bill
- Penalties for Violations of Statutory Provisions in Bill

SCS CSHB 95(STA): An Act Relating to Public Health

Balancing Individual Rights vs. Common Good

- Constitutional Constraints on Public Health Powers (Case Law):
 - Public health powers are constitutionally permissible only if they are exercised in conformity with four standards:
 - **Public Health Necessity** – government may act only in response to a demonstrable threat to the community; and
 - **Reasonable Means** – there must be a reasonable relationship between the public health intervention and the achievement of a legitimate public health objective; and
 - **Proportionality** – there must be a reasonable balance between the public good to be achieved and the degree of personal invasion; and,
 - **Harm Avoidance** – the control measure should not pose a health risk to its subject.
- Constitutional Protections of Individual Rights (Bill of Rights):
 - **1st Amendment:** Freedom of religion, speech, press, assembly, petition
 - **4th Amendment:** Freedom from unreasonable search and seizure
 - **5th Amendment:** Due process clause
 - **14th Amendment:** Bill of Rights applicable to states

Gostin, Lawrence O., *Public Health Law: Power, Duty, Restraint*,
University of California Press, 2000, (pgs. 61 – 83)

PUBLIC HEALTH

**PROTECTING AND PROMOTING THE
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SCS CSHB 95(STA): An Act Relating to Public Health

Balancing Individual Rights vs. Common Good

- Limitations placed on governmental public health powers in this bill:
 - The department must establish confidentiality and security standards in regulation for information and records received under this statute (AS 18.05.040 (a))
 - The department may not acquire identifiable health information without complying with provisions and regulations adopted under this statute (AS 18.15.360 (d))
 - The department must adhere to statutory conditions for acquisition and use of identifiable health information (AS 18.15.362)
 - Information confidentiality and security safeguards required (AS 18.15.365)
 - “Conditions of public health importance” limited to those that “can reasonably be expected to lead to adverse health effects in the community” (AS 18.05.070 (4); AS 18.15.395 (2))
 - The department may require testing
 - only upon an order of a state medical officer, and only upon a finding that the individual has or may have been exposed to a contagious disease that poses a significant risk to the public health (AS 18.15.375(c)(2))
 - for the sole purpose of identifying a condition that 1) poses a threat to the public health, and 2) may be avoided, cured, alleviated, or made less contagious through public health intervention (AS 18.15.375 (c)(5))
 - A judicial officer may issue an order for testing of an individual against their will
 - Upon a showing of probable cause, supported by oath or affirmation, that the individual has or may have been exposed to a contagious disease that poses a significant risk to the public health (AS 18.15.375 (d)) [due process provisions: AS 18.15.375 (e)]
 - An individual has the right to refuse treatment and may not be required to submit to involuntary treatment (AS 18.15.380)

Continued on next slide

SCS CSHB 95(STA): An Act Relating to Public Health

Balancing Individual Rights vs. Common Good

- Limitations placed on governmental public health powers in this bill (Continued from Previous Slide):
 - The department must establish regulations regarding isolation and quarantine, and may only use this method of disease control if it is the least restrictive alternative (AS 18.15.385(a))
 - The department shall isolate or quarantine by the least restrictive means necessary to prevent the spread of disease, including allowing individuals to choose to remain in their own home if to do so would not jeopardize the public's health (AS 18.15.385(b)(1))
 - The department shall regularly monitor health status of quarantined/isolated individuals, and shall immediately terminate an isolation and quarantine order when the subject poses no substantial risk of transmitting the disease to others (AS 18.15.385(b) (3) & (5))
 - The department shall obtain a court order for isolation/quarantine if the individual refuses, and must provide an affidavit signed by a state medical officer that the individual poses a significant risk to public health (AS 18.15.385(d))
 - The department may issue an emergency administrative order for isolation/quarantine only from a state medical officer and only when there is probable cause to believe that delay in imposing isolation/quarantine would pose a clear and immediate threat to public health (AS 18.15.385(e))
 - The court may commit individual to isolation/quarantine only through finding by clear and convincing evidence that it is necessary to prevent or limit transmission to others of disease that poses a significant risk to the public health (AS 18.15.385(h) & (i))
 - The department shall adopt regulations to protect the privacy rights of individuals subject to isolation/quarantine (AS 18.15.385(l))

PUBLIC HEALTH

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SCS CSHB 95(STA): An Act Relating to Public Health

Balancing Individual Rights vs. Common Good

- Due process provisions in this bill
 - An individual subject to an ex parte judicial order for testing may request a hearing to vacate the order (AS 18.15.375(e))
 - The department shall obtain a court order before quarantine/isolation of an individual who objects to quarantine/isolation (AS 18.15.385(d))
 - An individual served with an emergency administrative order of temporary quarantine/isolation has the right to a court hearing (AS 18.15.385(f))
 - An isolated/quarantined individual may apply to the court for termination of isolation/quarantine (AS 18.15.385(j))
 - An individual who is a respondent in proceedings under these statutory provisions has the right to be represented by counsel (AS 18.15.392)
- Penalties for violations of statutory provisions
 - State not exempt from liability for damages caused by medical treatment provided by state employees under this statute (AS 09.50.250 (2))
 - State shall pay penalty of \$500/day to persons quarantined/isolated with gross negligence or in intentional violation of statutory provisions (AS 09.50.250 (2))
 - A person who violates regulations is guilty of misdemeanor (AS 18.05.061)
 - A person who knowingly discloses identifiable health information is guilty of class B misdemeanor and who intentionally discloses such information is guilty of class C misdemeanor (AS 18.15.365 (c) & (d))
 - A person who knowingly violates quarantine/isolation provisions is guilty of class B misdemeanor and who intentionally violates such provisions is guilty of class C misdemeanor (AS 18.15.385 (n) & (o))

PUBLIC HEALTH

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State Quarantine Authority

Source: Trust For America's Health with analytic and research support from the Center for Law and the Public's Health at Georgetown and Johns Hopkins Universities.

49 states and D.C. have adequate statutory authority to quarantine in response to a hypothetical bioterrorism attack scenario

Alabama *	Indiana *	Montana *	Pennsylvania *
Arizona *	Iowa *	Nebraska	Rhode Island *
California	Kansas	Nevada *	South Carolina *
Colorado	Kentucky	New Hampshire *	South Dakota *
Connecticut *	Louisiana *	New Jersey	Tennessee *
Delaware *	Maine *	New Mexico *	Texas
D.C. *	Maryland *	New York	Utah
Florida *	Massachusetts *	North Carolina *	Vermont
Georgia *	Michigan *	North Dakota	Virginia *
Hawaii *	Minnesota *	Ohio *	Washington ^
Idaho *	Mississippi	Oklahoma *	West Virginia *
Illinois *	Missouri	Oregon	Wisconsin *
			Wyoming *

* State has statutory quarantine powers that may be enhanced or capable of expedited performance during general or public health emergencies.

1 state does NOT have adequate statutory authority to quarantine in response to a hypothetical bioterrorism attack scenario

Alaska



^ Washington state has regulatory vs. statutory quarantine authority.

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Testimony on SCS CSHB 95
Patricia Senner, RN
Alaska Nurses Association
Senate Judiciary Committee
April 26, 2005

Mr. Chairman, my name is Patricia Senner and I am chair of the Alaska Nurses Association's Legislative Committee. Since 9/11 the Nurses Association has been very concerned about the ability of Alaska's health care providers to respond to an emergency situation. Because of this concern we have been following HB 95 with much interest.

The bill in front of you today has undergone considerable revision from the original version and we feel that the changes made have been good and have strengthened the bill.

Because of all the national attention that has been given to the possibility of a bio-terrorist attack, the Alaska Nurses Association has encouraged the Department of Health and Social Services to include in the authority to isolate and quarantine not only those individuals exposed to infectious diseases, but also those individuals exposed to hazardous materials, including radioactive materials. This has been done on page 16 line 7.

A brief review we did of Alaska statutes reveals that there are many references to control of radioactive substances, but no statutes that we could find that give authority to the state to deal with persons who have been exposed to toxic levels of radioactivity.

Since radioactivity is a property of a substance, we would suggest changing the wording on page 16 line 7 slightly to read "exposed to hazardous materials that can cause serious illness or injury by transmission to others."

With concerns about Avian Influenza in Southeast Asia, and Marburg virus in Africa, we think that it is important that this piece of legislation be passed this session. We thank the Department of Health and Social Services for their patience in responding to the many issues raised during the hearings on this piece of legislation.