

HB

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24-GH1002V
Mischel
4/14/05

**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:
Referred:**

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

A BILL

FOR AN ACT ENTITLED

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

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

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

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

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

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

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

18 (2) is for damages caused by the imposition or establishment of, or the
19 failure to impose or establish, a quarantine or isolation, or by other actions, by the
20 state or its agents, officers, or employees under AS 18.15.355 - 18.15.395, except
21 for damages caused by medical treatment provided under AS 18.15.355 -
22 18.15.395 by a state employee;

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

26 (4) except, if the employee quarantines or isolates a person with
27 gross negligence or in intentional violation of AS 18.15.385, the state shall pay to
28 the person who was quarantined or isolated a penalty of \$500 a day of the
29 improper quarantine;

30 (5) [(4)] arises out of the use of an ignition interlock device certified
31 under AS 33.05.020(c); or

1 (6) [(5)] arises out of injury, illness, or death of a seaman that occurs
2 or manifests itself during or in the course of, or arises out of, employment with the
3 state; AS 23.30 provides the exclusive remedy for such a claim, and no action may be
4 brought against the state, its vessels, or its employees under the Jones Act (46 U.S.C.
5 688), in admiralty, or under the general maritime law.

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

7 (a) The department shall

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

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

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

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

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

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

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

1 examinations and immunizations in pre-elementary schools; the standards for private
2 schools may not be more stringent than those for public schools;

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

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

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

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

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

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

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

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

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

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

1 (b) In performing its duties under this chapter and AS 18.15.355 - 18.15.395,
2 the department may

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

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

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

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

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

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

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

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

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

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

1 outcomes; and

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

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

6 (a) The commissioner shall adopt re_ulations consistent with existing law for

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (1) establish standards

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

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

1 (?) adopt regulations to implement and interpret AS 18.15.355 -
2 18.15.395.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 **Sec. 18.15.375. Epidemiological investigation.** (a) The department may
29 investigate conditions of public health importance in the state through methods of
30 epidemiological investigation. The department may also ascertain the existence of
31 cases of illness or other conditions of public health importance, investigate potential

1 sources of exposure or infection and ensure that they are subject to proper control
2 measures, and determine the extent of the disease outbreak, epidemic, risk to health
3 and safety, or disaster.

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

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

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

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

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

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

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

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

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

1 medical officer, choose the health care practitioner who will perform the examination;

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

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

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

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

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

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

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

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

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

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

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

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, including specific facts supporting the
31 allegations required by (1)(D) and (G) of this subsection; the petition shall be

1 personally served according to court rules, along with notice of the time and place of
2 the hearing under (f) of this section.

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

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

1 this section.

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

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

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

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

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

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

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

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

12 and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 **Sec. 18.15.390. Powers of the department in a public health disaster. If**

1 the governor declares a condition of disaster emergency under AS 26.23.020(c) due to
2 an outbreak of disease or a credible threat of an imminent outbreak of disease, the
3 department, in coordination with the Department of Military and Veterans' Affairs,
4 may

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

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

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

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

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

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

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

1 clearly visible tag indicating that the human remains are infected and, if known, the
2 contagious disease or transmissible agent;

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

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

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

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

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

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

1 **Sec. 18.15.393. Report to legislature.** The department shall annually report
2 to the legislature the activities conducted by the department under AS 18.15.355 -
3 18.15.395, including information pertaining to the number of individuals quarantined,
4 the purpose for the quarantine, and the length of the quarantine.

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

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

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

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

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

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

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

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

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

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

1 (10) "essential public health services and functions" mean services and
2 functions to

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

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

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

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

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

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

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

17 (H) ensure a competent public health workforce;

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

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

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

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

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

1 treatment, service, products purchased, or provisions of care and

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

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

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

12 (15) "infectious waste" means

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

16 (B) cultures and stocks, including

17 (i) etiologic agents and associated biologicals;

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

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

21 and

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

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

25 (i) biopsy materials and all human tissues;

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

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

31 (D) sharps, including needles, intravenous tubing with needles

1 attached, scalpel blades, lancets, breakable glass tubes, and syringes that have
2 been removed from their original sterile containers;

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

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

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

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

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

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

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

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

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

30 (25) "testing" means any diagnostic or investigative analysis or
31 medical procedure that determines the presence or absence of or exposure to a

1 condition of public health importance, or its precursor, in an individual;

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

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

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

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

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

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

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

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

24 Each district judge and magistrate has the power

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

29 (2) of a notary public;

30 (3) to solemnize marriages;

31 (4) to issue warrants of arrest, summons, and search warrants

1 according to manner and procedure prescribed by law and the supreme court;

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

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

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

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

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

16 (A) domestic violence as provided in AS 18.66.100 -
17 18.66.180; or

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

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

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

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

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

29 (a) The office of public advocacy shall

30 (1) perform the duties of the public guardian under AS 13.26.360 -
31 13.26.410;

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

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

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

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

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

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

31 (8) establish a fee schedule and collect fees for services provided by

1 the office, except as provided in AS 18.85.120 or when imposition or collection of a
2 fee is not in the public interest as defined under regulations adopted by the
3 commissioner of administration;

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

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

9 * **Sec. 12.** AS 18.05.044, 18.05.046; AS 18.15.120, 18.15.130, 18.15.131, 18.15.133,
10 18.15.135, 18.15.136, 18.15.137, 18.15.139, 18.15.140, 18.15.143, 18.15.145, 18.15.147,
11 18.15.149, and 18.15.350 are repealed.

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

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

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

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

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

30 (e) AS 18.15.390, as added by sec. 8 of this Act, has the effect of amending Rule 72,
31 Alaska Rules of Civil Procedure, relating to eminent domain actions, by authorizing the

1 Department of Health and Social Services to take immediate control over certain businesses
2 and property in cases of public health disasters.

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

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

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

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

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



PUBLIC HEALTH

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

CSHB 95(RLS)am: An Act Relating to Public Health

Presentation to the Senate State Affairs Committee

April 12, 2005

Richard Mandsager, M.D., Director

Alaska Department of Health & Social Services

Division of Public Health

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

SB 75/HB 95: An Act Relating to Public Health

Comparison of House Companion Bill CSHB 95(RLS)am to CSSB 75(HES)

Types of Changes Made by House

I. Limitations on Governmental Powers

- Example: Department may only quarantine or isolate when it is the least restrictive alternative necessary to prevent the spread of disease
- Changes (see tables on slides 5-8): #s 4, 5,6,11, 12, 13, 14, 19

II. Penalties for State and Employees for Violations of Statutory Provisions

- Examples: Class B misdemeanor for knowing violations and Class A misdemeanor for intentional violations.
- Changes (see tables on slides 5-8): #s 2, 3, 7, 8,

III. Personal Responsibility

- Example: Individuals who refuse treatment must take steps to prevent the spread of the communicable disease.
- Changes (see tables on slides 5-8): #s 9, 10

IV. Miscellaneous (technical changes, clarifications and consistency, reporting)

- Examples: Title expanded; Indirect Court Rule Amendments; Hazardous Materials Response Clarified; Denial of party status for parents removed
- Changes (see tables on slides 5-8): #s 1, 15, 16, 17, 18, 20, 21, 22

PUBLIC HEALTH

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SB 75/HB 95: An Act Relating to Public Health

Comparison of House Companion Bill CSHB 95(RLS)am to CSSB 75(HES)

CSHB 95(RLS)am (Compared to CSSB 75 (HES))	Reference	Heard by S STA on 3/1/05
1. Expands the title of the bill to add detail.	Bill Title Pg. 1, Ln. 1-9	NO
2. Allows a claim for damages caused by medical treatment provided by state employees under AS 18.15.355 – 18.15.395.	AS 09.50.250 (2) Pg. 3, Ln. 3-5	NO
3. Limits the state's immunity by providing for a penalty of \$500 per day if a state employee quarantines or isolates a person with gross negligence, or intentionally violates the provision governing quarantine and isolation.	AS 09.50.250 (4) Pg. 3, Ln. 9-12	NO
4. Adds a provision requiring the acquisition and use of identifiable health information related directly to a public health purpose be reasonably likely to contribute to the achievement of a public health purpose, which purpose cannot otherwise be achieved at least as well with non-identifiable health information.	AS 18.15.362 Pg. 9, Ln. 10-18	YES
5. Limits the requirement that DHSS comply with provisions regarding collection of identifiable health information to when it collects such information under the authority of this area of statute.	AS 18.15.362 Pg. 9, Ln. 12	YES
6. Adds a provision requiring the department to confidentially expunge identifiable health information when the use of the information no longer furthers a public health purpose.	AS 18.15.365 (b) Pg. 9, Ln. 24 - 26	YES

SB 75/HB 95: An Act Relating to Public Health

Comparison of House Companion Bill CSHB 95(RLS)am to CSSB 75(HES)

CSHB 95(RLS)am (Compared to CSSB 75 (HES))	Reference	Heard by S STA on 3/1/05
7. Makes it a Class B misdemeanor if a person <i>knowingly</i> discloses identifiable health information in violation of AS 18.15.365 or if a person knowingly violates a provision related to quarantine and isolation (AS 18.15.385).	AS 18.15.365 (c) <u>Pg. 9, Ln. 27-30</u> AS 18.15.385 (n) Pg. 17, Ln. 8-10	NO
8. Makes it a Class A misdemeanor if a person <i>intentionally</i> discloses identifiable health information in violation of AS 18.15.365 or a regulation adopted under it, or intentionally violates the section on quarantine and isolation (AS 18.15.385), or a regulation adopted under it..	AS 18.15.365 (d) <u>Pg. 9, Ln. 31-Pg. 10, Ln. 3</u> AS 18.15.385 (o) Pg. 17, Ln. 11-13	NO
9. Limits the right to refuse medical treatment to when an individual is willing to take outlined steps to prevent the spread of a communicable disease.	AS 18.15.380 (c) Pg. 12, Ln. 19-21	YES
10. Makes an individual who exercises the right to refuse medical treatment possibly responsible for paying the costs incurred by the state in seeking and implementing an isolation or quarantine order.	AS 18.15.380 (c) Pg. 12, Ln. 21-24	YES
11. Limits the department's authority to isolate or quarantine an individual to when it is the least restrictive alternative necessary to prevent the spread of disease.	AS 18.15.385 (a) Pg. 12, Ln. 29-31	NO
12. Makes a contagious disease pose a significant risk to public health before isolation and quarantine may be used.	AS 18.15.385 (b)(1) Pg. 13, Ln. 6	NO

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CSHB 95(RLS)am (Compared to CSSB 75 (HES))	Reference	Heard by S STA on 3/1/05
13. Allows an individual to choose quarantine or isolation in the individual's home absent exceptional circumstances that would jeopardize public health.	AS 18.15.385 (b)(1) Pg. 13, Ln. 7-9	NO
14. Requires the affidavit accompanying the petition for a quarantine or isolation order to include the specific facts supporting the allegations.	AS 18.15.385 (d)(2) Pg. 14, Ln. 12-16	NO
15. Changes the showing the department must make for continued order of isolation or quarantine from clear and convincing evidence that the action is necessary to prevent or limit the transmission to others of a disease that poses a "substantial" risk to the public health to a "significant" risk to the public health.	AS 18.15.385 (h) <u>Pg. 16, Ln. 2</u> AS 18.15.385 (i) Pg. 16, Ln. 17	YES
16. Removes denial of party status to parents or guardians of a minor in isolation or quarantine proceedings.	AS 18.15.385 (k) Pg. 16, Ln. 30	YES
17. Adds a provision allowing the department to quarantine or isolate individuals who have been exposed to hazardous materials that can cause serious illness or injury by transmission to others.	AS 18.15.385 (m) Pg. 17, Ln. 2-7	NO
18. Requires DHSS to submit an annual report to the legislature on the activities conducted under AS 18.15.355 – 18.15.395.	AS 18.15.393 Pg. 19, Ln. 15-18	NO
19. Adds definitions for "least restrictive" and "public health purpose."	AS 18.15.395 (17) & (19) Pg. 22, Ln. 22-23 & 26-29	NO

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SB 75/HB 95: An Act Relating to Public Health

Comparison of House Companion Bill CSHB 95(RLS)am to CSSB 75(HES)

CSHB 95(RLS)am (Compared to CSSB 75 (HES))	Reference	Heard by S STA on 3/1/05
20. Adds indirect court rule amendments to civil rules 4, 7, 8, 38, 40, 65, 72, and 77.	Uncodified, Sec. 13 Pg. 26, Ln. 26 – Pg. 27, Ln.16	YES
21. Makes certain provisions take effect only if court rule amendments receive the necessary two-thirds vote.	Uncodified, Sec. 14 Pg. 27, Ln. 17-22	YES
22. Adds a provision encouraging the Department of Health and Social Services to apply for appropriate funding sources relating to transforming health care quality through information technology.	Uncodified, Sec. 15 Pg. 27, Ln. 23-29	NO

PUBLIC HEALTH

PROTECTING AND PROMOTING THE
HEALTH OF ALL ALASKANS

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.

^ Washington state has regulatory vs. statutory quarantine authority.

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

Alaska



SB 75/HB 95: An Act Relating to Public Health

Comparison of House Companion Bill CSHB 95(RLS)am to CSSB 75(HES)

CSHB 95(RLS)am (Compared to CSSB 75 (HES))	Amendment Heard by S STA on 3/1/05
<ul style="list-style-type: none"> Removes denial of party status to parents or guardians of a minor in isolation or quarantine proceedings. 	YES
<ul style="list-style-type: none"> Adds indirect court rule amendments to civil rules 4, 7, 8, 38, 40, 65, 72, and 77. 	YES
<ul style="list-style-type: none"> Makes certain provisions take effect only if court rule amendments receive the necessary two-thirds vote. 	YES
<ul style="list-style-type: none"> Limits the requirement that DHSS comply with provisions regarding collection of identifiable health information to when it collects such information under the authority of this area of statute. 	YES
<ul style="list-style-type: none"> Adds a provision requiring the acquisition and use of identifiable health information related directly to a public health purpose be reasonably likely to contribute to the achievement of a public health purpose, which purpose cannot otherwise be achieved at least as well with non-identifiable health information. 	YES
<ul style="list-style-type: none"> Adds a provision requiring the department to confidentially expunge identifiable health information when the use of the information no longer furthers a public health purpose. 	YES
<ul style="list-style-type: none"> Limits the right to refuse medical treatment to when an individual is willing to take outlined steps to prevent the spread of a communicable disease. 	YES

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<ul style="list-style-type: none"> Makes an individual who exercises the right to refuse medical treatment possibly responsible for paying the costs incurred by the state in seeking and implementing an isolation or quarantine order. 	YES
<ul style="list-style-type: none"> Limits the department's authority to isolate or quarantine an individual to when it is the least restrictive alternative necessary to prevent the spread of disease. 	NO
<ul style="list-style-type: none"> Makes a contagious disease pose a significant risk to public health before isolation and quarantine may be used. 	NO
<ul style="list-style-type: none"> Allows an individual to choose quarantine or isolation in the individual's home absent exceptional circumstances that would jeopardize public health. 	NO
<ul style="list-style-type: none"> In a petition for an order to require isolation or quarantine, requires the petitioner to allege specific facts supporting the need for the order. 	NO
<ul style="list-style-type: none"> Changes the showing the department must make for continued order of isolation or quarantine from clear and convincing evidence that the action is necessary to prevent or limit the transmission to others of a disease that poses a "substantial" risk to the public health to a "significant" risk to the public health. 	YES
<ul style="list-style-type: none"> Adds a provision allowing the department to quarantine or isolate individuals who have been exposed to hazardous materials that can cause serious illness or injury by transmission to others. 	NO

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CSHB 95(RLS)am (Compared to CSSB 75 (HES))	Amendment Heard by S STA on 3/1/05
<ul style="list-style-type: none"> • Adds definitions for "least restrictive" and "public health purpose." 	NO
<ul style="list-style-type: none"> • Expands the title of the bill to add detail. 	NO
<ul style="list-style-type: none"> • Allows a claim for damages caused by medical treatment provided by state employees under AS 18.15.355 – 18.15.395. 	NO
<ul style="list-style-type: none"> • Adds a provision (uncodified) encouraging the Department of Health and Social Services to apply for appropriate funding sources relating to transforming health care quality through information technology. 	NO
<ul style="list-style-type: none"> • Makes it a Class B misdemeanor if a person knowingly discloses identifiable health information in violation of AS 18.15.365 or if a person knowingly violates a provision related to quarantine and isolation (AS 18.15.385). 	NO
<ul style="list-style-type: none"> • Makes it a Class A misdemeanor if a person intentionally discloses identifiable health information in violation of AS 18.15.365 or a regulation adopted under it, or intentionally violates the section on quarantine and isolation (AS 18.15.385), or a regulation adopted under it.. 	NO
<ul style="list-style-type: none"> • Limits the state's immunity by providing for a penalty of \$500 per day if a state employee quarantine's or isolates a person with gross negligence, or intentionally violates the provision governing quarantine and isolation.. 	NO
<ul style="list-style-type: none"> • Requires DHSS to submit an annual report to the legislature on the activities conducted under AS 18.15.355 – 18.15.395. 	NO

PUBLIC HEALTH
PROTECTING AND PROMOTING THE
HEALTH OF ALL ALASKANS

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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.

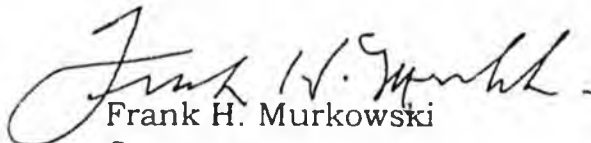
The Department of Health and Social Services (department) routinely uses the traditional public health disease control tools of epidemiological surveillance and investigation, and historically has used isolation and quarantine to stop the spread of disease in the rare times it has been warranted. Today, 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
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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

CSHB 95(RLS)am (compared to CSSB 75 (HES))

Prepared 4-7-05

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1. Removes denial of party status to parents or guardians of a minor in isolation or quarantine proceedings.
2. Adds indirect court rule amendments to civil rules 4, 7, 8, 38, 40, 65, 72, and 77.
3. Makes certain provisions take effect only if court rule amendments receive the necessary two-thirds vote.
4. Limits the requirement that the Department of Health and Social Services ("department") comply with the provisions regarding public health authority and powers when collecting identifiable health information to when it collects such information under the data collection provision of the bill.
5. Adds a provision requiring that the acquisition and use of identifiable health information related directly to a public health purpose, be reasonably likely to contribute to the achievement of a public health purpose, which purpose cannot otherwise be achieved at least as well with non-identifiable health information.
6. Adds a provision requiring the department to confidentially expunge identifiable health information when the use of the information no longer furthers a public health purpose.
7. Limits the right to refuse medical treatment to when an individual is willing to take outlined steps to prevent the spread of a communicable disease.
8. Makes an individual who exercises the right to refuse medical treatment possibly responsible for paying the costs incurred by the state in seeking and implementing an isolation or quarantine order.
9. Limits the department's authority to isolate or quarantine an individual to when it is the least restrictive alternative necessary to prevent the spread of disease.
10. Makes a contagious disease pose a significant risk to public health before isolation and quarantine may be used.
11. Allows an individual to choose quarantine or isolation in the individual's home absent exceptional circumstances that would jeopardize public health.

12. In a petition for an order to require isolation or quarantine, requires the petitioner to allege specific facts supporting the allegation of a suspected contagious disease and that the individual is unwilling or unable to behave so as to not expose other individuals to danger of infection.
13. Changes the showing the department must make for a continued order of isolation or quarantine from clear and convincing evidence that the action is necessary to prevent or limit the transmission to others of a disease that poses a "substantial" risk to the public health to a "significant" risk to the public health.
14. Adds a provision allowing the department to quarantine or isolate individuals who have been exposed to hazardous materials that can cause serious illness or injury by transmission to others.
15. Adds definitions for "least restrictive" and "public health purpose."
16. Expands the title of the bill to add detail.
17. Allows a claim for damages caused by medical treatment provided by state employees under AS 18.15.355 – 18.15.395.
18. Adds a provision (uncodified) encouraging the Department of Health and Social Services to apply for appropriate funding sources relating to transforming health care quality through information technology.
19. Makes it a Class B misdemeanor if a person knowingly discloses identifiable health information in violation of AS 18.15.365 or if a person knowingly violates a provision related to quarantine and isolation (AS 18.15.385).
20. Adds provisions making it a Class A misdemeanor if a person intentionally discloses identifiable health information in violation of AS 18.15.365 or a regulation adopted under it, or intentionally violates the section on quarantine and isolation (AS 18.15.385), or a regulation adopted under it.
21. Limits the state's immunity by providing for a penalty of \$500 per day if a state employee quarantine's or isolates a person with gross negligence, or intentionally violates the provision governing quarantine and isolation.
22. Requires the Department of Health and Social Services to submit an annual report to the legislature on the activities conducted under AS 18.15.355 – AS 18.15.395.