

12060

SENATE

STATE

AFFAIRS

P.O. Box 100600

Alaska Bankers Association
Anchorage, Alaska 99510-0600

(907) 265-2920

February 11, 2005

Representative Paul Seaton
Alaska State Legislature
House of Representatives
State Capitol, Room 112
Juneau, AK 99801

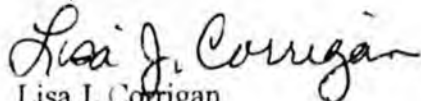
Re: HB 90

Dear Representative Seaton:

Thank you and the House State Affairs Committee for introducing and sponsoring HB 90.

We understand that the bill is intended to codify existing law established by the Alaska Supreme Court as to the negotiable aspects of State Treasury Warrants. For this reason we are supportive of the legislation and urge its passage.

Respectfully yours,



Lisa J. Corrigan

President

Alaska Bankers Association

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HB 90
 (H) Publish Date: 2/4/05

Revision Date/Time (Note if correction): _____ Dept Affected: Administration
 Title: An Act requiring warrants drawn on RDU: Centralized Administrative Services
the state treasury to be negotiable instruments Component: Finance
 Sponsor: House State Affairs
 Requester: House State Affairs Component No. 59

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						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
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: 0.0
 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)
 This bill has no fiscal impact. It simply codifies in law a 1992 ruling by the Alaska Supreme Court (National Bank of Alaska vs. Univentures and the State of Alaska, Department of Administration, file #S-4087) that reversed a Superior Court ruling on the negotiability of warrants issued by the state. The Supreme Court held that state warrants are negotiable instruments subject to the UCC rules governing holders in due course.

 Since that Supreme Court decision, the state has administered its warrants as negotiable instruments, so no administrative changes are necessary if this legislation passes. It will simply codify in statute the ruling of the Supreme Court.

Prepared by: Kim J. Gamero, Director Phone 465-3435
 Division: Finance Date/Time 2/1/05 1:40 PM
 Approved by: Michael Tibbles, Deputy Commissioner Date 2/1/2005
 Agency: Department of Administration

P.O. Box 100600

Alaska Bankers Association
Anchorage, Alaska 99510-0600

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February 11, 2005

Representative Paul Seaton
Alaska State Legislature
House of Representatives
State Capitol, Room 112
Juneau, AK 99801

Re: HB 90

Dear Representative Seaton:

Thank you and the House State Affairs Committee for introducing and sponsoring HB 90.

We understand that the bill is intended to codify existing law established by the Alaska Supreme Court as to the negotiable aspects of State Treasury Warrants. For this reason we are supportive of the legislation and urge its passage.

Respectfully yours,



Lisa J. Corrigan

President

Alaska Bankers Association

ALASKA STATE HOUSE OF REPRESENTATIVES

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HOUSE STATE AFFAIRS

REPRESENTATIVE PAUL SEATON, CHAIRMAN

MEMORANDUM

Date: March 10, 2005

To: Senator Gene Therriault, Chair
Senate State Affairs Committee

From: House State Affairs

Re: House Bill 90

We respectfully request that House Bill 90, "An act requiring warrants drawn on the Department of Administration against the state treasury to be negotiable instruments," be scheduled for hearing in the Senate State Affairs Committee at your earliest possible convenience.

Included with this request is

- Current version of the bill
- Fiscal note
- Sponsor Statement
- Sectional Analysis
- Talking Points
- Copy of Following Alaska Supreme Court Case
 - National Bank of Alaska v. Univentures 123 and State of Alaska
- Letter of Support from the Alaska Bankers Association

HB

94

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 3
 Bill Version: CSHB 94(FIN)
 (H) Publish Date: 4/21/05

Revision Date/Time (Note if correction): _____ Dept. Affected: GOV
 Title "An Act relating to qualification of RDU Elections
voters, requirements and procedures regarding ..." Component Elections
 Sponsor House Rules Committee
 Requester House Judiciary Component No. 21

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		24.8		24.8		24.8
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	24.8	0.0	24.8	0.0	24.8

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF		24.8		24.8		24.8
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	24.8	0.0	24.8	0.0	24.8

Estimate of any current year (FY2005) cost: 0.0

Check 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)

Current law requires the Division to send written verification to voters in the affected precinct when a polling place change occurs. If passed as amended, this legislation would require the Division to provide notice of change by publication in a local newspaper of general circulation, in addition to the written notice currently mailed. The cost of the additional notice in a newspaper is estimated at 19.0 for publishing polling place locations prior to a primary and general election.

Current law requires the Division to provide notice of a precinct boundary change by publication on three different days in a local newspaper. If passed as amended, this legislation would reduce the number of days a precinct boundary change is published in a local newspaper from three days to one day. Reducing the notice to one publication is estimated to save the Division 2.2. A total of 16.8 will need to be added to the Division's Primary and General budget in future years.

Prepared by: Lauri Allred, Admin. Assistant Supervisor
 Division: Division of Elections
 Approved by: Laura A. Glaiser, Director
 Agency: Office of the Lt. Governor, Division of Elections

Phone 465-4611
 Date/Time 4/13/05 1:15 PM
 Date 4/13/2005

FISCAL NOTE #3

**STATE OF ALASKA
2005 LEGISLATIVE SESSION**

BILL NO. CSHB 94(FIN)

ANALYSIS CONTINUATION

This proposed amendment requires the Division to perform a hand count verification of ballots from a randomly selected precinct in each election district that accounts for at least five percent of the ballots cast in that district. The Division estimates an increased cost in personal services for hiring additional State Review Board workers to conduct the recount. The estimated cost of 3.5 for implementing this change would need to be added as an increment to our Primary and General Election budget in future years.

This proposed amendment requires the Division to include a notice on our absentee envelope that false statements made by the voter, attesting official or witness on the certificate, are punishable by law. The Division estimates a cost of 4.5 for replacing existing stock of envelopes for the inclusion of this statement.

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elections@gov.state.ak.us

Regional Offices
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Fairbanks 907.451.2835
Juneau 907.465.3021
Nome 907.443.5285

STATE OF ALASKA
Division of Elections
Office of the Lieutenant Governor

SECTIONAL ANALYSIS
CS HB Bill 94 (FIN) am – version "PA.A"

"An Act relating to qualifications of voters, requirements and procedures regarding independent candidates for President and Vice-President of the United States, voter registration, voter residence, precinct boundary and polling place designation and modification, political parties, voters unaffiliated with a political party, early voting, absentee voting, ballot design, ballot counting, voting by mail, voting machines, vote tally systems, qualifications for elected office, initiative, referendum, and recall, and definitions in the Alaska Election Code; and relating to incorporation elections."

Section One – STATUTORY FORM POWER OF ATTORNEY

Amends General Power of Attorney form to include a line "voter registration and absentee ballot requests" that may be checked by a person wishing to designate another as attorney in fact or agent by power of attorney. The House State Affairs Committee amended this section to meet the Division's request to allow an individual with the express power of attorney to register or request an absentee ballot on behalf of a voter.

Section Two – INTERPRETATION OF PROVISIONS IN STATUTORY FORM POWER OF ATTORNEY

Amends this section to clarify the authority conferred to the "agent" to register the principal to vote or request an absentee ballot is on behalf of the "principal" (the voter). The House State Affairs Committee amended this section to meet the Division's request to allow an individual with the express power of attorney to register or request an absentee ballot on behalf of a voter.

Section Three – VOTER RESIDENCY

Changes the reference *from* "temporary construction camps" *to* "temporary work sites" to provide a more accurate definition of what fails to constitute a dwelling place.

Clarifies that the address of a voter as it appears on the voter registration RECORD, *not* the voter registration CARD is proof (presumptive evidence) of that voter's residence.

Section Four – MANNER OF REGISTRATION

Adds language to allow an individual with the express power of attorney to register on behalf of the voter.

Adds "scanning" as another means to transmit a voter registration application to the Division.

Section Five – MANNER OF REGISTRATION

Language added on the House Floor states only the voter or individual with voter's power of attorney may mark the voter's party affiliation on a voter registration form. The political affiliation of a voter may be indicated on a voter registration form when provided to the voter *ONLY* if the voter is already registered as affiliated with the party indicated on the form.

Section Six – REQUIRED INFORMATION FOR VOTER REGISTRATION

An Alaska residence address is required on a voter registration application, and the voter signs an oath that the information provided is true. Legislative Legal removed language in the first work draft for House State Affairs, that removed "as specified in regulations adopted by the director" related to defining the applicant's Alaska residence.

Removes dated language that refers to information proving residency that might be requested by the Division. Elections does not require proof nor does the Division compile voter files that contain this type of information.

Section Seven – PROCEDURE FOR REGISTRATION

Adds "scanning" as another means to transmit a voter registration application to the Division.

Adds language to allow an individual with the express power of attorney to register on behalf of the voter.

Section Eight - VOTERS UNAFFILIATED WITH POLITICAL PARTIES

Proposes to set out the definitions of voters unaffiliated with political parties to reflect the Division's previous policy. Legislative Legal set this out as a section under "Voter Registration," rather than in the "Definitions" section of Title 15.

Section Nine - PREPARATION OF MASTER REGISTER

Ensures protection of voter information of those victims of domestic violence in accordance with changes made to the following section (AS 15.07.195) last year in Senate Bill 284.

Section Ten - PRECINCT BOUNDARY CHANGES

Changes made by House State Affairs increase public notice when the Division establishes or abolishes a precinct or if the boundaries of a precinct are designated, abolished, or modified, or if a polling place is changed.

This language requires the Division to send voters affected by any of the above changes by:

- Whenever possible written notice to each affected voter in the precinct
- Providing notice of the change by publication once in a local newspaper or by posting the notice in conspicuous places if no such newspaper exists
- Posting notice on the Division's website
- Providing notification of the changes to municipal clerks, community councils, tribal groups, Native villages, and village regional corporations.

The additional notice requirements result in a fiscal note of \$16.8 (in thousands) to the Primary and General Election budget.

Section Eleven – PREPARATION OF OFFICIAL BALLOT

This subparagraph was amended by House State Affairs to implement "ballot rotation" for the names of those candidates running for governor, lieutenant governor, United States senator, United States representative, and state senator on the ballots printed for each house district.

Placement of names of candidates for State House races will appear in random order as determined by the Director, as is the current practice. Ballot rotation WILL NOT occur for candidates for State House.

Current law requires the Director to determine a random order for ALL candidates placed on ballots used in each house district.

Section Twelve – INDEPENDENT PRESIDENTIAL CANDIDATES

When preparing the general election ballot, the names of the candidates from each political party running for President and Vice President shall be placed on the ballot, rather than the names of the electors.

This language allows that the names of those running as Independents for President and Vice President shall be treated the same as those candidates representing a political party.

Section Thirteen – BALLOT COUNTING

For the purposes of maintaining accountability of ballots, the number of ballots returned to the elections supervisor or designee for destruction must be reported by the election board.

Section Fourteen – SCOPE AND REVIEW OF BALLOT COUNTING

This language was added in House Judiciary to require the Division to do a mandatory hand-count verification of ballots from one precinct in every House district (a precinct that accounts for 5% or more of the ballots cast). Should a discrepancy of more than 1% exist between the results of the hand count and the count certified by the State Review Board, the Division MUST conduct a hand count of the entire district.

Section Fifteen – PREPARATION OF BALLOTS, ENVELOPES, AND OTHER MATERIAL

This language was added in House Judiciary to require that envelopes printed with the voter's certificate must include a notice that false statements made by the voter or by the witness on the certificate are punishable by law.

Section Sixteen – EARLY VOTING

Early voting sites would need to be designated by the Director by January 1st of an election year. This ensures that proper notice is available to voters and that regions can order sufficient ballots and election materials. Additionally, it allows supervisors to schedule election workers accordingly.

Legislative Legal changed language to clarify the intent.

Section Seventeen – ABSENTEE VOTING BY ELECTRONIC TRANSMISSION

Reduces the number of witnesses required to sign the oath accompanying a voter's absentee ballot (transmitted electronically) *from two to one*. Rural Alaskans and those who travel to remote locations believe that the requirement for two witnesses creates an undue hardship.

House State Affairs removed the requirement that the witness be a United States citizen.

Section Eighteen– ABSENTEE VOTING BY MAIL/ ELECTRONIC TRANSMISSION

Adds ways a voter may apply for an absentee ballot to include by fax or scanning an application.

Adds that an individual with the express power of attorney to allow the individual to apply for an absentee ballot on behalf of the voter may do so.

On the House Floor, language was added to allow that only the voter or individual with voter's power of attorney may mark the voter's ballot choice on an absentee ballot application, but the party affiliation can be provided as long as it is consistent with the voter's current affiliation as indicated in the voter registration record.

Section Nineteen – ABSENTEE VOTING BY MAIL/ ELECTRONIC TRANSMISSION

Reduces the number of witnesses required to sign the oath accompanying a voter's absentee ballot (transmitted by mail or electronically) **from two to one**. Once again, rural Alaskans and those who travel to remote locations believe that the requirement for two witnesses creates an undue hardship.

House State Affairs removed the requirement that the witness be a United States citizen.

House Judiciary added language that the witness certifies, under penalty of perjury, that the statements in the voter certificate are true.

Section Twenty – ABSENTEE VOTING BY MAIL/ ELECTRONIC TRANSMISSION

Defines more accurately "overseas voter" by referring to definition in AS 15.05.011. Current language that describes military APO or FPO addresses is too limiting.

Section Twenty-One – RECOUNT REQUIREMENT OF DEPOSIT

The amount of deposits required for recounts were raised in House Judiciary as follows:

	Amount required since 1986	Amount proposed in CS HB 94 (JUD)
Per precinct	\$300	\$1,000
Per house district	\$750	\$2,000
Statewide	\$10,000	\$15,000

No changes were made to those recounts that the State bears the cost to conduct. (a tie, 20 or less vote margin, or less than .5 percent of the total number of votes cast for the two candidates for the contested office.)

Section Twenty-Two – "BY MAIL" VOTING

For a "by mail" election, the ballots shall be mailed by first class, **nonforwardable** mail and that ballots will not be mailed to a voter whose address has been identified as being undeliverable.

This language is proposed to ensure ballot security and the integrity of the election process.

Section Twenty-Three – STANDARDS FOR VOTING MACHINES

Recommended by the Division, a new section to Title 15 is added regarding the use of voting machines or vote tally systems. The Division of Elections will only utilize systems certified by the Federal Election Commission. All updates to the data management system must be certified before the State implements a modification of the current system or a new system.

House State Affairs added the last line to clarify that a voting system approved by the Director must satisfy the requirements of AS 15.15.032 (c) – which clearly states that the Director SHALL provide for a paper record of each electronically generated ballot that can be reviewed and corrected by a voter.

Section Twenty-Four – DECLARATION OF CANDIDACY

Added in House State Affairs, this section adds language to ensure that a candidate shall take an oath when making a declaration for office that the candidate will be the age required by the Alaska Constitution:

- If a candidate for state representative:

Be at least 21 on the first scheduled day of the first regular session of the legislature convened after the election

- If a candidate for state senator:

Be at least 25 on the first scheduled day of the first regular session of the legislature convened after the election

- If a candidate for governor or lieutenant governor:

Be at least 30 on the first Monday in December following the election

Section Twenty-Five – PREPARATION AND DISTRIBUTION OF BALLOTS (PRIMARY)

New section added on House Floor that states that if a voter fails to indicate the ballot they want on an absentee ballot application, the Division will send the ballot that corresponds to their party affiliation. If the voter is unaffiliated with a party, the voter will be sent the ballot that offers the greatest range of candidates from different parties.

Section Twenty-Six – WRITE-IN CANDIDATES

Added in House State Affairs, this section adds language to ensure that a write-in candidate shall state in a letter of intent that the candidate will be the age required by the Alaska Constitution at the times noted above in the "Declaration of Candidacy" section.

Section Twenty-Seven – REQUIREMENTS FOR PETITION

Added in House State Affairs, this section adds language to ensure that a candidate filing for office by petition shall state in the petition that the candidate will be the age required by the Alaska Constitution at the times noted above in the "Declaration of Candidacy" section.

Section Twenty-Eight – QUALIFICATIONS FOR INDEPENDENT CANDIDATES FOR PRESIDENT/VICE PRESIDENT/SELECTION OF ELECTORS

Adds new language to describe the process for Independent candidates running for President.

An Independent candidate for President may file no earlier than January 1st of a presidential election year and no later than 90 days prior to the presidential general election. An Independent candidate for President must also provide the name, Alaska mailing address, and signature of the candidate's state campaign chair, which must be an Alaskan resident. This requirement exists ONLY for Independent candidates.

Section Twenty-Nine – INTERPRETATION OF VOTES CAST

In voting for presidential electors, votes marked for Independent candidates for President and Vice President are counted the same as votes marked for electors for party candidates.

Section Thirty – DUTIES OF ELECTORS

Duties for electors representing Independent candidates for President and Vice President are the same as those of electors representing other candidates.

Section Thirty-One – PETITIONS /FORM OF APPLICATION

Adds the requirement for the printed name and numerical identifier; (changed from "date of birth" by House Judiciary to allow more identifiers to be used to assist the Division in qualifying the voter's signature) to be included when signing an application for petition. Numerical identifiers are defined in 15.60.010 (40) as: date of birth, the last four digits of a voter's social security number, a voter's Alaska driver's license number, or a voter's Alaska identification card number or voter ID number. Additionally, the three sponsors designated as the committee representing the sponsors must provide their name, mailing address and signatures.

These changes, and those that follow related to the petition process, are proposed to improve the petition process and make the process more "user friendly" for Alaskans.

Section Thirty-Two – PETITIONS/DESIGNATION OF SPONSORS

Adds clarification that the sponsors are in support of the bill proposed in the initiative application.

Adds that additional sponsors, when providing their names and addresses, must also include numerical identifier (changed from "date of birth" by House Judiciary to allow more identifiers to be used).

Section Thirty-Three – PETITIONS/PREPARATION OF PETITION

Adds the requirement for the printed name and numerical identifier to be included when signing a petition to assist the Division in qualifying the voter's signature. Added in House Judiciary was that the signer of a petition provide the date they signed the petition. This is to ensure that signers were indeed qualified voters at the time of signing the petition.

House Judiciary also added language to include with a petition booklet a statement of minimum costs to the State associated with certifying the application, reviewing the initiative petition, and an estimate of the cost to the State of implementing the proposed law.

The petition books have been sequentially numbered, but the inclusion of the language more clearly states the process and deletes language that refers to a record of petition booklets assigned to the sponsors. Judge Suddock criticized the requirement for these "accountability reports" in the Hinterberger case.

Section Thirty-Four – PETITIONS/QUALIFICATIONS OF CIRCULATOR

New section defines the qualifications of the petition circulators. Requires that circulator be a citizen, 18 years of age or older, and an Alaskan resident. When Alaska law was revised to comply with the Buckley decision, this change failed to be incorporated.

Section Thirty-Five – PETITIONS/WITHDRAWING NAME FROM PETITION

Adds the requirement for the printed name and numerical identifier to be included when signing a petition.

Also added in House Judiciary was that the signer of a petition provide the date they signed the petition. This is to ensure that signers were indeed qualified voters at the time of signing the petition.

Section Thirty-Six – PETITIONS/CERTIFICATION OF CIRCULATOR

Circulators of a petition are required to sign an affidavit that they meet residency, age, and citizenship qualifications for circulating a petition.

The requirement that the circulator's name be prominently displayed on the petition was deleted. This language has not been enforced since 2000 in compliance with the Supreme Court decision in Buckley v. American Constitutional Law Foundation.

In House Judiciary the phrase "to the best of the circulator's knowledge" was added to subparagraph 5, describing that petition circulator gather signatures of qualified voters.

Additionally, subparagraph 8 was rewritten in accordance with an Attorney General's opinion that advised that the State cannot require a petition carrier to prominently place their name in bold capital letters as currently required by law AND more clearly required that a circulator needs to indicate whether they received payment and the name of the person/organization that agreed to pay the circulator.

Section Thirty-Seven – PETITIONS/DISPLAY OF PROPOSED LAW

Reduces the copies of the proposed law that are provided to each of the 439 election boards for distribution and posting at a polling place.

House State Affairs added the words "at least" to clarify that the Director shall provide AT LEAST five copies of the proposed law being initiated to the election board, and AT LEAST one copy of the proposed law will be posted.

Section Thirty-Eight – REFERENDUM/FORM OF APPLICATION

Adds the requirement for the printed name and numerical identifier (changed from "date of birth" by House Judiciary to allow more identifiers to be used to assist the Division in qualifying the voter's signature) to be included when signing an application for referendum. Numerical identifiers are defined in 15.60.010 (40) as: date of birth, the last four digits of a voter's social security number, a voter's Alaska driver's license number, or a voter's Alaska identification card number or voter ID number. Additionally, the three sponsors designated as the committee representing the sponsors must provide their name, mailing address and signatures.

Section Thirty-Nine – REFERENDUM/DESIGNATION OF SPONSORS

Adds clarification that the sponsors are in support of the referendum.

Adds that additional sponsors, when providing their names and addresses, must also include numerical identifiers.

Section Forty – REFERENDUM/ PREPARATION OF PETITION

Adds the requirement for the statement of rejection or approval, the signer's printed name and numerical identifier be included on a petition for referendum. Added in House Judiciary was that the signer of a petition provide the date signed they signed the petition. This is to ensure that signers were indeed qualified voters at the time of signing the petition.

House Judiciary also added language to include with a petition booklet a statement of minimum costs to the State associated with certifying the application, reviewing the referendum petition, and an estimate of the cost to the State of implementing the proposed law.

Section Forty – REFERENDUM/ PREPARATION OF PETITION (continued)

The petition books have been sequentially numbered, but the inclusion of the language more clearly states the process and replaces language that refers to a record of petition booklets assigned to the sponsors.

Section Forty-One – REFERENDUM/QUALIFICATIONS OF CIRCULATOR

New section defines the qualifications of the referendum petition circulators. Requires that circulator be a citizen, 18 years of age or older, and an Alaskan resident. When Alaska law was revised to comply with the Buckley decision, this change failed to be incorporated.

Section Forty-Two – REFERENDUM/CIRCULATION

Adds the prohibitions and penalties applicable to initiative petitions and applies these to the circulation of referendum petitions. (May not be paid more than \$1 per signature, nor may the circulator receive more than \$1 per signature)

Section Forty-Three - REFERENDUM/MANNER OF SIGNING AND WITHDRAWING NAME FROM PETITION

Adds the requirement for the printed name and numerical identifier to be included when signing a referendum petition.

Also added in House Judiciary was that the signer of a petition provide the date they signed the petition. This is to ensure that signers were indeed qualified voters at the time of signing the petition.

Section Forty-Four - REFERENDUM/CERTIFICATION OF CIRCULATOR

This section more clearly defines the certification of circulators, to conform to the requirements for circulation of initiative petitions. Circulators of a referendum petition are required to sign an affidavit that they meet residency, age, and citizenship qualifications for circulating a petition.

The requirement that the circulator's name be prominently displayed on the petition was deleted. This language has not been enforced since 2000 in compliance with the Supreme Court decision in Buckley v. American Constitutional Law Foundation.

Section Forty-Four - REFERENDUM/CERTIFICATION OF CIRCULATOR (continued)

In House Judiciary the phrase "to the best of the circulator's knowledge" was added to subparagraph 5, describing that petition circulator gather signatures of qualified voters.

Additionally, subparagraph 8 was rewritten in accordance with an Attorney General's opinion that advised that the State cannot require a petition carrier to prominently place their name in bold capital letters as currently required by law AND more clearly required that a circulator needs to indicate whether they received payment and the name of the person/organization that agreed to pay the circulator.

Section Forty-Five - REFERENDUM/DISPLAY OF ACT BEING REFERRED

Reduces the copies of the act being referred that are provided to each of the 439 election boards for distribution and posting at a polling place.

House State Affairs added the words "at least" to clarify that the Director shall provide AT LEAST five copies of the act being referred to the election board and AT LEAST one copy of the act will be posted.

Section Forty-Six - RECALL/FORM OF APPLICATION

Adds the requirement for the printed name and numerical identifier (changed from "date of birth" by House Judiciary to allow more identifiers to be used to assist the Division in qualifying the voter's signature) to be included when signing an application for recall. Numerical identifiers are defined in 15.60.010 (40) as: date of birth, the last four digits of a voter's social security number, a voter's Alaska driver's license number, or a voter's Alaska identification card number or voter ID number. Additionally, the three sponsors designated as the committee representing the sponsors must provide their name, mailing address and signatures.

House Judiciary also clarified language stating that the signers must be qualified voters equal in number to 10 percent of those who voted in the preceding general election in the state or in the senate or house district of the official sought to be recalled (as current law requires), 100 of whom will serve as sponsors. (Further clarifying that the 100 sponsors are not additional signers, but rather part of the 10 percent required)

Section Forty-Seven - RECALL/DESIGNATION OF SPONSORS

Proposes to add a new section with language similar to that regarding initiative petitions and referendum, stating the sponsors are in support of the recall and regarding the designation of additional sponsors.

Adds that additional sponsors, when providing their names and addresses, must also include numerical identifiers.

Section Forty-Eight - RECALL/PREPARATION OF PETITION

Adds the requirement for the printed name and numerical identifier to be included when signing the recall petition. The recall petition books have been sequentially numbered, but the inclusion of the language more clearly states the process and replaces language that refers to a record of petition booklets assigned to the sponsors.

Added in House Judiciary was that the signer of a recall petition provide the date they signed the petition. This is to ensure that signers were indeed qualified voters at the time of signing the petition.

House Judiciary also added language to include with a recall petition booklet a statement of minimum costs to the State associated with certifying the recall application, reviewing the recall petition, and an estimate of the cost to conduct a special election.

Section Forty-Nine - RECALL/STATEMENT OF WARNING

Removes language referring to a "duplicate copy" as there are no "duplicate copies" assigned in a recall petition effort. This language mirrors language in the initiative and referendum sections.

Section Fifty - RECALL/QUALIFICATIONS OF CIRCULATOR

New section defines the qualifications of the recall petition circulators. Requires that circulator be a citizen, 18 years of age or older, and an Alaskan resident. When Alaska law was revised to comply with the Buckley decision, this change failed to be incorporated.

Section Fifty-One - RECALL/CIRCULATION

Adds the prohibitions and penalties applicable to initiative petitions and referendum and applies these to circulation of recall petitions.

Section Fifty-Two -- RECALL/MANNER OF SIGNING AND WITHDRAWING NAME FROM PETITION

Adds the requirement for the printed name and numerical identifier to be included when signing a recall petition.

Also added in House Judiciary was that the signer of a petition provide the date they signed the recall petition. This is to ensure that signers were indeed qualified voters at the time of signing the recall petition.

Section Fifty-Three - RECALL/CERTIFICATION OF CIRCULATORS

This section more clearly defines the certification of circulators, to conform to the requirements for circulation of initiative and referendum petitions. Circulators of a recall petition are required to sign an affidavit that they meet residency, age, and citizenship qualifications for circulating a petition.

The requirement that the circulator's name be prominently displayed on the petition was deleted. This language has not been enforced since 2000 in compliance with the Supreme Court decision in *Buckley v. American Constitutional Law Foundation*.

Section Fifty-Three - RECALL/CERTIFICATION OF CIRCULATORS (continued)

In House Judiciary the phrase "to the best of the circulator's knowledge" was added to subparagraph 5, describing that petition circulator gather signatures of qualified voters.

Additionally, subparagraph 8 was rewritten in accordance with an Attorney General's opinion that advised that the State cannot require a petition carrier to prominently place their name in bold capital letters as currently required by law (*Buckley* struck down the requirement that circulators wear badges) AND more clearly required that a circulator needs to indicate whether they received payment and the name of the person/organization that agreed to pay the circulator.

Section Fifty-Four - RECALL/DISPLAY OF GROUNDS FOR AND AGAINST RECALL

Reduces the copies of the statement of the grounds for recall and the statement made by the official subject to recall in justification of the official's conduct in office that are provided to each of the election boards for distribution and posting at each polling place.

House State Affairs added the words "at least" to clarify that the Director shall provide AT LEAST five copies of the statement of grounds for recall and AT LEAST five copies of the statement made by the official subject to recall in justification of the official's conduct in office to the election board for distribution and AT LEAST one copy of the act to be posted.

Section Fifty-Five - CONTENTS OF PAMPHLET (OFFICIAL ELECTION PAMPHLET)

House State Affairs added a new section that requires the Division to publish establishment/abolishment of a precinct, designation abolition, or modification of precinct boundaries, or changes in location of polling places in the Official Election Pamphlet (OEP).

As explained to members of the Committee, the Division would include all changes that are known at the time that the OEP goes to print. Additional changes that affect voters may occur after printing of the OEP and would NOT be included in the publication.

Section Fifty-Six - RECOGNIZED POLITICAL PARTY STATUS

Political groups may be recognized as a party if, on or before May 31 of the election year that seek recognition they have: filed an application with the Director, submitted their bylaws to the Director and the Department of Justice *and* met the requirements related to nominating a candidate *or* obtained the required number of registered voters

Provides that the Director will verify the numbers of registered voters who have declared an affiliation with a group or recognized political party and the process for notification when a political group obtains or loses their political party status.

Finally, this section adds that during an election year, recognized political party status cannot be withdrawn by the Director for the period from June 1st through the date of the first verification that occurs after the certification of the general election *at which a governor was elected*. However, Finance restored language that clarified the verification of party status would be conducted every FOUR years for parties that achieve recognized political party status by the number of votes cast for their candidate in the election contests outlined below. House State Affairs added that monthly verification political party status would be suspended during the period of time when the Director may not withdraw political party status.

Section Fifty-Seven – DEFINITION OF POLITICAL PARTY

House State Affairs added language that defines a party as a group of voters that represents a political program AND THAT

--nominates a candidate for governor who receives **2%** (changed from 3% by House Judiciary) of the votes cast for that office at the preceding general election **OR**

--nominates a candidate for US senator who receives **2%** (changed from 3% by House Judiciary) of the votes cast for that office at the preceding general election or at the most recent election at which a governor was elected **OR**

--nominates a candidate for US representative who receives **2%** (changed from 3% by House Judiciary) of the votes cast for that office at the preceding general election or at the most recent election at which a governor was elected **OR**

--has registered voters equal in number to 2% of voters registered in the State in the month that the director performs verification of party status. (House Judiciary changed previous language which referred to March 31st)

Section Fifty-Eight - DEFINITION OF "NUMERICAL IDENTIFIER" and "REREGISTRATION"

Added in House Judiciary, numerical identifiers are defined in 15.60.010 (40) as: date of birth, the last four digits of a voter's social security number, a voter's Alaska driver's license number, or a voter's Alaska identification card number or voter ID number.

Reregistration is defined as the submission of a registration form by a voter whose registration was inactivated during the list maintenance process (AS 15.07.130) or due to conviction of a felony involving moral turpitude. The voter once removed from the voter rolls due to conviction of a felony involving moral turpitude, must provide proof that they were unconditionally discharged from custody before being allowed to register. (AS 15.07.135)

Section Fifty-Nine - INCORPORATION ELECTION

Clarifying language in Title 29 for incorporation elections that a qualified voter is a voter who has been registered to vote within the proposed municipality at least 30 days prior to the election.

Section Sixty - INCORPORATION ELECTION

Clarifying language in Title 29 for incorporation elections that a qualified voter is a voter who has been registered to vote within the proposed borough at least 30 days prior to the election.

Section Sixty-One - INCORPORATION ELECTION

Defines "qualified voter" to have the same meaning as that in AS 15.60.010.

AS 15.60.010 (26) "qualified voter" means a person who has the qualification of a voter and is not disqualified as provided by art. V, Sec. 2, of the state constitution and AS 15.05.030.

Section Sixty-Two - REPEALERS

Repeals section requiring written notice of changes to precinct boundaries or polling places and

Repeals AS 15.20.048 as it includes duplicative language that allows the Director to designate locations for absentee voting, and office of election supervisors will be designated as such.

Section Sixty-Three - APPLICABILITY

Provides that changes made by Sections 26 through 49 of this bill apply to an initiative, referendum, or recall for which an application was filed with the lieutenant governor or director of elections on or after the effective date of the bill.

Section Sixty-Four - TRANSITION

An initiative, referendum, or recall for which the application was filed before the effective date of the bill is subject to the provisions of statute that existed on the day before the effective date of the bill.

THE IMMEDIATE EFFECTIVE DATE CLAUSE WAS REMOVED IN HOUSE STATE AFFAIRS

CS HB 94 (FIN) am Sectional Highlights

ISSUE	BILL SECTION	PROPOSED	CURRENT LAW
VOTER REGISTRATION	1,2,4,7	Power of attorney may register on behalf of a voter	Cannot register or make changes with a power of attorney
	4,7	Submit voter registration forms by scanning	Can submit in person, by mail or by fax
	3	Voter record presumptive evidence of voter's residence	Voter card is presumptive evidence - card may not be current
	5	Only voter or power of attorney may mark party affiliation on voter registration form unless voter already registered in that party	Not addressed.
	8	Definition of non partisan and undeclared voters	Current practice, not defined in law
	9	Voter list to protect confidentiality of voters	No mention of confidentiality protections when preparing list of voters
	58	Defines "reregistration" for voters inactivated	Not addressed.
PRECINCT BOUNDARY/POLLING PLACE CHANGES	10	Letters to affected voters; Publish one notice in local paper; Post if no local paper, Post on Division's website, Notice to clerks, native groups, community councils, etc.	Letters to affected voters - current practice; Not required to publish for polling place Publish 3 times for boundary changes; Posting if no local paper - SAME; remainder currently not required.
	55	Publish notice of precinct/polling place changes in OEP	Not required.
	62	Repeals language regarding written notice, as changes were incorporated in AS 15.10.090	

CS HB 94 (FIN) am Sectional Highlights

ISSUE	BILL SECTION	PROPOSED	CURRENT LAW
BALLOTS/ENVELOPES	11	Ballot rotation for all candidates EXCEPT those for State House	Placement of candidates' names randomly determined by Director
	13	Election workers to record ballots destroyed or returned for destruction	Not required. Could affect ballot accountability records.
	14	Hand count verification of 1 precinct (5% of votes cast) per district by State Review Board prior to election certification	Not required
	15	Voter certificate on ballot envelope notice re: false statements are punishable by law	Voter signs that information is true and accurate.
	25	If voter fails to mark choice of primary ballot, Division will send ballot according to affiliation. If unaffiliated, voter to get ballot with greatest range of candidates	Not addressed.
INDEPENDENT CANDIDATES FOR PRES OR VP	12	Names on ballot same as party candidates	Not addressed. No legal procedure for a candidate like Ralph Nader.
	28	Process for qualifying as an Independent candidate	Not addressed.
	29,30	Votes for electors and duties of electors same as party candidates	Not addressed.
EARLY VOTING	16	Sites to be designated by Director by Jan. 1st of an election year	No deadline
	62	Repeals duplicative language	Addressed in AS 15.20.045

CS HB 94 (FIN) am Sectional Highlights

ISSUE	BILL SECTION	PROPOSED	CURRENT LAW
ABSENTEE VOTING	17	Reduce witness' required for submitting a "by fax" ballot. No longer required to be US citizens	Two witnesses. Witness' were required to be US citizens
	18	Apply for absentee ballot by scanning application	Apply in person, by mail or by fax.
	1,2,18	Power of attorney may apply for absentee ballot	Cannot apply for absentee ballot on behalf of voter with power of attorney
	18	Only voter or power of attorney may mark party affiliation unless voter already registered in that party	Not addressed.
		Only voter or power of attorney may mark choice of primary ballot	Not addressed.
	19	Reduce witness' required for submitting a "by mail" ballot to one.	Two witnesses required.
	19	Voter to certify under penalty of perjury that the statements are true	Not required.
	20	Defines overseas voter - AS 15.05.011	Military APO or FPO address.
RECOUNTS	21	Raises deposit amounts	Current amounts have not been addressed since 1986
BY MAIL VOTING	22	Division will not mail ballots to address previously recorded as "undeliverable"	Required to mail ballots to addresses that are "undeliverable" - ballot integrity issue

CS HB 94 (FIN) am Sectional Highlights

ISSUE	BILL SECTIC N	PROPOSED	CURRENT LAW
VOTING SYSTEMS	23	Division to use only those machines/systems approved by FEC	No standards required. Previous administration approved new software that had not been certified at time of election.
CANDIDATES	24,26,27	At time of filing, a candidate will meet the Constitutional age requirements on the 1st day of the first session	Not addressed
INITIATIVES, REFERENDUM, RECALL	31,38,46	Application to include printed name, signature, address, and numerical identifier of sponsors	Signatures required
	32,39,47	Sponsors support action. Additional sponsors will give name address and numerical identifier	Support of action not addressed. Numerical identifier not required but will help qualify the sponsors. No similar language for recall.
	33,40,48	Printed name and numerical identifier, and date when signed required	Signature and address only
	33,40,48	Booklets to be sequentially numbered	Current practice. Not addressed in law.
	33,40,48	Petition to include minimum cost to State to certify and review, not including legal costs	Not required
	33,40,48	Petition to include cost of implementing proposed law or conducting recall election	Not required
	34,41,50	Qualifications of circulator- citizen, at least 18 yrs. old. Alaskan resident.	In practice as result of Buckley ruling - not set out in law

CS HB 94 (FIN) am Sectional Highlights

ISSUE	BILL SECTION	PROPOSED	CURRENT LAW
INITIATIVES, REFERENDUM, RECALL (continued)	35,43,52	Printed name and numerical identifier, and date when signed required when withdrawing name from petition	Voter's signature and address required.
	36,44,53	Repeal and reenacted certification of circulator - circulator to sign inclusive affidavit	Does not comply with Buckley decision.
	37,45,54	Display of proposed law at polling place - at least 5 copies available and one posted	10 copies available and 3 posted.
	42,51	Circulator may not receive payment greater than \$1. Prohibitions and penalties defined.	Current language for initiative petitions. not addressed for referendum and recall
	49	Removes language regarding "duplicate copy" of a recall petition.	There are no "duplicate copies" of a recall petition. All are sequentially numbered.
58	Defines "numerical identifier" as voter's date of birth, Alaska driver's license or ID number, last 4 digits of SS# or voter ID number	No requirement for additional information makes qualifying voter's signatures more difficult.	
RECOGNIZED POLITICAL PARTIES	56	Sets out process for a political group to become a party. Ensures that a party cannot lose status during the election cycle. Explains verification process.	Not addressed, though procedure was in place to protect the parties.

CS HB 94 (FIN) am Sectional Highlights

ISSUE	BILL SECTION	PROPOSED	CURRENT LAW
RECOGNIZED POLITICAL PARTIES (continued)	57	Defines political party- 2% of the total votes cast for governor at the preceding election OR 2% of the total votes for US Senate OR 2% of the total votes for US Representative at the most recent general election or when a governor was elected...OR..2% of the number of registered voters.	3% of total votes cast for governor OR if governor NOT on ballot, 3% of total votes cast for US Senate OR if neither on ballot, 3% of total votes cast for US Representative OR registered voters totaling 3% of the number votes cast in that election.
INCORPORATION ELECTIONS	59,60	Defines "qualified voter" as a person registered to vote within the proposed municipality or borough for at least 30 days before an election	"qualified voter" was defined as being a <u>resident</u> of the municipality or borough for 30 days before an election
	61	Defines qualified voter as a person who has the qualifications under AS 15.60.010	Not addressed.

HB

95

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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

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

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

PUBLIC HEALTH
PROTECTING AND PROMOTING THE
HEALTH OF ALL ALASKANS

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
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

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

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"> 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

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"> • 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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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.

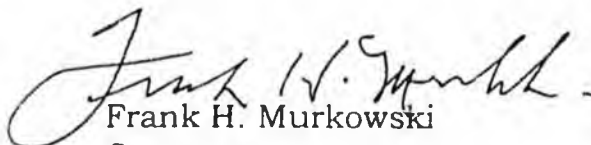
The Department of Health and Social Services (department) routinely uses the traditional public health disease control tools of epidemiological surveillance and investigation, and historically has used isolation and quarantine to stop the spread of disease in the rare times it has been warranted. Today,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

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

Prepared 4-7-05

Page 1 of 2

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.