

## MINUTES OF THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

The meeting was called to order by Chairperson Susan Wagle at 1:30 p.m. on January 21, 2004 in Room 231-N of the Capitol.

All members were present except:  
Senator Nick Jordan- excused

Committee staff present:  
Ms. Emalene Correll, Legislative Research  
Mr. Norm Furse, Revisor of Statutes  
Mrs. Diana Lee, Revisor of Statutes  
Ms. Margaret Cianciarulo, Committee Secretary

Conferees appearing before the committee:  
Ms. Emalene Correll, Legislative Research  
Mr. Norm Furse, Revisor of Statutes

Others attending:  
Please See Attached Guest List.

### **Staff Review of Kansas Quarantine Laws**

Upon calling the meeting to order, Chairperson Wagle called on Ms. Emalene Correll, Legislative Research who gave an overview of the Kansas Quarantine Laws. Ms. Correll began with an introduction stating the Committee would be hearing an overview of federal and state quarantine laws as they relate to the isolation of individuals and some relevant case law. She also included a history, stating the practice of quarantine began during the fourteenth century in conjunction with efforts to prevent plague epidemics, continuing yellow fever epidemics led to the passage of federal quarantine legislation, and the history of the Public Health Service Act. She also touched on state authority, jurisdiction and legal challenges to state quarantine authority stating that most states have quarantine statutes or empower health authorities to order quarantines through regulation and that state laws or regulations typically define the agencies with quarantine authority, identify health authorities or public officials who may initiate an order, establish, enforce, execute, and maintain quarantines. She covered the 2003 state action and activity stating that during the 2003 legislative sessions in the states, 17 states considered some type of legislation that related to public health preparedness, of which 7 were comprehensive public health emergency acts or acts that specifically dealt with isolations and quarantine. And lastly, she covered the "Model State Emergency Health Powers Act".

Ms. Correll then asked Mr. Norm Furse, Revisor of Statutes, to cover the Kansas statutes which included the reporting of infectious and contagious diseases, duties and powers of local health officers (supervision section, generally a joint statute), a statute relating to public school and child care facilities, a statute relating to specific situations (ex. Funeral services), enforcement of quarantine laws (a key section), rules and regs for the Secretary of Health and Environment, penalties for unlawful acts, the criminal penalty (Class C misdemeanor), and two local government statutes (giving the Mayor authority of quarantine.) A copy of their testimony is ([Attachment 1](#)) attached hereto and incorporated into the Minutes by reference.

Questions from Senators Salmans and Barnett ranged from who implements this situation if it is militarily affected, Homeland Security Law, cremation, how are health care workers handled if they have been exposed, to requesting that the Department of Health and Environment as legislature to regulate.

CONTINUATION SHEET

MINUTES OF THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE at 1:30 p.m. on  
January 21, 2004 in Room 231-N of the Capitol.

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**Introduction of Bills**

The Chair then asked for bill introductions. A motion was made by Senator Barnett to introduce legislation concerning smoking cessation efforts for the state of Kansas. It was seconded by Senator Steineger and the motion carried.

**Adjourned**

As there was no further business, the meeting was adjourned. The time was 2:30 p.m.

The next meeting is scheduled for January 22, 2004.



# KANSAS LEGISLATIVE RESEARCH DEPARTMENT

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January 20, 2004

**To:** Senate Committee on Public Health and Welfare  
**From:** Emalene Correll, Research Associate  
**Re:** Quarantine Laws

## Introduction

The threat of terrorist attacks and fear of the spread of highly contagious diseases, such as severe acute respiratory syndrome (SARS) and Ebola, have led all levels of governments to become increasingly concerned about the need for an effective public health response to such events. An effective response is generally assumed to include the isolation of persons who have been exposed to a highly contagious disease as well as the quarantine of states, cities, neighborhoods, or buildings. In the past and currently, the primary authority for controlling the spread of dangerous diseases rests with state and local governments, with the federal government's role limited to interstate and foreign quarantine. An overview of federal and state quarantine laws as they relate to the isolation of quarantine of individuals and some relevant case law is noted below.

Two terms, isolation and quarantine, are frequently found in discussion of the use of public health measures to control the spread of infectious and contagious diseases. Technically, each applies to a distinct group of persons, but in general usage, the terms are often used interchangeably. Isolation typically refers to the separation of a known infected person or animal from others during the period of contagiousness in order to prevent the direct or indirect conveyance of the infectious agent. Quarantine refers to the restriction of movement of a person who has been exposed to a communicable disease in order to prevent contact with unexposed persons. There are varying degrees of quarantine, and the authority to order quarantine or isolation is generally very broad. First, both complete quarantine and isolation usually involve the confinement of contagious individuals to their residences pursuant to orders from a health department. Health officials post a public notice forbidding anyone from entering or exiting the dwelling. Alternatively, health authorities may confine an infected person to a hospital or other location. Second, health authorities may order a modified quarantine, which restricts an individual from participation in certain activities, such as jobs involving food preparation, school attendance, or particularly hazardous activities. The authority to quarantine also includes the authority to place a contagious individual under surveillance to insure strict compliance with quarantine orders. Sometimes authority exists to issue segregation orders that require the separation of an entire group of people from the general population. Quarantine orders may extend to any persons who come into contact with an infected individual.

## History

The practice of quarantine, as we know it, began during the fourteenth century in conjunction with efforts to prevent plague epidemics. Ships arriving in Venice from infected ports were required to sit at anchor for 40 days before landing. This practice came to be known as quarantine from the Latin word *quarisma*, meaning 40. Early in the history of the United States, local units of

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government located in areas through which individuals entered the country invoked quarantines to prevent individuals or vessels from entering if they came from an area in which a contagious disease was known to be prevalent. Local units of government and state governments continued to operate quarantine stations and carry out quarantine activities connected with individuals entering the country until the federal government became involved in the late 1800s.

Continuing yellow fever epidemics led to the passage of federal quarantine legislation in 1878. This legislation paved the way for federal involvement in quarantine activities. With the spread of cholera from abroad in 1892, the law was reinterpreted to allow the federal government more authority in imposing quarantine requirements. In 1893, another act of Congress further clarified the federal role in quarantine activities. By 1921, all quarantine stations operating to prevent persons from entering the country while they were in a contagious stage of a communicable disease were under federal control. In 1944, with codification of the Public Health Service Act, federal quarantine authority was clearly established for the first time. In 1953, the Public Health Service and Quarantine became a part of the then Department of Health, Education, and Welfare. Quarantine was transferred in 1967 to the National Communicable Disease Center, now known as the Centers for Disease Control and Prevention, and the Department of Health and Human Services, a successor to Health, Education, and Welfare. When the Centers for Disease Control and Prevention assumed responsibility for Quarantine, it was a large organization with 55 quarantine stations and more than 500 staff members. Quarantine stations were located at every port, international airport, and major border crossing. In the 1970s, after a study of the program and its relationship to transportation and disease prevention, the size of the quarantine program was reduced and its focus changed from routine inspection to program management and problem intervention. The new focus includes an enhanced surveillance system to monitor the onset of epidemics abroad and modernized inspection process.

The Public Health Service Act gave the US Public Health Service responsibility for preventing the introduction, transmission, and spread of communicable diseases from foreign countries into the United States. Under delegated authority, the Division of Global Migration and Quarantine is empowered to detain, medically examine, or conditionally release individuals and wildlife suspected of carrying a communicable disease. The list of quarantinable diseases is promulgated as an Executive Order and includes cholera, diphtheria, infectious tuberculosis, plague, smallpox, yellow fever, and viral hemorrhagic fevers, such as Marburg, Ebola, and Congo-Crimean. At present, the Division of Global Migration and Quarantine is part of the Centers for Disease Control and Preventions' National Center for Infectious Diseases and is headquartered in Atlanta, Georgia. The staff includes 39 field employees and 42 employees located at the agency headquarters. Quarantine stations are located in Atlanta, New York, Miami, Chicago, Los Angeles, San Francisco, Seattle, and Honolulu. Each station has responsibility for all ports in an assigned region of the United States. The quarantine operation involves the cooperation of other agencies, including:

- Epidemic Intelligence Service and other divisions of the Centers for Disease Control;
- state and local health departments;
- Bureau of Citizenship and Immigration Services formerly known as Immigration and Naturalization Service (INS);
- U.S. Customs;
- U.S. Department of Agriculture;

- U.S. Fish and Wildlife Services; and
- the aircraft and maritime industry.

The Division of Global Migration and Quarantine administers regulations found in the United States Code (42USC264) and the Code of Federal Regulations (42CFR71).

Under the Public Health Service Act, the Secretary of Health and Human Services has the authority to make and enforce regulations necessary to prevent the introduction, transmission, or spread of communicable diseases from foreign countries into the states or possessions, or from one state or possession into any other state or possession. While providing the Secretary with broad authority to promulgate regulations, the law places limitations on the Secretary's authority to enact regulations providing for the apprehension, detention, or conditional release of individuals. Such apprehension, detention, or conditional release may be authorized for the purpose of preventing the introduction, transmission, or spread of such communicable diseases as are specified from time to time in Executive Orders recommended by the Secretary, in consultation with the Surgeon General. Generally, regulations authorizing the apprehension, detention, examination, or conditional release of individuals are applicable only to individuals coming into a state or possession from a foreign country or possession. However, the regulations may provide for the apprehension and examination of any individual reasonably believed to be infected with a communicable disease in an infectious stage (1) who is moving or about to move from one state to another or (2) to be a probable source of infection to individuals who, while infected with such disease in a communicable stage, will be moving from one state to another. If found to be infected, such individuals may be detained for such time and in such manner as may be reasonably necessary. During times of war, the authority to apprehend and examine individuals extends to any individual reasonably believed (1) to be infected with diseases specified in an Executive Order of the President and (2) to be a probable source of infection to members of the armed forces of the United States or to individuals engaged in production or transportation of supplies for the armed forces.

Regulations promulgated pursuant to the Public Health Service Act that address interstate quarantine primarily restrict travel for persons infected with a communicable disease. Following a transfer of authority from the Secretary of Health and Human Services to the Director of the Centers for Disease Control and Prevention in 2000, the Director is authorized to take measures as may be necessary to prevent the spread of a communicable disease from one state or possession to any other state or possession if he or she determines that measures taken by local health authorities are inadequate to prevent the spread of the disease. In an effort to prevent the spread of diseases between states, the regulations prohibit infected persons from traveling from one state to another state without a permit from the health officer of the state, possession, or locality of destination if such permit is required under the laws applicable to the place of destination. Additional requirements apply to persons who are in the communicable stage of cholera, plague, smallpox, typhus, or yellow fever, or who have been exposed to such diseases during the incubation period of the diseases.

### **State Authority and Jurisdiction**

The preservation of the public health historically has been the responsibility of state and local governments. The primary authority exists at the state level as an exercise of the state's police power. State health departments or health officials typically have primary quarantine authority, although the federal government has jurisdiction over interstate and foreign quarantine.

Most states have quarantine statutes or empower health authorities to order quarantines through regulation. State laws or regulations typically define the agencies with quarantine authority,

identify health authorities or public officials who may initiate an order, establish, enforce, execute, and maintain quarantines. Usually, the laws also create penalties for violation of quarantine orders. A few states have reviewed and modernized their quarantine statutes within the last decade, but some state laws, including those of Kansas, have been on the books for more than 50 years without substantial change.

Recent events demonstrate existing barriers to the introduction of a health threat in the form of contagious and communicable disease may be inadequate; technological advances leave the ability to intercept such threats uncertain; and questions have been raised as to whether the existing legal authority contained in state laws provide state officials with the ability to respond effectively in the face of a bioterrorist attack. For example, one state's quarantine statutes apply only to infectious tuberculosis. Some states have not amended their requirements for reporting of specific medical conditions, thereby allowing such conditions potentially to go unchecked when diagnosed by a clinician. Other states have created laws that give quarantine powers to a wide range of state agencies. Alabama laws, for example, grant the County Quarantine Officer, the County Board of Health, the State Board of Health, the State Health Officer, and the Governor powers through a chain of authority to establish, maintain, or enforce quarantines. Current events have spurred some state legislatures to respond by extensive updating of their public health laws, and other states are reviewing what is on the books.

The U.S. Supreme Court acknowledged a state's authority to quarantine laws in 1824 in *Gibbons v. Ogden*. In *Gibbons*, the Court noted, while quarantine laws may affect commerce, they are, by nature, health laws, and thus, under the authority of state and local governments. Courts have noted the duty to preserve the public health is inherent to the police power of a state and cannot be surrendered. While every state has acknowledged the authority to pass and enforce quarantine laws, such laws vary widely by state. Generally, quarantine is authorized through public health orders, although some states may require a court order before an individual is detained. For example, in Louisiana, the state health officer is not authorized to confine any person in any institution unless directed or authorized to do so by the judge of the parish in which the person is located. Diseases subject to quarantine may be defined by statute, with some statutes addressing only a single disease, or the state health department may be granted authority to decide which diseases are communicable and therefore subject to quarantine. States also employ different methods for determining when the quarantine or isolation period is to end. Generally, release is accomplished when a determination is made that the person is no longer a threat to the public health or no longer infectious. One common characteristic of many state quarantine laws is their overall antiquity, with many statutes being between 40 and 100 years old. The more antiquated laws often do not reflect contemporary scientific understandings of disease or current treatments of choice. State laws were often enacted with a focus on a particular disease, such as tuberculosis or typhoid fever, leading to inconsistent approaches in addressing other diseases. Despite the inconsistencies and perceived problems with such laws, state legislatures have not been forced to reevaluate their quarantine and isolation laws due to a decline in infectious diseases and advances in medicine. However, in light of recent threats, some states have begun to reconsider their emergency response systems, including the state's authority to quarantine. Several states have recently enacted legislation related to emergency health powers that include the revision or expansion of state quarantine authority. A review of quarantine authority was listed as priority for state governments in the President's National Strategy for Homeland Security.

Many states have inadequate procedures in place for isolating individuals who are infected or believed to be infected and for quarantining areas that are or may be infected. Generally, the laws currently in effect do not address the spread of disease resulting from a biological attack, and for the most part address only specific diseases that were the cause of past epidemics, not newly emerging diseases such as SARS. Public health experts have developed a Model State Emergency Health

Powers Act to guide states as they reevaluate their emergency response plans. The model act, which is quite extensive in scope includes a section on quarantine and isolation which has been copied and is attached to this memo.

## **Legal Challenges to State Quarantine Authority**

As noted earlier, the Supreme Court in *Gibbon v. Ogden* alluded to a state's authority to quarantine under the police powers. In 1902, the Court directly addressed a state's power to quarantine an entire geographic area in *Compagnie Francaise de Navigation a Vaperu v. Louisiana State Board of Health*, where both the law and its implementation were upheld as valid exercises of the state's police power. The petitioners in *Compagnie*, a shipping company, challenged an interpretation of a state statute that conferred on the State Board of Health authority to exclude healthy persons, whether they came from without or within the state, from a geographic area infested with a disease. The petitioner alleged the statute as interpreted interfered with interstate commerce, and thus was an unconstitutional violation of the commerce clause. The Court rejected this argument, holding, although the statute might have had an affect on commerce, it was not unconstitutional. Courts have recognized an individual's right to challenge his or her isolation or quarantine by petitioning for writ of habeas corpus. While the primary function of a writ of habeas corpus is to test the legality of the detention, petitioners often seek a declaration that the statute under which they were quarantined is unconstitutional or violates due process.

Due process is a concern, although courts have been reluctant to interfere with a state's exercise of police powers with regard to public health matters except when regulatory actions adopted for the protection of the public health are arbitrary, oppressive, and unreasonable. The courts appear to give deference to the determinations of state health authorities and generally have upheld quarantine detentions as valid exercises of a state's duty to preserve the public health and not in violation of due process. Some courts have refused to uphold the quarantine of an individual where the state is unable to meet its burden of proof concerning that individual's potential danger to others. In *People ex rel. Barmore v. Robertson*, the Court refused to grant the petition for writ of habeas corpus of a woman who ran a boarding house where a person infected with typhoid fever had boarded. The woman was not herself infected with the disease, but she was a carrier and had been quarantined in her home. She argued that her quarantine was unwarranted because she was not actually sick, though the Court noted that "it is not necessary that one be actually sick, as that term is usually applied, in order that the health authorities have the right to restrain his liberties by quarantine regulations." In providing justification for quarantine under these circumstances, the Court explained that since disease germs are carried by human beings, and as the purpose of an effective quarantine is to prevent the spread of the disease to those who are not infected, anyone who had come into contact with that person must be isolated in order to prevent the spread of the disease to those who are not infected, anyone who carries the germs must be isolated. The Court found, in the case of a person infected with typhoid fever, anyone who had come into contact with that person must be isolated in order to prevent the spread of the disease to others. In *Moore v. Draper*, the Court stated the constitutional guarantees of life, liberty, and property, of which a person cannot be deprived without due process of law, do not limit the exercise of the police power of the state to preserve the public health so long as that power is reasonably and fairly exercised and not abused. In addition to the due process claim, the petitioner had challenged the statute as discriminatory against all persons other than those of a certain religious faith and belief. The court rejected both arguments, finding the statute was a proper exercise of the state's police power and not a violation of the petitioner's constitutional rights.

## **2003 State Action and Activity**



During the 2003 legislative sessions in the states, 17 states considered some type of legislation that related to public health preparedness, of which 7 were comprehensive public health emergency acts or acts that specifically dealt with isolations and quarantine. The states noted below enacted legislation.

**Connecticut.** House Bill 667 was enacted which requires the Governor, in the event of a statewide or regional public health emergency, to inform legislative leaders before declaring that the emergency exists and authorizes the Governor to:

- Order the Commissioner of Health to implement all or a portion of the public health emergency response plan;
- Authorize the Commissioner to isolate or quarantine persons;
- Order the Commissioner to vaccinate persons; or
- Apply for and receive federal assistance.

**Idaho.** The Idaho Legislature enacted Senate Bill 1075 which adds to the powers and duties of the Director of the Department of Public Health by giving the Director the power to impose and enforce orders of isolation and quarantine to protect the public from the spread of infectious or communicable diseases or from contamination from chemical or biological agents, whether naturally occurring or propagated by criminal or terrorist act. An order of isolation or quarantine issued is to be considered a final agency action for purposes of judicial review, but this provision is not to be seen as preventing the Director from reconsidering, amending, or withdrawing the order. Judicial review of orders of isolation or quarantine will be *de novo*. The court may affirm, reverse, or modify the order and affirm the order if it appears by a preponderance of the evidence the order is reasonably necessary to protect the public from a substantial and immediate danger of the spread of an infectious or communicable disease or from contamination by chemical or biological agent.

**Louisiana.** Senate Bill 908, enacted in 2003, amends statutes relating to emergency health powers, provides a plan for health emergencies, specifies who can declare such an emergency and for what length of time, and who can end such an emergency. The legislation also provides for isolation and quarantine of infected citizens.

**New Mexico.** Legislators approved House Bill 231, which provides procedures for declaring and responding to a public health emergency, including the use of quarantine, and provides civil penalties for noncompliance.

**Rhode Island.** House Bill 5747 enacted in 2003, states that if the state director of health determines a threat to the public health exists because any person is suffering, or appears to be suffering, from a communicable disease, the director or his or her authorized agent may require or provide that such person be confined, in some proper place, for the purpose of isolation or quarantine, or another less restrictive intervention, including, but not limited to, immunization, treatment, exclusion, or other protective actions until the threat to the public health has abated. In addition, the person reasonably suspected of having a communicable disease may have a physician of his or her own choice present at his or her own expense.

Senate Bill 318 expands the Department of Health regulatory power to include provisions related to the outbreak of disease. The act allows individuals subject to quarantine to file a petition for less restrictive alternatives and provides for a right for an individual to obtain his or her own

physician. This act also contains certain provisions relative to emergency management relating to terrorism.

**Texas.** Legislators passed 2003 House Bill 627 which specifies how to quarantine an area in response to the introduction of an environmental or toxic agent into the environment and provides criminal penalties for doing so.

## **Kansas Laws**

The Kansas laws that concern the quarantine or isolations of humans primarily are found in Chapter 65 of the Kansas Statutes and include:

KSA 65-118

KSA 65-119 concerns the powers and duties of local health officers.

KSA 65-122 relates to school attendance.

KSA 65-123 concerns funerals.

KSA 65-126 provides for the quarantine of cities, townships, or counties.

KSA 65-128 authorizes the Secretary of Health and Environment to designate infectious and contagious diseases and rules and regulations for the isolation and quarantine of such diseases.

KSA 65-129 provides criminal penalties for the violation of certain rules and regulations and orders concerning infectious and contagious diseases.

KSA 13-512 and 14-307 concern the responsibility of mayors for the enforcement of ordinance and regulations relating to health or quarantine.

Copies of the statutes are enclosed.

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Section 604

**Isolation and quarantine.**

- (a) **Authorization.** During the public health emergency, the public health authority may isolate (consistent with the definition of "isolation" in Section 103(h))\* or quarantine (consistent with the definition of quarantine in Section 103(o))\* an individual or groups of individuals. This includes individuals or groups who have not been vaccinated, treated, tested, or examined pursuant to Sections 602 and 603. The public health authority may also establish and maintain places of isolation and quarantine, and set rules and make orders. Failure to obey these rules, orders, or provisions shall constitute a misdemeanor.
- (b) **Conditions and principles.** The public health authority shall adhere to the following conditions and principles when isolating or quarantining individuals or groups of individuals:
- (1) Isolation and quarantine must be by the least restrictive means necessary to prevent the spread of a contagious or possibly contagious disease to others and may include, but are not limited to, confinement to private homes or other private and public premises.
  - (2) Isolated individuals must be confined separately from quarantined individuals.
  - (3) The health status of isolated and quarantined individuals must be monitored regularly to determine if they require isolation or quarantine.

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\*104 (h) **"Isolation"** is the physical separation and confinement of an individual or groups of individuals who are infected or reasonably believed to be infected with a contagious or possibly contagious disease from non-isolated individuals, to prevent or limit the transmission of the disease to non-isolated individuals.

104 (o) **"Quarantine"** is the physical separation and confinement of an individual or groups of individuals, who are or may have been exposed to a contagious or possibly contagious disease and who do not show signs or symptoms of a contagious disease, from non-quarantined individuals, to prevent or limit the transmission of the disease to non-quarantined individuals.

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- (4) If a quarantined individual subsequently becomes infected or is reasonably believed to have become infected with a contagious or possibly contagious disease he or she must promptly be removed to isolation.
  - (5) Isolated and quarantined individuals must be immediately released when they pose no substantial risk of transmitting a contagious or possibly contagious disease to others.
  - (6) The needs of persons isolated and quarantined shall be addressed in a systematic and competent fashion, including, but not limited to, providing adequate food, clothing, shelter, means of communication with those in isolation or quarantine and outside these settings, medication, and competent medical care.
  - (7) Premises used for isolation and quarantine shall be maintained in a safe and hygienic manner and be designed to minimize the likelihood of further transmission of infection or other harms to persons isolated and quarantined.
  - (8) To the extent possible, cultural and religious beliefs should be considered in addressing the needs of individuals, and establishing and maintaining isolation and quarantine premises.
- (c) **Cooperation.** Persons subject to isolation or quarantine shall obey the public health authority's rules and orders; and shall not go beyond the isolation or quarantine premises. Failure to obey these provisions shall constitute a misdemeanor.
- (d) **Entry into isolation or quarantine premises.**
- (1) **Authorized entry.** The public health authority may authorize physicians, health care workers, or others access to individuals in isolation or quarantine as necessary to meet the needs of isolated or quarantined individuals.
  - (2) **Unauthorized entry.** No person, other than a person authorized by the public health authority, shall enter isolation or quarantine premises. Failure to obey this provision shall constitute a misdemeanor.
  - (3) **Potential isolation or quarantine.** Any person entering an isolation or quarantine premises with or without authorization of the public health authority may be isolated or quarantined pursuant to Section 604(a).

Section 605 **Procedures for isolation and quarantine.** During a public health emergency, the isolation and quarantine of an individual or groups of individuals shall be undertaken in accordance with the following procedures.

- (a) **Temporary isolation and quarantine without notice.**
- (1) **Authorization.** The public health authority may temporarily isolate or quarantine an individual or groups of individuals through a written directive if delay in imposing the isolation or quarantine would significantly jeopardize the public

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health authority's ability to prevent or limit the transmission of a contagious or possibly contagious disease to others.

- (2) **Content of directive.** The written directive shall specify the following: (i) the identity of the individual(s) or groups of individuals subject to isolation or quarantine; (ii) the premises subject to isolation or quarantine; (iii) the date and time at which isolation or quarantine commences; (iv) the suspected contagious disease if known.; and (v) a copy of Article 6 and relevant definitions of this Act.
  - (3) **Copies.** A copy of the written directive shall be given to the individual to be isolated or quarantined or, if the order applies to a group of individuals and it is impractical to provide individual copies, it may be posted in a conspicuous place in the isolation or quarantine premises.
  - (4) **Petition for continued isolation or quarantine.** Within ten (10) days after issuing the written directive, the public health authority shall file a petition pursuant to Section 605(b) for a court order authorizing the continued isolation or quarantine of the isolated or quarantined individual or groups of individuals.
- (b) **Isolation or quarantine with notice.**
- (1) **Authorization.** The public health authority may make a written petition to the trial court for an order authorizing the isolation or quarantine of an individual or groups of individuals.
  - (2) **Content of petition.** A petition under subsection (b)(1) shall specify the following: (i) the identity of the individual(s) or groups of individuals subject to isolation or quarantine; (ii) the premises subject to isolation or quarantine; (iii) the date and time at which isolation or quarantine commences; (iv) the suspected contagious disease if known; (v) a statement of compliance with the conditions and principles for isolation and quarantine of Section 604(b); and (vi) a statement of the basis upon which isolation or quarantine is justified in compliance with this Article. The petition shall be accompanied by the sworn affidavit of the public health authority attesting to the facts asserted in the petition, together with any further information that may be relevant and material to the court's consideration.
  - (3) **Notice.** Notice to the individuals or groups of individuals identified in the petition shall be accomplished within twenty-four (24) hours in accordance with the rules of civil procedure.
  - (4) **Hearing.** A hearing must be held on any petition filed pursuant to this subsection within five (5) days of filing of the petition. In extraordinary circumstances and for good cause shown the public health authority may apply to continue the hearing date on a petition filed pursuant to this Section for up to ten (10) days, which continuance the court may grant in its discretion giving due regard to the rights of the affected individuals, the protection of the public's health, the severity of the emergency and the availability of necessary witnesses and evidence.

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- (5) **Order.** The court shall grant the petition if, by a preponderance of the evidence, isolation or quarantine is shown to be reasonably necessary to prevent or limit the transmission of a contagious or possibly contagious disease to others.
- (i) An order authorizing isolation or quarantine may do so for a period not to exceed thirty (30) days.
- (ii) The order shall (a) identify the isolated or quarantined individuals or groups of individuals by name or shared or similar characteristics or circumstances; (b) specify factual findings warranting isolation or quarantine pursuant to this Act; (c) include any conditions necessary to ensure that isolation or quarantine is carried out within the stated purposes and restrictions of this Act; and (d) served on affected individuals or groups of individuals in accordance with the rules of civil procedure.
- (6) **Continuances.** Prior to the expiration of an order issued pursuant to Section 605(b)(5), the public health authority may move to continue isolation or quarantine for additional periods not to exceed thirty (30) days each. The court shall consider the motion in accordance with standards set forth in Section 605(b)(5).
- (c) **Relief from isolation and quarantine.**
- (1) **Release.** An individual or group of individuals isolated or quarantined pursuant to this Act may apply to the trial court for an order to show cause why the individual or group of individuals should not be released. The court shall rule on the application to show cause within forty-eight (48) hours of its filing. If the court grants the application, the court shall schedule a hearing on the order to show cause within twenty-four (24) hours from issuance of the order to show cause. The issuance of an order to show cause shall not stay or enjoin an isolation or quarantine order.
- (2) **Remedies for breach of conditions.** An individual or groups of individuals isolated or quarantined pursuant to this Act may request a hearing in the trial court for remedies regarding breaches to the conditions of isolation or quarantine. A request for a hearing shall not stay or enjoin an isolation or quarantine order.
- (i) Upon receipt of a request under this subsection alleging extraordinary circumstances justifying the immediate granting of relief, the court shall fix a date for hearing on the matters alleged not more than twenty-four (24) hours from receipt of the request.
- (ii) Otherwise, upon receipt of a request under this subsection the court shall fix a date for hearing on the matters alleged within five (5) days from receipt of the request.
- (3) **Extensions.** In any proceedings brought for relief under this subsection, in extraordinary circumstances and for good cause shown the public health authority

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may move the court to extend the time for a hearing, which extension the court in its discretion may grant giving due regard to the rights of the affected individuals, the protection of the public's health, the severity of the emergency and the availability of necessary witnesses and evidence.

- (d) **Proceedings.** A record of the proceedings pursuant to this Section shall be made and retained. In the event that, given a state of public health emergency, parties can not personally appear before the court, proceedings may be conducted by their authorized representatives and be held via any means that allows all parties to fully participate.
- (e) **Court to appoint counsel and consolidate claims.**
- (1) **Appointment.** The court shall appoint counsel at state expense to represent individuals or groups of individuals who are or who are about to be isolated or quarantined pursuant to the provisions of this Act and who are not otherwise represented by counsel. Appointments shall be made in accordance with the procedures to be specified in the Public Health Emergency Plan and shall last throughout the duration of the isolation or quarantine of the individual or groups of individuals. The public health authority must provide adequate means of communication between such individuals or groups and their counsel.
- (2) **Consolidation.** In any proceedings brought pursuant to this Section, to promote the fair and efficient operation of justice and having given due regard to the rights of the affected individuals, the protection of the public's health, the severity of the emergency and the availability of necessary witnesses and evidence, the court may order the consolidation of individual claims into group or claims where:
- (i) the number of individuals involved or to be affected is so large as to render individual participation impractical;
  - (ii) there are questions of law or fact common to the individual claims or rights to be determined;
  - (iii) the group claims or rights to be determined are typical of the affected individuals' claims or rights; and
  - (iv) the entire group will be adequately represented in the consolidation.

*Legislative History.* Sections 604 and 605 were adapted from CAL. HEALTH & SAFETY CODE §§ 120130, 120225 (West 1996); N.H. REV. STAT. ANN. § 141-C:11 -14; CONN. GEN. STAT. ANN. § 19a-221 (West 1958).

Section 606 **Collection of laboratory specimens; performance of tests.** The public health authority may, for such period as the state of public health emergency exists, collect specimens and perform tests on living persons as provided in Section 602 and also upon deceased persons and any animal (living or deceased), and acquire any previously collected specimens or test results that are reasonable and necessary to respond to the public health emergency.

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## 65-118

### Chapter 65.--PUBLIC HEALTH

#### Article 1.--SECRETARY OF HEALTH AND ENVIRONMENT, ACTIVITIES

**65-118. Reporting to local health authority as to infectious or contagious diseases; persons reporting; immunity from liability; confidentiality of information; disclosure.** (a) Whenever any person licensed to practice the healing arts or engaged in a postgraduate training program approved by the state board of healing arts, licensed dentist, licensed professional nurse, licensed practical nurse administrator of a hospital, licensed adult care home-administrator, licensed physician assistant, licensed social worker, teacher or school administrator knows or has information indicating that a person is suffering from or has died from a reportable infectious or contagious disease as defined in rules and regulations, such knowledge or information shall be reported immediately to the county or joint board of health or the local health officer, together with the name and address of the person who has or is suspected of having the infectious or contagious disease, or the name and former address of the deceased individual who had or was suspected of having such a disease. In the case of a licensed hospital or adult care home, the administrator may designate an individual to receive and make such reports. The secretary of health and environment shall, through rules and regulations, make provision for the consolidation of reports required to be made under this section when the person required to make the report is working in a licensed hospital or adult care home. Laboratories certified under the federal clinical laboratories improvement act pursuant to 42 code of federal regulations, 493 shall report the results of microbiologic cultures, examinations, immunologic essays for the presence of antigens and antibodies and any other laboratory tests which are indicative of the presence of a reportable infectious or contagious disease to the department of health and environment. The director of the division of health may use information from death certificates for disease investigation purposes.

(b) Any person who is an individual member of a class of persons designated under subsection (a) of this section and who reports the information required to be reported under such subsection in good faith and without malice to a county or joint board of health, a local health officer or the department of health and environment shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed in an action resulting from such report. Any such person shall have the same immunity with respect to participation in any judicial proceeding resulting from such report.

(c) Information required to be reported under subsection (a) of this section shall be confidential and shall not be disclosed or made public, upon subpoena or otherwise, beyond the requirements of subsection (a) of this section or subsection (a) of K.S.A. 65-119, except such information may be disclosed: (1) If no person can be identified in the information to be disclosed and the disclosure is for statistical purposes;

(2) if all persons who are identifiable in the information to be disclosed consent in writing to its disclosure;

(3) if the disclosure is necessary, and only to the extent necessary, to protect the public health;

(4) if a medical emergency exists and the disclosure is to medical personnel qualified to treat infectious or contagious diseases. Any information disclosed pursuant to this paragraph shall be disclosed only to the extent necessary to protect the health or life of a named party; or

(5) if the information to be disclosed is required in a court proceeding involving child abuse and the information is disclosed *in camera*.

**History:** L. 1901, ch. 285, § 2; R.S. 1923, 65-118; L. 1953, ch. 283, § 1; L. 1976, ch. 262, § 1; L. 1979, ch. 189, § 1; L. 1998, ch. 35, § 1; L. 2000, ch. 162, § 17; Feb. 1, 2001.



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## 65-119

### Chapter 65.--PUBLIC HEALTH

#### Article 1.--SECRETARY OF HEALTH AND ENVIRONMENT, ACTIVITIES

**65-119. Duties and powers of local health officers; contagious diseases; confidentiality of information; disclosure, when.** (a) Any county or joint board of health or local health officer having knowledge of any infectious or contagious disease, or of a death from such disease, within their jurisdiction, shall immediately exercise and maintain a supervision over such case or cases during their continuance, seeing that all such cases are properly cared for and that the provisions of this act as to isolation, restriction of communication, quarantine and disinfection are duly enforced. The county or joint board of health or local health officer shall communicate without delay all information as to existing conditions to the secretary of health and environment. The local health officer shall confer personally, if practicable, otherwise by letter, with the person in attendance upon the case, as to its future management and control. The county or joint board of health or local health officer is hereby empowered and authorized to prohibit public gatherings when necessary for the control of any and all infectious or contagious disease.

(b) Any disclosure or communication of information relating to infectious or contagious diseases required to be disclosed or communicated under subsection (a) of this section shall be confidential and shall not be disclosed or made public beyond the requirements of subsection (a) of this section or subsection (a) of K.S.A. 65-118, except as otherwise permitted by subsection (c) of K.S.A. 65-118.

**History:** L. 1901, ch. 285, § 3; R.S. 1923, 65-119; L. 1953, ch. 283, § 2; L. 1974, ch. 352, § 8; L. 1976, ch. 262, § 2; L. 1979, ch. 189, § 2; July 1.

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**65-122**

**Chapter 65.--PUBLIC HEALTH**

**Article 1.--SECRETARY OF HEALTH AND ENVIRONMENT, ACTIVITIES**

**65-122. Schools and child care facilities; non-admissions and exclusions; readmissions, when.** No person afflicted with an infectious or contagious disease dangerous to the public health shall be admitted into any public, parochial or private school or licensed child care facility. It shall be the duty of the parent or guardian, and the principal or other person in charge of any public, parochial, private school or licensed child care facility to exclude therefrom any child or other person affected with a disease suspected of being infectious or contagious until the expiration of the prescribed period of isolation or quarantine for the particular infectious or contagious disease. If the attending person licensed to practice medicine and surgery or local health officer finds upon examination that the person affected with a disease, suspected of being infectious or contagious is not suffering from an infectious or contagious disease, he or she may submit a certificate to this effect to the person in charge of the public, parochial, private school or licensed child care facility and such person shall be readmitted to school or to the child care facility.

**History:** L. 1901, ch. 285, § 6; R.S. 1923, 65-122; L. 1953, ch. 283, § 3; L. 1976, ch. 262, § 3; July 1.

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**65-123**

**Chapter 65.--PUBLIC HEALTH**

**Article 1.--SECRETARY OF HEALTHAND ENVIRONMENT, ACTIVITIES**

**65-123. Funeral services.** Funeral services for individuals who have died while suffering from an infectious or contagious disease shall be conducted in accordance with rules and regulations of the secretary of health and environment. In diseases requiring quarantine of contacts, a public funeral service may be permitted only if the casket remains closed and those contacts subject to quarantine who attend the funeral are adequately segregated from the public.

**History:** L. 1901, ch. 285, § 7; R.S. 1923, 65-123; L. 1953, ch. 283, § 4; L. 1974, ch. 352, § 9; L. 1976, ch. 262, § 4; July 1.

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**65-126**

**Chapter 65.--PUBLIC HEALTH**

**Article 1.--SECRETARY OF HEALTHAND ENVIRONMENT, ACTIVITIES**

**65-126. Quarantine of city, township or county.** Whenever the county or joint board of health or the local health officer neglects to properly isolate and quarantine infectious or contagious diseases and persons afflicted with or exposed to such diseases as may be necessary to prevent the spread thereof, the secretary of health and environment may quarantine any area in which any of these diseases may show a tendency to become epidemic.

**History:** L. 1901, ch. 285, § 10; R.S. 1923, 65-126; L. 1953, ch. 283, § 5; L. 1974, ch. 352, § 10; L. 1976, ch. 262, § 5; July 1.

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## 65-128

### Chapter 65.--PUBLIC HEALTH

#### Article 1.--SECRETARY OF HEALTHAND ENVIRONMENT, ACTIVITIES

**65-128. Rules and regulations of secretary for isolation and quarantine; publication; definition.** (a) For the protection of the public health and for the control of infectious or contagious diseases, the secretary of health and environment by rules and regulations shall designate such diseases as are infectious or contagious in their nature, and the secretary of health and environment is authorized to adopt rules and regulations for the isolation and quarantine of such diseases and persons afflicted with or exposed to such diseases as may be necessary to prevent the spread and dissemination of diseases dangerous to the public health.

(b) As used in K.S.A. 65-118, 65-119, 65-122, 65-123, 65-126 and 65-129, and amendments thereto, "infectious or contagious disease" means any disease designated by the secretary of health and environment as an infectious or contagious disease in accordance with subsection (a) but the infectious or contagious disease acquired immune deficiency syndrome or any causative agent thereof shall not constitute an infectious or contagious disease for the purposes of K.S.A. 65-118, 65-119, 65-122, 65-123, 65-126 and 65-129, and amendments thereto, because such disease is subject to the provisions of K.S.A. 65-6001 through 65-6007 and amendments thereto.

**History:** L. 1917, ch. 205, § 1; R.S. 1923, 65-128; L. 1953, ch. 283, § 6; L. 1965, ch. 506, § 25; L. 1974, ch. 352, § 11; L. 1976, ch. 262, § 7; L. 1988, ch. 232, § 9; July 1.

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**65-129**

**Chapter 65.--PUBLIC HEALTH**

**Article 1.--SECRETARY OF HEALTHAND ENVIRONMENT, ACTIVITIES**

**65-129. Penalties for unlawful acts.** Any person violating, refusing or neglecting to obey any of the rules and regulations adopted by the secretary of health and environment for the prevention, suppression and control of infectious or contagious diseases, or who leaves any isolation area of a hospital or other quarantined area without the consent of the local health officer having jurisdiction, or who evades or breaks quarantine or knowingly conceals a case of infectious or contagious disease shall be guilty of a class C misdemeanor.

**History:** L. 1917, ch. 205, § 2; R.S. 1923, 65-129; L. 1974, ch. 352, § 12; L. 1976, ch. 262, § 8; July 1.

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**13-512**

**Chapter 13.--CITIES OF THE FIRST CLASS**  
**PART I.--GOVERNMENT BY MAYOR AND COUNCIL AND GENERAL LAWS**  
**Article 5.--EXECUTIVE DEPARTMENT; POWERS AND DUTIES OF OFFICERS**

**13-512. Enforcement of ordinances; neglect of duty by officers; jurisdiction outside city.** The mayor shall be active and vigilant in enforcing all laws and ordinances for the government of the city, and he or she shall cause all subordinate officers to be dealt with promptly for any neglect or violation of duty. The mayor shall have such jurisdiction as may be vested in him or her by ordinance over all places within five miles of the corporate limits of the city for the enforcement of any health or quarantine ordinance, or regulation thereof.

**History:** L. 1903, ch. 122, § 76; March 18; R.S. 1923, § 13-512.

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**14-307**

**Chapter 14.--CITIES OF THE SECOND CLASS**

**PART I.--GOVERNMENT BY MAYOR AND COUNCIL AND GENERAL LAWS APPLICABLE TO CITIES OF THE SECOND CLASS**

**Article 3.--POWERS AND DUTIES OF MAYOR**

**14-307. Enforcement of laws and ordinances; jurisdiction.** The mayor shall be active and vigilant in enforcing all laws and ordinances for the government of the city, and the mayor shall cause all subordinate officers to be dealt with promptly for any neglect or violation of duty, and the mayor shall have such jurisdiction as may be vested in the mayor by ordinance over all places within five miles of the corporate limits of the city for the enforcement of any health, quarantine, cemetery or waterworks ordinance and regulation thereof.

**History:** L. 1872, ch. 100, § 27; March 13; R.S. 1923, § 14-307.

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