

Representative Sheryl L. Allen proposes the following substitute bill:

PUBLIC HEALTH AUTHORITY AMENDMENTS

2002 GENERAL SESSION

STATE OF UTAH

Sponsor: Sheryl L. Allen

This act modifies the Health Code. The act creates the Detection of Public Health Emergencies Act. The act requires health care providers to report to the Department of Health when the health care provider suspects that an individual has been exposed to or harbors an illness or condition resulting from bioterrorism, an epidemic or pandemic disease, or other highly fatal infectious agent. The act authorizes a health care provider to report certain emergency illnesses and health conditions. The act specifies the manner and content of reports. The act authorizes the Department of Health to investigate reports of suspected bioterrorism or highly fatal, infectious disease. The act provides for limited sharing of information as necessary to abate a public health emergency. The act provides for enforcement. This act sunsets on July 1, 2004.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

63-55-226, as last amended by Chapter 3, Laws of Utah 2001

ENACTS:

26-23b-101, Utah Code Annotated 1953

26-23b-102, Utah Code Annotated 1953

26-23b-103, Utah Code Annotated 1953

26-23b-104, Utah Code Annotated 1953

26-23b-105, Utah Code Annotated 1953

26-23b-106, Utah Code Annotated 1953

26-23b-107, Utah Code Annotated 1953



26 **26-23b-108**, Utah Code Annotated 1953

27 **26-23b-109**, Utah Code Annotated 1953

28 **26-23b-110**, Utah Code Annotated 1953

29 *Be it enacted by the Legislature of the state of Utah:*

30 Section 1. Section **26-23b-101** is enacted to read:

31 **CHAPTER 23b. DETECTION OF PUBLIC HEALTH EMERGENCIES ACT**

32 **26-23b-101. Title.**

33 This chapter is known as the "Detection of Public Health Emergencies Act."

34 Section 2. Section **26-23b-102** is enacted to read:

35 **26-23b-102. Definitions.**

36 As used in this chapter:

37 (1) "Bioterrorism" means:

38 (a) the intentional use of any microorganism, virus, infectious substance, or biological
39 product to cause death, disease, or other biological malfunction in a human, an animal, a plant, or
40 another living organism in order to influence, intimidate, or coerce the conduct of government or
41 a civilian population; and

42 (b) includes anthrax, botulism, small pox, plague, tularemia, and viral hemorrhagic fevers.

43 (2) "Department" means the Department of Health created in Section 26-1-4 and a local
44 health department as defined in Section 26A-1-102.

45 (3) "Diagnostic information" means a clinical facility's record of individuals who present
46 for treatment, including the reason for the visit, chief complaint, presenting diagnosis, final
47 diagnosis, and any pertinent lab results.

48 (4) "Epidemic or pandemic disease":

49 (a) means the occurrence in a community or region of cases of an illness clearly in excess
50 of normal expectancy; and

51 (b) includes diseases designated by the Department of Health which have the potential to
52 cause serious illness or death.

53 (5) "Health care provider" shall have the meaning provided for in Section 78-14-3.

54 (6) "Public health emergency" means an occurrence or imminent credible threat of an
55 illness or health condition, caused by bioterrorism, epidemic or pandemic disease, or novel and
56 highly fatal infectious agent or biological toxin, that poses a substantial risk of a significant

57 number of human fatalities or incidents of permanent or long-term disability. Such illness or
 58 health condition includes an illness or health condition resulting from a natural disaster.

59 (7) "Reportable emergency illness and health condition" includes the diseases, conditions,
 60 or syndromes designated by the Utah Department of Health.

61 Section 3. Section **26-23b-103** is enacted to read:

62 **26-23b-103. Mandatory reporting requirements -- Contents of reports -- Penalties.**

63 (1) (a) A health care provider shall report to the department any case of any person who
 64 the provider knows has a confirmed case of, or who the provider believes in his professional
 65 judgment is sufficiently likely to harbor any illness or health condition that may be caused by:

66 (i) bioterrorism;

67 (ii) epidemic or pandemic disease; or

68 (iii) novel and highly fatal infectious agents or biological toxins which might pose a
 69 substantial risk of a significant number of human fatalities or incidences of permanent or long-term
 70 disability.

71 (b) A health care provider shall immediately submit the report required by Subsection
 72 (1)(a) within 24 hours of concluding that a report is required under Subsection (1)(a).

73 (2) (a) A report required by this section shall be submitted electronically, verbally, or in
 74 writing to the department or appropriate local health department.

75 (b) A report submitted pursuant to Subsection (1) shall include, if known:

76 (i) diagnostic information on the specific illness or health condition that is the subject of
 77 the report, and, if transmitted electronically, diagnostic codes assigned to the visit;

78 (ii) the patient's name, date of birth, sex, race, occupation, and current home and work
 79 address and phone number;

80 (iii) the name, address, and phone number of the health care provider; and

81 (iv) the name, address, and phone number of the reporting individual.

82 (3) The department may impose a sanction against a health care provider for failure to
 83 make a report required by this section only if the department can show by clear and convincing
 84 evidence that a health care provider ~~is~~ **WILLFULLY FAILED TO FILE** a report

84a ~~is~~ **based on:**

85 ~~(a) the information available to the provider at the time the department claims the report~~
 86 ~~should have been filed; and~~

87 ~~(b) the exercise of the health care provider's professional judgment] ~~is~~ .~~

88 Section 4. Section 26-23b-104 is enacted to read:

89 **26-23b-104. Authorization to report.**

90 (1) A health care provider is authorized to report to the department any case of a reportable
91 emergency illness or health condition in any person when:

92 (a) the health care provider knows of a confirmed case; or

93 (b) the health care provider believes, based on his professional judgment that a person
94 likely harbors a reportable emergency illness or health condition.

95 (2) A report pursuant to this section shall include, if known:

96 (a) the name of the facility submitting the report;

97 (b) a patient identifier that allows linkage with the patient's record for follow-up
98 investigation if needed;

99 (c) the date and time of visit;

100 (d) the patient's age and sex;

101 (e) the zip code of the patient's residence;

102 (f) the reportable illness or condition detected or suspected;

103 (g) diagnostic information and, if available, diagnostic codes assigned to the visit; and

104 (h) whether the patient was admitted to the hospital.

105 (3) **h (a) h** If the department determines that a public health emergency exists, the department
106 may, with the concurrence of **h THE GOVERNOR AND h** the executive director **h OR IN THE**
106a **ABSENCE OF THE EXECUTIVE**

106a1 **DIRECTOR, HIS DESIGNEE h**, issue a public health emergency order and

107 mandate reporting under this section for a limited reasonable period of time, as necessary to
108 respond to the public health emergency.

108a **h (b) THE DEPARTMENT MAY NOT MANDATE REPORTING UNDER THIS SUBSECTION FOR**
108b **MORE THAN 90 DAYS. IF MORE THAN 90 DAYS IS NEEDED TO ABATE THE PUBLIC HEALTH**
108c **EMERGENCY DECLARED UNDER SUBSECTION (3)(a), THE DEPARTMENT MUST OBTAIN THE**
108d **CONCURRENCE OF THE GOVERNOR TO EXTEND THE PERIOD OF TIME BEYOND 90 DAYS. h**

109 (4) (a) Unless the provisions of Subsection (3) apply, a health care provider is not subject
110 to penalties for failing to submit a report under this section.

111 (b) If the provisions of Subsection (3) apply, a health care provider is subject to the
112 penalties of Subsection 26-23-103(3) for failure to make a report under this section.

113 Section 5. Section 26-23b-105 is enacted to read:

114 **26-23b-105. Pharmacy reporting requirements.**

115 (1) Notwithstanding the provisions of Subsection 26-23b-103(1)(a), a pharmacist shall
116 report unusual drug-related events as described in Subsection (2).

117 (2) Unusual drug-related events that require a report include:

118 (a) an unusual increase in the number of prescriptions filled for antimicrobials;

119 (b) any prescription that treats a disease that has bioterrorism potential if that prescription
120 is unusual or in excess of the expected frequency; and

121 (c) an unusual increase in the number of requests for information about or sales of
122 over-the-counter pharmaceuticals to treat conditions **h** WHICH MAY SUGGEST THE PRESENCE OF
122a ONE OF THE ILLNESSES OR CONDITIONS DESCRIBED IN SECTIONS 26-23b-103 OR 26-23b-104 AND
122b WHICH ARE **h** designated by department rule.

123 (3) (a) A pharmacist shall submit the report required by this section within 24 hours after
124 the pharmacist suspects, in his professional judgement, that an unusual drug-related event has
125 occurred.

126 (b) If a pharmacy is part of a healthcare facility subject to the reporting requirements of
127 this chapter, the pharmacist in charge shall make the report under this section on behalf of the
128 health care facility.

129 (4) (a) The report required by this section shall be submitted in accordance with Subsection
130 26-23b-103(2)(a).

131 (b) A report shall include the name and location of the reporting pharmacist, the name and
132 type of pharmaceuticals that are the subject of the unusual increase in use, and if known, the
133 suspected illness or health condition that is the subject of the report.

134 (5) A pharmacist is subject to the penalties under Subsection 26-23b-103(3) for failing to
135 make a report required by this section.

136 Section 6. Section **26-23b-106** is enacted to read:

137 **26-23b-106. Medical laboratory reporting requirements.**

138 (1) (a) Notwithstanding the provisions of Subsection 26-23b-103(1), the director of a
139 medical laboratory located in this state is responsible for reporting results of a laboratory test that
140 confirm a condition or illness described in Subsection 26-23b-103(1) within 24 hours after
141 obtaining the results of the test. This reporting requirement also applies to results obtained on
142 specimens sent to an out-of-state laboratory for analysis.

143 (2) The director of a medical laboratory located outside this state that receives a specimen
144 obtained inside this state is responsible for reporting the results of any test that confirm a condition
145 or illness described in Subsection 26-23b-103(1), within 24 hours of obtaining the results, provided
146 that the laboratory that performs the test has agreed to the reporting requirements of this state.

147 (3) If a medical laboratory is part of a health care facility subject to the reporting
148 requirements of this chapter, the director of the medical laboratory shall make the report required
149 by this section on behalf of the health care facility.

150 (4) The report required by this section shall be submitted in accordance with Subsection
151 26-23b-103(2).

152 (5) The director of a medical laboratory is subject to the penalties of Subsection
153 26-23b-103(3) for failing to make a report required by this section.

154 Section 7. Section **26-23b-107** is enacted to read:

155 **26-23b-107. Exemptions from liability.**

156 (1) A health care provider may not be discharged, suspended, disciplined, or harassed for
157 making a report pursuant to this chapter.

158 (2) A health care provider may not incur any civil or criminal liability as a result of making
159 any report under this chapter so long as the report is made in good faith.

160 Section 8. Section **26-23b-108** is enacted to read:

161 **26-23b-108. Investigation of suspected bioterrorism and diseases.**

162 (1) The department shall:

163 (a) ascertain the existence of cases of an illness or condition caused by the factors
164 described in Subsection 26-23b-103(1) **h** AND SUBSECTION 26-23b-104(1) **h** ;

165 (b) investigate all such cases for sources of infection or exposure;

166 (c) ensure that any cases, suspected cases, and exposed persons are subject to proper
167 control measures; and

168 (d) define the distribution of the suspected illness or health condition.

169 (2) (a) Acting on information received from the reports required by this chapter, or other
170 reliable information, the department shall identify all individuals thought to have been exposed to
171 an illness or condition described in Subsection 26-23b-103(1).

172 (b) The department may request information from a health care provider concerning an
173 individual's identifying information as described in Subsection 26-23b-103(2)(b) when:

174 (i) the department is investigating a potential illness or condition described in Subsection
175 26-23b-103(1) and the health care provider has not submitted a report to the department with the
176 information requested; or

177 (ii) the department has received a report from a pharmacist under Section 26-23b-105

177a **h [or] , h**

178 a medical laboratory under Section 26-23b-106 **h** , OR ANOTHER HEALTHCARE PROVIDER UNDER
178a SUBSECTION 26-23b-104(1) **h** and the department believes that further
179 investigation is necessary to protect the public health.

180 (c) A health care provider shall submit the information requested under this section to the

181 department within 24 hours after receiving a request from the department.

182 (3) The department shall counsel and interview identified individuals as appropriate to:

183 (a) assist in the positive identification of other cases and exposed individuals;

184 (b) develop information relating to the source and spread of the illness or condition; and

185 (c) obtain the names, addresses, phone numbers, or other identifying information of any

186 other person from whom the illness or health condition may have been contracted and to whom

187 the illness or condition may have spread.

188 (4) The department shall, for examination purposes, close, evacuate, or decontaminate any

189 facility when the department reasonably believes that such facility or material may endanger the

190 public health due to a condition or illness described in Subsection 26-23b-103(1).

191 (5) The department will destroy personally identifying health information about an

192 individual collected by the department as a result of a report under this chapter upon the earlier of:

193 (a) the department's determination that the information is no longer necessary to carry out

194 an investigation under this chapter; or

195 (b) 180 days after the information is collected.

196 Section 9. Section **26-23b-109** is enacted to read:

197 **26-23b-109. Enforcement.**

198 The department may enforce the provisions of this chapter in accordance with existing

199 enforcement laws and regulations.

200 Section 10. Section **26-23b-110** is enacted to read:

201 **26-23b-110. Information sharing with public safety authorities.**

202 (1) For purposes of this section, "public safety authority" means a local, state, or federal

203 law enforcement authority **h** **INCLUDING THE DIVISION OF EMERGENCY SERVICES HOMELAND**

203a **SECURITY h**, emergency medical services personnel, and firefighters.

204 (2) Notwithstanding the provisions of Title 63, Chapter 2, Government Records Access

205 and Management Act:

206 (a) whenever a public safety authority suspects a case of a reportable illness or condition

207 under the provisions of this chapter, it shall immediately notify the department;

208 (b) whenever the department learns of a case of a reportable illness or condition under this

209 chapter that it reasonably believes has the potential to be caused by one of the factors listed in

210 Subsection 26-23b-103(1), it shall immediately notify the appropriate public safety authority; and

211 (c) sharing of information reportable under the provisions of this chapter between persons

212 authorized by this chapter shall be limited to information necessary for the treatment, control,
213 investigation, and prevention of a public health emergency.

214 (3) Except to the extent inconsistent with this chapter, Sections 26-6-27 and 26-6-28 apply
215 to this chapter.

216 Section 11. Section **63-55-226** is amended to read:

217 **63-55-226. Repeal dates, Title 26.**

218 (1) Title 26, Chapter 1, Department of Health Organization, is repealed July 1, 2006.

219 (2) Title 26, Chapter 4, Utah Medical Examiner Act, is repealed July 1, 2010.

220 (3) Title 26, Chapter 9f, Utah Telehealth Commission, is repealed July 1, 2002.

221 (4) Title 26, Chapter 10, Family Health Services, is repealed July 1, 2010.

222 (5) Title 26, Chapter 18, Medical Assistance Act, is repealed July 1, 2004.

223 (6) Title 26, Chapter 23b, Detection of Public Health Emergencies Act is repealed July 1,
224 2004.

225 [~~6~~] (7) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2004.