

1 **PUBLIC HEALTH AMENDMENTS**

2 2006 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Bradley G. Last**

5 Senate Sponsor: Sheldon L. Killpack

6

7 **LONG TITLE**

8 **General Description:**

9 This bill amends the Communicable Diseases, Treatment, Isolation, and Quarantine
10 Procedures of the Health Code to provide procedures for responding to group exposures
11 to communicable diseases and public health threats.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ amends definitions;
- 15 ▶ gives the Department of Health administrative rulemaking authority;
- 16 ▶ authorizes the department to:
- 17 • issue a temporary order of restriction based on credible scientific information;
 - 18 • establish and maintain places of restriction; and
 - 19 • issue a verbal order of restriction in an emergency for up to 24 hours;
- 20 ▶ requires orders of restriction to use the least intrusive option and the shortest period
21 of time;
- 22 ▶ specifies the required notice and rights for individuals subject to an order of
23 restriction;
- 24 ▶ requires judicial review of an order of restriction when consent to the order of
25 restriction is not obtained;
- 26 ▶ requires law enforcement to assist with enforcement of an order of restriction;
- 27 ▶ requires health care professionals and health facilities to provide medical records



28 relevant to the orders of restriction to the department and establishes reasonable charges for the
29 records; and

30 ▶ makes technical amendments, including using consistent terms.

31 **Monies Appropriated in this Bill:**

32 None

33 **Other Special Clauses:**

34 None

35 **Utah Code Sections Affected:**

36 AMENDS:

37 **26-6-4**, as last amended by Chapter 211, Laws of Utah 1996

38 **26-6b-1**, as enacted by Chapter 211, Laws of Utah 1996

39 **26-6b-2**, as enacted by Chapter 211, Laws of Utah 1996

40 **26-6b-3**, as last amended by Chapter 71, Laws of Utah 2005

41 **26-6b-4**, as last amended by Chapter 86, Laws of Utah 2000

42 **26-6b-5**, as enacted by Chapter 211, Laws of Utah 1996

43 **26-6b-6**, as last amended by Chapter 21, Laws of Utah 1999

44 **26-6b-8**, as enacted by Chapter 211, Laws of Utah 1996

45 **26-6b-9**, as enacted by Chapter 211, Laws of Utah 1996

46 ENACTS:

47 **26-6b-3.1**, Utah Code Annotated 1953

48 **26-6b-3.2**, Utah Code Annotated 1953

49 **26-6b-3.3**, Utah Code Annotated 1953

50 **26-6b-3.4**, Utah Code Annotated 1953

51

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

53 Section 1. Section **26-6-4** is amended to read:

54 **26-6-4. Involuntary examination, treatment, isolation, and quarantine.**

55 (1) The following individuals or groups of individuals are subject to [~~restriction under~~
56 ~~a department order for~~] examination, treatment, quarantine, or isolation under a department
57 order of restriction:

58 (a) an individual who is infected or suspected to be infected with a communicable

59 disease that poses a threat to the public health and who does not take action as required by the
60 department or the local health department to prevent spread of the disease;

61 (b) an individual who is contaminated or suspected to be contaminated with an
62 infectious agent that poses a threat to the public health and that could be spread to others if
63 remedial action is not taken; ~~and~~

64 (c) an individual who is in a condition or suspected condition which, if exposed to
65 others, poses a ~~serious~~ threat to public health ~~[hazard.]~~, or is in a condition which if treatment
66 is not completed will pose a threat to public health; and

67 (d) an individual who is contaminated or suspected to be contaminated with a chemical
68 or biological agent that poses a threat to the public health and that could be spread to others if
69 remedial action is not taken.

70 (2) If an individual refuses to take action as required by the department or the local
71 health department to prevent the spread of a communicable disease, infectious agent, or
72 contamination, the department or the local health department may order ~~temporary~~
73 involuntary examination, treatment, quarantine, or isolation of the individual and may petition
74 the district court to order involuntary examination, treatment, quarantine, or isolation in
75 accordance with Title 26, Chapter 6b, Communicable Diseases - Treatment, Isolation, and
76 Quarantine Procedures.

77 ~~[(3) (a) To the extent that other sources and insurance do not pay for costs incurred;~~
78 ~~the cost of involuntary treatment, care, and maintenance necessary to prevent the spread of the~~
79 ~~communicable disease, infectious agent, or contamination of individuals subjected to~~
80 ~~involuntary treatment, quarantine, or isolation shall be provided for by the department at a~~
81 ~~reasonable rate.]~~

82 ~~[(b) If the individual is able to pay all or any part of the cost of his treatment, care, and~~
83 ~~maintenance, the department shall collect and retain the same for this program.]~~

84 Section 2. Section **26-6b-1** is amended to read:

85 **26-6b-1. Applicability of chapter -- Administrative procedures.**

86 (1) This chapter applies to involuntary examination, treatment, isolation, and
87 quarantine actions applied to individuals or groups of individuals by the department or a local
88 health department.

89 (2) The provisions of this chapter supersede the provisions of Title 63, Chapter 46b,

90 Administrative Procedures Act.

91 (3) The Department of Health may adopt rules in accordance with Title 63, Chapter
92 46a, Utah Administrative Rulemaking Act, as necessary to administer the provisions of this
93 chapter.

94 Section 3. Section **26-6b-2** is amended to read:

95 **26-6b-2. Definitions.**

96 As used in this chapter[, "subject"]:

97 (1) "Department" means the Department of Health or a local health department as
98 defined in Section 26A-1-102.

99 (2) "First responder" means:

100 (a) a law enforcement officer as defined in Section 53-13-103;

101 (b) emergency medical service personnel as defined in Section 26-8a-102;

102 (c) firefighters; and

103 (d) public health personnel having jurisdiction over the location where an individual
104 subject to restriction is found.

105 (3) "Order of restriction" means an order issued by a department or a district court
106 which requires an individual or group of individuals who are subject to restriction to submit to
107 an examination, treatment, isolation, or quarantine.

108 (4) "Public health official" means:

109 (a) the executive director of the Department of Health, or the executive director's
110 authorized representative; or

111 (b) the executive director of a local health department as defined in Section 26A-1-102,
112 or the executive director's authorized representative.

113 (5) "Subject to [supervision] restriction" as applied to an individual, or a group of
114 individuals, means the individual [is] or group of individuals are:

115 [(1)] (a) infected or suspected to be infected with a communicable disease that poses a
116 threat to the public health and who does not take action as required by the department [~~or the~~
117 local health department] to prevent spread of the disease;

118 [(2)] (b) contaminated or suspected to be contaminated with an infectious agent that
119 poses a threat to the public health, and that could be spread to others if remedial action is not
120 taken;

121 ~~[(3)]~~ (c) in a condition or suspected condition which, if the individual is exposed to
 122 others, poses a ~~[serious]~~ threat to public health ~~[hazard]~~, or is in a condition which if treatment
 123 is not completed ~~[he]~~ the individual will ~~[soon]~~ pose a ~~[serious]~~ threat to public health
 124 ~~[hazard]~~; or

125 ~~[(4)]~~ (d) contaminated or suspected to be contaminated with a chemical or biological
 126 agent that poses a threat to the public health and that could be spread to others if remedial
 127 action is not taken.

128 Section 4. Section **26-6b-3** is amended to read:

129 **26-6b-3. Order of restriction.**

130 (1) The department~~[-, or the local health department]~~ having jurisdiction over the
 131 location where an individual, or a group of individuals who ~~[is]~~ are subject to ~~[supervision is]~~
 132 restriction are found, may:

133 (a) issue ~~[an]~~ a written order of restriction for the ~~[individual's temporary involuntary~~
 134 ~~treatment, quarantine, or isolation]~~ individual or group of individuals pursuant to Subsection
 135 26-1-30(2), or 26A-1-114(1)(b)~~[-, or Section 26-6-4]~~ upon compliance with the requirements of
 136 this ~~[section.]~~ chapter; and

137 ~~[(2) An individual who is subject to supervision who willfully fails to voluntarily~~
 138 ~~submit to treatment, quarantine, or isolation as requested by the department or the local health~~
 139 ~~department may be ordered to submit to treatment, quarantine, or isolation upon:]~~

140 ~~[(a) written affidavit of the department or the local health department stating:]~~

141 ~~[(i) a belief that the individual who is subject to supervision is likely to fail to submit to~~
 142 ~~treatment, quarantine, or isolation if not immediately restrained;]~~

143 ~~[(ii) this failure would pose a threat to the public health; and]~~

144 ~~[(iii) the personal knowledge of the individual's condition or the circumstances that~~
 145 ~~lead to that belief; and]~~

146 ~~[(b) a written statement by a licensed physician indicating the physician finds the~~
 147 ~~individual is subject to supervision:]~~

148 ~~[(3) A temporary order issued under Subsection (1) may:]~~

149 ~~[(a) be made by the department or by the local health department;]~~

150 ~~[(b) order the individual to submit to reasonable involuntary treatment, quarantine, and~~
 151 ~~isolation, or any of these; and]~~

152 ~~[(c) not require an individual to be subject to involuntary quarantine, isolation, or~~
153 ~~treatment for more than five days, excluding Saturdays, Sundays, and legal holidays, unless a~~
154 ~~petition has been filed with the district court pursuant to Section 26-6b-5.]~~

155 (b) issue a verbal order of restriction for an individual or group of individuals pursuant
156 to Subsection (2)(c).

157 (2) (a) A department's determination to issue an order of restriction shall be based upon
158 the totality of circumstances reported to and known by the department, including:

159 (i) observation;

160 (ii) information that the department determines is credible and reliable information;

161 and

162 (iii) knowledge of current public health risks based on medically accepted guidelines as
163 may be established by the Department of Health by administrative rule.

164 (b) An order of restriction issued by a department must:

165 (i) in the opinion of the public health official, be for the shortest reasonable period of
166 time necessary to protect the public health;

167 (ii) use the least intrusive method of restriction that, in the opinion of the department,
168 is reasonable based on the totality of circumstances known to the health department issuing the
169 order of restriction;

170 (iii) be in writing unless the provisions of Subsection (2)(c) apply; and

171 (iv) contain notice of an individual's rights as required in Section 26-6b-3.3.

172 (c) (i) A department may issue a verbal order of restriction, without prior notice to the
173 individual or group of individuals if the delay in imposing a written order of restriction would
174 significantly jeopardize the department's ability to prevent or limit:

175 (A) the transmission of a communicable or possibly communicable disease that poses a
176 threat to public health;

177 (B) the transmission of an infectious agent or possibly infectious agent that poses a
178 threat to public health; or

179 (C) the exposure or possible exposure of a chemical or biological agent that poses a
180 threat to public health.

181 (ii) A verbal order of restriction issued under the provisions of Subsection (2)(c)(i):

182 (A) is valid for 24 hours from the time the order of restriction is issued;

183 (B) may be verbally communicated to the individuals or group of individuals subject to
 184 restriction by a first responder;

185 (C) may be enforced by the first responder until the department is able to establish and
 186 maintain the place of restriction; and

187 (D) may only be continued beyond the initial 24 hours if a written order of restriction is
 188 issued pursuant to the provisions of Section 26-6b-3.3.

189 ~~[(4) (a)]~~ (3) Pending issuance of [an examination order pursuant to Section 26-6b-5] a
 190 written order of restriction under Section 26-6b-3.3, or [an order for involuntary quarantine,
 191 isolation, or treatment from a] judicial review of an order of restriction by the district court
 192 pursuant to Section 26-6b-6, [the] an individual who is [the] subject [of] to the [temporary]
 193 order of restriction may be required to submit to involuntary examination, quarantine, isolation,
 194 or treatment in his home, a hospital, or any other suitable facility under reasonable conditions
 195 prescribed by the department [or the local health department].

196 ~~[(b)]~~ (4) The department [or the local health department, whichever initially ordered
 197 the quarantine, isolation, or treatment,] that issued the order of restriction shall take reasonable
 198 measures, including the provision of medical care, as may be necessary to assure proper care
 199 related to the reason for the involuntary examination, treatment, isolation, or quarantine of an
 200 individual ordered to submit to [involuntary treatment, isolation, or quarantine] an order of
 201 restriction.

202 ~~[(5) The individual who is subject to supervision shall be served a copy of the~~
 203 ~~temporary order, together with the affidavit and the physician's written statement, upon being~~
 204 ~~taken into custody. A copy shall also be maintained at the place of quarantine, isolation, or~~
 205 ~~treatment.]~~

206 Section 5. Section **26-6b-3.1** is enacted to read:

207 **26-6b-3.1. Consent to order of restriction -- Periodic review.**

208 (1) (a) The department shall either seek judicial review of an order of restriction under
 209 Sections 26-6b-4 through 26-6b-6, or obtain the consent of an individual subject to an order of
 210 restriction.

211 (b) If the department obtains consent, the consent must be in writing and must inform
 212 the individual or group of individuals:

213 (i) of the terms and duration of the order of restriction;

214 (ii) of the importance of complying with the order of restriction to protect the public's
215 health;

216 (iii) that each individual has the right to agree to the order of restriction, or refuse to
217 agree to the order of restriction and seek a judicial review of the order of restriction;

218 (iv) that for any individual who consents to the order of restriction:

219 (A) the order of restriction will not be reviewed by the district court unless the
220 individual withdraws consent to the order of restriction in accordance with Subsection
221 (1)(b)(iv)(B); and

222 (B) the individual must notify the department in writing, with at least five business
223 day's notice, if the individual intends to withdraw consent to the order of restriction; and

224 (v) that a breach of a consent agreement prior to the end of the order of restriction may
225 subject the individual to an involuntary order of restriction under Section 26-6b-3.2.

226 (2) (a) The department responsible for the care of an individual who has consented to
227 the order of restriction shall periodically reexamine the reasons upon which the order of
228 restriction was based. This reexamination must occur at least once every six months.

229 (b) (i) If at any time, the department determines that the conditions justifying the order
230 of restriction for either a group or an individual no longer exist, the department shall
231 immediately discharge the individual or group from the order of restriction.

232 (ii) If the department determines that the conditions justifying the order of restriction
233 continue to exist, the department shall send to the individual a written notice of:

234 (A) the department's findings, the expected duration of the order of restriction, and the
235 reason for the decision; and

236 (B) the individual's right to a judicial review of the order of restriction by the district
237 court if requested by the individual.

238 (iii) Upon request for judicial review by an individual, the department shall:

239 (A) file a petition in district court within five business days after the individual's
240 request for a judicial review; and

241 (B) proceed under Sections 26-6b-4 through 26-6b-6.

242 Section 6. Section **26-6b-3.2** is enacted to read:

243 **26-6b-3.2. Involuntary order of restriction -- Notice -- Effect of order during**
244 **judicial review.**

245 (1) If the department cannot obtain consent to the order of restriction from an
246 individual, or if an individual withdraws consent to an order under Subsection
247 26-6b-3.1(1)(b)(iv)(B), the department shall:

248 (a) give the individual or group of individuals subject to the order of restriction a
249 written notice of:

250 (i) the order of restriction and any supporting documentation; and

251 (ii) the individual's right to a judicial review of the order of restriction; and

252 (b) file a petition for a judicial review of the order of restriction under Section 26-6b-4
253 in district court within:

254 (i) five business days after issuing the written notice of the order of restriction; or

255 (ii) if consent has been withdrawn under Subsection 26-6b-3.1(1)(b)(iv)(B), within five
256 business days after receiving notice of the individual's withdrawal of consent.

257 (2) (a) An order of restriction remains in effect during any judicial proceedings to
258 review the order of restriction if the department files a petition for judicial review of the order
259 of restriction with the district within the period of time required by this section.

260 (b) Law enforcement officers with jurisdiction in the area where the individual who is
261 subject to the order of restriction can be located shall assist the department with enforcing the
262 order of restriction.

263 Section 7. Section **26-6b-3.3** is enacted to read:

264 **26-6b-3.3. Contents of notice of order of restriction -- Rights of individuals.**

265 (1) A written order of restriction issued by a department shall include the following
266 information:

267 (a) the identity of the individual or a description of the group of individuals subject to
268 the order of restriction;

269 (b) the identity or location of any premises that may be subject to restriction;

270 (c) the date and time for which the restriction begins and the expected duration of the
271 restriction;

272 (d) the suspected communicable disease, chemical or biological agent, or other
273 condition that poses a threat to public health;

274 (e) the requirements for termination of the order of restriction, such as necessary
275 laboratory reports, the expiration of an incubation period, or the completion of treatment for the

276 communicable disease;

277 (f) any conditions on the restriction, such as limitation of visitors or requirements for
278 medical monitoring;

279 (g) the medical or scientific information upon which the restriction is based;

280 (h) a statement advising of the right to a judicial review of the order of restriction by
281 the district court; and

282 (i) pursuant to Subsection (2), the rights of each individual subject to restriction.

283 (2) An individual subject to restriction has the following rights:

284 (a) the right to be represented by legal counsel in any judicial review of the order of
285 restriction in accordance with Subsection 26-6b-4(3);

286 (b) the right to be provided with prior notice of the date, time, and location of any
287 hearing concerning the order of restriction;

288 (c) the right to participate in any hearing, in a manner established by the court based on
289 precautions necessary to prevent additional exposure to communicable or possibly
290 communicable diseases or to protect the public health;

291 (d) the right to respond and present evidence and arguments on the individual's own
292 behalf in any hearing;

293 (e) the right to cross examine witnesses; and

294 (f) the right to review and copy all records in the possession of the department that
295 issued the order of restriction which relate to the subject of the written order of restriction.

296 (3) (a) Notwithstanding the provisions of Subsection (1), if a department issues an
297 order of restriction for a group of individuals, the department may modify the method of
298 providing notice to the group or modify the information contained in the notice, if the public
299 health official determines the modification of the notice is necessary to:

300 (i) protect the privacy of medical information of individuals in the group; or

301 (ii) provide notice to the group in a manner that will efficiently and effectively notify
302 the individuals in the group within the period of time necessary to protect the public health.

303 (b) When a department modifies notice to a group of individuals under Subsection
304 (3)(a), the department shall provide each individual in the group with notice that complies with
305 the provisions of Subsection (1) as soon as reasonably practical.

306 Section 8. Section **26-6b-3.4** is enacted to read:

307 **26-6b-3.4. Medical records -- Privacy protections.**

308 (1) (a) Health care providers as defined in Section 78-14-3, health care facilities
309 licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, and
310 governmental entities, shall, when requested, provide the public health official and the
311 individual subject to an order of restriction, a copy of medical records that are relevant to the
312 order of restriction.

313 (b) The records requested under Subsection (1)(a) shall be provided as soon as
314 reasonably possible after the request is submitted to the health care provider or health care
315 facility, or as soon as reasonably possible after the health care provider or facility receives the
316 results of any relevant diagnostic testing of the individual.

317 (2) (a) The production of records under the provisions of this section is for the benefit
318 of the public health and safety of the citizens of the state. A health care provider or facility is
319 encouraged to provide copies of medical records or other records necessary to carry out the
320 purpose of this chapter free of charge.

321 (b) Notwithstanding the provisions of Subsection (2)(c), a health care facility that is a
322 state governmental entity shall provide medical records or other records necessary to carry out
323 the purposes of this chapter, free of charge.

324 (c) If a health care provider or health care facility does not provide medical records free
325 of charge under the provisions of Subsection (2)(a) or (b), the health care provider or facility
326 may charge a fee for the records that does not exceed the presumed reasonable charges
327 established for workers' compensation by administrative rule adopted by the Labor
328 Commission.

329 (3) Medical records held by a court related to orders of restriction under this chapter
330 shall be sealed by the district court.

331 Section 9. Section **26-6b-4** is amended to read:

332 **26-6b-4. Judicial review by the district court -- Required notice -- Representation**
333 **by counsel -- Conduct of proceedings.**

334 (1) The provisions of this section and Sections 26-6b-5 through 26-6b-7 apply if a
335 department issues an order for restriction, and:

336 (a) an individual subject to the order of restriction refuses to consent to the order of
337 restriction;

338 (b) an individual subject to an order of restriction has withdrawn consent to an order of
339 restriction under the provisions of Subsection 26-6b-3.1(1)(b)(iv)(B); or

340 (c) the department chooses to not attempt to obtain consent to an order of restriction
341 and files an action for judicial review of the order of restriction.

342 [~~(1)~~] (2) (a) If the individual who is subject to [~~supervision~~] an order of restriction is in
343 custody, the department [~~or the local health department, whichever~~] which is the petitioner,
344 shall provide to the individual written notice of [~~commencement of all proceedings~~] the
345 petition for judicial review of the order of restriction and hearings held pursuant to Sections
346 26-6b-5 through 26-6b-7 as soon as practicable, and shall send the notice to the legal guardian,
347 [~~any immediate adult family members,~~] legal counsel for the parties involved, and any other
348 persons and immediate adult family members whom the individual or the district court
349 designates. The notice shall advise these persons that a hearing may be held within the time
350 provided by this chapter.

351 (b) If the individual has refused to permit release of information necessary for the
352 provision of notice under this Subsection (2), the extent of notice shall be determined by the
353 district court.

354 (c) Notwithstanding the notice requirement in Subsection (2)(a), if the court determines
355 that written notice to each individual in a group of individuals subject to an order of restriction
356 is not practical considering the circumstances of the threat to public health, the court may order
357 the department to provide notice to the individual or group of individuals in a manner
358 determined by the court.

359 [~~(2)~~] (3) (a) If the individual who is subject to [~~supervision~~] an order of restriction is in
360 custody, he shall be afforded an opportunity to be represented by counsel. If neither the
361 individual nor others provide for counsel, the district court shall appoint counsel and allow
362 counsel sufficient time to consult with the individual prior to the hearing. If the individual is
363 indigent, the payment of reasonable attorneys' fees for counsel, as determined by the district
364 court, shall be made by the county in which the individual resides or was found.

365 (b) The individual, the petitioner, and all other persons to whom notice is required to
366 be given shall be afforded an opportunity to appear at the hearings, to testify, and to present and
367 cross-examine witnesses. The district court may, in its discretion, receive the testimony of any
368 other individual.

369 (c) The district court may allow a waiver of the individual's right to appear only for
370 good cause shown, and that cause shall be made a part of the court record.

371 (d) The district court may order that the individual participate in the hearing by
372 telephonic or other electronic means if the individual's condition poses a health threat to those
373 who physically attend the hearing or to others if the individual is transported to the court.

374 [~~(3)~~] (4) The district court may, in its discretion, order that the individual be moved to
375 a more appropriate treatment, quarantine, or isolation facility outside of its jurisdiction, and
376 may transfer the proceedings to any other district court within this state where venue is proper,
377 provided that the transfer will not be adverse to the legal interests of the individual.

378 [~~(4)~~] (5) The district court may exclude from the hearing all persons not necessary for
379 the conduct of the proceedings.

380 [~~(5)~~] (6) All hearings shall be conducted in as informal a manner as may be consistent
381 with orderly procedure, and in a physical setting that is not likely to have a harmful effect on
382 the health of the individual or others required to participate in the hearing.

383 [~~(6)~~] (7) The district court shall receive all relevant and material evidence which is
384 offered, subject to Utah Rules of Evidence.

385 (8) The district court may order law enforcement to assist the petitioner in locating the
386 individuals subject to restriction and enforcing the order of restriction.

387 Section 10. Section **26-6b-5** is amended to read:

388 **26-6b-5. Petition for an order of involuntary examination, treatment, quarantine,**
389 **or isolation -- Court-ordered examination period.**

390 (1) (a) [~~The department or the local health department may commence proceedings for~~
391 ~~a court-ordered involuntary treatment, quarantine, or isolation of]~~ A department may petition
392 for a judicial review of the department's order of restriction for an individual or group of
393 individuals who [is] are subject to [supervision] restriction by filing a written petition with the
394 district court of the county in which the individual [resides or is] or group of individuals reside
395 or are located.

396 (b) (i) The county attorney for the county where the individual [~~resides or is~~] or group
397 of individuals reside or are located shall represent the local health department in any
398 proceedings under this chapter.

399 (ii) The Office of the Attorney General shall represent the department when the

400 petitioner is the Department of Health in any proceedings under this chapter.

401 (2) The application under Subsection (1) shall be accompanied by:

402 (a) written affidavit of the department [~~or the local health department~~] stating:

403 (i) a belief the [~~person is~~] individual or group of individuals are subject to

404 [~~supervision~~] restriction;

405 (ii) a belief that the individual [~~who is~~] or group of individuals who are subject to

406 [~~supervision is~~] restriction are likely to fail to submit to examination, treatment, quarantine, or

407 isolation if not immediately restrained;

408 (iii) this failure would pose a threat to the public health; and

409 (iv) the personal knowledge of the individual's or group of individual's condition or the

410 circumstances that lead to that belief; and

411 (b) a written statement by a licensed physician indicating the physician finds the

412 individual [~~is~~] or group of individuals are subject to [~~supervision~~] restriction.

413 (3) The court shall issue an examination order requiring the individual or group of

414 individuals to submit to involuntary [~~quarantine, isolation, or treatment under the supervision~~

415 ~~and care requirements of Subsection 26-6b-3(4) and to be examined to verify whether the~~

416 ~~individual is infected, contaminated, or in a condition that requires quarantine, isolation, or~~

417 ~~treatment~~] restriction to protect the public health if the district court finds:

418 (a) there is a reasonable basis to believe that the individual's or group of individual's

419 condition requires involuntary examination, quarantine, treatment, or isolation pending

420 examination and hearing; or

421 (b) the individual [~~has~~] or group of individuals have refused to submit to examination

422 by a health professional as directed by the department [~~or the local health department~~] or to

423 voluntarily submit to examination, treatment, quarantine, or isolation.

424 (4) If the individual [~~who is~~] or group of individuals who are subject to [~~supervision is~~]

425 restriction are not in custody, the court may make its determination and issue its examination

426 order in an ex parte hearing.

427 (5) At least 24 hours prior to the hearing required by Section 26-6b-6, the department

428 [~~or the local health department, whichever~~] which is the petitioner, shall report to the court, in

429 writing, the opinion of qualified health care providers:

430 (a) [(†)] regarding whether the individual[~~:is~~] or group of individuals:

431 (i) are afflicted with an infectious communicable disease that is a threat to the public
432 health; ~~[is]~~

433 (ii) are contaminated with a chemical or biological agent that is a threat to the public
434 health; or ~~[is]~~

435 (iii) are in a condition, the exposure to which poses a ~~[serious-immediate]~~ threat to
436 public health ~~[hazard]~~; or

437 ~~[(ii)]~~ (b) that despite the exercise of reasonable diligence, the diagnostic studies have
438 not been completed;

439 ~~[(b)]~~ (c) whether the individual ~~[has]~~ or group of individuals have agreed to voluntarily
440 comply with necessary examination, treatment, quarantine, or isolation; and

441 ~~[(e)]~~ (d) whether the petitioner believes the individual or group of individuals will
442 comply without court proceedings.

443 Section 11. Section **26-6b-6** is amended to read:

444 **26-6b-6. Court determination for an order of restriction after examination**
445 **period.**

446 (1) The district court shall set a hearing regarding the involuntary ~~[quarantine,~~
447 ~~isolation, and treatment of]~~ order of restriction of an individual or group of individuals, to be
448 held within ten business days of the issuance of its examination order issued pursuant to
449 Section 26-6b-5, unless the petitioner informs the district court prior to this hearing that the
450 individual or group of individuals:

451 (a) ~~[is]~~ are not subject to ~~[supervision]~~ restriction; or

452 (b) ~~[has]~~ have stipulated to the issuance of an order ~~[for involuntary quarantine,~~
453 ~~isolation, or treatment; or]~~ of restriction.

454 ~~[(c) has agreed that quarantine, isolation, or treatment are available and acceptable~~
455 ~~without court proceedings.]~~

456 (2) (a) If the individual ~~[is]~~ or group of individuals are not subject to ~~[supervision, or if~~
457 ~~quarantine, isolation, or treatment are available and acceptable to the individual without court~~
458 ~~proceedings,]~~ restriction, the court may, without taking any further action, terminate the
459 proceedings and dismiss the petition.

460 (b) If the individual or an individual in a group of individuals has stipulated to the
461 issuance of an order ~~[for involuntary quarantine, isolation, or treatment,]~~ of restriction, the

462 court may issue an order as provided in Subsection (6) for those individuals without further
463 hearing.

464 (3) (a) If the examination report required in Section 26-6b-5 proves the individual [~~is~~]
465 or group of individuals are not subject to [~~supervision~~] restriction, the court may without
466 further hearing terminate the proceedings and dismiss the petition.

467 (b) The court may, after a hearing at which the individual [~~is~~] or group of individuals
468 are present in person or by telephonic or other electronic means and [~~has~~] have had the
469 opportunity to be represented by counsel, extend its examination order for a reasonable period,
470 not to exceed 90 days, if the [~~petitioner~~] court has reason to believe the individual or group of
471 individuals:

472 (i) [~~is~~] are contaminated with a chemical or biological agent that is a threat to the
473 public health; or

474 (ii) [~~is~~] are in a condition, the exposure to which poses a [~~serious~~] threat to public
475 health [~~hazard~~], but despite the exercise of reasonable diligence the diagnostic studies have not
476 been completed.

477 (4) The petitioner shall, at the time of the hearing, provide the district court with the
478 following items, to the extent that they have been issued or are otherwise available:

479 (a) the [~~temporary~~] order of restriction issued by the petitioner;

480 (b) admission notes if [~~the~~] any individual was hospitalized; and

481 (c) medical records pertaining to the current [~~involuntary treatment, quarantine, or~~
482 isolation] order of restriction.

483 (5) The information provided to the court under Subsection (4) shall also be provided
484 to the individual's or group of individual's counsel at the time of the hearing, and at any time
485 prior to the hearing upon request of counsel.

486 (6) (a) The district court shall order the individual and each individual in a group of
487 individuals to submit to [~~involuntary treatment, quarantine, or isolation~~] the order of restriction
488 if, upon completion of the hearing and consideration of the record, it finds by clear and
489 convincing evidence that:

490 (i) the individual [~~is~~] or group of individuals are infected with a communicable disease,
491 [~~is~~] are contaminated with a chemical or biological agent, [~~is~~] are in a condition, the exposure
492 to which poses a [~~serious~~] threat to public health [~~hazard~~], or [~~is~~] are in a condition which if

493 treatment is not completed the individual or group of individuals will [~~soon~~] pose a [~~serious~~]
494 threat to public health [~~hazard~~];

495 (ii) there is no appropriate and less restrictive alternative to a court order of
496 examination, quarantine, isolation, and treatment, or any of them;

497 (iii) the petitioner can provide the individual or group of individuals with treatment
498 that is adequate and appropriate to [~~his~~] the individual's or group of individual's conditions and
499 needs; and

500 (iv) it is in the public interest to order the individual or group of individuals to submit
501 to involuntary examination, quarantine, isolation, and treatment, or any of them.

502 (b) If upon completion of the hearing the court does not find all of the conditions listed
503 in Subsection (6)(a) exist, the court shall immediately dismiss the petition.

504 (7) The order of [~~involuntary treatment, quarantine, or isolation~~] restriction shall
505 designate the period, subject to Subsection (8), for which the individual or group of individuals
506 shall be examined, treated, isolated, or quarantined.

507 (8) (a) The order of [~~involuntary quarantine, isolation, or treatment~~] restriction may not
508 exceed six months without benefit of a district court review hearing.

509 (b) The district court review hearing shall be held prior to the expiration of the order of
510 restriction issued under Subsection (7). At the review hearing the court may issue an order
511 [~~involuntary quarantine, isolation, or treatment~~] of restriction for up to an indeterminate period,
512 if the district court enters a written finding in the record determining by clear and convincing
513 evidence that the required conditions in Subsection (6) will continue for an indeterminate
514 period.

515 Section 12. Section **26-6b-8** is amended to read:

516 **26-6b-8. Transportation of individuals subject to temporary or court-ordered**
517 **restriction.**

518 Transportation of an individual [~~to the~~] subject to an order of restriction to court, or to a
519 place for examination, quarantine, isolation, or treatment pursuant a temporary order issued by
520 [~~the~~] a department [~~or a local health department~~], or pursuant to a court order, shall be
521 conducted by the [~~municipal law enforcement authority~~] county sheriff where the individual is
522 located. [~~However, if the place for quarantine, isolation, or treatment is outside of that~~
523 ~~authority's jurisdiction or if the individual is not located in a municipality, the county sheriff~~

524 shall transport the individual to the place for quarantine, isolation, or treatment.]

525 Section 13. Section **26-6b-9** is amended to read:

526 **26-6b-9. Examination, quarantine, isolation, and treatment costs.**

527 If a local health department obtains approval from the [department] Department of

528 Health, the costs that the local health department would otherwise have to bear for

529 [involuntary] examination, quarantine, isolation, and treatment ordered under the provisions of

530 this chapter, shall be paid by the [department] Department of Health to the extent that the

531 individual is unable to pay and that other sources and insurance do not pay.

Legislative Review Note

as of 1-10-06 1:44 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0129

Public Health Amendments

24-Jan-06

8:45 AM

State Impact

The provisions of this bill can be implemented within existing budgets.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst