

LOCAL HEALTH DEPARTMENT MODIFICATIONS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael S. Kennedy

House Sponsor: _____

LONG TITLE

General Description:

This bill removes the authority of local health departments to isolate and quarantine an individual.

Highlighted Provisions:

This bill:

- ▶ removes the authority of a local health department to isolate or quarantine an individual; and
- ▶ allows a local health department to recommend that an individual isolate or quarantine.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 26-6b-1**, as last amended by Laws of Utah 2008, Chapter 382
- 26-6b-2**, as last amended by Laws of Utah 2006, Chapter 185
- 26-6b-3**, as last amended by Laws of Utah 2021, Chapter 437
- 26-6b-3.1**, as last amended by Laws of Utah 2011, Chapter 297
- 26-6b-3.2**, as enacted by Laws of Utah 2006, Chapter 185



- 28 [26-6b-3.3](#), as last amended by Laws of Utah 2008, Chapter 115
- 29 [26-6b-4](#), as last amended by Laws of Utah 2008, Chapter 115
- 30 [26-6b-5](#), as last amended by Laws of Utah 2019, Chapter 349
- 31 [26-6b-6](#), as last amended by Laws of Utah 2008, Chapter 115
- 32 [26-6b-7](#), as enacted by Laws of Utah 1996, Chapter 211
- 33 [26-6b-8](#), as last amended by Laws of Utah 2006, Chapter 185
- 34 [26A-1-114](#), as last amended by Laws of Utah 2022, Chapters 39, 415 and 430

35 REPEALS:

- 36 [26-6b-9](#), as last amended by Laws of Utah 2006, Chapter 185



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

39 Section 1. Section [26-6b-1](#) is amended to read:

40 **[26-6b-1](#). Applicability of chapter -- Administrative procedures.**

41 (1) This chapter applies to involuntary examination, treatment, isolation, and
42 quarantine actions applied to individuals or groups of individuals by the department [~~or a local~~
43 ~~health department~~].

44 (2) The provisions of this chapter supersede the provisions of Title 63G, Chapter 4,
45 Administrative Procedures Act.

46 (3) The [~~Department of Health~~] department may adopt rules in accordance with Title
47 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary to administer the
48 provisions of this chapter.

49 Section 2. Section [26-6b-2](#) is amended to read:

50 **[26-6b-2](#). Definitions.**

51 As used in this chapter:

52 [~~(1) "Department" means the Department of Health or a local health department as~~
53 ~~defined in Section [26A-1-102](#);~~]

54 [~~(2)~~] (1) "First responder" means:

- 55 (a) a law enforcement officer as defined in Section [53-13-103](#);
- 56 (b) emergency medical service personnel as defined in Section [26-8a-102](#);
- 57 (c) firefighters; and
- 58 (d) public health personnel having jurisdiction over the location where an individual

59 subject to restriction is found.

60 ~~[(3)]~~ (2) "Order of restriction" means an order issued by [a] the department or a
61 ~~[district]~~ court which requires an individual or group of individuals who are subject to
62 restriction to submit to an examination, treatment, isolation, or quarantine.

63 ~~[(4)]~~ (3) "Public health official" means~~[-(a)]~~ the executive director of the ~~[Department~~
64 ~~of Health]~~ department, or the executive director's authorized representative~~[-or]~~.

65 ~~[(b) the executive director of a local health department as defined in Section~~
66 ~~26A-1-102, or the executive director's authorized representative.]~~

67 ~~[(5)]~~ (4) "Subject to restriction" as applied to an individual, or a group of individuals,
68 means the individual or group of individuals is:

69 (a) infected or suspected to be infected with a communicable disease that poses a threat
70 to the public health and who does not take action as required by the department to prevent
71 spread of the disease;

72 (b) contaminated or suspected to be contaminated with an infectious agent that poses a
73 threat to the public health, and that could be spread to others if remedial action is not taken;

74 (c) in a condition or suspected condition which, if the individual is exposed to others,
75 poses a threat to public health, or is in a condition which if treatment is not completed the
76 individual will pose a threat to public health; or

77 (d) contaminated or suspected to be contaminated with a chemical or biological agent
78 that poses a threat to the public health and that could be spread to others if remedial action is
79 not taken.

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

81 **26-6b-3. Order of restriction.**

82 (1) Subject to Subsection (5), the department ~~[having jurisdiction over the location~~
83 ~~where an individual or a group of individuals who are subject to restriction are found]~~ may:

84 (a) issue a written order of restriction for the individual or group of individuals
85 pursuant to Section ~~[26-1-30 or Subsection 26A-1-114(1)(b)]~~ 26B-1-202 upon compliance with
86 the requirements of this chapter; and

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

89 (2) (a) ~~[A]~~ The department's determination to issue an order of restriction shall be

90 based upon the totality of circumstances reported to and known by the department, including:

91 (i) observation;

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

93 and

94 (iii) knowledge of current public health risks based on medically accepted guidelines as
95 may be established by the ~~[Department of Health]~~ department by administrative rule.

96 (b) An order of restriction ~~[issued by a department shall:]~~ shall:

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

99 (ii) use the least intrusive method of restriction that, in the opinion of the department,
100 is reasonable based on the totality of circumstances known to the ~~[health]~~ department ~~[issuing~~
101 ~~the order of restriction]~~;

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

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

104 (c) (i) ~~[A]~~ The department may issue a verbal order of restriction, without prior notice
105 to the individual or group of individuals if the delay in imposing a written order of restriction
106 would significantly jeopardize the department's ability to prevent or limit:

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

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

111 (C) the exposure or possible exposure of a chemical or biological agent that poses a
112 threat to public health; or

113 (D) the exposure or transmission of a condition that poses a threat to public health.

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

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

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

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

120 (D) may only be continued beyond the initial 24 hours if a written order of restriction is

121 issued pursuant to the provisions of Section [26-6b-3.3](#).

122 (3) Pending issuance of a written order of restriction under Section [26-6b-3.3](#), or
 123 judicial review of an order of restriction by the district court pursuant to Section [26-6b-6](#), an
 124 individual who is subject to the order of restriction may be required to submit to involuntary
 125 examination, quarantine, isolation, or treatment in the individual's home, a hospital, or any
 126 other suitable facility under reasonable conditions prescribed by the department.

127 (4) The department [~~that issued the order of restriction~~] shall take reasonable measures,
 128 including the provision of medical care, as may be necessary to assure proper care related to the
 129 reason for the involuntary examination, treatment, isolation, or quarantine of an individual
 130 ordered to submit to an order of restriction.

131 (5) [~~(a)~~] The Legislature may at any time terminate by joint resolution an order of
 132 restriction issued by the department as described in this section in response to a declared public
 133 health emergency.

134 [~~(b) A county governing body may at any time terminate by majority vote an order of~~
 135 ~~restriction issued by the relevant local health department as described in this section issued in~~
 136 ~~response to a declared public health emergency.~~]

137 Section 4. Section [26-6b-3.1](#) is amended to read:

138 **[26-6b-3.1](#). Consent to order of restriction -- Periodic review.**

139 (1) (a) The department shall either seek judicial review of an order of restriction under
 140 Sections [26-6b-4](#) through [26-6b-6](#), or obtain the consent of an individual subject to an order of
 141 restriction.

142 (b) If the department obtains consent, the consent shall be in writing and shall inform
 143 the individual or group of individuals:

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

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

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

149 (iv) that for any individual who consents to the order of restriction[~~:(A)~~] the order of
 150 restriction will not be reviewed by the [~~district~~] court unless the individual withdraws consent
 151 to the order of restriction in accordance with Subsection [~~(1)(b)(iv)(B)~~], and (2); and

152 ~~[(B) the individual shall notify the department in writing, with at least five business~~
153 ~~day's notice, if the individual intends to withdraw consent to the order of restriction; and]~~

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

156 (2) (a) To withdraw consent under Subsection (1)(b)(iv) an individual shall provide
157 written notice to the department that the individual withdraws the individual's consent.

158 (b) An individual who withdraws consent remains subject to the order of restriction:

159 (i) for five business days from the day the department receives notice of the withdrawn
160 consent; or

161 (ii) in accordance with Section [26-6b-3.2](#) if the department complies with Section
162 [26-6b-3.2](#).

163 ~~[(2)] (3) (a) The department [responsible for the care of an individual who has~~
164 ~~consented to the order of restriction] shall [periodically] reexamine the reasons upon which the~~
165 ~~order of restriction was based[. This reexamination shall occur] at least once every six months.~~

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

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

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

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

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

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

178 (B) proceed under Sections [26-6b-4](#) through [26-6b-6](#).

179 Section 5. Section **26-6b-3.2** is amended to read:

180 **26-6b-3.2. Involuntary order of restriction -- Notice -- Effect of order during**
181 **judicial review.**

182 (1) If the department cannot obtain consent to the order of restriction from an

183 individual, or if an individual withdraws consent to an order under Subsection
 184 ~~[26-6b-3.1(1)(b)(iv)(B);]~~ 26-6b-3.1(1)(b)(iv) the department shall:

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

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

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

189 (b) file a petition for a judicial review of the order of restriction under Section 26-6b-4
 190 ~~[in district]~~ with the court ~~[within]~~:

191 (i) no later than five business days ~~[after issuing the]~~ from the day when the written
 192 notice of the order of restriction was issued; or

193 (ii) if consent has been withdrawn under Subsection ~~[26-6b-3.1(1)(b)(iv)(B), within]~~
 194 26-6b-3.1(1)(b)(iv) no later than five business days ~~[after receiving]~~ from the day the
 195 department receives notice of the individual's withdrawal of consent.

196 (2) (a) An order of restriction remains in effect during any judicial proceedings to
 197 review the order of restriction if the department files a petition for judicial review of the order
 198 of restriction with the ~~[district]~~ court within the period of time required by this section.

199 (b) Law enforcement officers with jurisdiction in the area where the individual who is
 200 subject to the order of restriction ~~[can be located]~~ shall assist the department with enforcing the
 201 order of restriction.

202 Section 6. Section **26-6b-3.3** is amended to read:

203 **26-6b-3.3. Contents of notice of order of restriction -- Rights of individuals.**

204 (1) A written order of restriction issued by ~~[a]~~ the department shall include the
 205 following information:

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

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

209 (c) the date and time for which the restriction begins and the expected duration of the
 210 restriction;

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

213 (e) the requirements for termination of the order of restriction, such as necessary

214 laboratory reports, the expiration of an incubation period, or the completion of treatment for the
215 communicable disease;

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

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

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

221 (i) ~~[pursuant to]~~ in accordance with Subsection (2), the rights of each individual subject
222 to restriction.

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

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

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

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

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

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

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

236 (3) (a) Notwithstanding the provisions of Subsection (1), if ~~[a]~~ the department issues an
237 order of restriction for a group of individuals, the department may modify the method of
238 providing notice to the group or modify the information contained in the notice, if the public
239 health official determines the modification of the notice is necessary to:

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

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

243 (b) When ~~[a]~~ the department modifies notice to a group of individuals under
244 Subsection (3)(a), the department shall provide each individual in the group with notice that

245 complies with the provisions of Subsection (1) as soon as reasonably practical.

246 (4) (a) In addition to the rights of an individual described in Subsections (1) and (2), an
 247 individual subject to an order of restriction may not be terminated from employment if the
 248 reason for termination is based solely on the fact that the individual is or was subject to an
 249 order of restriction.

250 (b) The department [~~issuing the order of restriction~~] shall give the individual subject to
 251 the order of restriction notice of the individual's employment rights under Subsection (4)(a).

252 (c) An employer in the state, including an employer who is the state or a political
 253 subdivision of the state, may not violate the provisions of Subsection (4)(a).

254 Section 7. Section **26-6b-4** is amended to read:

255 **26-6b-4. Judicial review by the district court -- Required notice -- Representation**
 256 **by counsel -- Conduct of proceedings.**

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

259 (a) an individual subject to the order of restriction refuses to consent to the order of
 260 restriction;

261 (b) an individual subject to an order of restriction has withdrawn consent to an order of
 262 restriction under the provisions of Subsection [~~26-6b-3.1(1)(b)(iv)(B)~~] 26-6b-3.1(1)(b)(iv); or

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

265 (2) (a) If the individual who is subject to an order of restriction is in custody, the
 266 department[~~, which is the petitioner,~~] shall:

267 (i) provide to the individual written notice of the petition for judicial review of the
 268 order of restriction and hearings held pursuant to Sections 26-6b-5 through 26-6b-7 as soon as
 269 practicable[~~, and shall~~];

270 (ii) send the notice to the legal guardian, legal counsel for the parties involved, and any
 271 other persons and immediate adult family members whom the individual or the [~~district~~] court
 272 designates[~~. The notice shall advise these persons~~]; and

273 (iii) include in the notice that a hearing may be held within the time provided by this
 274 chapter.

275 (b) If the individual has refused to permit release of information necessary for the

276 provision of notice under this Subsection (2), the extent of notice shall be determined by the
277 district court.

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

283 (3) (a) (i) ~~[If the]~~ The individual who is subject to an order of restriction ~~[is in custody,~~
284 ~~he shall be afforded an opportunity to]~~ may be represented by counsel.

285 (ii) If neither the individual nor others provide for counsel, the ~~[district]~~ court shall
286 appoint counsel and allow counsel sufficient time to consult with the individual prior to the
287 hearing.

288 (iii) If the individual is indigent, the payment of reasonable attorney fees for counsel, as
289 determined by the ~~[district]~~ court, shall be made by the county in which the individual resides
290 or was found.

291 (b) (i) The parties may appear at the hearings, to testify, and to present and
292 cross-examine witnesses.

293 (ii) The ~~[district]~~ court may, in its discretion, receive the testimony of any other
294 individual.

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

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

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

304 (5) (a) All persons to whom notice is required to be given may attend the hearings.

305 (b) The ~~[district]~~ court may exclude from the hearing all persons not necessary for the
306 conduct of the proceedings.

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

310 (7) The [district] court shall receive all relevant and material evidence which is offered,
311 subject to the Utah Rules of Evidence.

312 (8) The [district] court may order law enforcement to assist the petitioner in locating
313 the individuals subject to restriction and enforcing the order of restriction.

314 Section 8. Section **26-6b-5** is amended to read:

315 **26-6b-5. Petition for judicial review of order of restriction -- Court-ordered**
316 **examination period.**

317 (1) (a) [A] The department may petition for a judicial review of the department's order
318 of restriction for an individual or group of individuals who are subject to restriction by filing a
319 written petition with the [district] court of the county in which the individual or group of
320 individuals reside or are located.

321 (b) ~~[(i) The county attorney for the county where the individual or group of individuals~~
322 ~~reside or are located shall represent the local health department in any proceedings under this~~
323 ~~chapter.~~[(ii)] The Office of the Attorney General shall represent the department [~~when the~~
324 ~~petitioner is the Department of Health~~] in any proceedings under this chapter.

325 (2) The petition under Subsection (1) shall be accompanied by:

326 (a) a written affidavit of the department stating:

327 (i) a belief the individual or group of individuals are subject to restriction;

328 (ii) a belief that the individual or group of individuals who are subject to restriction are
329 likely to fail to submit to examination, treatment, quarantine, or isolation if not immediately
330 restrained;

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

332 (iv) the personal knowledge of the individual's or group of individuals' condition or the
333 circumstances that lead to that belief; and

334 (b) a written statement by a licensed physician or physician assistant indicating the
335 physician or physician assistant finds the individual or group of individuals are subject to
336 restriction.

337 (3) The court shall issue an order of restriction requiring the individual or group of

338 individuals to submit to involuntary restriction to protect the public health if the district court
339 finds:

340 (a) there is a reasonable basis to believe that the individual's or group of individuals'
341 condition requires involuntary examination, quarantine, treatment, or isolation pending
342 examination and hearing; or

343 (b) the individual or group of individuals have refused to submit to examination by a
344 health professional as directed by the department or to voluntarily submit to examination,
345 treatment, quarantine, or isolation.

346 (4) If the individual or group of individuals who are subject to restriction are not in
347 custody, the court may make its determination and issue its order of restriction in an ex parte
348 hearing.

349 (5) At least 24 hours prior to the hearing required by Section 26-6b-6, the department
350 [~~which is the petitioner,~~] shall report to the court, in writing, the opinion of qualified health
351 care providers:

352 (a) regarding whether the individual or group of individuals are infected by or
353 contaminated with:

354 (i) a communicable or possible communicable disease that poses a threat to public
355 health;

356 (ii) an infectious agent or possibly infectious agent that poses a threat to public health;

357 (iii) a chemical or biological agent that poses a threat to public health; or

358 (iv) a condition that poses a threat to public health;

359 (b) that despite the exercise of reasonable diligence, the diagnostic studies have not
360 been completed;

361 (c) whether the individual or group of individuals have agreed to voluntarily comply
362 with necessary examination, treatment, quarantine, or isolation; and

363 (d) whether the petitioner believes the individual or group of individuals will comply
364 without court proceedings.

365 Section 9. Section 26-6b-6 is amended to read:

366 **26-6b-6. Court determination for an order of restriction after examination**
367 **period.**

368 (1) The [~~district~~] court shall set a hearing regarding the involuntary order of restriction

369 of an individual or group of individuals, to be held within 10 business days of the issuance of
370 its order of restriction issued pursuant to Section 26-6b-5, unless the petitioner informs the
371 district court prior to this hearing that the individual or group of individuals:

372 (a) are not subject to restriction; or

373 (b) have stipulated to the issuance of an order of restriction.

374 (2) If the individual or an individual in a group of individuals has stipulated to the
375 issuance of an order of restriction, the court may issue an order as provided in Subsection (6)
376 for those individuals without further hearing.

377 (3) (a) If the examination report required in Section 26-6b-5 proves the individual or
378 group of individuals are not subject to restriction, the court may without further hearing
379 terminate the proceedings and dismiss the petition.

380 (b) The court may, after a hearing at which the individual or group of individuals are
381 present in person or by telephonic or other electronic means and have had the opportunity to be
382 represented by counsel, extend its order of restriction for a reasonable period, not to exceed 90
383 days, if the court has reason to believe the individual or group of individuals are infected by or
384 contaminated with:

385 (i) a communicable or possibly communicable disease that poses a threat to public
386 health;

387 (ii) an infectious agent or possibly infectious agent that poses a threat to public health;

388 (iii) a chemical or biological agent that poses a threat to public health; or

389 (iv) a condition that poses a threat to public health, but, despite the exercise of
390 reasonable diligence the diagnostic studies have not been completed.

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

393 (a) the order of restriction issued by the petitioner;

394 (b) admission notes if any individual was hospitalized; and

395 (c) medical records pertaining to the current order of restriction.

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

399 (6) (a) The [district] court shall order the individual and each individual in a group of

400 individuals to submit to the order of restriction if, upon completion of the hearing and
401 consideration of the record, it finds by clear and convincing evidence that:

402 (i) the individual or group of individuals are infected with a communicable disease or
403 infectious agent, are contaminated with a chemical or biological agent, or are in a condition
404 that poses a threat to public health;

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

407 (iii) the petitioner can provide the individual or group of individuals with treatment
408 that is adequate and appropriate to the individual's or group of individuals' conditions and
409 needs; and

410 (iv) it is in the public interest to order the individual or group of individuals to submit
411 to involuntary examination, quarantine, isolation, and treatment, or any of them after weighing
412 the following factors:

413 (A) the personal or religious beliefs, if any, of the individual that are opposed to
414 medical examination or treatment;

415 (B) the ability of the department to control the public health threat with treatment
416 alternatives that are requested by the individual;

417 (C) the economic impact for the department if the individual is permitted to use an
418 alternative to the treatment recommended by the department; and

419 (D) other relevant factors as determined by the court.

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

422 (7) The order of restriction shall designate the period, subject to Subsection (8), for
423 which the individual or group of individuals shall be examined, treated, isolated, or
424 quarantined.

425 (8) (a) The order of restriction may not exceed six months without benefit of a [~~district~~]
426 court review hearing.

427 (b) The [~~district~~] court review hearing shall be held prior to the expiration of the order
428 of restriction issued under Subsection (7).

429 (c) At the review hearing the court may issue an order of restriction for up to an
430 indeterminate period, if the [~~district~~] court enters a written finding in the record determining by

431 clear and convincing evidence that the required conditions in Subsection (6) will continue for
432 an indeterminate period.

433 Section 10. Section ~~26-6b-7~~ is amended to read:

434 **26-6b-7. Periodic review of individuals under court order.**

435 (1) (a) At least [~~two weeks~~] 14 days prior to the [~~expiration of the designated period of~~
436 ~~any court order still in~~] day an order of restriction ordered by the court is set to expire effect,
437 the petitioner shall:

438 (i) inform the court that issued the order that the order is about to expire[~~-The~~
439 ~~petitioner shall~~]; and

440 (ii) immediately reexamine the reasons upon which the court's order was based.

441 (b) If the petitioner determines that the conditions justifying [~~that~~] the order no longer
442 exist, [~~it~~] the petitioner shall discharge the individual from involuntary quarantine, isolation, or
443 treatment and report its action to the court for a termination of the order. [~~Otherwise, the~~]

444 (c) If the petitioner determines that the conditions justifying the order still exist, the
445 petitioner shall notify the court.

446 (d) Upon receiving the notice described in Subsection (1)(c), the court shall schedule a
447 hearing prior to the expiration of [its] the order and proceed under Sections 26-6b-4 through
448 26-6b-6.

449 (2) (a) The petitioner responsible for the care of an individual under a court order of
450 involuntary quarantine, isolation, or treatment for an indeterminate period shall at six-month
451 intervals reexamine the reasons upon which the order of indeterminate duration was based.

452 (b) If the petitioner determines that the conditions justifying that the court's order no
453 longer exist, the petitioner shall discharge the individual from involuntary quarantine, isolation,
454 or treatment and immediately report its action to the court for a termination of the order.

455 (c) If the petitioner determines that the conditions justifying the involuntary quarantine,
456 isolation, or treatment continue to exist, the petitioner shall send a written report of those
457 findings to the court.

458 (d) The petitioner shall notify the individual and [~~his~~] the individual's counsel of record
459 in writing that the involuntary quarantine, isolation, or treatment will be continued, the reasons
460 for that decision, and that the individual has the right to a review hearing by making a request
461 to the court.

462 (e) Upon receiving the request for a review, the court shall immediately set a hearing
463 date and proceed under Sections 26-6b-4 through 26-6b-6.

464 Section 11. Section 26-6b-8 is amended to read:

465 **26-6b-8. Transportation of individuals subject to temporary or court-ordered**
466 **restriction.**

467 Transportation of an individual subject to an order of restriction to court, or to a place
468 for examination, quarantine, isolation, or treatment pursuant a temporary order issued by [a]
469 the department, or pursuant to a court order, shall be conducted by the county sheriff where the
470 individual is located.

471 Section 12. Section 26A-1-114 is amended to read:

472 **26A-1-114. Powers and duties of departments.**

473 (1) Subject to Subsections (7), (8), and (11), a local health department may:

474 (a) subject to the provisions in Section 26A-1-108, enforce state laws, local ordinances,
475 department rules, and local health department standards and regulations relating to public
476 health and sanitation, including the plumbing code administered by the Division of
477 Professional Licensing under Title 15A, Chapter 1, Part 2, State Construction Code
478 Administration Act, and under Title 26, Chapter 15a, Food Safety Manager Certification Act,
479 in all incorporated and unincorporated areas served by the local health department;

480 (b) recommend that an individual isolate or quarantine as the local health department
481 determines necessary to protect the public health;

482 ~~[(b) establish, maintain, and enforce isolation and quarantine, and exercise physical~~
483 ~~control over property and over individuals as the local health department finds necessary for~~
484 ~~the protection of the public health;]~~

485 (c) establish and maintain medical, environmental, occupational, and other laboratory
486 services considered necessary or proper for the protection of the public health;

487 (d) establish and operate reasonable health programs or measures not in conflict with
488 state law which:

489 (i) are necessary or desirable for the promotion or protection of the public health and
490 the control of disease; or

491 (ii) may be necessary to ameliorate the major risk factors associated with the major
492 causes of injury, sickness, death, and disability in the state;

493 (e) close theaters, schools, and other public places and prohibit gatherings of people
494 when necessary to protect the public health;

495 (f) abate nuisances or eliminate sources of filth and infectious and communicable
496 diseases affecting the public health and bill the owner or other person in charge of the premises
497 upon which this nuisance occurs for the cost of abatement;

498 (g) make necessary sanitary and health investigations and inspections on the local
499 health department's own initiative or in cooperation with the Department of Health or
500 Environmental Quality, or both, as to any matters affecting the public health;

501 (h) pursuant to county ordinance or interlocal agreement:

502 (i) establish and collect appropriate fees for the performance of services and operation
503 of authorized or required programs and duties;

504 (ii) accept, use, and administer all federal, state, or private donations or grants of funds,
505 property, services, or materials for public health purposes; and

506 (iii) make agreements not in conflict with state law which are conditional to receiving a
507 donation or grant;

508 (i) prepare, publish, and disseminate information necessary to inform and advise the
509 public concerning:

510 (i) the health and wellness of the population, specific hazards, and risk factors that may
511 adversely affect the health and wellness of the population; and

512 (ii) specific activities individuals and institutions can engage in to promote and protect
513 the health and wellness of the population;

514 (j) investigate the causes of morbidity and mortality;

515 (k) issue notices and orders necessary to carry out this part;

516 (l) conduct studies to identify injury problems, establish injury control systems,
517 develop standards for the correction and prevention of future occurrences, and provide public
518 information and instruction to special high risk groups;

519 (m) cooperate with boards created under Section 19-1-106 to enforce laws and rules
520 within the jurisdiction of the boards;

521 (n) cooperate with the state health department, the Department of Corrections, the
522 Administrative Office of the Courts, the Division of Juvenile Justice Services, and the Crime
523 Victim Reparations Board to conduct testing for HIV infection of alleged sexual offenders,

524 convicted sexual offenders, and any victims of a sexual offense;

525 (o) investigate suspected bioterrorism and disease pursuant to Section 26-23b-108; and

526 (p) provide public health assistance in response to a national, state, or local emergency,

527 a public health emergency as defined in Section 26-23b-102, or a declaration by the President

528 of the United States or other federal official requesting public health-related activities.

529 (2) The local health department shall:

530 (a) establish programs or measures to promote and protect the health and general

531 wellness of the people within the boundaries of the local health department;

532 (b) investigate infectious and other diseases of public health importance and implement

533 measures to control the causes of epidemic and communicable diseases and other conditions

534 significantly affecting the public health which may include involuntary testing of alleged sexual

535 offenders for the HIV infection pursuant to Section 53-10-802 and voluntary testing of victims

536 of sexual offenses for HIV infection pursuant to Section 53-10-803;

537 (c) cooperate with the department in matters pertaining to the public health and in the

538 administration of state health laws; and

539 (d) coordinate implementation of environmental programs to maximize efficient use of

540 resources by developing with the Department of Environmental Quality a Comprehensive

541 Environmental Service Delivery Plan which:

542 (i) recognizes that the Department of Environmental Quality and local health

543 departments are the foundation for providing environmental health programs in the state;

544 (ii) delineates the responsibilities of the department and each local health department

545 for the efficient delivery of environmental programs using federal, state, and local authorities,

546 responsibilities, and resources;

547 (iii) provides for the delegation of authority and pass through of funding to local health

548 departments for environmental programs, to the extent allowed by applicable law, identified in

549 the plan, and requested by the local health department; and

550 (iv) is reviewed and updated annually.

551 (3) The local health department has the following duties regarding public and private

552 schools within the local health department's boundaries:

553 (a) enforce all ordinances, standards, and regulations pertaining to the public health of

554 persons attending public and private schools;

555 (b) exclude from school attendance any person, including teachers, who is suffering
556 from any communicable or infectious disease, whether acute or chronic, if the person is likely
557 to convey the disease to those in attendance; and

558 (c) (i) make regular inspections of the health-related condition of all school buildings
559 and premises;

560 (ii) report the inspections on forms furnished by the department to those responsible for
561 the condition and provide instructions for correction of any conditions that impair or endanger
562 the health or life of those attending the schools; and

563 (iii) provide a copy of the report to the department at the time the report is made.

564 (4) If those responsible for the health-related condition of the school buildings and
565 premises do not carry out any instructions for corrections provided in a report in Subsection
566 (3)(c), the local health board shall cause the conditions to be corrected at the expense of the
567 persons responsible.

568 (5) The local health department may exercise incidental authority as necessary to carry
569 out the provisions and purposes of this part.

570 (6) Nothing in this part may be construed to authorize a local health department to
571 enforce an ordinance, rule, or regulation requiring the installation or maintenance of a carbon
572 monoxide detector in a residential dwelling against anyone other than the occupant of the
573 dwelling.

574 (7) (a) Except as provided in Subsection (7)(c), a local health department may not
575 declare a public health emergency or issue an order of constraint until the local health
576 department has provided notice of the proposed action to the chief executive officer of the
577 relevant county no later than 24 hours before the local health department issues the order or
578 declaration.

579 (b) The local health department:

580 (i) shall provide the notice required by Subsection (7)(a) using the best available
581 method under the circumstances as determined by the local health department;

582 (ii) may provide the notice required by Subsection (7)(a) in electronic format; and

583 (iii) shall provide the notice in written form, if practicable.

584 (c) (i) Notwithstanding Subsection (7)(a), a local health department may declare a
585 public health emergency or issue an order of constraint without approval of the chief executive

586 officer of the relevant county if the passage of time necessary to obtain approval of the chief
587 executive officer of the relevant county as required in Subsection (7)(a) would substantially
588 increase the likelihood of loss of life due to an imminent threat.

589 (ii) If a local health department declares a public health emergency or issues an order
590 of constraint as described in Subsection (7)(c)(i), the local health department shall notify the
591 chief executive officer of the relevant county before issuing the order of constraint.

592 (iii) The chief executive officer of the relevant county may terminate a declaration of a
593 public health emergency or an order of constraint issued as described in Subsection (7)(c)(i)
594 within 72 hours of declaration of the public health emergency or issuance of the order of
595 constraint.

596 (d) (i) The relevant county governing body may at any time terminate a public health
597 emergency or an order of constraint issued by the local health department by majority vote of
598 the county governing body in response to a declared public health emergency.

599 (ii) A vote by the relevant county governing body to terminate a public health
600 emergency or an order of constraint as described in Subsection (7)(d)(i) is not subject to veto
601 by the relevant chief executive officer.

602 (8) (a) Except as provided in Subsection (8)(b), a public health emergency declared by
603 a local health department expires at the earliest of:

604 (i) the local health department or the chief executive officer of the relevant county
605 finding that the threat or danger has passed or the public health emergency reduced to the
606 extent that emergency conditions no longer exist;

607 (ii) 30 days after the date on which the local health department declared the public
608 health emergency; or

609 (iii) the day on which the public health emergency is terminated by majority vote of the
610 county governing body.

611 (b) (i) The relevant county legislative body, by majority vote, may extend a public
612 health emergency for a time period designated by the county legislative body.

613 (ii) If the county legislative body extends a public health emergency as described in
614 Subsection (8)(b)(i), the public health emergency expires on the date designated by the county
615 legislative body.

616 (c) Except as provided in Subsection (8)(d), if a public health emergency declared by a

617 local health department expires as described in Subsection (8)(a), the local health department
618 may not declare a public health emergency for the same illness or occurrence that precipitated
619 the previous public health emergency declaration.

620 (d) (i) Notwithstanding Subsection (8)(c), subject to Subsection (8)(f), if the local
621 health department finds that exigent circumstances exist, after providing notice to the county
622 legislative body, the department may declare a new public health emergency for the same
623 illness or occurrence that precipitated a previous public health emergency declaration.

624 (ii) A public health emergency declared as described in Subsection (8)(d)(i) expires in
625 accordance with Subsection (8)(a) or (b).

626 (e) For a public health emergency declared by a local health department under this
627 chapter or under Title 26, Chapter 23b, Detection of Public Health Emergencies Act, the
628 Legislature may terminate by joint resolution a public health emergency that was declared
629 based on exigent circumstances or that has been in effect for more than 30 days.

630 (f) If the Legislature or county legislative body terminates a public health emergency
631 declared due to exigent circumstances as described in Subsection (8)(d)(i), the local health
632 department may not declare a new public health emergency for the same illness, occurrence, or
633 exigent circumstances.

634 (9) (a) During a public health emergency declared under this chapter or under Title 26,
635 Chapter 23b, Detection of Public Health Emergencies Act:

636 (i) except as provided in Subsection (9)(b), a local health department may not issue an
637 order of constraint without approval of the chief executive officer of the relevant county;

638 (ii) the Legislature may at any time terminate by joint resolution an order of constraint
639 issued by a local health department in response to a declared public health emergency that has
640 been in effect for more than 30 days; and

641 (iii) a county governing body may at any time terminate by majority vote of the
642 governing body an order of constraint issued by a local health department in response to a
643 declared public health emergency.

644 (b) (i) Notwithstanding Subsection (9)(a)(i), a local health department may issue an
645 order of constraint without approval of the chief executive officer of the relevant county if the
646 passage of time necessary to obtain approval of the chief executive officer of the relevant
647 county as required in Subsection (9)(a)(i) would substantially increase the likelihood of loss of

648 life due to an imminent threat.

649 (ii) If a local health department issues an order of constraint as described in Subsection
650 (9)(b), the local health department shall notify the chief executive officer of the relevant county
651 before issuing the order of constraint.

652 (iii) The chief executive officer of the relevant county may terminate an order of
653 constraint issued as described in Subsection (9)(b) within 72 hours of issuance of the order of
654 constraint.

655 (c) (i) For a local health department that serves more than one county, the approval
656 described in Subsection (9)(a)(i) is required for the chief executive officer for which the order
657 of constraint is applicable.

658 (ii) For a local health department that serves more than one county, a county governing
659 body may only terminate an order of constraint as described in Subsection (9)(a)(iii) for the
660 county served by the county governing body.

661 (10) (a) During a public health emergency declared as described in this title:

662 (i) the department or a local health department may not impose an order of constraint
663 on a religious gathering that is more restrictive than an order of constraint that applies to any
664 other relevantly similar gathering; and

665 (ii) an individual, while acting or purporting to act within the course and scope of the
666 individual's official department or local health department capacity, may not:

667 (A) prevent a religious gathering that is held in a manner consistent with any order of
668 constraint issued pursuant to this title; or

669 (B) impose a penalty for a previous religious gathering that was held in a manner
670 consistent with any order of constraint issued pursuant to this title.

671 (b) Upon proper grounds, a court of competent jurisdiction may grant an injunction to
672 prevent the violation of this Subsection (10).

673 (c) During a public health emergency declared as described in this title, the department
674 or a local health department shall not issue a public health order or impose or implement a
675 regulation that substantially burdens an individual's exercise of religion unless the department
676 or local health department demonstrates that the application of the burden to the individual:

677 (i) is in furtherance of a compelling government interest; and

678 (ii) is the least restrictive means of furthering that compelling government interest.

679 (d) Notwithstanding Subsections (8)(a) and (c), the department or a local health
680 department shall allow reasonable accommodations for an individual to perform or participate
681 in a religious practice or rite.

682 (11) An order of constraint issued by a local health department pursuant to a declared
683 public health emergency does not apply to a facility, property, or area owned or leased by the
684 state, including the capitol hill complex, as that term is defined in Section [63C-9-102](#).

685 Section 13. **Repealer.**

686 This bill repeals:

687 Section [26-6b-9](#), **Examination, quarantine, isolation, and treatment costs.**