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Conference Engrossed

State of Arizona
House of Representatives
Forty-fifth Legislature
Second Regular Session
2002

HOUSE BILL 2044

AN ACT

AMENDING SECTIONS 36-136 AND 36-624, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 6, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 9; RELATING TO BIOTERRORISM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 36-136, Arizona Revised Statutes, is amended to
3 read:

4 36-136. Powers and duties of director; compensation of
5 personnel

6 A. The director shall:

7 1. Be the executive officer of the department of health services and
8 the state registrar of vital statistics but shall not receive compensation
9 for services as registrar.

10 2. Perform all duties necessary to carry out the functions and
11 responsibilities of the department.

12 3. Prescribe the organization of the department. The director shall
13 appoint or remove such personnel considered necessary for the efficient work
14 of the department and shall prescribe the duties of all personnel. The
15 director may abolish any office or position in the department that the
16 director believes is unnecessary.

17 4. Administer and enforce the laws relating to health and sanitation
18 and the rules of the department.

19 5. Provide for the examination of any premises if the director has
20 reasonable cause to believe that on the premises there exists a violation of
21 any health law or rule of the state.

22 6. Exercise general supervision over all matters relating to
23 sanitation and health throughout the state. When in the opinion of the
24 director it is necessary or advisable, a sanitary survey of the whole or of
25 any part of the state shall be made. The director may enter, examine and
26 survey any source and means of water supply, sewage disposal plant, sewerage
27 system, prison, public or private place of detention, asylum, hospital,
28 school, public building, private institution, factory, workshop, tenement,
29 public washroom, public rest room, public toilet and toilet facility, public
30 eating room and restaurant, dairy, milk plant or food manufacturing or
31 processing plant, and any premises in which the director has reason to
32 believe there exists a violation of any health law or rule of the state that
33 the director has the duty to administer.

34 7. Prepare sanitary and public health rules.

35 8. Perform other duties prescribed by law.

36 B. If the director has reasonable cause to believe that there exists a
37 violation of any health law or rule of the state, the director may inspect
38 any person or property in transportation through the state, and ~~of~~ any car,
39 boat, train, trailer, airplane or other vehicle in which such person or
40 property is transported, and may enforce detention or disinfection as
41 reasonably necessary for the public health if there exists a violation of any
42 health law or rule.

43 C. The director may deputize, in writing, any qualified officer or
44 employee in the department to do or perform on the director's behalf any act

1 the director is by law empowered to do or charged with the responsibility of
2 doing.

3 D. The director may delegate to a local health department or public
4 health services district any functions, powers or duties that the director
5 believes can be competently, efficiently and properly performed by the health
6 department or public health services district if:

7 1. The director or superintendent of the local health agency or public
8 health services district is willing to accept the delegation and agrees to
9 perform or exercise the functions, powers and duties conferred in accordance
10 with the standards of performance established by the director.

11 2. Monies appropriated or otherwise made available to the department
12 for distribution to or division among counties or public health services
13 districts for local health work may be allocated or reallocated in a manner
14 designed to assure the accomplishment of recognized local public health
15 activities and delegated functions, powers and duties in accordance with
16 applicable standards of performance. Whenever in the director's opinion
17 there is cause, the director may terminate all or a part of any such
18 delegation and may reallocate all or a part of any funds that may have been
19 conditioned on the further performance of the functions, powers or duties
20 conferred.

21 E. The compensation of all personnel shall be as determined pursuant
22 to section 38-611.

23 F. The director may make and amend rules necessary for the proper
24 administration and enforcement of the laws relating to the public health.

25 G. Notwithstanding subsection H, paragraph 1 of this section, the
26 director may define and prescribe emergency measures for detecting,
27 reporting, preventing and controlling communicable or infectious diseases or
28 conditions if the director has reasonable cause to believe that a serious
29 threat to public health and welfare exists. Emergency measures are effective
30 for no longer than eighteen months.

31 H. The director shall, by rule:

32 1. Define and prescribe reasonably necessary measures for detecting,
33 reporting, preventing and controlling communicable and preventable diseases.
34 The rules shall declare certain diseases reportable. ~~and shall further~~
35 ~~establish minimum periods of isolation or quarantine and procedures and~~
36 ~~measures to institute isolation or quarantine, including the right to a~~
37 ~~hearing. The rules shall allow the director to institute isolation or~~
38 ~~quarantine before the completion of a hearing if the director determines that~~
39 ~~clear and convincing evidence exists that a person poses a substantial danger~~
40 ~~to another person or the community.~~ The rules shall prescribe measures,
41 INCLUDING ISOLATION OR QUARANTINE, reasonably required to prevent the
42 occurrence of, or to seek early detection and alleviation of, disability,
43 insofar as possible, from communicable or preventable diseases. The rules

1 shall include reasonably necessary measures to control animal diseases
2 transmittable to humans.

3 2. Define and prescribe reasonably necessary measures, in addition to
4 those prescribed by law, regarding the preparation, embalming, cremation,
5 interment, disinterment and transportation of dead human bodies and the
6 conduct of funerals, relating to and restricted to communicable diseases and
7 regarding the removal, transportation, cremation, interment or disinterment
8 of any dead human body.

9 3. Define and prescribe reasonably necessary procedures not
10 inconsistent with law in regard to the use and accessibility of vital
11 records, delayed birth registration and the completion, change and amendment
12 of vital records.

13 4. Except as relating to the beneficial use of wildlife meat by public
14 institutions and charitable organizations pursuant to title 17, prescribe
15 reasonably necessary measures to assure that all food, including meat and
16 meat products sold at the retail level, or drink, other than milk and milk
17 products, sold or distributed for human consumption is free from unwholesome,
18 poisonous or other foreign substances and filth, insects or disease-causing
19 organisms. The rules shall prescribe reasonably necessary measures governing
20 the production, processing, labeling, storing, handling, serving and
21 transportation of such food and drink. The rules shall prescribe minimum
22 standards for the sanitary facilities and conditions that shall be maintained
23 in any plant, other than a meat packing plant, slaughterhouse or wholesale
24 meat processing plant, and in any warehouse, restaurant or other premises and
25 in any truck or other vehicle in which food or drink is produced, processed,
26 stored, handled, served or transported. The rules shall provide for the
27 inspection and licensing of premises and vehicles so used, and for abatement
28 as public nuisances of any premises or vehicles that do not comply with the
29 rules and minimum standards.

30 5. Prescribe reasonably necessary measures to assure that all meat and
31 meat products for human consumption handled at the retail level are delivered
32 in a manner and from sources approved by the Arizona department of
33 agriculture and are free from unwholesome, poisonous or other foreign
34 substances and filth, insects or disease-causing organisms. The rules shall
35 prescribe standards for sanitary facilities to be used in identity, storage,
36 handling and sale of all meat and meat products sold at the retail level.

37 6. Prescribe reasonably necessary measures regarding production,
38 processing, labeling, handling, serving and transportation of bottled water
39 to assure that all bottled drinking water distributed for human consumption
40 is free from unwholesome, poisonous, deleterious or other foreign substances
41 and filth or disease-causing organisms. The rules shall prescribe minimum
42 standards for the sanitary facilities and conditions that shall be maintained
43 at any source of water, bottling plant and truck or vehicle in which bottled
44 water is produced, processed, stored or transported and shall provide for

1 inspection and certification of bottled drinking water sources, plants,
2 processes and transportation and for abatement as a public nuisance of any
3 water supply, label, premises, equipment, process or vehicle that does not
4 comply with the minimum standards. The rules shall prescribe minimum
5 standards for bacteriological, physical and chemical quality for bottled
6 water and for the submission of samples at intervals prescribed in the
7 standards.

8 7. Define and prescribe reasonably necessary measures governing ice
9 production, handling, storing and distribution to assure that all ice sold or
10 distributed for human consumption or for the preservation or storage of food
11 for human consumption is free from unwholesome, poisonous, deleterious or
12 other foreign substances and filth or disease-causing organisms. The rules
13 shall prescribe minimum standards for the sanitary facilities and conditions
14 and the quality of ice that shall be maintained at any ice plant, storage and
15 truck or vehicle in which ice is produced, stored, handled or transported,
16 and shall provide for inspection and licensing of the premises and vehicles,
17 and for abatement as public nuisances of ice, premises, equipment, processes
18 or vehicles that do not comply with the minimum standards.

19 8. Define and prescribe reasonably necessary measures concerning
20 sewage and excreta disposal, garbage and trash collection, storage and
21 disposal, and water supply for recreational and summer camps, campgrounds,
22 motels, tourist courts, trailer coach parks and hotels. The rules shall
23 prescribe minimum standards for preparation of food in community kitchens,
24 adequacy of excreta disposal, garbage and trash collection, storage and
25 disposal and water supply for recreational and summer camps, campgrounds,
26 motels, tourist courts, trailer coach parks and hotels and shall provide for
27 inspection of such premises and for abatement as public nuisances of any
28 premises or facilities that do not comply with the rules.

29 9. Define and prescribe reasonably necessary measures concerning the
30 sewage and excreta disposal, garbage and trash collection, storage and
31 disposal, water supply and food preparation of all public schools. The rules
32 shall prescribe minimum standards for sanitary conditions that shall be
33 maintained in any public school and shall provide for inspection of such
34 premises and facilities and for abatement as public nuisances of any premises
35 that do not comply with the minimum standards.

36 10. Prescribe reasonably necessary measures to prevent pollution of
37 water used in public or semipublic swimming pools and bathing places and to
38 prevent deleterious health conditions at such places. The rules shall
39 prescribe minimum standards for sanitary conditions that shall be maintained
40 at any public or semipublic swimming pool or bathing place and shall provide
41 for inspection of such premises and for abatement as public nuisances of any
42 premises and facilities that do not comply with the minimum standards. The
43 rules shall be developed in cooperation with the director of the department
44 of environmental quality and shall be consistent with the rules adopted by

1 the director of the department of environmental quality pursuant to section
2 49-104, subsection B, paragraph 12.

3 11. Prescribe reasonably necessary measures to keep confidential
4 information relating to diagnostic findings and treatment of patients, as
5 well as information relating to contacts, suspects and associates of
6 communicable disease patients. In no event shall such confidential
7 information be made available for political or commercial purposes.

8 12. Prescribe reasonably necessary measures regarding human
9 immunodeficiency virus testing as a means to control the transmission of that
10 virus, including the designation of anonymous test sites as dictated by
11 current epidemiologic and scientific evidence.

12 I. The rules adopted under the authority conferred by this section
13 shall be observed throughout the state and shall be enforced by each local
14 board of health or public health services district, but this section does not
15 limit the right of any local board of health or county board of supervisors
16 to adopt ordinances and rules as authorized by law within its jurisdiction,
17 provided that the ordinances and rules do not conflict with state law and are
18 equal to or more restrictive than the rules of the director.

19 J. The powers and duties prescribed by this section do not apply in
20 instances in which regulatory powers and duties relating to public health are
21 vested by the legislature in any other state board, commission, agency or
22 instrumentality, except that with regard to the regulation of meat and meat
23 products, the department of health services and the Arizona department of
24 agriculture within the area delegated to each shall adopt rules that are not
25 in conflict.

26 K. The director, in establishing fees authorized by this section,
27 shall comply with title 41, chapter 6. The department shall not set a fee at
28 more than the department's cost of providing the service for which the fee is
29 charged. State agencies are exempt from all fees imposed pursuant to this
30 section.

31 L. After consultation with the state superintendent of public
32 instruction, the director shall prescribe the criteria the department shall
33 use in deciding whether or not to notify a local school district that a pupil
34 in the district has tested positive for the human immunodeficiency virus
35 antibody. The director shall prescribe the procedure by which the department
36 shall notify a school district if, pursuant to these criteria, the department
37 determines that notification is warranted in a particular situation. This
38 procedure shall include a requirement that before notification the department
39 shall determine to its satisfaction that the district has an appropriate
40 policy relating to nondiscrimination of the infected pupil and
41 confidentiality of test results and that proper educational counseling has
42 been or will be provided to staff and pupils.

1 Sec. 2. Section 36-624, Arizona Revised Statutes, is amended to read:

2 36-624. Quarantine and sanitary measures to prevent contagion

3 When a ~~local board of health or local~~ COUNTY health department OR
4 PUBLIC HEALTH SERVICES DISTRICT is apprised that infectious or contagious
5 disease exists within its jurisdiction, it shall immediately make an
6 investigation. If the investigation discloses that the disease does exist,
7 the ~~board or~~ COUNTY HEALTH department OR PUBLIC HEALTH SERVICES DISTRICT may
8 adopt quarantine and sanitary measures consistent with department rules
9 ~~adopted pursuant to section 36-136, subsection H, paragraph 1~~ AND SECTIONS
10 36-788 AND 36-789 to prevent the spread of the disease. The ~~local board or~~
11 COUNTY health department OR PUBLIC HEALTH SERVICES DISTRICT shall immediately
12 notify the department of health services of the existence and nature of the
13 disease, and measures taken concerning it.

14 Sec. 3. Title 36, chapter 6, Arizona Revised Statutes, is amended by
15 adding article 9, to read:

16 ARTICLE 9. ENHANCED SURVEILLANCE ADVISORIES
17 AND PUBLIC HEALTH EMERGENCIES

18 36-781. Definitions

19 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

20 1. "BIOTERRORISM" MEANS THE INTENTIONAL USE OF ANY MICROORGANISM,
21 VIRUS, INFECTIOUS SUBSTANCE OR BIOLOGICAL PRODUCT THAT MAY BE ENGINEERED AS A
22 RESULT OF BIOTECHNOLOGY OR ANY NATURALLY OCCURRING OR BIOENGINEERED COMPONENT
23 OF ANY MICROORGANISM, VIRUS, INFECTIOUS SUBSTANCE OR BIOLOGICAL PRODUCT, TO
24 CAUSE OR ATTEMPT TO CAUSE DEATH, DISEASE OR OTHER BIOLOGICAL MALFUNCTION IN
25 HUMANS.

26 2. "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT OF HEALTH SERVICES.

27 3. "HEALTH CARE PROVIDER" HAS THE SAME MEANING PRESCRIBED IN SECTION
28 12-2291.

29 4. "LOCAL HEALTH AUTHORITY" MEANS A COUNTY HEALTH DEPARTMENT OR PUBLIC
30 HEALTH SERVICES DISTRICT OR ANY PERSON AUTHORIZED TO ACT ON BEHALF OF THE
31 COUNTY HEALTH DEPARTMENT OR PUBLIC HEALTH SERVICES DISTRICT.

32 5. "PUBLIC SAFETY AUTHORITY" MEANS THE DEPARTMENT OF PUBLIC SAFETY, A
33 LOCAL LAW ENFORCEMENT AGENCY OR A PERSON AUTHORIZED TO ACT ON BEHALF OF THE
34 DEPARTMENT OF PUBLIC SAFETY OR LOCAL LAW ENFORCEMENT AGENCY.

35 36-782. Enhanced surveillance advisory

36 A. THE GOVERNOR, IN CONSULTATION WITH THE DIRECTOR, MAY ISSUE AN
37 ENHANCED SURVEILLANCE ADVISORY IF THE GOVERNOR HAS REASONABLE CAUSE TO
38 BELIEVE THAT AN ILLNESS, HEALTH CONDITION OR CLINICAL SYNDROME CAUSED BY
39 BIOTERRORISM, EPIDEMIC OR PANDEMIC DISEASE OR A HIGHLY FATAL AND HIGHLY
40 INFECTIOUS AGENT OR BIOLOGICAL TOXIN HAS OR MAY OCCUR OR THAT THERE IS A
41 PUBLIC EVENT THAT COULD REASONABLY BE THE OBJECT OF A BIOTERRORISM
42 EVENT. THE ILLNESS OR HEALTH CONDITION MAY NOT INCLUDE ACQUIRED IMMUNE
43 DEFICIENCY SYNDROME OR ANY OTHER INFECTION CAUSED BY THE HUMAN
44 IMMUNODEFICIENCY VIRUS.

1 B. AS DETERMINED BY THE GOVERNOR AFTER CONSIDERING THE LEAST
2 RESTRICTIVE MEASURES NECESSARY THAT ARE CONSISTENT WITH PUBLIC HEALTH AND
3 SAFETY, THE ENHANCED SURVEILLANCE ADVISORY SHALL DIRECT THE FOLLOWING IN
4 ACCORDANCE WITH THIS ARTICLE:

- 5 1. THOSE PERSONS AND ENTITIES REQUIRED TO REPORT.
- 6 2. THE CLINICAL SYNDROMES, ANY ILLNESS OR HEALTH CONDITION THAT MAY BE
7 ASSOCIATED WITH BIOTERRORISM OR A SPECIFIC ILLNESS OR HEALTH CONDITION TO BE
8 REPORTED.
- 9 3. PATIENT TRACKING.
- 10 4. INFORMATION SHARING.
- 11 5. SPECIMEN TESTING COORDINATION.

12 C. THE DIRECTOR SHALL NOTIFY LOCAL HEALTH AUTHORITIES BEFORE THE
13 GOVERNOR ISSUES AN ENHANCED SURVEILLANCE ADVISORY. THE DEPARTMENT AND LOCAL
14 HEALTH AUTHORITIES SHALL PROVIDE THE ENHANCED SURVEILLANCE ADVISORY TO THOSE
15 PERSONS AND ENTITIES REQUIRED BY THE ADVISORY TO REPORT PURSUANT TO THIS
16 ARTICLE BY USING ANY AVAILABLE MEANS OF COMMUNICATION. THIS ARTICLE DOES NOT
17 ALTER THE DEPARTMENT'S OR A LOCAL HEALTH AUTHORITY'S ABILITY TO MONITOR
18 COMMUNITY HEALTH STATUS OR IMPLEMENT CONTROL MEASURES FOR THE EARLY DETECTION
19 OF COMMUNICABLE AND PREVENTABLE DISEASES OTHERWISE ALLOWED BY LAW.

20 D. BEFORE THE GOVERNOR ISSUES AN ENHANCED SURVEILLANCE ADVISORY, THE
21 DEPARTMENT AND LOCAL HEALTH AUTHORITIES MUST MEET WITH REPRESENTATIVES OF
22 PERSONS OR INSTITUTIONS WHO WILL BE AFFECTED BY THE ENHANCED SURVEILLANCE
23 ADVISORY PURSUANT TO SECTION 36-783, SUBSECTIONS A, B AND C. IF, BECAUSE OF
24 AN IMMEDIATE THREAT TO THE PUBLIC HEALTH, THE DEPARTMENT AND LOCAL HEALTH
25 AUTHORITIES ARE NOT ABLE TO HOLD THIS MEETING BEFORE THE GOVERNOR ISSUES THE
26 ADVISORY, THE MEETING MUST TAKE PLACE WITHIN SEVENTY-TWO HOURS AFTER THE
27 GOVERNOR ISSUES THE ADVISORY.

28 E. TO THE EXTENT POSSIBLE, THE DEPARTMENT AND LOCAL HEALTH AUTHORITIES
29 SHALL SHARE DEPARTMENT AND LOCAL HEALTH AUTHORITY PERSONNEL, EQUIPMENT,
30 MATERIALS, SUPPLIES AND OTHER RESOURCES TO ASSIST PERSONS AND INSTITUTIONS
31 AFFECTED TO IMPLEMENT THE TERMS OF THE ADVISORY.

32 F. AT THE GOVERNOR'S DIRECTION, THE DEPARTMENT MAY USE REASONABLE
33 EFFORTS TO ASSIST THE PERSONS AND INSTITUTIONS TO RECEIVE REIMBURSEMENT OF
34 COSTS INCURRED BECAUSE OF THE IMPLEMENTATION OF THE ADVISORY.

35 G. AN ENHANCED SURVEILLANCE ADVISORY MAY BE REVISED OR TERMINATED AT
36 ANY TIME BY THE DIRECTOR AND AUTOMATICALLY TERMINATES AFTER SIXTY DAYS,
37 UNLESS RENEWED BY THE GOVERNOR.

38 36-783. Increased reporting during enhanced surveillance
39 advisory

40 A. A HEALTH CARE PROVIDER OR MEDICAL EXAMINER SHALL REPORT TO THE
41 LOCAL HEALTH AUTHORITY ALL CASES OF ANY ILLNESS, HEALTH CONDITION OR CLINICAL
42 SYNDROME SPECIFIED IN THE ENHANCED SURVEILLANCE ADVISORY. THE REPORT SHALL
43 PROVIDE ADDITIONAL INFORMATION DESIGNATED IN THE ENHANCED SURVEILLANCE
44 ADVISORY.

1 B. THE STATE VETERINARIAN, A VETERINARIAN, A VETERINARIAN LABORATORY
2 PROFESSIONAL OR A WILDLIFE PROFESSIONAL SHALL REPORT ANY CASE OF ANIMAL
3 ILLNESS OR DEATH DUE TO THE DISEASE OR OTHER HEALTH CONDITION DESIGNATED IN
4 THE ENHANCED SURVEILLANCE ADVISORY TO THE DEPARTMENT OR LOCAL HEALTH
5 AUTHORITY. THE REPORT SHALL INCLUDE THE SPECIES AND NUMBER OF AFFECTED
6 ANIMALS AND THE NAME AND ADDRESS OF THE REPORTING VETERINARIAN, VETERINARIAN
7 LABORATORY PROFESSIONAL OR WILDLIFE PROFESSIONAL.

8 C. A PHARMACIST WHO IDENTIFIES ANY UNUSUAL INCREASE IN PRESCRIPTIONS
9 FOR ANTIBIOTICS OR ANY UNUSUAL INCREASE IN PRESCRIPTIONS OR SALES OF
10 OVER-THE-COUNTER PHARMACEUTICALS TO TREAT THE ILLNESS, HEALTH CONDITION OR
11 CLINICAL SYNDROME IDENTIFIED IN THE ENHANCED SURVEILLANCE ADVISORY SHALL
12 REPORT THIS INFORMATION TO THE LOCAL HEALTH AUTHORITY. THE REPORT SHALL
13 INCLUDE THE TYPE OF PHARMACEUTICAL AND THE NAME AND ADDRESS OF THE
14 PHARMACEUTICAL PROVIDER.

15 D. THE REPORTS MUST BE IN WRITING OR BY ANY METHOD DIRECTED BY THE
16 DEPARTMENT OR LOCAL PUBLIC HEALTH AUTHORITY AND MUST BE SUBMITTED WITHIN
17 TWENTY-FOUR HOURS AFTER IDENTIFYING THE REPORTABLE CIRCUMSTANCE. ALL PERSONS
18 REQUIRED TO REPORT UNDER THIS SECTION MUST COOPERATE WITH THE DEPARTMENT AND
19 LOCAL HEALTH AUTHORITY IN EFFECTING THE ENHANCED SURVEILLANCE ADVISORY.
20 FAILURE TO REPORT PURSUANT TO THIS SECTION IS AN ACT OF UNPROFESSIONAL
21 CONDUCT.

22 E. THE DEPARTMENT AND LOCAL PUBLIC HEALTH AUTHORITY SHALL MAINTAIN AS
23 CONFIDENTIAL:

24 1. ANY INFORMATION OR A PARTICULAR PART OF INFORMATION PROVIDED UNDER
25 THIS SECTION THAT, IF MADE PUBLIC, WOULD DIVULGE THE TRADE SECRETS OF A
26 PERSON OR BUSINESS.

27 2. OTHER INFORMATION LIKELY TO CAUSE SUBSTANTIAL HARM TO THE PERSON'S
28 OR BUSINESS' COMPETITIVE POSITION.

29 F. THE LOCAL HEALTH AUTHORITY SHALL IMMEDIATELY NOTIFY THE DEPARTMENT
30 OF ANY REPORTS RECEIVED DURING THE PERIOD OF AN ENHANCED SURVEILLANCE
31 ADVISORY.

32 36-784. Patient tracking during enhanced surveillance advisory

33 A. DURING AN ENHANCED SURVEILLANCE ADVISORY, TO IDENTIFY, DIAGNOSE,
34 TREAT AND TRACK PERSONS WHO MAY HAVE BEEN EXPOSED TO AN ILLNESS, HEALTH
35 CONDITION OR CLINICAL SYNDROME IDENTIFIED IN AN ENHANCED SURVEILLANCE
36 ADVISORY, THE DEPARTMENT AND LOCAL HEALTH AUTHORITY MAY ACCESS CONFIDENTIAL
37 PATIENT INFORMATION, INCLUDING MEDICAL RECORDS, WHEREVER AND BY WHOMEVER HELD
38 AND WHETHER OR NOT PATIENT IDENTITY IS KNOWN.

39 B. THE DEPARTMENT OR LOCAL HEALTH AUTHORITY SHALL COUNSEL AND
40 INTERVIEW ANY PERSON AS NECESSARY TO ASSIST IT IN THE POSITIVE IDENTIFICATION
41 OF EXPOSED PERSONS AND TO DEVELOP INFORMATION RELATING TO THE SOURCE AND
42 SPREAD OF THE ILLNESS OR HEALTH CONDITION. THIS INFORMATION MUST INCLUDE THE
43 NAMES AND ADDRESSES OF ANY PERSONS FROM WHOM THE ILLNESS OR HEALTH CONDITION

1 MAY HAVE BEEN CONTRACTED AND TO WHOM THE ILLNESS OR HEALTH CONDITION MAY HAVE
2 SPREAD.

3 C. ANY MEDICAL INFORMATION OR OTHER INFORMATION FROM WHICH A PERSON
4 MIGHT BE IDENTIFIED THAT IS RECEIVED BY THE DEPARTMENT OR LOCAL HEALTH
5 AUTHORITY IN THE COURSE OF AN ENHANCED SURVEILLANCE ADVISORY IS CONFIDENTIAL
6 AND IS NOT AVAILABLE TO THE PUBLIC.

7 36-785. Information sharing during an enhanced surveillance
8 advisory

9 A. DURING AN ENHANCED SURVEILLANCE ADVISORY, WHEN A PUBLIC SAFETY
10 AUTHORITY LEARNS OF A SUSPICIOUS DISEASE EVENT, OR IT LEARNS OF A THREATENED
11 BIOTERRORISM ACT AT ANY TIME, IT SHALL IMMEDIATELY NOTIFY THE DEPARTMENT OR
12 THE LOCAL HEALTH AUTHORITY, AND THE AGENCY THAT RECEIVES THIS INFORMATION
13 MUST IMMEDIATELY NOTIFY THE OTHER AGENCY.

14 B. WHEN THE DEPARTMENT OR THE LOCAL HEALTH AUTHORITY IDENTIFIES A
15 REPORTABLE ILLNESS OR HEALTH CONDITION, UNUSUAL DISEASE CLUSTER OR SUSPICIOUS
16 DISEASE EVENT THAT IT REASONABLY BELIEVES MAY BE CAUSED BY BIOTERRORISM, THE
17 DEPARTMENT OR LOCAL HEALTH AUTHORITY MUST IMMEDIATELY NOTIFY AT ANY TIME THE
18 APPROPRIATE PUBLIC SAFETY AUTHORITY AND, IF APPROPRIATE, TRIBAL HEALTH
19 AUTHORITIES.

20 C. SHARING OF INFORMATION ON REPORTABLE ILLNESSES, HEALTH CONDITIONS,
21 UNUSUAL DISEASE CLUSTERS OR SUSPICIOUS DISEASE EVENTS BETWEEN PUBLIC SAFETY
22 AND LOCAL HEALTH AUTHORITIES IS LIMITED TO THE INFORMATION NECESSARY TO
23 EFFECT THE ENHANCED SURVEILLANCE ADVISORY AND DOES NOT INCLUDE THE RELEASE OF
24 MEDICAL RECORDS TO PUBLIC SAFETY AUTHORITIES. INFORMATION FROM WHICH A
25 PERSON MIGHT BE IDENTIFIED THAT IS RECEIVED BY THE DEPARTMENT, LOCAL HEALTH
26 AUTHORITY OR PUBLIC SAFETY AUTHORITY IN THE COURSE OF AN ENHANCED
27 SURVEILLANCE ADVISORY IS CONFIDENTIAL AND NOT AVAILABLE TO THE PUBLIC.

28 36-786. Laboratory testing during an enhanced surveillance
29 advisory

30 A. THE STATE LABORATORY SHALL COORDINATE SPECIMEN TESTING RELATING TO
31 ENHANCED SURVEILLANCE ADVISORY. IF NECESSARY AND AT STATE EXPENSE, THE
32 DEPARTMENT MAY DESIGNATE OTHER LABORATORIES TO ASSIST IT IN TESTING
33 SPECIMENS.

34 B. THE DEPARTMENT SHALL DETERMINE THE CRITERIA NECESSARY FOR PRIVATE
35 OR PUBLIC LABORATORIES TO CONDUCT CLINICAL OR ENVIRONMENTAL TESTING
36 ASSOCIATED WITH BIOTERRORISM OR ANY ILLNESS OR HEALTH CONDITION SUBJECT TO
37 THE ENHANCED SURVEILLANCE ADVISORY.

38 C. DURING AN ENHANCED SURVEILLANCE ADVISORY, A PUBLIC SAFETY
39 AUTHORITY, IF REQUESTED BY THE DEPARTMENT OR LOCAL HEALTH AUTHORITY, SHALL
40 COORDINATE AND PROVIDE TRANSPORTATION OF CLINICAL OR ENVIRONMENTAL SAMPLES TO
41 THE STATE LABORATORY OR OTHER TESTING LABORATORY DESIGNATED BY THE
42 DEPARTMENT.

1 1. MANDATE TREATMENT OR VACCINATION OF PERSONS WHO ARE DIAGNOSED WITH
2 ILLNESS RESULTING FROM EXPOSURE OR WHO ARE REASONABLY BELIEVED TO HAVE BEEN
3 EXPOSED OR WHO MAY REASONABLY BE EXPECTED TO BE EXPOSED.

4 2. ISOLATE AND QUARANTINE PERSONS.

5 D. LAW ENFORCEMENT OFFICIALS OF THIS STATE AND THE NATIONAL GUARD
6 SHALL ENFORCE ORDERS ISSUED BY THE GOVERNOR UNDER THIS SECTION.

7 E. DISEASES SUBJECT TO THIS SECTION DO NOT INCLUDE ACQUIRED IMMUNE
8 DEFICIENCY SYNDROME OR OTHER INFECTION CAUSED BY THE HUMAN IMMUNODEFICIENCY
9 VIRUS.

10 F. IF DURING A STATE OF EMERGENCY OR STATE OF WAR EMERGENCY THE PUBLIC
11 HEALTH IS NOT ENDANGERED NOTHING IN THIS TITLE SHALL AUTHORIZE THE DEPARTMENT
12 OR ANY OF ITS OFFICERS OR REPRESENTATIVES TO IMPOSE ON ANY PERSON AGAINST THE
13 PERSON'S WILL ANY MODE OF TREATMENT, PROVIDED THAT SANITARY OR PREVENTIVE
14 MEASURES AND QUARANTINE LAWS ARE COMPLIED WITH BY THE PERSON. NOTHING IN
15 THIS TITLE SHALL AUTHORIZE THE DEPARTMENT OR ANY OF ITS OFFICERS OR
16 REPRESENTATIVES TO IMPOSE ON ANY PERSON CONTRARY TO HIS RELIGIOUS CONCEPTS
17 ANY MODE OF TREATMENT, PROVIDED THAT SANITARY OR PREVENTIVE MEASURES AND
18 QUARANTINE LAWS ARE COMPLIED WITH BY THE PERSON.

19 G. AT THE GOVERNOR'S DIRECTION, THE DEPARTMENT MAY USE REASONABLE
20 EFFORTS TO ASSIST THE PERSONS AND INSTITUTIONS AFFECTED BY THE STATE OF
21 EMERGENCY OR STATE OF WAR EMERGENCY DECLARED PURSUANT TO THIS SECTION IN
22 SEEKING REIMBURSEMENT OF COSTS INCURRED AS A RESULT OF PROVIDING SERVICES
23 RELATED TO THE IMPLEMENTATION OF ISOLATION AND QUARANTINE UNDER THIS ARTICLE
24 TO THE EXTENT THESE SERVICES ARE NOT OTHERWISE SUBJECT TO REIMBURSEMENT.

25 36-788. Isolation and quarantine during a state of emergency or
26 state of war emergency

27 A. DURING A STATE OF EMERGENCY OR STATE OF WAR EMERGENCY AS DECLARED
28 PURSUANT TO SECTION 36-787, THE DEPARTMENT OR LOCAL HEALTH AUTHORITY MUST
29 INITIATE AN INVESTIGATION IF THAT AGENCY HAS REASONABLE CAUSE TO BELIEVE THAT
30 A HIGHLY CONTAGIOUS AND FATAL DISEASE EXISTS WITHIN ITS
31 JURISDICTION. SUBJECT TO THE PROVISIONS OF THIS ARTICLE, PERSONS WHO HAVE
32 CONTRACTED THE DISEASE OR WHO HAVE BEEN EXPOSED TO THE DISEASE MAY BE SUBJECT
33 TO ISOLATION AND QUARANTINE IF THE DIRECTOR DETERMINES THAT QUARANTINE IS THE
34 LEAST RESTRICTIVE MEANS BY WHICH THE PUBLIC CAN BE PROTECTED FROM
35 TRANSMISSION OF THE DISEASE, DUE TO THE NATURE OF THE DISEASE AND AVAILABLE
36 PREVENTIVE MEASURES, OR REFUSAL BY AN INDIVIDUAL TO ACCEPT LESS RESTRICTIVE
37 MEASURES TO PREVENT DISEASE TRANSMISSION. DISEASES FOR WHICH ISOLATION AND
38 QUARANTINE MAY BE ORDERED DO NOT INCLUDE ACQUIRED IMMUNE DEFICIENCY SYNDROME
39 OR OTHER INFECTION CAUSED BY THE HUMAN IMMUNODEFICIENCY VIRUS.

40 B. THE DEPARTMENT OR LOCAL HEALTH AUTHORITY MAY, DURING THE STATE OF
41 EMERGENCY OR STATE OF WAR EMERGENCY DECLARED BY THE GOVERNOR, DO THE
42 FOLLOWING:

43 1. ESTABLISH AND MAINTAIN PLACES OF ISOLATION AND QUARANTINE, WHICH
44 MAY INCLUDE THE RESIDENCE OF THE PERSON QUARANTINED.

1 B. WITHIN TEN DAYS AFTER ISSUING THE WRITTEN DIRECTIVE, OR WHEN ANY
2 DELAY IN THE ISOLATION OR QUARANTINE OF A PERSON OR GROUP OF PERSONS WILL NOT
3 POSE AN IMMEDIATE AND SERIOUS THREAT TO THE PUBLIC HEALTH, THE DEPARTMENT OR
4 LOCAL HEALTH AUTHORITY SHALL FILE A PETITION FOR A COURT ORDER AUTHORIZING
5 THE INITIAL OR CONTINUED ISOLATION OR QUARANTINE OF A PERSON OR GROUP OF
6 PERSONS. THE PETITION SHALL SPECIFY THE FOLLOWING:
7 1. THE IDENTITY OF THE PERSON OR GROUP OF PERSONS SUBJECT TO ISOLATION
8 OR QUARANTINE.
9 2. THE PREMISES SUBJECT TO ISOLATION OR QUARANTINE.
10 3. THE DATE AND TIME AT WHICH ISOLATION OR QUARANTINE COMMENCES.
11 4. THE SUSPECTED CONTAGIOUS DISEASE, IF KNOWN.
12 5. A STATEMENT OF COMPLIANCE WITH THE CONDITIONS AND PRINCIPLES FOR
13 ISOLATION AND QUARANTINE.
14 6. A STATEMENT OF THE BASIS ON WHICH ISOLATION OR QUARANTINE IS
15 JUSTIFIED PURSUANT TO THIS ARTICLE.
16 C. THE PETITION MUST BE ACCOMPANIED BY THE SWORN AFFIDAVIT OF THE
17 DEPARTMENT OR LOCAL HEALTH AUTHORITY ATTESTING TO THE FACTS ASSERTED IN THE
18 PETITION, TOGETHER WITH ANY FURTHER INFORMATION THAT MAY BE RELEVANT AND
19 MATERIAL TO THE COURT'S CONSIDERATION.
20 D. NOTICE TO A PERSON OR GROUP OF PERSONS IDENTIFIED IN A PETITION
21 FILED PURSUANT TO SUBSECTION B OF THIS SECTION MUST BE COMPLETED WITHIN
22 TWENTY-FOUR HOURS AFTER FILING THE PETITION AND IN ACCORDANCE WITH THE RULES
23 OF CIVIL PROCEDURE.
24 E. A HEARING MUST BE HELD ON A PETITION FILED PURSUANT TO THIS SECTION
25 WITHIN FIVE DAYS AFTER FILING OF THE PETITION. IN EXTRAORDINARY
26 CIRCUMSTANCES AND FOR GOOD CAUSE SHOWN, THE DEPARTMENT OR LOCAL HEALTH
27 AUTHORITY MAY APPLY TO CONTINUE THE HEARING DATE ON A PETITION FOR NOT MORE
28 THAN TEN DAYS. IF THE COURT GRANTS A CONTINUANCE IT MUST GIVE DUE REGARD TO
29 THE RIGHTS OF THE AFFECTED PERSONS, THE PROTECTION OF THE PUBLIC'S HEALTH,
30 THE SEVERITY OF THE EMERGENCY AND THE AVAILABILITY OF NECESSARY WITNESSES AND
31 EVIDENCE.
32 F. THE COURT SHALL GRANT THE PETITION IF, BY A PREPONDERANCE OF THE
33 EVIDENCE, ISOLATION OR QUARANTINE IS SHOWN TO BE REASONABLY NECESSARY TO
34 PROTECT THE PUBLIC HEALTH.
35 G. A COURT ORDER AUTHORIZING ISOLATION OR QUARANTINE MAY DO SO FOR A
36 PERIOD NOT TO EXCEED THIRTY DAYS. THE ORDER MUST:
37 1. IDENTIFY THE ISOLATED OR QUARANTINED PERSON OR GROUP OF PERSONS BY
38 NAME OR SHARED OR SIMILAR CHARACTERISTICS OR CIRCUMSTANCES.
39 2. SPECIFY FACTUAL FINDINGS WARRANTING ISOLATION OR QUARANTINE
40 PURSUANT TO THIS ARTICLE, INCLUDING ANY CONDITIONS NECESSARY TO ENSURE THAT
41 ISOLATION OR QUARANTINE IS CARRIED OUT WITHIN THE STATED PURPOSES AND
42 RESTRICTIONS OF THIS ARTICLE.
43 3. BE SERVED ON AN AFFECTED PERSON OR GROUP OF PERSONS IN ACCORDANCE
44 WITH THE RULES OF CIVIL PROCEDURE.

1 H. BEFORE AN ISOLATION OR QUARANTINE ORDER EXPIRES, THE DEPARTMENT OR
2 LOCAL HEALTH AUTHORITY MAY MOVE TO CONTINUE THE ISOLATION OR QUARANTINE FOR
3 AN ADDITIONAL PERIOD NOT TO EXCEED THIRTY DAYS. THE COURT SHALL GRANT THE
4 MOTION IF, BY A PREPONDERANCE OF THE EVIDENCE, ISOLATION OR QUARANTINE IS
5 SHOWN TO BE REASONABLY NECESSARY TO PROTECT THE PUBLIC HEALTH.

6 I. A PERSON OR GROUP OF PERSONS ISOLATED OR QUARANTINED PURSUANT TO
7 THIS SECTION MAY APPLY TO THE COURT FOR AN ORDER TO SHOW CAUSE WHY THE PERSON
8 OR GROUP OF PERSONS SHOULD NOT BE RELEASED. THE COURT MUST RULE ON THE
9 APPLICATION TO SHOW CAUSE WITHIN FORTY-EIGHT HOURS AFTER IT IS FILED. IF THE
10 COURT GRANTS THE APPLICATION, THE COURT MUST SCHEDULE A HEARING ON THE ORDER
11 TO SHOW CAUSE WITHIN TWENTY-FOUR HOURS AFTER IT ISSUES THE ORDER TO SHOW
12 CAUSE. THE ISSUANCE OF AN ORDER TO SHOW CAUSE DOES NOT STAY OR ENJOIN AN
13 ISOLATION OR QUARANTINE ORDER.

14 J. A PERSON ISOLATED OR QUARANTINED PURSUANT TO THIS SECTION MAY
15 REQUEST A COURT HEARING REGARDING THE PERSON'S TREATMENT AND THE CONDITIONS
16 OF THE QUARANTINE OR ISOLATION.

17 K. ON RECEIVING A REQUEST FOR A HEARING PURSUANT TO SUBSECTION J OF
18 THIS SECTION, THE COURT MUST SET A DATE FOR A HEARING. THE HEARING MUST TAKE
19 PLACE WITHIN TEN DAYS AFTER THE COURT RECEIVES THE REQUEST. THE REQUEST FOR
20 A HEARING DOES NOT ALTER THE ORDER OF ISOLATION OR QUARANTINE. IF THE COURT
21 FINDS THAT THE ISOLATION OR QUARANTINE OF THE PERSON OR GROUP OF PERSONS DOES
22 NOT COMPLY WITH THE REQUIREMENTS OF THIS SECTION OR SECTION 36-788, THE COURT
23 MAY PROVIDE REMEDIES APPROPRIATE TO THE CIRCUMSTANCES OF THE STATE OF
24 EMERGENCY, THE RIGHTS OF THE INDIVIDUAL AND IN KEEPING WITH THE PROVISIONS OF
25 THIS ARTICLE.

26 L. A RECORD OF THE PROCEEDINGS PURSUANT TO THIS SECTION SHALL BE MADE
27 AND RETAINED. IF, BECAUSE OF A STATE OF EMERGENCY OR STATE OF WAR EMERGENCY
28 DECLARED PURSUANT TO SECTION 36-787, PARTIES CANNOT PERSONALLY APPEAR BEFORE
29 THE COURT, THE PROCEEDINGS MAY BE CONDUCTED BY THE AUTHORIZED REPRESENTATIVES
30 OF THE PARTIES AND HELD BY ANY MEANS THAT ALLOWS ALL PARTIES TO FULLY
31 PARTICIPATE.

32 M. THE COURT SHALL APPOINT COUNSEL AT STATE EXPENSE TO REPRESENT A
33 PERSON OR GROUP OF PERSONS WHO IS SUBJECT TO ISOLATION OR QUARANTINE PURSUANT
34 TO THIS ARTICLE AND WHO IS NOT OTHERWISE REPRESENTED BY COUNSEL.
35 REPRESENTATION BY APPOINTED COUNSEL CONTINUES THROUGHOUT THE DURATION OF THE
36 ISOLATION OR QUARANTINE OF THE PERSON OR GROUP OF PERSONS. THE DEPARTMENT OR
37 LOCAL HEALTH AUTHORITY MUST PROVIDE ADEQUATE MEANS OF COMMUNICATION BETWEEN
38 THE ISOLATED OR QUARANTINED PERSONS AND THEIR COUNSEL.

39 N. IN ANY PROCEEDINGS BROUGHT PURSUANT TO THIS SECTION, TO PROMOTE THE
40 FAIR AND EFFICIENT OPERATION OF JUSTICE AND HAVING GIVEN DUE REGARD TO THE
41 RIGHTS OF THE AFFECTED PERSONS, THE PROTECTION OF THE PUBLIC'S HEALTH, THE
42 SEVERITY OF THE EMERGENCY AND THE AVAILABILITY OF NECESSARY WITNESSES AND
43 EVIDENCE, THE COURT MAY ORDER THE CONSOLIDATION OF INDIVIDUAL CLAIMS INTO
44 GROUPS OF CLAIMS IF:

- 1 1. THE NUMBER OF PERSONS INVOLVED OR TO BE AFFECTED IS SO LARGE AS TO
2 RENDER INDIVIDUAL PARTICIPATION IMPRACTICAL.
- 3 2. THERE ARE QUESTIONS OF LAW OR FACT COMMON TO THE INDIVIDUAL CLAIMS
4 OR RIGHTS TO BE DETERMINED.
- 5 3. THE GROUP CLAIMS OR RIGHTS TO BE DETERMINED ARE TYPICAL OF THE
6 AFFECTED PERSON'S CLAIMS OR RIGHTS.
- 7 4. THE ENTIRE GROUP WILL BE ADEQUATELY REPRESENTED IN THE
8 CONSOLIDATION.
- 9 36-790. Privileges and immunities
- 10 A. THE PHYSICIAN PATIENT PRIVILEGE DOES NOT PREVENT A PERSON OR HEALTH
11 CARE PROVIDER FROM COMPLYING WITH THE DUTY TO REPORT OR PROVIDE PERSONAL
12 INFORMATION AND MEDICAL INFORMATION TO THE DEPARTMENT OR LOCAL HEALTH
13 AUTHORITY IN ACCORDANCE WITH THIS ARTICLE. THE DEPARTMENT AND LOCAL HEALTH
14 AUTHORITIES SHALL MAINTAIN THE CONFIDENTIALITY OF THE MEDICAL INFORMATION AND
15 PERSONAL IDENTIFIERS RECEIVED.
- 16 B. A PERSON OR HEALTH CARE PROVIDER UNDERTAKING ANY ACTIVITY REQUIRED
17 BY THIS ARTICLE, INCLUDING REPORTING, PARTICIPATING IN QUARANTINE OR
18 ISOLATION PROCEDURES, IS IMMUNE FROM CIVIL OR CRIMINAL LIABILITY IF THE
19 PERSON OR HEALTH CARE PROVIDER ACTED IN GOOD FAITH. ACTIONS REQUIRED BY THIS
20 ARTICLE ARE PRESUMED TO BE IN GOOD FAITH.
- 21 C. THE IMMUNITIES PRESCRIBED IN SECTION 26-314 ARE APPLICABLE TO
22 SECTIONS 36-787, 36-788 AND 36-789.
- 23 Sec. 4. Exemption from rule making
- 24 A. For the purposes of this act, the department of health services is
25 exempt from the rule making requirements of title 41, chapter 6, Arizona
26 Revised Statutes.
- 27 B. The department shall hold at least one public hearing before it
28 adopts a rule pursuant to this act.