

2020 Second Extraordinary Session

HOUSE BILL NO. 90

BY REPRESENTATIVE AMEDEE

PUBLIC HEALTH/OFFICE: Provides limitations on orders, regulations, and other actions effecting isolation or quarantine (Item #3)

1 AN ACT

2 To amend and reenact R.S. 29:764(A)(2)(d) and (h), (4)(d), (6), (8), and (9) and R.S.  
3 40:4(A)(2)(introductory paragraph), 5(A)(1), 6(B), 7(A), and 18(B) and to enact R.S.  
4 40:3.2, relative to powers of certain state agencies and officials to isolate or  
5 quarantine for the care and control of communicable disease; to provide certain  
6 limitations on such powers; to provide relative to the jurisdiction and authority of the  
7 state health officer; to provide relative to the authority of the Louisiana Department  
8 of Health with respect to administrative rules and regulations concerning prevention  
9 of infectious disease; to provide relative to aspects of the state public health  
10 emergency plan that apply to isolation and quarantine; to make technical changes;  
11 and to provide for related matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. R.S. 29:764(A)(2)(d) and (h), (4)(d), (6), (8), and (9) are hereby amended  
14 and reenacted to read as follows:

15 §764. Public Health Emergency Plan

16 A. Content. The Subcommittee on Chemical and Biological Terrorism of  
17 the Homeland Security Advisory Council shall, within twelve months of its  
18 appointment, deliver to the governor a plan for responding to a public health  
19 emergency, incorporating all applicable provisions of the State Operations  
20 Emergency Plan and including provisions or guidelines on the following:

21 \* \* \*

1 (2) Tailoring the disaster emergency plan to include the unique aspects  
2 relevant to a public health emergency or bioterrorism incident, including but not  
3 limited to:

4 \* \* \*

5 (d) The identification and training of ~~health-care~~ healthcare providers to  
6 diagnose and treat persons with infectious diseases.

7 \* \* \*

8 (h) Provisions permitting persons for reasons of health, religion, or  
9 conscience to refuse medical examination or testing, vaccination, or medical  
10 treatment; ~~provided~~ however, except as provided in R.S. 40:3.2, such persons may  
11 be subject to isolation or quarantine under the provisions of this Chapter.

12 \* \* \*

13 (4) Protecting the citizens of the state regarding:

14 \* \* \*

15 (d) Isolation and quarantine by the least restrictive means necessary, subject  
16 to the limitations of R.S. 40:3.2, to prevent the spread of a contagious or possibly  
17 contagious disease to others.

18 \* \* \*

19 (6) All actions regarding isolation and quarantine shall receive priority on  
20 the dockets of the specified state judicial district courts, which shall liberally  
21 construe the provisions of R.S. 40:3.2 providing limitations on orders, regulations,  
22 and other actions effecting isolation or quarantine.

23 \* \* \*

24 (8) Provisions relative to enlisting the support of in-state and out-of-state  
25 ~~health-care~~ healthcare providers to assist in the inoculation, treatment, isolation,  
26 quarantine, or other measures necessary to properly manage the public health  
27 emergency.

1 (9) Provide for the temporary appointment, licensing<sub>2</sub> or credentialing of  
2 ~~health care~~ healthcare providers who are willing to assist in responding to the public  
3 health emergency.

4 \* \* \*

5 Section 2. R.S. 40:4(A)(2)(introductory paragraph), 5(A)(1), 6(B), 7(A), and 18(B)  
6 are hereby amended and reenacted and R.S. 40:3.2 is hereby enacted to read as follows:

7 §3.2. Orders, regulations, and administrative actions effecting isolation or  
8 quarantine; limitations

9 A.(1) The state health officer shall not issue any general, mandatory  
10 statewide or regional isolation or quarantine order that applies to and is enforced  
11 against any individual who has been neither directly exposed to nor medically  
12 diagnosed with the disease that is the subject of the order.

13 (2) The state health officer shall not take any action to control or suppress  
14 a disease or illness that has the effect of being a general, mandatory statewide or  
15 regional isolation or quarantine order that applies to and is enforced against any  
16 individual who has been neither directly exposed to nor medically diagnosed with  
17 the disease or illness that is the subject of the state health officer's action.

18 B. The Louisiana Department of Health shall not promulgate any  
19 administrative rule or regulation for preventing the spread of a contagious or  
20 infectious disease that has the effect of being a general, mandatory statewide or  
21 regional isolation or quarantine order that applies to and is enforced against any  
22 individual who has been neither directly exposed to nor medically diagnosed with  
23 the disease that is the subject of the rule or regulation.

24 §4. Sanitary Code

25 A. The state health officer acting through the office of public health of the  
26 Louisiana Department of Health shall prepare, promulgate, and enforce rules and  
27 regulations embodied within the state's Sanitary Code covering all matters within his  
28 jurisdiction as defined and set forth in R.S. 40:5. The promulgation of this Sanitary  
29 Code shall be accomplished in strict accordance with the provisions of the

1 Administrative Procedure Act, and further, in conformity with the following  
2 guidelines and directives:

3 \* \* \*

4 (2) In order to prevent the occurrence or spread of communicable diseases,  
5 the rules and regulations of the Sanitary Code shall provide for an immunization  
6 program and provide for and require the reporting, including but not limited to the  
7 reporting of cases of Respiratory Syncytial Virus (RSV) when such a test is  
8 conducted by a laboratory or hospital, investigation, and application and  
9 implementation of appropriate control measures to expressly include isolation and  
10 quarantine proceedings and measures, subject to the limitations of R.S. 40:3.2, for  
11 all communicable diseases of public health significance. However, no rule or  
12 regulation of the Sanitary Code shall impose or create any general duty to warn third  
13 parties upon any healthcare provider who has complied with the applicable reporting  
14 requirements for communicable diseases as set forth in the Sanitary Code. These  
15 rules and regulations shall also be designed to:

16 \* \* \*

17 §5. General powers and jurisdiction

18 A. The state health officer and the office of public health of the Louisiana  
19 Department of Health shall have exclusive jurisdiction, control, and authority:

20 (1) To isolate or quarantine, subject to the limitations of R.S. 40:3.2, for the  
21 care and control of communicable disease within the state.

22 \* \* \*

23 §6. Penalties for violation of state Sanitary Code

24 \* \* \*

25 B.(1) Whoever violates those provisions of the sanitary code dealing with  
26 the lawful isolation or quarantine of communicable disease, or any person having  
27 such a communicable disease that may cause a severe health hazard to the  
28 community and who, after having been officially and lawfully isolated or  
29 quarantined by any local health officer or by the state health officer or the duly

1 authorized representative of either health officer, violates the provisions of the  
2 isolation or quarantine shall be fined not less than fifty dollars nor more than one  
3 hundred dollars or be imprisoned for not more than two years, or both.

4 (2) Any person convicted of violating the provisions of the sanitary code  
5 regarding lawful isolation or quarantine under this Section may be confined either  
6 to the parish jail, to any state-operated hospital, or to the hospital section of the state  
7 penitentiary, at the discretion of the court. If, however, any person convicted under  
8 this Section and committed to any state-operated hospital unlawfully leaves that  
9 institution before serving his full sentence, the district court shall then commit him  
10 to the hospital section of the state penitentiary. If the superintendent of any  
11 state-operated hospital or the medical director of the hospital at the state penitentiary  
12 determines that any person committed to ~~their~~ his respective institution under this  
13 Section is no longer harboring a communicable disease or if the disease is no longer  
14 in a communicable or infectious state and the person has not completed serving the  
15 sentence imposed upon him, the ~~said~~ superintendent or medical director shall  
16 transmit this information immediately to the district court which committed the  
17 person, with a request for commutation of sentence, and ~~said~~ the district court is  
18 hereby authorized, in its discretion, to commute ~~said~~ the person's sentence. Nothing  
19 in this Section ~~is to~~ shall be construed as depriving any individual of the right to  
20 decline any medical treatment or to provide other care or treatment for himself or  
21 herself at his or her own expense, which care does not cause a severe health hazard  
22 to the community, provided that the sanitary and quarantine laws, rules, and  
23 regulations relating to communicable disease are complied with.

24 \* \* \*

25 §7. Communicable disease epidemic; procedure

26 A. If any parish or municipality or any portion thereof becomes infected with  
27 any disease to such an extent as to threaten the spread of the disease to the other  
28 portions of the state, then, subject to the limitations of R.S. 40:3.2, the state health  
29 officer shall issue his proclamation declaring the facts and ordering the infected

1 parish or municipality or the infected portion thereof quarantined. Further, subject  
 2 to the limitations of R.S. 40:3.2, the state health officer shall order all local health  
 3 officers to quarantine against the locality; shall establish and promulgate the rules,  
 4 regulations, terms, and conditions on which intercourse with the infected locality will  
 5 be permitted; and shall issue to the other local sanitary authorities instructions as to  
 6 the measures adopted in quarantining against persons, goods, or other property  
 7 coming from the infected locality. These rules, regulations, terms, and conditions  
 8 shall be observed and obeyed by all health authorities. Any other of the noninfected  
 9 portions of the state may, upon approval of the state health officer, add to the  
 10 regulations, rules, terms, and conditions already imposed by the state health officer.

11 \* \* \*

12 §18. Communicable disease; isolation and report to state health officer; ~~quarantine~~

13 \* \* \*

14 B. Upon receipt of notice of the case by the state health officer, or at any  
 15 time during the case thereafter, the state health officer shall, if he thinks the  
 16 emergency sufficient, send an expert physician, selected by him, to examine and  
 17 diagnose the disease. If, after this examination and diagnosis, the expert declares the  
 18 case to be one of an obnoxious or communicable nature, liable to spread or to  
 19 become dangerous to the general public health of the state, the state health officer  
 20 shall instruct the local health officer as to what additional steps, if any, should be  
 21 taken to isolate the case and prevent the spread of the infection any further. The state  
 22 health officer shall require that the local health officer immediately conform to and  
 23 put these instructions in operation. If the local health officer or other local  
 24 authorities connected with the case fail to act immediately on these instructions or  
 25 fail to act in the case in a manner satisfactory to the state health officer, then, subject  
 26 to the limitations of R.S. 40:3.2, the state health officer shall take charge of the case  
 27 and manage it through his own officers or employees.

28 \* \* \*

---

**DIGEST**

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

---

HB 90 Original

2020 Second Extraordinary Session

Amedee

**Abstract:** Limits the authority of the La. Department of Health and the state health officer relative to orders, regulations, and other actions effecting isolation or quarantine.

Present law provides for the qualifications, powers, and duties of the state health officer, an official of the La. Department of Health (LDH). Provides that the state health officer shall have exclusive jurisdiction, control, and authority to isolate or quarantine for the care and control of communicable disease within the state.

Proposed law retains present law and adds thereto the following prohibitions:

- (1) The state health officer shall not issue any general, mandatory statewide or regional isolation or quarantine order that applies to and is enforced against any individual who has been neither directly exposed to nor medically diagnosed with the disease that is the subject of the order.
- (2) The state health officer shall not take any action to control or suppress a disease or illness that has the effect of being a general, mandatory statewide or regional isolation or quarantine order that applies to and is enforced against any individual who has been neither directly exposed to nor medically diagnosed with the disease or illness that is the subject of the state health officer's action.

Proposed law prohibits LDH from promulgating any administrative rule or regulation for preventing the spread of a contagious or infectious disease that has the effect of being a general, mandatory statewide or regional isolation or quarantine order that applies to and is enforced against any individual who has been neither directly exposed to nor medically diagnosed with the disease that is the subject of the rule or regulation.

Proposed law amends references to isolation and quarantine in present law relative to public health, generally (R.S. 40:1 et seq.) and the state public health emergency plan (R.S. 29:764) to stipulate that such provisions are subject to the limitations on isolation and quarantine provided in proposed law.

(Amends R.S. 29:764(A)(2)(d) and (h), (4)(d), (6), (8), and (9) and R.S. 40:4(A)(2)(intro. para.), 5(A)(1), 6(B), 7(A), and 18(B); Adds R.S. 40:3.2)