

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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SENATE BILL 582*
Health & Human Resources Committee Substitute Adopted 4/30/03
House Committee Substitute Favorable 6/2/04

Short Title: Public Health Preparedness and Response.

(Public)

Sponsors:

Referred to:

March 31, 2003

A BILL TO BE ENTITLED

AN ACT TO IMPROVE PUBLIC HEALTH PREPAREDNESS AND RESPONSE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-2(3a) reads as rewritten:

"(3a) 'Isolation authority' means the authority to issue an order to limit the freedom of movement or action of ~~a person or animal~~ persons or animals that are infected or reasonably suspected to be infected with a communicable disease or communicable condition for the period of communicability to prevent the direct or indirect conveyance of the infectious agent from the person or animal to other persons or animals who are susceptible or who may spread the agent to others."

SECTION 2. G.S. 130A-145(d) reads as rewritten:

"(d) When quarantine or isolation limits the freedom of movement of a person or animal or of access to a person or animal whose freedom of movement is limited, the period of limited freedom of movement or access shall not exceed ~~40~~30 calendar days. Any person substantially affected by that limitation may institute in superior court in Wake County or in the county in which the limitation is imposed an action to review that limitation. The official who exercises the quarantine or isolation authority shall give the persons known by the official to be substantially affected by the limitation reasonable notice under the circumstances of the right to institute an action to review the limitation. If a person or a person's representative requests a hearing, the hearing shall be held within 72 hours of the filing of that request, excluding Saturdays and Sundays. The person substantially affected by that limitation is entitled to be represented by counsel of the person's own choice or if the person is indigent, the person shall be represented by counsel appointed in accordance with Article 36 of Chapter 7A of the General Statutes and the rules adopted by the Office of Indigent Defense Services. The court shall reduce or terminate the limitation ~~if~~unless it determines, by the

1 preponderance of the evidence, that the limitation is ~~not~~ reasonably necessary to prevent
2 or limit the conveyance of a communicable disease or condition to others.

3 If the State Health Director or the local health director determines that a
4 ~~10-calendar-day~~30-calendar-day limitation on freedom of movement or access is not
5 adequate to protect the public health, the State Health Director or local health director
6 must institute in superior court in the county in which the limitation is imposed an
7 action to obtain an order extending the period of limitation of freedom of movement or
8 access. If the person substantially affected by the limitation has already instituted an
9 action in superior court in Wake County, the State Health Director must institute the
10 action in superior court in Wake ~~County~~. The County or as a counterclaim in the
11 pending case. Except as provided below for persons with tuberculosis, the court shall
12 continue the limitation for a period not to exceed 30 days if it determines, by the
13 preponderance of the evidence, that the limitation is reasonably necessary to prevent or
14 limit the conveyance of a communicable disease or condition to others. The court order
15 shall specify the period of time the limitation is to be continued and shall provide for
16 automatic termination of the order upon written determination by the State Health
17 Director or local health director that the quarantine or isolation is no longer necessary to
18 protect the public health. In addition, where the petitioner can prove by a preponderance
19 of the evidence that quarantine or isolation was not or is no longer needed for protection
20 of the public health, the person quarantined or isolated may move the trial court to
21 reconsider its order extending quarantine or isolation before the time for the order
22 otherwise expires and may seek immediate or expedited termination of the order. Before
23 the expiration of an order issued under this section, the State Health Director or local
24 health director may move to continue the order for additional periods not to exceed 30
25 days each. If the person whose freedom of movement has been limited has tuberculosis,
26 the court shall continue the limitation for a period not to exceed one calendar year if it
27 determines, by a preponderance of the evidence, that the limitation is reasonably
28 necessary to prevent or limit the conveyance of tuberculosis to others. The court order
29 shall specify the period of time the limitation is to be continued and shall provide for
30 automatic termination of the order upon written determination by the State Health
31 Director or local health director that the quarantine or isolation is no longer necessary to
32 protect the public health. In addition, where the petitioner can prove by a preponderance
33 of the evidence that quarantine or isolation was not or is no longer needed for protection
34 of the public health, the person quarantined or isolated may move the trial court to
35 reconsider its order extending quarantine or isolation before the time for the order
36 otherwise expires and may seek immediate or expedited termination of the order. Before
37 the expiration of an order limiting the freedom of movement of a person with
38 tuberculosis, the State Health Director or local health director may move to continue the
39 order for additional periods not to exceed one calendar year each."

40 **SECTION 3.** G.S. 130A-475(b) reads as rewritten:

41 "(b) The authority under subsection (a) of this section shall be exercised only
42 when and so long as a public health threat may exist, all other reasonable means for
43 correcting the problem have been exhausted, and no less restrictive alternative exists.
44 Before applying the authority under subdivision (4) or (5) of subsection (a) of this

1 section to livestock or poultry for the purpose of preventing the direct or indirect
2 conveyance of a biological, chemical or nuclear agent to persons, the State Health
3 Director shall consult with the State Veterinarian in the Department of Agriculture and
4 Consumer Services.

5 The period of limited freedom of movement or access under subdivisions (4) and (5)
6 of subsection (a) of this section shall not exceed ~~40~~30 calendar days. Any person
7 substantially affected by that limitation may institute, in superior court in Wake County
8 or in the county in which the limitation is imposed, an action to review the limitation.
9 The State Health Director shall give the persons known by the State Health Director to
10 be substantially affected by the limitation reasonable notice under the circumstances of
11 the right to institute an action to review the limitation. If a person or a person's
12 representative requests a hearing, the hearing shall be held within 72 hours of the filing
13 of the request, excluding Saturdays and Sundays. The person substantially affected by
14 that limitation is entitled to be represented by counsel of the person's own choice or if
15 the person is indigent, the person shall be represented by counsel appointed in
16 accordance with Article 36 of Chapter 7A of the General Statutes and the rules adopted
17 by the Office of Indigent Defense Services. The court shall reduce or terminate the
18 limitation ~~if~~unless it determines, by the preponderance of the evidence, that the
19 limitation is ~~not~~ reasonably necessary to prevent or limit the conveyance of biological,
20 chemical or nuclear agents to others, and may apply such conditions to the limitation as
21 the court deems reasonable and necessary.

22 If the State Health Director determines that a ~~40-calendar-day~~30-calendar-day
23 limitation on freedom of movement or access is not adequate to protect the public
24 health, the State Health Director must institute in superior court in the county in which
25 the limitation is imposed, an action to obtain an order extending the period limiting the
26 freedom of movement or access. If the person substantially affected by the limitation
27 has already instituted an action in superior court in Wake County, the State Health
28 Director must institute the action in superior court in Wake ~~County~~County or as a
29 counterclaim in the pending case. The court shall continue the limitation for a period not
30 to exceed 30 days, subject to conditions it deems reasonable and necessary, if it
31 determines by the preponderance of the evidence, that additional limitation is
32 reasonably necessary to prevent or limit the conveyance of biological, chemical, or
33 nuclear agents to others. The court order shall specify the period of time the limitation is
34 to be continued and shall provide for automatic termination of the order upon written
35 determination by the State Health Director or local health director that the quarantine or
36 isolation is no longer necessary to protect the public health. In addition, where the
37 petitioner can prove by a preponderance of the evidence that quarantine or isolation was
38 not or is no longer needed for protection of the public health, the person quarantined or
39 isolated may move the trial court to reconsider its order extending quarantine or
40 isolation before the time for the order otherwise expires and may seek immediate or
41 expedited termination of the order. Before the expiration of an order issued under this
42 section, the State Health Director may move to continue the order for additional periods
43 not to exceed 30 days each."

44 **SECTION 4.** G.S. 130A-12 reads as rewritten:

1 **"§ 130A-12. Confidentiality of records.**

2 All records containing privileged patient medical information or information
3 protected under 45 C.F.R. Parts 160 and 164 that are in the possession of the
4 Department or local health departments shall be confidential and shall not be public
5 records pursuant to G.S. 132-1. Information contained in the records may be disclosed
6 only when disclosure is authorized or required by State or federal law. Notwithstanding
7 G.S. 8-53 or G.S. 130A-143, the information contained in the records may be disclosed
8 for purposes of treatment, payment, or health care operations. For purposes of this
9 section, the terms 'treatment,' 'payment,' and 'health care operations' have the meanings
10 given those terms in 45 C.F.R. § 164.501."

11 **SECTION 5.** Part 1 of Article 6 of Chapter 130A of the General Statutes is
12 amended by adding the following new section to read:

13 **"§ 130A-141.1. Temporary order to report.**

14 (a) The State Health Director may issue a temporary order requiring health care
15 providers to report symptoms, diseases, conditions, trends in use of health care services,
16 or other health-related information when necessary to conduct a public health
17 investigation or surveillance of an illness, condition, or symptoms that may indicate the
18 existence of a communicable disease or condition that presents a danger to the public
19 health. The order shall specify which health care providers must report, what
20 information is to be reported, and the period of time for which reporting is required. The
21 period of time for which reporting is required pursuant to a temporary order shall not
22 exceed 90 days. The Commission may adopt rules to continue the reporting requirement
23 when necessary to protect the public health.

24 (b) For the purposes of this section, the term 'health care provider' has the same
25 meaning as that term is defined in G.S. 130A-476(g)."

26 **SECTION 6.** G.S. 130A-144(b) reads as rewritten:

27 "(b) Physicians and persons in charge of medical facilities or laboratories shall,
28 upon request and proper identification, permit a local health director or the State Health
29 Director to examine, review, and obtain a copy of medical or other records in their
30 possession or under their control which the State Health Director or a local health
31 director determines pertain to the (i) diagnosis, treatment, or prevention of a
32 communicable disease or communicable condition for a person infected, exposed, or
33 reasonably suspected of being infected or exposed to such a disease or
34 ~~condition~~ condition, or (ii) the investigation of a known or reasonably suspected
35 outbreak of a communicable disease or communicable condition."

36 **SECTION 7.** G.S. 130A-476(c) reads as rewritten:

37 "(c) ~~The Health care providers and persons in charge of health care facilities or~~
38 laboratories shall, upon request and proper identification, permit the State Health
39 Director and or a local health director may to examine, review, and obtain a copy of
40 records containing confidential or protected health information, or a summary of
41 pertinent portions of those records, (i) that pertain to a report authorized by subsection
42 (a) or required by subsection (b) of this section-section, or (ii) that, in the opinion of the
43 State Health Director or local health director, are necessary for an investigation of a

- 1 case or outbreak of an illness, condition, or health hazard that may have been caused by
2 a terrorist incident using nuclear, biological, or chemical agents."
3 **SECTION 8.** This act is effective when it becomes law.