

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Health Policy

BILL: CS/SB 950

INTRODUCER: Health Policy Committee and Senator Hukill

SUBJECT: Public Health Emergencies

DATE: March 11, 2015

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------|
| 1. | Looke | Stovall | HP | Fav/CS |
| 2. | | | AHS | |
| 3. | | | FP | |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 950 amends provisions relating to the Department of Health’s (DOH) authority to initiate and enforce quarantine orders for persons, animals, and premises. The bill defines the terms “isolation” and “quarantine” and allows the DOH to isolate individuals whenever a quarantine would be allowed under s. 381.00315, F.S. (relating to public health advisories, public health emergencies, and quarantines).

The bill requires law enforcement to assist the department in enforcing orders (as well as rules and laws) adopted under ch. 381, F.S., related to public health. Quarantine and isolation orders are enacted through order by the State Surgeon General or by the director of a county health department or his or her designee. The bill also includes a legislative finding that the act fulfills an important state interest by providing measures for the control of communicable diseases and the protection of public health.

II. Present Situation:

Public Health Emergencies in Florida

Currently, s. 381.00315, F.S., allows the State Surgeon General to declare a public health emergency for a period of up to 60 days unless renewed by the governor. Such declarations can be statewide or localized. During a public health emergency the surgeon general is granted the power to take actions that are necessary to protect the public including, but not limited to:

- Directing prescription drug manufacturers to ship specified drugs to pharmacies and health care providers within specified geographic areas;
- Directing DOH employed pharmacists to compound necessary bulk medications;
- Temporarily reactivating inactive health care practitioner licenses; and
- Ordering individuals to be examined, tested, vaccinated, treated, or quarantined for communicable diseases that have significant morbidity or mortality and present a severe danger to the public health.

Public health emergencies can be declared for various reasons. For example, Governor Charlie Crist directed State Surgeon General Dr. Ana Viamonte Ros to declare a public health emergency for two cases of Swine Flu in Lee and Broward counties in 2009.¹ Additionally, in 2011 the Florida Legislature passed HB 7095 which directed Surgeon General Frank Farmer to issue a statewide public health emergency in response to the ongoing problem of prescription drug abuse.²

Quarantine versus Isolation

Quarantine and isolation are two tools used by public health authorities to separate from the public people, animals, or premises that have a potential to threaten the public health. The U.S. Centers for Disease Control and Prevention (CDC) differentiates between isolation and quarantine in that isolation applies to persons who are known to be ill with a contagious disease whereas quarantine applies to those who have been exposed to a contagious disease but who may or may not become ill. In addition to people, the CDC applies the term quarantine to animals and premises who may have been exposed to a dangerous contagious disease agent and have been closed off or separated from the population.³ Isolation and quarantine orders can also differ in length. The length of an isolation order is typically determined by the length of the communicability of the illness for which the individual is being isolated while the duration and scope of quarantine orders can vary, depending on their purpose, and can last as long as necessary to protect the public.⁴

Quarantines in Florida

Florida Administrative Code Rule 64D-3.038, details how the DOH may initiate and lift a quarantine. Quarantine orders are issued by the surgeon general or a county health department director or their designee and must include an expiration date or specific conditions for the end of the quarantine. The quarantine order must also restrict or compel the movement or actions, including isolation, closure of premises, testing, destruction, disinfection, treatment, and immunization of a person, animal, or a premises. The DOH must have access to the quarantined individual or premises and any transportation or removal of quarantined persons or animals must

¹ See Florida Declares Health Emergency, available at <http://swflorida.blogspot.com/2009/05/florida-declares-health-emergency.html>, (last visited Mar. 5, 2015).

² See <http://newsroom.doh.state.fl.us/2011/07/01/emergency-declaration/> (last visited March 5, 2015).

³ U.S. Centers for Disease Control and Prevention, *Understand Quarantine and Isolation* (February 10, 2014) available at <http://emergency.cdc.gov/preparedness/quarantine/> (last visited Mar. 6, 2015).

⁴ U.S. Centers for Disease Control and Prevention, *Understand Quarantine and Isolation: Questions & Answers* (February 10, 2014) available at <http://emergency.cdc.gov/preparedness/quarantine/qa.asp>, (last visited Mar. 6, 2015).

be in accordance with written orders issued by the surgeon general or the county health department director.

The state has used its quarantine power on several occasions. In 1988 the Miami-Dade county health department declared a quarantine of a building in downtown Miami due to a major fire spreading dangerous PCB chemicals within the building. Also, in 2003, a six year old was placed in home isolation by the Okaloosa county health department under suspicion of having SARS and the Miami-Dade county health department persuaded a jewelry salesman who was suspected of having SARS to sequester himself for 10 days. Additionally, a building in Boca Raton Florida was quarantined after an anthrax attack killed a photo-journalist in 2001.⁵ For these examples, however, no formal involuntary orders were issued. The last involuntary order that was issued in Florida occurred in 1947.⁶

The most recent example of a quarantine order is from October of 2014 when Governor Rick Scott issued executive order number 14-280. That order directed the DOH to monitor all people leaving an Ebola-affected country for 21 days after their departure and to quarantine for 21 days any high-risk traveler from an Ebola-affected country in West Africa. The order allowed the DOH to make its own determinations on quarantine and other necessary public health interventions.⁷

Law Enforcement

Section 381.0012, F.S., currently requires law enforcement officials and other city and county officials to enforce DOH laws and rules. Orders are not included in this enforcement mandate. However, the flush-left text in s. 381.00315(1), F.S., states that all orders by the State Health Officer (state surgeon general) are immediately enforceable by a law enforcement officer under s. 381.0012, F.S. The conflict in these sections may create some ambiguity for law enforcement officials who are tasked with enforcing quarantine orders.

III. Effect of Proposed Changes:

SB 950 amends s. 381.00315, F.S., to define the terms:

- “Isolation” as the separation of an individual who is reasonably believed to be infected with a communicable from those who are not infected with the disease to prevent the spread of the disease; and
- “Quarantine” as the separation of an asymptomatic individual or a premises reasonably believed to have been exposed to a communicable disease from others who have not been exposed to the disease to prevent the possible spread of the disease.

The bill allows the DOH to use isolation as a preventative measure with similar authority to the authority DOH currently has to order a quarantine and makes any isolation and quarantine order

⁵ Wm. Robert Johnston, *Review of Fall 2001 Anthrax Attacks*, (last modified March 16, 2005), available at <http://www.cdc.gov/niosh/nas/rdrp/appendices/chapter6/a6-45.pdf>, (last visited on March 9, 2015).

⁶ Florida Department of Health, *White Paper on the Law of Florida Human Quarantine*, (January 2007), available at <http://biotech.law.lsu.edu/cphl/articles/others/Florida-Quarantine-07.pdf>, (Last visited March. 5, 2015).

⁷ Exec Order No. 14-280, (October 25, 2014), available at http://www.flgov.com/wp-content/uploads/2014/10/SKMBT_C35314102515490.pdf, (last visited on Mar. 5, 2015).

immediately enforceable by law enforcement. In addition, the bill amends s. 381.0012, F.S., to require law enforcement, as well as other city and county officials, to assist the department in enforcing state health orders (in addition to state laws and DOH rules). The bill also contains a Legislative finding that the act fulfills an important state interest by providing measures for the control of communicable diseases and the protection of public health.

According to the DOH, the addition of isolation to s. 381.00315, F.S., clarifies and conforms the statute to current CDC standards and the DOH expects no procedural difference in enforcement between isolation orders and quarantine orders. Additionally, the DOH states that the change to s. 381.0012, F.S., is clarifying and conforming.⁸ Current law allows the DOH to issue a quarantine order with similar authority to the authority to isolate added by the bill and, therefore, SB 950 should not increase the DOH's current authority.

The DOH is required to adopt rules regarding imposing and lifting isolation orders.

The bill establishes an effective date of July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

To the extent this bill requires a local government to expend funds to comply with its terms, the provisions contained in Article VII, section 18(a) of the Florida Constitution, may apply. If those provisions do apply, in order for the law to be binding upon the cities and counties, the Legislature must find that the law fulfills an important state interest, and one of the following relevant exceptions must apply:

- The expenditure is required to comply with a law that applies to all persons similarly situated; or
- The law must be approved by two-thirds of the membership of each house of the Legislature.

The municipality/county mandates provision of the Florida Constitution may apply because this bill requires local law enforcement agencies, county attorneys, and other appropriate city and county officials to use their resources to assist the department or its agents in enforcing isolation and quarantine orders upon the request of the department or its agents. However, it is likely that the costs to the cities or counties of enforcing the isolation and quarantine orders would be insignificant due to the rarity of the DOH invoking its quarantine authority.

Since the bill requires the assistance of both state and local law enforcement, as well as other officials, in enforcing such orders, it appears the bill applies to all persons similarly situated. Additionally, the bill contains a finding of important state interest (section 3). Thus it appears the bill is binding upon city and county law enforcement and other appropriate city and county officials.

⁸ Conversation with Gary Landry, Legislative Planning Office Manager (DOH) (March 9, 2015).

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

CS/SB 950 defines the term quarantine to include individuals and premises; however, the DOH also has the authority in s. 381.0012, F.S., to quarantine animals. The definition of quarantine in the bill should be amended to include animals as well as individuals and premises.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 381.0012 and 381.00315.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Health Policy on March 10, 2015:

The CS amends the definition of “quarantine” to include premises and adds section 3 of the bill which provides a legislative finding that the bill fulfills an important state interest.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
