

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 Fiscal Policy

BILL: CS/SB 950

INTRODUCER: Health Policy Committee and Senator Hukill

SUBJECT: Public Health Emergencies

DATE: April 14, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Looke</u>	<u>Stovall</u>	<u>HP</u>	Fav/CS
2.	<u>Brown</u>	<u>Pigott</u>	<u>AHS</u>	Recommend: Favorable
3.	<u>Jones</u>	<u>Hrdlicka</u>	<u>FP</u>	Pre-meeting

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 State Surgeon General to issue an isolation order. The bill makes any order issued by the DOH immediately enforceable by law enforcement.

The bill 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.

The bill has no fiscal impact on state government and an indeterminate, but likely insignificant, impact on local governments.

II. Present Situation:

Public Health Emergencies in Florida

A public health emergency is any occurrence, or threat, whether natural or manmade, that results or may result in substantial injury or harm to the public health from infectious disease, chemical agents, nuclear agents, biological toxins, or situations involving mass casualties or natural disasters.¹

¹ Section 381.00315(1)(b), F.S.

The State Surgeon General² can declare a public health emergency for a period of up to 60 days. The public health emergency can be renewed if the Surgeon General and the Governor agree it is necessary. During a public health emergency the Surgeon General can take the necessary actions to protect the public, including, but not limited to:

- Directing prescription drug manufacturers to give priority to the shipping of specified drugs to pharmacies and health care providers within specified geographic areas;
- Directing DOH-employed pharmacists to compound necessary bulk medications;
- Temporarily reactivating certain inactive health care practitioner licenses; and
- Ordering an individual 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.³

Public health emergencies can be declared for various reasons. For example, Governor Charlie Crist directed Surgeon General Dr. Ana Viamonte Ros to declare a public health emergency for two cases of swine flu in Lee and Broward counties in 2009.⁴ Additionally, in 2011, the Florida Legislature passed a bill directing Surgeon General Frank Farmer to issue a statewide public health emergency in response to the ongoing problem of prescription drug abuse.⁵

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 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.⁶

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. The scope of quarantine orders can vary, depending on their purpose, and can last as long as necessary to protect the public.⁷

² Section 20.43(2), F.S. The State Surgeon General is also to as the State Health Officer. *See s. 381.00315, F.S.*

³ Section 381.00315(1)(b), F.S.

⁴ Southwest Florida Online – Sunday Morning News, *Florida Declares Health Emergency*, available at <http://swflorida.blogspot.com/2009/05/florida-declares-health-emergency.html> (last visited April 10, 2015).

⁵ Online Newsroom, *Emergency Declaration*, (July 1, 2011) available at <http://newsroom.doh.state.fl.us/2011/07/01/emergency-declaration/> (last visited April 10, 2015). *See ch. 2011-141, L.O.F.*

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

⁷ Centers for Disease Control and Prevention, *Understand Quarantine and Isolation: Questions & Answers*, (last updated February 10, 2014) available at <http://emergency.cdc.gov/preparedness/quarantine/qa.asp> (last visited April 10, 2015).

Quarantines in Florida

The DOH's rules detail how to initiate and lift a quarantine. Quarantine orders are issued by the Surgeon General or the county health department director or administrator or their designee. The quarantine order must be in writing and include:

- An expiration date or specific conditions for the end of the quarantine; and
- 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 consistent with the protection of public health.⁸

The DOH must have access to the quarantined individual or premises and any transportation or removal of quarantined persons or animals must 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 2003, a six-year-old was placed in home isolation by the Okaloosa County health department under suspicion of having SARS.⁹ Additionally, a building in Boca Raton was quarantined after an anthrax attack killed a photojournalist in 2001.¹⁰ However, no formal involuntary orders were issued for any of these examples. The last involuntary order that was issued in Florida occurred in 1947.¹¹

The most recent example of a quarantine order is from October 2014 when Governor Rick Scott directed the DOH to monitor all people leaving an Ebola-affected country for 21 days after their departure and to quarantine any high-risk traveler from Ebola-affected countries in West Africa for 21 days. The order allowed the DOH to make its own determinations on quarantine and other necessary public health interventions.¹²

Law Enforcement

Section 381.0012, F.S., currently requires law enforcement officials and other city and county officials to enforce the state health laws and rules adopted by the DOH for the public health system. Orders are not included in this enforcement mandate. However, s. 381.00315(1), F.S., states that all orders by the Surgeon General are immediately enforceable by a law enforcement officer pursuant to 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:

The bill amends s. 381.00315, F.S., to define:

⁸ Section 64D-3.038, F.A.C.

⁹ Florida Department of Health, *White Paper on the Law of Florida Human Quarantine*, p. 6 (January 2007), available at <http://biotech.lsu.edu/cph/articles/others/Florida-Quarantine-07.pdf> (last visited April 10, 2015).

¹⁰ Wm. Robert Johnston, *Review of Fall 2001 Anthrax Bioattacks*, (last modified March 17, 2005), available at <http://www.cdc.gov/niosh/nas/rdrp/appendices/chapter6/a6-45.pdf> (last visited on April 10, 2015).

¹¹ *Supra* note 9.

¹² E.O. No. 14-280, (October 25, 2014) available at http://www.flgov.com/wp-content/uploads/2014/10/SKMBT_C35314102515490.pdf (last visited April 10, 2015).

- “Isolation” as the separation of an individual who is reasonably believed to be infected with a communicable disease 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 individuals who have not been exposed to the disease to prevent its possible spread.

The bill amends the Surgeon General’s responsibilities to include ordering an isolation. The use of isolation as a preventative measure is also added to the authority the DOH has to order a quarantine. The bill also makes any isolation and quarantine order immediately enforceable by law enforcement. In addition, the bill amends s. 381.0012, F.S., to require law enforcement and other city and county officials to assist the DOH in enforcing state health orders.

The bill 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.

The bill is effective July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, section 18(a) of the Florida Constitution, provides that no county or municipality is bound by any general law requiring a county or municipality to spend funds or take an action requiring the expenditure of funds. To the extent the bill requires a local government to spend funds to comply with its terms, the mandate provisions may apply. To be binding on counties and municipalities the Legislature must find that the law fulfills an important state interest and one of the following must apply:

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

The mandates provisions may apply because this bill requires local law enforcement and other appropriate city and county departments to use their own resources to assist the DOH or its agents in enforcing isolation and quarantine orders upon the request of the DOH or its agents.

Because the bill requires the assistance of both state and local law enforcement, and other officials, the bill appears to apply to all persons similarly situated. Additionally, the bill contains a finding of important state interest.

Under Art. VII, s. 18(d) of the Florida Constitution, bills having insignificant fiscal impact are exempt from the mandates provisions. The bill may be exempt because 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.

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:

Indeterminate. Local governments may incur expenditures related to assisting the DOH with enforcement of isolation and quarantine orders. There is no expected impact to the DOH. The impact is indeterminate due to the infrequent issuance of such orders.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The DOH is required to adopt rules regarding the imposition and lifting of isolation orders.

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.
