

1 SENATE BILL 362

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO HEALTH; AMENDING, REPEALING AND ENACTING SECTIONS
12 OF THE NMSA 1978 RELATING TO ESSENTIAL HEALTH SERVICES AND
13 DEPARTMENT OF HEALTH FUNCTIONS, SEXUALLY TRANSMITTED
14 INFECTIONS, CONDITIONS OF PUBLIC HEALTH IMPORTANCE,
15 COMMUNICABLE DISEASES, ISOLATION AND QUARANTINE AND SCHOOL
16 HEALTH CARE OVERSIGHT.

17
18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

19 SECTION 1. Section 9-7-4.1 NMSA 1978 (being Laws 2004,
20 Chapter 51, Section 1, as amended by Laws 2007, Chapter 46,
21 Section 6 and by Laws 2007, Chapter 279, Section 1) is amended
22 to read:

23 "9-7-4.1. [~~COMPREHENSIVE STRATEGIC PLAN FOR HEALTH~~] STATE
24 HEALTH IMPROVEMENT PLAN.--

25 A. The department [~~in conjunction with the New~~
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1 ~~Mexico health policy commission and other state agencies,~~
2 ~~pursuant to Section 9-7-11.1 NMSA 1978]~~ shall develop a
3 ~~[comprehensive strategic plan for]~~ state health improvement
4 plan that ~~[emphasizes prevention, personal responsibility,~~
5 ~~access and quality]~~ meets accreditations standards of the
6 public health accreditation board or its successor in interest.

7 B. The department shall conduct state health
8 assessments in order to inform the development, adoption and
9 implementation of the state health improvement plan.

10 ~~[B.]~~ C. The department shall publish the
11 ~~[comprehensive strategic plan for]~~ state health improvement
12 plan by September 1, 2008 and at least every ~~[four]~~ five years
13 thereafter. By September 1 of each even-numbered year, the
14 department shall review and update or amend the plan in
15 response to changes and developments.

16 ~~[G.]~~ D. The department shall include ~~[the~~
17 ~~legislature, health care providers, consumer and patient~~
18 ~~advocates, health care financing organizations, managed care~~
19 ~~organizations, major insurers in the state, the human services~~
20 ~~department, the children, youth and families department, the~~
21 ~~aging and long-term services department, pharmaceutical~~
22 ~~manufacturers and other stakeholders]~~ other agencies and
23 commissions as the department deems necessary in its
24 development of the ~~[comprehensive strategic plan for]~~ state
25 health improvement plan so as to give geographic representation

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1 to all areas of the state. The department shall ensure that
2 public participation and public input are integrated into the
3 planning process. The department shall convene regional
4 meetings on the proposed plan to allow public review and
5 comment, including oral and written testimony, pursuant to the
6 Open Meetings Act.

7 ~~[D.]~~ E. The department shall consult with the
8 governments of Indian nations, tribes and pueblos located
9 wholly or partially within New Mexico to include ~~[Indian]~~
10 Native American nations, tribes and pueblos in the development
11 of the ~~[comprehensive strategic plan for]~~ state health
12 improvement plan.

13 ~~[E. The department shall report its findings,~~
14 ~~recommendations and goals in its comprehensive strategic plan~~
15 ~~for health. The plan shall address the following areas and~~
16 ~~others that the governor and the legislature may from time to~~
17 ~~time request:~~

18 ~~(1) a summary of the state's health care~~
19 ~~system that includes the financial, administrative and delivery~~
20 ~~structure in both the public and private sector;~~

21 ~~(2) the diseases, injuries and risk factors~~
22 ~~for physical, behavioral and oral health that are the greatest~~
23 ~~cause of illness, injury or death in the state, with special~~
24 ~~attention to and recognition of the disparities that currently~~
25 ~~exist for different population groups;~~

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1 ~~(3) key indicators of and barriers to health~~
2 ~~care coverage and access, with specific emphasis on reducing~~
3 ~~the number of uninsured New Mexicans;~~

4 ~~(4) the role of the department, other state~~
5 ~~agencies and the private sector in identifying strategies and~~
6 ~~interventions to provide health care coverage, access and~~
7 ~~quality;~~

8 ~~(5) a continuum of care model that emphasizes~~
9 ~~prevention, early intervention and health promotion and that~~
10 ~~includes public health services, emergency medical services,~~
11 ~~primary care, acute care, specialized care, tertiary care and~~
12 ~~long-term care;~~

13 ~~(6) health education, wellness, nutrition and~~
14 ~~exercise initiatives that emphasize personal health~~
15 ~~responsibility;~~

16 ~~(7) workforce initiatives to identify, recruit~~
17 ~~and retain health care professionals;~~

18 ~~(8) health care facility infrastructure,~~
19 ~~capacity, capitalization and financial viability in both the~~
20 ~~public and private sector;~~

21 ~~(9) licensing, credentialing, oversight and~~
22 ~~tracking initiatives designed to improve health care quality~~
23 ~~and outcome measurements;~~

24 ~~(10) programs, services and activities~~
25 ~~designed to address the needs of persons who have a disability,~~

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1 ~~are elderly or have special needs;~~

2 ~~(11) anticipated demands and challenges on the~~
3 ~~health care system as the need for long-term care services~~
4 ~~increases;~~

5 ~~(12) data and information, addressing key~~
6 ~~health status and system indicators, statistics, benchmarks,~~
7 ~~targets and goals for the state, and comparing it nationally,~~
8 ~~regionally and to other states of similar size and~~
9 ~~demographics; provided that individually identifiable health~~
10 ~~information and other proprietary information is protected as~~
11 ~~required by state or federal law; and~~

12 ~~(13) planning and response to public health~~
13 ~~emergencies, including bioterrorism, pandemic flu, disease~~
14 ~~outbreaks and other situations that will require a coordinated~~
15 ~~response by the health care system.]"~~

16 SECTION 2. Section 9-7-6 NMSA 1978 (being Laws 1977,
17 Chapter 253, Section 7, as amended) is amended to read:

18 "9-7-6. SECRETARY--DUTIES AND GENERAL POWERS.--

19 A. The secretary is responsible to the governor for
20 the operation of the department. It is ~~[his]~~ the secretary's
21 duty to manage all operations of the department and to
22 administer and enforce the laws with which ~~[he]~~ the secretary
23 or the department is charged.

24 B. To perform ~~[his]~~ the secretary's duties, the
25 secretary has every power expressly enumerated in the laws,

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1 whether granted to the secretary or the department or any
2 division of the department, except where authority conferred
3 upon any division is explicitly exempted from the secretary's
4 authority by statute. In accordance with these provisions, the
5 secretary shall:

6 (1) except as otherwise provided in the
7 Department of Health Act, exercise general supervisory and
8 appointing authority over all department employees, subject to
9 any applicable personnel laws and [~~regulations~~] rules;

10 (2) delegate authority to subordinates as [~~he~~]
11 the secretary deems necessary and appropriate, clearly
12 delineating such delegated authority and the limitations
13 thereto;

14 (3) organize the department into those
15 organizational units [~~he~~] that the secretary deems will enable
16 it to function most efficiently, subject to any provisions of
17 law requiring or establishing specific organizational units;

18 (4) within the limitations of available
19 appropriations and applicable laws, employ and fix the
20 compensation of those persons necessary to discharge [~~his~~] the
21 secretary's duties;

22 (5) take administrative action by issuing
23 orders and instructions, not inconsistent with the law, to
24 assure implementation of and compliance with the provisions of
25 law for which administration or execution [~~he~~] the secretary is

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1 responsible and to enforce those orders and instructions by
2 appropriate administrative action in the courts;

3 (6) conduct research and studies that will
4 improve the operations of the department and the provision of
5 services to the citizens of the state;

6 (7) conduct quality assurance and quality
7 improvement activities, which may include participation in a
8 nationally recognized accreditation program for public health
9 agencies that is based on the ability of an agency to provide
10 essential public health services and functions;

11 (8) provide courses of instruction and
12 practical training for employees of the department and other
13 persons involved in the administration of programs with the
14 objective of improving the operations and efficiency of
15 administration;

16 (9) prepare an annual budget of the
17 department;

18 (10) appoint, with the governor's consent, a
19 "director" for each division. These appointed positions are
20 exempt from the provisions of the Personnel Act. Persons
21 appointed to these positions shall serve at the pleasure of the
22 secretary;

23 (11) give bond in the penal sum of twenty-five
24 thousand dollars (\$25,000) and require directors to each give
25 bond in the penal sum of ten thousand dollars (\$10,000)

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1 conditioned upon the faithful performance of duties, as
2 provided in the Surety Bond Act. The department shall pay the
3 costs of those bonds; and

4 (12) require performance bonds of such
5 department employees and officers as ~~[he]~~ the secretary deems
6 necessary, as provided in the Surety Bond Act. The department
7 shall pay the costs of those bonds.

8 C. The secretary may apply for and receive, with
9 the governor's approval, in the name of the department any
10 public or private funds, including but not limited to United
11 States government funds, available to the department to carry
12 out its programs, duties or services.

13 D. The secretary shall be responsible for providing
14 appropriate educational programs for all school-age persons, as
15 defined in Section 22-1-2 NMSA 1978, who are clients, as
16 defined in Section 43-1-3 NMSA 1978, of institutions under
17 ~~[his]~~ the secretary's authority as follows:

18 (1) ~~[he]~~ the secretary shall arrange with
19 school districts for the enrollment of all school-age residents
20 of institutions under ~~[his]~~ the secretary's authority who have
21 been evaluated and recommended for placement in a public school
22 according to the provisions of the Department of Health
23 Education Act. ~~[He]~~ The secretary shall notify the
24 ~~[superintendent of public instruction]~~ secretary of public
25 education prior to public school enrollment of any school-age

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1 resident under [~~his~~] the secretary's authority; and

2 (2) [~~he~~] the secretary shall provide
3 educational programs, in accordance with the special education
4 rules of the [~~state board of~~] public education department, for
5 school-age persons who are clients of institutions under [~~his~~]
6 the secretary's authority but who are enrolled in a public
7 school by:

8 (a) using the facilities and personnel
9 of the department;

10 (b) contracting with a school district
11 for the provision of educational services; or

12 (c) using a combination of Subparagraphs
13 (a) and (b) of this paragraph.

14 E. The secretary may make and adopt such reasonable
15 and procedural rules as may be necessary to carry out the
16 duties of the department and its divisions. No rule
17 promulgated by the director of any division in carrying out the
18 functions and duties of the division shall be effective until
19 approved by the secretary unless otherwise provided by statute.
20 Unless otherwise provided by statute, no rule affecting any
21 person or agency outside the department shall be adopted,
22 amended or repealed without a public hearing on the proposed
23 action before the secretary or a hearing officer designated by
24 [~~him~~] the secretary. The public hearing shall be held in Santa
25 Fe unless otherwise permitted by statute. Notice of the

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1 subject matter of the rule, the action proposed to be taken,
2 the time and place of the hearing, the manner in which
3 interested persons may present their views and the method by
4 which copies of the proposed rule or proposed amendment or
5 repeal of an existing rule may be obtained shall be published
6 once at least thirty days prior to the hearing date in a
7 newspaper of general circulation and mailed at least thirty
8 days prior to the hearing date to all persons who have made a
9 written request for advance notice of hearing. All rules shall
10 be filed in accordance with the State Rules Act."

11 SECTION 3. Section 14-8-9.1 NMSA 1978 (being Laws 2011,
12 Chapter 134, Section 21) is amended to read:

13 "14-8-9.1. PUBLIC RECORDS--INSPECTION--EXCEPTIONS.--

14 A. Except as provided in this section, all
15 documents filed and recorded in the office of the county clerk
16 are public records [~~subject to disclosure pursuant to the~~
17 ~~Inspection of Public Records Act~~].

18 B. The county clerk shall publicly post in the
19 office of the county clerk and on the county's web page a
20 notice that documents recorded in the office of the county
21 clerk are public records, subject to inspection and disclosure.

22 C. Before digitizing or purchasing of documents by
23 third parties, protected personal identifier information, as
24 defined in the Inspection of Public Records Act, shall be
25 redacted.

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1 D. Documents containing health information that
2 relates to and identifies specific individuals as patients are
3 exempt as a public record pursuant to Section 14-6-1 NMSA 1978.

4 E. Discharge papers of a veteran of the armed
5 forces of the United States recorded in the office of the
6 county clerk shall be segregated from public records in the
7 office of the county clerk. Discharge papers recorded before
8 July 1, 2005 that have been commingled with public records and
9 that remain unsegregated are available for inspection in the
10 office of the county clerk but shall not be copied, digitized
11 or purchased by any third party, except by those persons
12 authorized in this section. As the technology becomes
13 available, county clerks shall segregate commingled discharge
14 papers from the public records in the office of the county
15 clerk. Discharge papers recorded in the office of the county
16 clerk are available only to:

- 17 (1) the veteran who filed the papers;
18 (2) the veteran's next of kin;
19 (3) the deceased veteran's properly appointed
20 personal representative or executor;
21 (4) a person holding the veteran's general
22 power of attorney; or
23 (5) a person designated by the veteran in an
24 acknowledged statement to receive the records.

25 F. Death certificates that have been recorded in
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1 the office of the county clerk may be inspected, but shall not
2 be copied, digitized or purchased by any third party unless
3 fifty years have elapsed after the date of death [~~and the cause~~
4 ~~of death and any other medical information contained on the~~
5 ~~death certificate is redacted, in addition to redaction of~~
6 ~~protected personal identifier information. Death certificates~~
7 ~~and other vital records recorded in the office of the county~~
8 ~~clerk are exempt from the restrictions contained in Subsection~~
9 ~~A of Section 24-14-27 NMSA 1978~~]. The act of recording a death
10 certificate in the office of the county clerk is considered a
11 convenience; provided that no person shall be required to
12 record a death certificate in the office of the county clerk to
13 effect change of title or interest in property."

14 SECTION 4. Section 24-1-2 NMSA 1978 (being Laws 1973,
15 Chapter 359, Section 2, as amended by Laws 2007, Chapter 325,
16 Section 6 and by Laws 2007, Chapter 326, Section 1) is amended
17 to read:

18 "24-1-2. DEFINITIONS.--As used in the Public Health Act:

19 A. "condition of public health importance" means an
20 infection, a disease, a syndrome, a symptom, an injury or other
21 threat that is identifiable on an individual or community level
22 and can reasonably be expected to lead to adverse health
23 effects in the community;

24 [~~A.~~] B. "department" [~~or "division"~~] means:

25 (1) the department of health; or

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1 (2) the children, youth and families
2 department as to child care centers, residential treatment
3 centers that serve persons up to twenty-one years of age,
4 community mental health centers that serve only persons up to
5 twenty-one years of age, day treatment centers that serve
6 persons up to twenty-one years of age, shelter care homes and
7 those outpatient facilities that are also community-based
8 behavioral health facilities serving only persons up to twenty-
9 one years of age [~~and the department of health as to all other~~
10 ~~health facilities, unless otherwise designated~~];

11 [~~B.~~] C. "director" means the secretary;

12 [~~G.~~ "~~person~~", when used without further
13 ~~qualification, means an individual or any other form of entity~~
14 ~~recognized by law;~~]

15 D. "health care provider" means an individual
16 licensed to provide health care in the ordinary course of
17 business, except as otherwise defined in the Public Health Act;

18 [~~D.~~] E. "health facility" means a public hospital,
19 profit or nonprofit private hospital, general or special
20 hospital, outpatient facility, maternity home or shelter, adult
21 daycare facility, nursing home, intermediate care facility,
22 boarding home not under the control of an institution of higher
23 learning, child care center, shelter care home, diagnostic and
24 treatment center, rehabilitation center, infirmary, community
25 mental health center that serves both children and adults or

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1 adults only, residential treatment center that serves persons
2 up to twenty-one years of age, community mental health center
3 that serves only persons up to twenty-one years of age and day
4 treatment center that serves persons up to twenty-one years of
5 age or a health service organization operating as a
6 freestanding hospice or a home health agency. The designation
7 of these entities as health facilities is only for the purposes
8 of definition in the Public Health Act and does not imply that
9 a freestanding hospice or a home health agency is considered a
10 health facility for the purposes of other provisions of state
11 or federal laws. "Health facility" also includes those
12 facilities that, by federal regulation, must be licensed by the
13 state to obtain or maintain full or partial, permanent or
14 temporary federal funding. It does not include the offices and
15 treatment rooms of licensed private practitioners; ~~and~~

16 F. "screening" means the systematic application of
17 a test to a defined population;

18 [~~E.~~] G. "secretary" means:

19 (1) the secretary of health; or
20 (2) the secretary of children, youth and
21 families as to child care centers, residential treatment
22 centers that serve persons up to twenty-one years of age,
23 community mental health centers that serve only persons up to
24 twenty-one years of age, day treatment centers that serve
25 persons up to twenty-one years of age, shelter care homes and

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1 those outpatient facilities that are also community-based
2 behavioral health facilities serving only persons up to twenty-
3 one years of age [~~and the secretary of health as to all other~~
4 ~~health facilities~~]; and

5 H. "test" means any diagnostic or investigative
6 analysis or medical procedure that determines the presence of,
7 absence of or exposure to a condition of public health
8 importance or its precursor in an individual."

9 SECTION 5. Section 24-1-3 NMSA 1978 (being Laws 1973,
10 Chapter 359, Section 3, as amended) is amended to read:

11 "24-1-3. POWERS AND AUTHORITY OF DEPARTMENT.--The
12 department has authority to:

13 A. receive such grants, subsidies, donations,
14 allotments or bequests as may be offered to the state by the
15 federal government or any department thereof or by any public
16 or private foundation or individuals;

17 B. supervise the health and hygiene of the people
18 of the state and identify ways to evaluate and address
19 community health problems;

20 C. investigate, control and abate the causes of
21 disease, especially epidemics, sources of mortality and other
22 conditions of public health;

23 D. establish, maintain and enforce isolation and
24 quarantine;

25 E. close any public place and forbid gatherings of

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1 people when necessary for the protection of the public health;

2 F. respond to disasters and assist communities in
3 recovery;

4 [~~F.~~] G. establish programs and adopt rules to
5 prevent infant mortality, birth defects and morbidity;

6 [~~G.~~] H. prescribe the duties of public health
7 nurses and school nurses;

8 [~~H.~~] I. provide educational programs and
9 disseminate information on public health;

10 [~~I.~~] J. maintain and enforce rules for the
11 licensure of health facilities;

12 K. ensure the quality and accessibility of health
13 care services and the provision of health care when health care
14 is otherwise unavailable;

15 L. ensure a competent public health work force;

16 [~~J.~~] M. bring action in court for the enforcement
17 of health laws and rules and orders issued by the department;

18 [~~K.~~] N. enter into agreements with other states to
19 carry out the powers and duties of the department;

20 [~~L.~~] O. cooperate and enter into contracts or
21 agreements with the federal government or any other person to
22 carry out the powers and duties of the department;

23 P. cooperate and enter into contracts or agreements
24 with Native American nations, tribes and pueblos and off-
25 reservation groups to coordinate the provision of essential

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1 public health services and functions;

2 [M.] Q. maintain and enforce rules for the control
3 of [~~communicable diseases deemed to be dangerous to public~~
4 ~~health~~] conditions of public health importance;

5 [N.] R. maintain and enforce rules for immunization
6 against [~~diseases deemed to be dangerous to the public health~~]
7 conditions of public health importance;

8 [O.] S. maintain and enforce such rules as may be
9 necessary to carry out the provisions of the Public Health Act
10 and to publish the rules;

11 [P.] T. supervise state public health activities,
12 operate a dental public health program and operate state
13 laboratories for the investigation of public health matters;

14 [Q.] U. sue and, with the consent of the
15 legislature, be sued;

16 [R.] V. regulate the practice of midwifery;

17 [S.] W. administer legislation enacted pursuant to
18 Title VI of the Public Health Service Act, as amended and
19 supplemented;

20 [T.] X. inspect such premises or vehicles as
21 necessary to ascertain the existence or nonexistence of
22 conditions dangerous to public health or safety;

23 [U.] Y. request and inspect, while maintaining
24 federal and state confidentiality requirements, copies of:

25 (1) medical and clinical records reasonably

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1 required for the department's quality assurance and quality
2 improvement activities; and

3 (2) all medical and clinical records
4 pertaining to the individual whose death is the subject of
5 inquiry by the department's mortality review activities; and

6 [~~V-~~] Z. do all other things necessary to carry out
7 its duties."

8 SECTION 6. Section 24-1-4 NMSA 1978 (being Laws 1973,
9 Chapter 359, Section 4) is amended to read:

10 "24-1-4. CREATION OF HEALTH [~~DISTRICTS~~] REGIONS--
11 APPOINTMENT OF HEALTH OFFICERS--POWERS AND DUTIES OF HEALTH
12 OFFICERS.--

13 A. The director shall establish health [~~districts~~]
14 regions and may modify and create new [~~ones~~] health regions as
15 [~~he~~] the director deems necessary.

16 B. [~~The director shall appoint one district health~~
17 ~~officer for each health district. The director may appoint~~
18 ~~assistants to the district health officer when he deems~~
19 ~~necessary.~~

20 C. ~~The director shall establish the powers and~~
21 ~~duties of the district health officers.~~

22 D. ~~All school health personnel except physical~~
23 ~~education personnel are under the direct supervision and~~
24 ~~control of the district health officer in their district.~~

25 ~~They~~] A regional health officer shall provide medical oversight

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1 to school nurses in the regional health officer's region. A
2 school nurse shall make [~~such~~] reports relating to public
3 health as the [~~district~~] regional health officer in [~~their~~
4 ~~district~~] the school nurse's region requires.

5 C. As used in this section, "medical oversight"
6 means advice and direction that is provided by a regional
7 health officer or under the direction of a regional health
8 officer to a school nurse, or a school nurse's designee, who
9 performs nursing activities in a school setting."

10 SECTION 7. Section 24-1-7 NMSA 1978 (being Laws 1973,
11 Chapter 359, Section 7, as amended) is repealed and a new
12 Section 24-1-7 NMSA 1978 is enacted to read:

13 "24-1-7. [NEW MATERIAL] SEXUALLY TRANSMITTED INFECTIONS--
14 REPORTS OF CASES.--

15 A. The department shall make available a list of
16 sexually transmitted infections for which reporting is
17 required.

18 B. Reports of sexually transmitted infections shall
19 be made in accordance with department rules.

20 C. Every health care provider who makes a diagnosis
21 of, treats or prescribes for, or otherwise has knowledge of, a
22 case of sexually transmitted infection that is required by the
23 department to be reported shall report the case immediately.

24 D. As used in this section, "health care provider"
25 means:

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1 (1) a person licensed to provide health care
2 in the ordinary course of business;

3 (2) a superintendent or manager of a health
4 care clinic;

5 (3) a dispensary, a charitable or penal
6 institution or a municipal or county detention center; or

7 (4) a laboratory that performs testing for
8 sexually transmitted infections."

9 SECTION 8. Section 24-1-9 NMSA 1978 (being Laws 1973,
10 Chapter 359, Section 9, as amended) is amended to read:

11 "24-1-9. CAPACITY TO CONSENT TO EXAMINATION AND TREATMENT
12 FOR A SEXUALLY TRANSMITTED [~~DISEASE~~] INFECTION.--Any person
13 regardless of age has the capacity to consent to an examination
14 and treatment by a licensed [~~physician~~] health care provider
15 for any sexually transmitted [~~disease~~] infection."

16 SECTION 9. Section 24-1-9.1 NMSA 1978 (being Laws 1993,
17 Chapter 341, Section 4) is amended to read:

18 "24-1-9.1. SEXUALLY TRANSMITTED [~~DISEASES~~] INFECTIONS--
19 TESTING OF PERSONS CONVICTED OF CERTAIN CRIMINAL OFFENSES.--

20 A. A test designed to identify any sexually
21 transmitted [~~disease~~] infection may be performed on an offender
22 convicted pursuant to state law of any criminal offense:

23 (1) involving contact between the penis and
24 the vulva;

25 (2) involving contact between the penis and

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1 anus;

2 (3) involving contact between the mouth and
3 penis;

4 (4) involving contact between the mouth and
5 vulva;

6 (5) involving contact between the mouth and
7 anus; or

8 (6) when the court determines from the facts
9 of the case that there was a transmission or likelihood of
10 transmission of bodily fluids from the offender to the victim
11 of the criminal offense.

12 B. When consent to perform a test on an offender
13 cannot be obtained, the victim of a criminal offense described
14 in Subsection A of this section may petition the court to order
15 that a test be performed on the offender. When the victim of
16 the criminal offense is a minor or an incompetent, the parent
17 or legal guardian of the victim may petition the court to order
18 that a test be performed on the offender. The court shall
19 order and the test shall be administered to the offender within
20 ten days after the petition is filed by the victim ~~[his]~~ or the
21 victim's parent or guardian. Except for disclosures made
22 pursuant to Section 24-1-7 NMSA 1978, the results of the test
23 shall be disclosed only to the offender and to the victim or
24 the victim's parent or legal guardian."

25 SECTION 10. Section 24-1-9.2 NMSA 1978 (being Laws 1996,
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1 Chapter 80, Section 1) is amended to read:

2 "24-1-9.2. SEXUALLY TRANSMITTED [~~DISEASES~~] INFECTIONS--
3 TESTING OF PERSONS FORMALLY CHARGED FOR ALLEGEDLY COMMITTING
4 CERTAIN CRIMINAL OFFENSES.--

5 A. A test designed to identify any sexually
6 transmitted [~~disease~~] infection may be performed on a person,
7 upon the filing of a complaint, information or an indictment
8 alleging that the person committed a state criminal offense:

9 (1) involving contact between the penis and
10 the vulva;

11 (2) involving contact between the penis and
12 anus;

13 (3) involving contact between the mouth and
14 penis;

15 (4) involving contact between the mouth and
16 vulva; or

17 (5) involving contact between the mouth and
18 anus.

19 B. If consent to perform a test on an alleged
20 offender cannot be obtained, the victim of the alleged criminal
21 offense described in Subsection A of this section may petition
22 the court, through the prosecuting office or personally, to
23 order that a test be performed on the alleged offender;
24 provided that the same test is first performed on the victim of
25 the alleged criminal offense. The test may be performed on the

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1 alleged offender regardless of the result of the test performed
2 on the victim of the alleged criminal offense. If the victim
3 of the alleged criminal offense is a minor or incompetent, the
4 parent or legal guardian of the victim of the alleged criminal
5 offense may petition the court to order that a test be
6 performed on the alleged offender.

7 C. The court may issue an order based on a finding
8 of good cause after a hearing at which both the victim of the
9 alleged criminal offense and the alleged offender have the
10 right to be present. During the hearing, only affidavits,
11 counter affidavits and medical reports regarding the facts that
12 support or rebut the issuance of an order shall be admissible.
13 The hearing shall be conducted within seventy-two hours after
14 the victim petitions the court for the order. The petition and
15 all proceedings in connection therewith shall be under seal.
16 The court shall issue an order and the test shall be
17 administered to the alleged offender within ten days after the
18 petition is filed by the victim of the alleged criminal offense
19 [~~his~~] or the victim's parent or legal guardian.

20 D. Except for disclosures made pursuant to Section
21 24-1-7 NMSA 1978, the results of the test shall be disclosed
22 only to the alleged offender and to the victim of the alleged
23 criminal offense or the victim's parent or legal guardian.
24 When the victim of the alleged criminal offense or the alleged
25 offender has a positive test result, both the alleged offender

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1 and the victim of the alleged criminal offense shall be
2 provided with counseling.

3 E. A prosecuting attorney may not use in a criminal
4 proceeding arising out of the alleged criminal offense the fact
5 that a test was administered to the alleged offender or the
6 results of the test.

7 F. The provisions of this section shall not affect
8 the rights and remedies available to the victim of the alleged
9 criminal offense and the alleged offender in any civil action.

10 G. The administration of a test to an alleged
11 offender pursuant to the provisions of this section shall not
12 preclude the subsequent administration of another test pursuant
13 to the provisions of Section 24-1-9.1 NMSA 1978."

14 SECTION 11. Section 24-1-9.3 NMSA 1978 (being Laws 1996,
15 Chapter 80, Section 2) is amended to read:

16 "24-1-9.3. SEXUALLY TRANSMITTED [~~DISEASES~~] INFECTIONS--
17 MANDATORY COUNSELING--No positive test result for a sexually
18 transmitted [~~disease~~] infection shall be revealed to the person
19 upon whom the test was performed without the person performing
20 the test or the health facility at which the test was performed
21 providing or referring that person for individual counseling
22 about:

- 23 A. the meaning of the test results;
24 B. the possible need for additional testing;
25 C. the availability of appropriate health care

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1 services, including mental health care, social services and
2 support services; and

3 D. the benefits of locating and counseling any
4 individual by whom the infected person may have been exposed to
5 the sexually transmitted [~~disease~~] infection and any individual
6 whom the infected person may have exposed to the sexually
7 transmitted [~~disease~~] infection."

8 SECTION 12. Section 24-1-9.4 NMSA 1978 (being Laws 1996,
9 Chapter 80, Section 3) is amended to read:

10 "24-1-9.4. SEXUALLY TRANSMITTED [~~DISEASES~~] INFECTIONS--
11 CONFIDENTIALITY.--

12 A. Except as provided in Section 24-1-9.2 NMSA
13 1978, no person or the person's agents or employees who require
14 or administer a test for sexually transmitted [~~diseases~~]
15 infections shall disclose the identity of any person upon whom
16 a test is performed or the result of such a test in a manner
17 that permits identification of the subject of the test, except
18 to the following persons:

19 [~~A.~~] (1) the subject of the test or the
20 subject's legally authorized representative, guardian or legal
21 custodian;

22 [~~B.~~] (2) any person designated in a legally
23 effective release of the test results executed prior to or
24 after the test by the subject of the test or the subject's
25 legally authorized representative;

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1 [~~E-~~] (3) an authorized agent, a credentialed
2 or privileged physician or an employee of a health facility or
3 health care provider if the health care facility or health care
4 provider itself is authorized to obtain the test results, the
5 agent or employee provides patient care or handles or processes
6 specimens of body fluids or tissues and the agent or employee
7 has a need to know such information;

8 [~~D-~~] (4) the department of health and the
9 centers for disease control and prevention of the United States
10 public health service in accordance with reporting requirements
11 for a diagnosed case of a sexually transmitted [~~disease~~]
12 infection;

13 [~~E-~~] (5) a health facility or health care
14 provider that procures, processes, distributes or uses:

15 [~~(1)~~] (a) a human body part from a
16 deceased person, with respect to medical information regarding
17 that person;

18 [~~(2)~~] (b) semen for the purpose of
19 artificial insemination;

20 [~~(3)~~] (c) blood or blood products for
21 transfusion or injection; or

22 [~~(4)~~] (d) human body parts for
23 transplant with respect to medical information regarding the
24 donor or recipient;

25 [~~F-~~] (6) health facility staff committees or

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1 accreditation or oversight review organizations that are
2 conducting program monitoring, program evaluation or service
3 reviews, as long as any identity remains confidential;

4 ~~[G.]~~ (7) authorized medical or epidemiological
5 researchers who may not further disclose any identifying
6 characteristics or information; and

7 ~~[H.]~~ (8) for purposes of application or
8 reapplication for insurance coverage, an insurer or reinsurer
9 upon whose request the test was performed.

10 B. Whenever disclosure is made, it shall be
11 accompanied by a statement in writing that includes the
12 following or substantially similar language: "This information
13 has been disclosed to you from records whose confidentiality is
14 protected by state law. State law prohibits you from making
15 any further disclosure of this information without the specific
16 written consent of the person to whom this information pertains
17 or as otherwise permitted by law. A person who makes an
18 unauthorized disclosure of this information is guilty of a
19 petty misdemeanor and shall be sentenced to imprisonment in the
20 county jail for a definite term not to exceed six months or the
21 payment of a fine of not more than five hundred dollars (\$500),
22 or both."."

23 SECTION 13. Section 24-1-9.6 NMSA 1978 (being Laws 1996,
24 Chapter 80, Section 5) is amended to read:

25 "24-1-9.6. SEXUALLY TRANSMITTED ~~[DISEASES]~~ INFECTIONS--
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1 DISCLOSURE.--

2 A. A victim of a criminal offense or an alleged
3 criminal offense who receives information pursuant to Section
4 24-1-9.1 or 24-1-9.2 NMSA 1978 may disclose the offender's or
5 alleged offender's test results to the victim's health care
6 provider as is reasonably necessary to protect [~~his~~] the
7 victim's health and safety or the health and safety of [~~his~~]
8 the victim's family or sexual partner.

9 B. Nothing in this section shall be construed to
10 prevent a person who has been tested from disclosing in any way
11 to any other person that person's own test results."

12 SECTION 14. Section 24-1-9.7 NMSA 1978 (being Laws 1996,
13 Chapter 80, Section 6) is amended to read:

14 "24-1-9.7. PENALTY.--A person who, in violation of
15 Section 24-1-9.4 NMSA 1978, makes an unauthorized disclosure of
16 the results of a test designed to identify a sexually
17 transmitted [~~disease~~] infection is guilty of a petty
18 misdemeanor and shall be sentenced to imprisonment in the
19 county jail for a definite term not to exceed six months or the
20 payment of a fine of not more than five hundred dollars (\$500)
21 or both."

22 SECTION 15. Section 24-1-15 NMSA 1978 (being Laws 1973,
23 Chapter 359, Section 15, as amended) is amended to read:

24 "24-1-15. [~~REPORTING OF CONTAGIOUS DISEASES~~] ISOLATION--
25 QUARANTINE--PROTOCOL.--

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1 ~~[A. When a physician or other person knows that a~~
2 ~~person is infected with a threatening communicable disease, he~~
3 ~~shall promptly notify a public health official or his~~
4 ~~authorized agent.~~

5 ~~B. A public health official who]~~ A. If the
6 secretary or a representative of the department whom the
7 secretary designates has knowledge that a person is infected
8 with, reasonably believed to be infected with or exposed to a
9 threatening communicable disease and the person has refused
10 voluntary treatment, detention or observation shall petition
11 the court for an order ~~[to detain the person who is infected~~
12 ~~with the threatening communicable disease]~~ to isolate or
13 quarantine the person until the person is no longer a
14 ~~[contagious]~~ threat to the public health or until the person
15 voluntarily complies with ~~[the appropriate]~~ treatment and
16 contagion precautions.

17 B. The secretary or a representative of the
18 department whom the secretary designates may, by public health
19 order, temporarily isolate or quarantine a person or group of
20 persons if delay in isolating or quarantining would
21 significantly jeopardize the secretary's ability to prevent or
22 limit the transmission of a threatening communicable disease to
23 others. The public health order shall expire at the end of
24 twenty-four hours from the time of the commencement of
25 isolation or quarantine. The secretary may petition for a

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1 court order that authorizes the continued isolation or
2 quarantine of the person or group of persons. In the petition,
3 the secretary shall present facts used to support the need to
4 have issued the public health order to isolate or quarantine.

5 C. ~~[The]~~ Whether or not a public health order to
6 isolate or quarantine was previously issued, a petition for a
7 court order shall be made under oath or shall be accompanied by
8 a sworn affidavit setting out specific facts showing ~~[that the~~
9 ~~person is infected with a threatening communicable disease.~~

10 D. ~~The petition shall state that the person to be~~
11 ~~detained]~~ the basis upon which isolation or quarantine is
12 justified, including whether the person to be isolated or
13 quarantined:

14 (1) is ~~[actively infectious]~~ infected with,
15 reasonably believed to be infected with or exposed to a
16 threatening communicable disease ~~[or presents a substantial~~
17 ~~likelihood of having a threatening communicable disease based~~
18 ~~on credible medical evidence]; and~~

19 (2) poses a substantial likelihood of
20 transmission of the threatening communicable disease to others
21 because of inadequate separation from others ~~[and~~

22 ~~(3) after being advised of his condition and~~
23 ~~the risks posed thereby, has refused voluntary treatment].~~

24 ~~[E.]~~ D. Upon the filing of a petition the court
25 shall:

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1 (1) immediately grant ex parte a temporary
2 order of protection to isolate or quarantine the affected
3 person [~~infected with the threatening communicable disease~~] if
4 there is probable cause from the specific facts shown by the
5 affidavit or by the petition to give the judge reason to
6 believe that the affected person [~~infected with a threatening~~
7 ~~communicable disease~~] poses a substantial threat to the public
8 health and safety;

9 (2) cause the temporary order of protection,
10 notice of hearing and an advisement of the terms of the
11 temporary protective order, including [~~his right~~] the affected
12 person's right to representation and re-petition for
13 termination of [~~any~~] a protective order that removes and
14 detains the [~~infected person~~] affected person, to be
15 immediately served on the [~~allegedly infected person~~] affected
16 person; and

17 (3) within five days after the granting of the
18 temporary order of protection, hold an evidentiary hearing to
19 determine if the court shall continue the order.

20 [~~F-~~] E. A person held pursuant to a temporary
21 protective order as set forth in Subsection [~~F~~] D of this
22 section shall be:

23 (1) entitled to representation by counsel at
24 the evidentiary hearing and at all hearings thereafter for the
25 duration of the period of [~~removal and detention~~] isolation or

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1 quarantine; and

2 (2) permitted to communicate on any matter
3 [~~including his removal and detention~~] with persons by
4 telephone, or other reasonably available means that do not
5 expose other persons to the risk of infection, for the duration
6 of the period of [~~removal and detention~~] isolation or
7 quarantine.

8 [~~G.~~] F. Counsel may be retained by the person held
9 or shall be appointed by the court if the court determines that
10 the person held cannot afford legal representation or if the
11 court determines that appointment of counsel is required in the
12 interest of justice.

13 [~~H.~~] G. At the evidentiary hearing, the court shall
14 review the circumstances surrounding the temporary order and,
15 if the petitioner can show by clear and convincing evidence
16 that the person being held has not voluntarily complied or will
17 not voluntarily comply with appropriate treatment and contagion
18 precautions, the court may continue [~~the detention of the~~
19 ~~person infected with a threatening communicable disease~~]
20 isolation or quarantine. The court shall order regular review
21 of the order to [~~detain~~] isolate or quarantine by providing the
22 person being held with a subsequent hearing within [~~ninety~~]
23 thirty days of the temporary order's issuance and every
24 [~~ninety~~] thirty days thereafter. The detention order shall be
25 terminated and the affected person shall be released if:

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1 (1) the person being held is certified by a
2 public health official to pose no further risk [~~of infecting~~
3 ~~others~~] to the public health;

4 (2) at a hearing, the petitioner, whose burden
5 of proof continues under a clear and convincing standard, can
6 no longer show that the person being held is infected with,
7 reasonably believed to be infected with or exposed to a
8 threatening communicable disease and that [he] the affected
9 person will not comply with appropriate treatment and contagion
10 precautions voluntarily; or

11 (3) exceptional circumstances exist warranting
12 the termination of the temporary protective order.

13 [~~F.~~] H. The provisions of this section do not
14 permit the forcible administration of medications. A person
15 isolated or quarantined pursuant to this section has the right
16 to refuse to participate in medical treatment, testing,
17 physical or mental examination, vaccination, specimen
18 collection or preventive treatment.

19 I. A person who is isolated or quarantined pursuant
20 to a court order may petition the court to contest the order or
21 the conditions of isolation or quarantine at any time prior to
22 the expiration of the order. If a petition is filed, the court
23 shall hold a hearing within five days after the date of filing.
24 The filing of a petition for a hearing pursuant to this
25 subsection does not stay an order of isolation or quarantine.

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1 At the hearing, the secretary shall offer clear and convincing
2 evidence that:

3 (1) the isolation or quarantine is warranted;

4 or

5 (2) the conditions of isolation or quarantine
6 are compliant with the provisions of this section.

7 J. When isolating or quarantining an affected
8 person, the secretary shall ensure that:

9 (1) isolation or quarantine is the least
10 restrictive means necessary to protect against the spread of a
11 threatening communicable disease or a potentially threatening
12 communicable disease to others and may include confinement to
13 the affected person's private home, if practicable, or, if not
14 practicable, to a private or public premises;

15 (2) an isolated person is confined separately
16 from a quarantined person;

17 (3) the health status of an isolated or
18 quarantined person is monitored regularly to determine whether
19 continued isolation or quarantine is required;

20 (4) if a quarantined person subsequently
21 becomes infected or is reasonably believed to be infected with
22 the threatening communicable disease, that affected person
23 shall be promptly isolated;

24 (5) the needs of a person isolated or
25 quarantined are addressed in a systematic and orderly manner,

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1 including the provision of adequate food, clothing, shelter,
2 sanitation and comfort;

3 (6) there are methods of communication
4 available to a person placed in isolation or quarantine to
5 enable communication with family members, household members,
6 legal representatives, advocates, the media and any licensed
7 health care provider;

8 (7) an area of isolation or quarantine is
9 maintained in a manner that minimizes the likelihood of further
10 transmission of infection or other injury to other persons who
11 are isolated or quarantined; and

12 (8) to the extent possible, cultural and
13 religious beliefs shall be respected in addressing the needs of
14 affected persons and in establishing and maintaining an area of
15 isolation or quarantine.

16 K. A person shall not enter an area of isolation or
17 quarantine except as authorized by the department. To protect
18 the public health, the department may isolate or quarantine any
19 person who has entered, with or without the secretary's
20 authorization, an area of isolation or quarantine.

21 [J.—The] L. Court proceedings shall be [recorded
22 stenographically, electronically, mechanically or by other
23 appropriate means. The proceedings shall be] on the record and
24 closed to the general public. [and] The records shall be
25 sealed from public inspection.

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1 ~~[K-]~~ M. A person who in good faith reports another
2 person infected with a threatening communicable disease shall
3 not be held liable for civil damages as a result of the report;
4 provided that the person reported as being infected with a
5 threatening communicable disease shall have the right to sue
6 for damages sustained as a result of negligent or intentional
7 reporting of inaccurate information or the disclosure of
8 information to an unauthorized person.

9 N. During the period of isolation or quarantine, an
10 employer shall not discharge from employment a person who is
11 placed in isolation or quarantine pursuant to this section.

12 O. The secretary, after consultation with the state
13 medical investigator, the secretary of public safety, the
14 director and the chair of the board of funeral services, may
15 implement and enforce measures that are reasonable and
16 necessary to respond to public health threats, to provide for
17 the safe disposal of human remains.

18 ~~[L-]~~ P. For purposes of this section:
19 (1) "area of isolation or quarantine" means
20 the physical environs that the department designates as the
21 area within which to restrict access as required to prevent
22 communication of a threatening communicable disease;

23 ~~[+]~~ (2) "court" means:
24 (a) the district court of the judicial
25 district where the person who is alleged to be infected with a

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1 threatening communicable disease resides or is found; or

2 (b) a district court that the New Mexico
3 supreme court designates;

4 (3) "isolate" means to physically separate
5 for possible medical care a person who is infected or who is
6 reasonably believed to be infected with a threatening
7 communicable disease or potentially threatening communicable
8 disease;

9 [~~2~~] (4) "public health official" means the
10 secretary, a [~~district~~] regional health officer, the director
11 of the public health division of the department of health, a
12 chief medical officer or a [~~person~~] representative of the
13 department designated by the secretary of health to carry out
14 the duties provided in this section; [~~and~~]

15 (5) "quarantine" means the precautionary
16 physical separation of a person who has or may have been
17 exposed to a threatening communicable disease or a potentially
18 threatening communicable disease and who does not show a sign
19 or symptom of a threatening communicable disease from persons
20 who are not quarantined to protect against the transmission of
21 the disease to persons who are not quarantined; and

22 [~~3~~] (6) "threatening communicable disease"
23 means a disease that causes death or great bodily harm, passes
24 from one person to another and for which there is no means by
25 which the public reasonably can avoid the risk of contracting

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1 the disease."

2 SECTION 16. Section 24-1-15.1 NMSA 1978 (being Laws
3 2009, Chapter 174, Section 1) is amended to read:

4 "24-1-15.1. PROTOCOL FOR MANAGEMENT OF INFECTIOUS FORMS
5 OF TUBERCULOSIS.--

6 A. When a physician or other person knows that a
7 person has [~~an infectious form of~~] or is reasonably believed
8 to be infected with active tuberculosis, the physician or
9 other person shall promptly notify the department.

10 B. Upon receiving notification that a person has
11 [~~an infectious form of~~] active tuberculosis, the department
12 shall prescribe the person a treatment plan meeting the
13 department's therapeutic specifications for [~~the infectious~~
14 ~~form of~~] active tuberculosis. The treatment plan shall
15 include a notice to the person that failure to comply with the
16 treatment plan will result in immediate initiation of court
17 action to ensure compliance, as set forth in this section.

18 C. The secretary, or a representative of the
19 department whom the secretary designates, may by public health
20 order temporarily isolate a person or group of persons if
21 delay in isolating the person or group would significantly
22 jeopardize the secretary's ability to prevent or limit the
23 transmission of tuberculosis to others. The public health
24 order shall expire at the end of twenty-four hours from the
25 time of the commencement of isolation. The secretary may

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1 petition for a court order that authorizes the continued
2 isolation. In the petition, the secretary shall present facts
3 used to support the need to have issued the public health
4 order to isolate.

5 ~~[G.]~~ D. Whether or not a public health order was
6 issued pursuant to Subsection C of this section, when the
7 department has knowledge that a person who has [~~an infectious~~
8 ~~form of~~] active tuberculosis has failed to comply with the
9 department's treatment plan as described in Subsection B of
10 this section, the department shall petition the court for an
11 order of protection for the person who has [~~an infectious form~~
12 ~~of~~] active tuberculosis to comply with whichever of the
13 following courses of action the department deems appropriate:

- 14 (1) a program of directly observed therapy;
- 15 (2) isolation; or
- 16 (3) directly observed therapy and isolation.

17 ~~[D. The petition for an order of protection shall~~
18 ~~be made under oath or shall be accompanied by a sworn~~
19 ~~affidavit setting out specific facts showing that the person~~
20 ~~has an infectious form of tuberculosis.]~~

21 E. ~~[The]~~ A petition for [~~an order of protection]~~ a
22 court order shall [~~state that the person for whom the order is~~
23 ~~sought]~~ be made under oath or shall be accompanied by a sworn
24 affidavit setting out specific facts showing the basis upon
25 which isolation is justified, including whether the person to

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1 be isolated:

2 (1) has [~~an infectious form of~~] active
3 tuberculosis or presents a substantial likelihood of having
4 [~~an infectious form of~~] active tuberculosis based on credible
5 medical evidence;

6 (2) after being advised of the condition and
7 the risks posed thereby, has failed to comply with the
8 department's treatment plan; and

9 (3) poses a substantial likelihood of
10 transmission of tuberculosis to others because the person is
11 actively infectious or poses a risk of relapse or development
12 of a therapy-resistant strain of tuberculosis.

13 F. Upon the filing of a petition for an order of
14 protection, the court shall:

15 (1) in cases where there is probable cause
16 established by the petition to give the judge reason to
17 believe that the person who has been alleged to have [~~an~~
18 ~~infectious form of~~] active tuberculosis poses a substantial
19 threat to the public health and safety because the person is
20 actively infectious, or poses a risk of relapse or development
21 of a therapy-resistant strain of tuberculosis because of a
22 history of noncompliance, immediately grant ex parte a
23 temporary order of protection to:

24 (a) administer a program of directly
25 observed therapy;

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1 (b) isolate the person and administer a
2 program of directly observed therapy; or

3 (c) isolate the person, if the person
4 refuses a program of directly observed therapy;

5 (2) cause the temporary order of protection,
6 notice of hearing and an advisement of the terms of the order
7 of protection, including the rights of the person alleged to
8 have [~~an infectious form of~~] active tuberculosis to
9 representation and re-petition for termination of an order of
10 protection, to be immediately served on the person alleged to
11 have [~~an infectious form of~~] active tuberculosis; and

12 (3) within five days after the granting of
13 the temporary order of protection, hold an evidentiary hearing
14 to determine if the court shall continue the order of
15 protection.

16 G. A person held pursuant to a temporary order of
17 protection as set forth in Subsection F of this section shall
18 be:

19 (1) entitled to representation by counsel at
20 the evidentiary hearing and at all hearings thereafter for the
21 duration of the period of isolation or program of directly
22 observed therapy; and

23 (2) permitted to communicate on any matter,
24 including the person's isolation or program of directly
25 observed therapy, with persons by telephone or other

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1 reasonably available means that do not expose other persons to
2 the risk of infection, for the duration of the period of
3 isolation or program of directly observed therapy.

4 H. Counsel may be retained by the person under the
5 temporary order of protection or shall be appointed by the
6 court if the court determines that the person held cannot
7 afford legal representation or if the court determines that
8 appointment of counsel is required in the interest of justice.

9 I. At the evidentiary hearing, the court shall
10 review the circumstances surrounding the temporary order, and,
11 if the petitioner can show by clear and convincing evidence
12 that the person being held has not complied or will not comply
13 with appropriate treatment and contagion precautions as the
14 department deems necessary, the court shall continue the order
15 of protection for the person who has [~~an infectious form of~~]
16 active tuberculosis until completion of therapy, as deemed by
17 the department. The court shall order regular review of the
18 order by providing the person under an order of protection
19 with a subsequent hearing within ninety days of the temporary
20 order's issuance and every ninety days thereafter. The order
21 of protection shall be terminated and the person shall be
22 released if:

23 (1) at a hearing, the petitioner has not met
24 its burden of showing by clear and convincing proof that the
25 person under an order of protection has not completed therapy;

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1 or

2 (2) exceptional circumstances exist
3 warranting the termination of the temporary order of
4 protection.

5 J. The provisions of this section do not permit
6 the forcible administration of medications.

7 K. A person isolated pursuant to this section has
8 the right to refuse any medical treatment, physical or mental
9 examination, treatment program or invasive specimen
10 collection. A person who has been directed by the secretary
11 to submit to medical procedures and protocols because the
12 person has active tuberculosis and refuses to submit to the
13 procedures and protocols may be subject to continued isolation
14 pursuant to this section.

15 L. A person who is isolated pursuant to a court
16 order may petition the court to contest the order or the
17 conditions of isolation at any time prior to the expiration of
18 the order. If a petition is filed, the court shall hold a
19 hearing within five business days after the date of filing.
20 At a hearing pursuant to a petition to contest, the secretary
21 shall offer:

22 (1) clear and convincing evidence that the
23 isolation is warranted; or

24 (2) proof that the conditions of isolation
25 are compliant with the provisions of this section.

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1 M. When isolating a person or group of persons,
2 the secretary shall ensure that:

3 (1) isolation is imposed by the least
4 restrictive means necessary to protect against the spread of
5 tuberculosis to others and may include confinement to the
6 isolated person's private home, if practicable, or, if not
7 practicable, a private or public premises;

8 (2) the health status of an isolated person
9 is monitored regularly to determine if continued isolation is
10 required;

11 (3) the needs of a person isolated are
12 addressed in a systematic and orderly manner, including the
13 provision of adequate food, clothing, shelter, sanitation and
14 comfort;

15 (4) there are methods of communication
16 available to a person placed in isolation to enable
17 communication with family members, household members, legal
18 representatives, advocates, the media and any licensed health
19 care provider;

20 (5) the premises used for isolation are
21 maintained in a manner that minimizes the likelihood of
22 further transmission of infection or other injury to other
23 persons who are isolated; and

24 (6) to the extent possible, cultural and
25 religious beliefs shall be respected in addressing the needs

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1 of persons and establishing and maintaining isolation
2 premises.

3 [K-] N. The proceedings of any hearing held
4 pursuant to the section shall be [~~recorded stenographically,~~
5 ~~electronically or mechanically or by other appropriate means.~~
6 ~~The proceedings shall be~~] on the record and closed to the
7 general public [~~and~~]. The records shall be sealed from public
8 inspection.

9 [L-] O. A person who in good faith reports that
10 another person has [~~an infectious form of~~] active tuberculosis
11 shall not be held liable for civil damages as a result of the
12 report; provided that the person reported as having [~~an~~
13 ~~infectious form of~~] active tuberculosis shall have the right
14 to sue for damages sustained as a result of negligent or
15 intentional reporting of inaccurate information or the
16 disclosure of information to an unauthorized person.

17 [M-] P. During the period of isolation, an
18 employer shall not discharge from employment a person who is
19 placed in isolation pursuant to this section.

20 Q. For purposes of this section:

21 (1) "active tuberculosis" means a disease
22 caused by mycobacterium tuberculosis or other members of the
23 mycobacterium tuberculosis complex family that has been
24 determined, through current clinical, bacteriological or
25 radiographic evidence, or whichever diagnostic procedures the

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1 department deems appropriate, to be present in a person who
2 has not completed an appropriate course of antituberculosis
3 medication, regardless of the state of communicability of the
4 disease. A person with active tuberculosis includes a person
5 with:

6 (a) tuberculosis that is resistant to
7 the prescribed treatment plan;

8 (b) infectious tuberculosis or who
9 presents a substantial likelihood of having infectious
10 tuberculosis based on credible medical evidence;

11 (c) noninfectious tuberculosis who is
12 at high risk of developing an infectious form of tuberculosis;
13 and

14 (d) pulmonary or extrapulmonary
15 tuberculosis;

16 [~~(1)~~] (2) "completion of therapy" means
17 completion of the prescribed therapy, as determined by the
18 department based upon published national consensus
19 tuberculosis treatment guidelines;

20 [~~(2)~~] (3) "court" means the district court
21 of the judicial district where the person who is alleged to
22 have an infectious form of tuberculosis resides or is found or
23 a district court designated by the New Mexico supreme court;

24 [~~(3)~~] (4) "department" means the department
25 of health or a person designated by the secretary of health to

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1 carry out the duties provided in this section;

2 [~~(4)~~] (5) "directly observed therapy" means
3 a methodology for promoting patient adherence in which a
4 health care provider or trained designee witnesses the patient
5 ingest each dose of medication until the completion of
6 prescribed therapy for tuberculosis;

7 [~~(5)~~] ~~"infectious form of tuberculosis" means~~
8 ~~a form of tuberculosis disease that has been determined,~~
9 ~~through whichever diagnostic procedures the department deems~~
10 ~~appropriate, to be in a communicable or infectious state~~
11 ~~because the patient is capable of expelling tubercle bacilli~~
12 ~~into the air;]~~ and

13 (6) "isolation" means:

14 (a) home isolation;
15 (b) home isolation with electronic
16 monitoring;
17 (c) isolation in a hospital or other
18 health care facility negative pressure room [~~monitored by a~~
19 ~~security officer~~] where appropriate security measures are
20 undertaken to prevent the transmission of tuberculosis; or

21 [~~(d)~~] ~~isolation in a state health care~~
22 ~~facility negative pressure room with appropriate security~~
23 ~~provisions; or~~

24 ~~(e)~~] (d) isolation in a prison or
25 detention center negative pressure room with an appropriate

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1 level of medical care."

2 SECTION 17. Section 24-4-2 NMSA 1978 (being Laws 1935,
3 Chapter 131, Section 7, as amended) is amended to read:

4 "24-4-2. [~~OFFICES OF COUNTY~~] LOCAL PUBLIC HEALTH
5 [~~DEPARTMENT~~] OFFICES--[~~AND DISTRICT~~] REGIONAL DIRECTOR--HEALTH
6 OFFICER--EXPENSES.--

7 A. The board of county commissioners of each
8 county [~~in such health districts~~] shall provide suitable
9 quarters for:

10 (1) the [~~county health department and the~~
11 ~~district health officer~~] local public health offices,
12 including office space for the [~~district health officer and~~]
13 administrative staff, office space for [~~physician~~] health care
14 personnel and clinic space [~~for patients~~] and waiting space
15 for patients, their friends and families; and

16 (2) the regional director and regional
17 health officer, including office space for the administrative
18 staff.

19 B. The boards of county commissioners shall make
20 proper provision for all office and other expense, including
21 utilities and maintenance but excluding janitorial services,
22 incurred in enforcing the health laws and regulations within
23 the counties [~~wherein such~~] in which the expense is incurred.

24 C. The board of county commissioners of each
25 county [~~in such health districts~~] may, upon adoption of a

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1 resolution approved by the department of finance and
2 administration, deposit such county funds as are [~~hereby~~
3 provided in this section with the state treasurer to the
4 credit of the department of health [~~and environment~~
5 ~~department~~] for such purposes as are [~~herein~~] provided in this
6 section at such times as such funds are available; provided
7 that the depositing of such funds with the state treasurer
8 [~~be~~] is upon a voucher approved by the board of county
9 commissioners subject to all statutes and regulations covering
10 the disbursement of county funds, excepting that such funds
11 may be so deposited prior to said payments being due and
12 payable; and provided further that no such deposits shall be
13 in excess of any line item of the approved county health
14 budget."

15 SECTION 18. Section 24-5-8 NMSA 1978 (being Laws 2004,
16 Chapter 45, Section 3, as amended) is amended to read:

17 "24-5-8. REPORTING.--Physicians, nurses, pharmacists
18 and other health care providers shall report on immunization
19 to the immunization registry [~~unless the patient, or the~~
20 ~~patient's guardian if the patient is a minor, refuses to allow~~
21 ~~reporting of this information~~]."

22 SECTION 19. Section 24-5-11 NMSA 1978 (being Laws 2004,
23 Chapter 45, Section 6) is amended to read:

24 "24-5-11. RULES.--The secretary of health shall adopt
25 rules for the immunization registry pursuant to the

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1 Immunization Act concerning the following:

2 A. the implementation and maintenance of the
3 registry;

4 B. requirements for content and submission of
5 reports of immunization to the registry;

6 ~~[G. procedures for the patient, or the patient's
7 parent or guardian if the patient is a minor, to decline to
8 participate in the registry;~~

9 ~~D.]~~ C. procedures for the registrant, or the
10 registrant's parent or guardian if the registrant is a minor,
11 to review and correct information contained in the registry;

12 ~~[E. procedures for the registrant, or the
13 registrant's parent or guardian if the registrant is a minor,
14 to withdraw consent for participation at any time and to
15 remove information from the registry;~~

16 ~~F.]~~ D. limits on and methods of access to the
17 registry by those authorized to gain access; and

18 ~~[G.]~~ E. procedures for managed care organizations
19 to obtain summary statistics of immunization information on
20 managed care organization members from the registry."

21 SECTION 20. Section 24-5-13 NMSA 1978 (being Laws 2004,
22 Chapter 45, Section 8) is amended to read:

23 "24-5-13. RIGHTS.--Nothing in the Immunization Act
24 shall preclude the right of the patient, or the patient's
25 parent or guardian if the patient is a minor, to claim

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1 exemption from immunization as defined in Section 24-5-3 NMSA
2 1978 [~~nor shall anything in the Immunization Act require such~~
3 ~~patient to be included in the immunization registry if the~~
4 ~~patient, or the patient's parent or guardian if the patient is~~
5 ~~a minor, objects on any grounds, including that such registry~~
6 ~~conflicts with the religious belief of the patient, or the~~
7 ~~patient's parent or guardian if the patient is a minor]."~~

8 SECTION 21. Section 24-10A-2.1 NMSA 1978 (being Laws
9 1994, Chapter 61, Section 2, as amended by Laws 2001, Chapter
10 258, Section 2 and by Laws 2001, Chapter 273, Section 2) is
11 amended to read:

12 "24-10A-2.1. DEFINITIONS.--As used in the Emergency
13 Medical Services Fund Act:

14 A. "bureau" means the [~~injury prevention and~~
15 emergency medical [~~services~~] systems bureau of the [~~public~~
16 ~~health division of the~~] department;

17 B. "committee" means the statewide emergency
18 medical services advisory committee appointed pursuant to the
19 provisions of Section 24-10B-7 NMSA 1978;

20 C. "department" means the department of health;

21 D. "fund" means the emergency medical services
22 fund;

23 E. "local recipient" means [~~an~~] a publicly owned
24 or contracted ambulance or air ambulance service; medical
25 rescue service; fire department rescue service; [~~air ambulance~~

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1 ~~service]~~ regionalized emergency medical service agency; or
2 other prehospital emergency medical service care provider
3 based in the state:

4 (1) that routinely responds to an
5 individual's need for immediate medical care in order to
6 prevent loss of life or aggravation of physical or
7 psychological illness or injury;

8 (2) whose application for funding through
9 the Emergency Medical Services Fund Act is sponsored by a
10 municipality or county; and

11 (3) that meets department guidelines
12 [~~concerning~~] for certification, including:

13 (a) personnel training; [~~use of bureau-~~
14 ~~approved run forms~~]

15 (b) participation in emergency medical
16 service data collection and submission to the state emergency
17 medical systems database;

18 (c) participation in local design and
19 planning for efficient delivery of emergency medical services;

20 (d) participation in mutual aid
21 agreements; and

22 (e) participation in medical control
23 for emergency medical services;

24 F. "municipality" means an incorporated city, town
25 or village; [~~and~~]

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1 G. "regionalized emergency medical service agency"
2 means a rural or frontier emergency medical service agency
3 composed of multiple geographic districts with response area
4 populations of fewer than two hundred fifty people per square
5 mile;

6 [~~G-~~] H. "secretary" means the secretary of health;
7 and

8 I. "tribe" means a federally recognized Native
9 American nation, tribe or pueblo located wholly or partially
10 in the state."

11 SECTION 22. Section 24-10A-3 NMSA 1978 (being Laws
12 1978, Chapter 178, Section 3, as amended by Laws 2001, Chapter
13 258, Section 3 and by Laws 2001, Chapter 273, Section 3) is
14 amended to read:

15 "24-10A-3. EMERGENCY MEDICAL SERVICES FUND CREATED--
16 FUNDING.--

17 A. The "emergency medical services fund" is
18 created in the state treasury. Money in the fund shall not
19 revert at the end of any fiscal year. Money appropriated to
20 the fund or accruing to it through gifts, grants, fees or
21 bequests shall be deposited in the fund. Interest earned on
22 investment of the fund shall be credited to the general fund.
23 Disbursements from the fund shall be made upon warrants drawn
24 by the secretary of finance and administration pursuant to
25 vouchers signed by the secretary or [~~his~~] the secretary's

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1 authorized representative.

2 B. The bureau shall administer the fund and
3 provide for the distribution of the fund pursuant to the
4 Emergency Medical Services Fund Act and rules adopted pursuant
5 to the provisions of that act.

6 C. In any fiscal year, no less than seventy-five
7 percent of the money in the fund shall be used for the local
8 emergency medical services funding program to support the cost
9 of supplies and equipment and operational costs other than
10 salaries and benefits for emergency medical services
11 personnel. This money shall be distributed to municipalities
12 and counties on behalf of eligible local recipients, using a
13 formula established pursuant to rules adopted by the
14 department. The formula shall determine each municipality's
15 and county's share of the fund based on the relative
16 geographic size and population of each county. The formula
17 shall also base the distribution of money for each
18 municipality and county on the relative number of runs of each
19 local recipient eligible to participate in the distribution.

20 D. In any fiscal year, no more than:

21 (1) twenty-two percent of the fund may be
22 used for emergency medical services system improvement
23 projects, including the purchase of emergency medical services
24 vehicles, local and statewide emergency medical services
25 system support projects, the statewide trauma care system

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1 program and the emergency medical dispatch agency support
2 program; and

3 (2) three percent of the fund may be used by
4 the bureau [~~and emergency medical services regional offices~~]
5 for administrative costs, including monitoring and providing
6 technical assistance.

7 E. In any fiscal year, money in the fund that is
8 not distributed pursuant to the provisions of Subsection D of
9 this section may be distributed pursuant to the provisions of
10 Subsection C of this section."

11 SECTION 23. Section 24-10A-4.2 NMSA 1978 (being Laws
12 1994, Chapter 61, Section 11) is amended to read:

13 "24-10A-4.2. MUTUAL AID AGREEMENTS--REGIONALIZED,
14 INTEGRATED RESPONSE PLANS.--[~~Incorporated~~] Municipalities,
15 counties, tribes and local recipients [~~are encouraged to~~] may
16 develop mutual aid agreements and regionalized, integrated
17 response plans with other municipalities, counties, tribes and
18 local recipients for the purpose of ensuring that adequate
19 emergency medical services coverage exists throughout the
20 state. For the benefit of the public, equipment and other
21 emergency medical services resources obtained through money
22 from the fund shall be shared among the parties to a mutual
23 aid agreement or regionalized, integrated response plan."

24 SECTION 24. Section 24-10A-5 NMSA 1978 (being Laws
25 1978, Chapter 178, Section 5, as amended) is amended to read:

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1 "24-10A-5. FUNDING PROGRAM--AWARDS--APPEALS.--The
2 bureau shall promptly notify each municipality and county that
3 has applied for money and the local recipient of the bureau's
4 determination to grant or deny an application for funding
5 through the local emergency medical services funding program.
6 A municipality or county may appeal a determination of the
7 bureau within ten working days after notification of the
8 determination. The bureau shall refer the appeal to the
9 committee for its review and recommendation. The committee
10 shall make its recommendation to the secretary, who shall make
11 a final determination about whether to grant or deny an
12 application for funding. The secretary shall notify the
13 appellant of ~~[his]~~ the secretary's decision ~~[on or before June~~
14 ~~30]~~ within thirty days of the date on which the committee has
15 notified the secretary of its recommendation."

16 SECTION 25. Section 24-10A-6 NMSA 1978 (being Laws
17 1978, Chapter 178, Section 6, as amended by Laws 2001, Chapter
18 258, Section 6 and by Laws 2001, Chapter 273, Section 6) is
19 amended to read:

20 "24-10A-6. DISTRIBUTION OF FUND.--On or before August
21 31, the local emergency medical services funding program
22 distribution shall be made to each municipality and county as
23 determined by the department. No more than one percent of the
24 amount appropriated to the local emergency medical services
25 funding program shall be distributed from the fund to the

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1 benefit of a single local recipient in any fiscal year
2 pursuant to the local emergency medical services funding
3 program, with the exception of a regionalized emergency
4 medical service agency, to ensure that appropriate emergency
5 medical service is available statewide."

6 SECTION 26. Section 24-10A-8 NMSA 1978 (being Laws
7 1978, Chapter 178, Section 8, as amended) is amended to read:

8 "24-10A-8. FUNDING PROGRAM--CONTROL OF EXPENDITURES.--
9 Money distributed from the fund shall be expended only for the
10 purposes stated in the application to the bureau and shall be
11 expended on the authorization of the chief executive of the
12 [~~incorporated~~] municipality or county upon vouchers issued by
13 its treasurer."

14 SECTION 27. Section 24-14-27 NMSA 1978 (being Laws
15 1961, Chapter 44, Section 25, as amended) is amended to read:

16 "24-14-27. DISCLOSURE OF RECORDS.--

17 A. [~~It is unlawful for any person to~~] The state
18 registrar or other custodian of vital records shall not permit
19 inspection of or [~~to disclose~~] disclosure of information
20 contained in vital records or [~~to copy~~] copying or [~~issue~~]
21 issuance of a copy of all or part of any record except as
22 authorized by law.

23 B. The department shall provide access to record
24 level data required by the New Mexico health policy commission
25 and the health information system created in the Health

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1 Information System Act. The New Mexico health policy
2 commission and the health information system may only release
3 record level data obtained from vital records in the
4 aggregate. For the purposes of this subsection, "record level
5 data" means one or more unique and non-aggregated data
6 elements relating to a single identifiable individual. The
7 department may authorize the disclosure of data contained in
8 vital records for other research purposes.

9 C. When one hundred years have elapsed after the
10 date of birth or fifty years have elapsed after the date of
11 death, the vital records of these events in the custody of the
12 state registrar shall become open public records, and
13 information shall be made available in accordance with
14 regulations that provide for the continued safekeeping of the
15 records; provided that vital records of birth shall not become
16 open public records prior to the individual's death."

17 **SECTION 28.** Section 24-14-31 NMSA 1978 (being Laws
18 1961, Chapter 44, Section 29, as amended) is amended to read:

19 "24-14-31. PENALTIES.--

20 A. Except for violations of Section 24-14-18 NMSA
21 1978, any person is guilty of a fourth degree felony and shall
22 be sentenced pursuant to the provisions of Section 31-18-15
23 NMSA 1978, who willfully and knowingly:

24 (1) makes any false statement or supplies
25 any false information in a report, record or certificate

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1 required to be filed;

2 (2) with the intent to deceive, alters,
3 amends, counterfeits, copies or mutilates any report, record,
4 [~~or~~] certificate, application or supporting documentation;

5 (3) uses or attempts to use or furnishes to
6 another for use for any purpose of deception any certificate,
7 record, report or certified copy that has been altered,
8 amended or mutilated or that contains false information in
9 whole or in part, or that is related to the birth or death of
10 another person, whether living or dead; or

11 (4) neglects or violates any of the
12 provisions of the Vital Statistics Act or refuses to perform
13 any of the duties imposed upon [~~him~~] the person by that act.

14 B. Any person who willfully and knowingly permits
15 inspection of or discloses information contained in vital
16 statistics records of adoptions or induced abortions or copies
17 or issues a copy of all or part of any record of an adoption
18 or induced abortion, except as authorized by law, is guilty of
19 a fourth degree felony and shall be sentenced in accordance
20 with the provisions of the Criminal Sentencing Act."

21 SECTION 29. A new section of the Public Health Act is
22 enacted to read:

23 "[NEW MATERIAL] CONDITIONS OF PUBLIC HEALTH IMPORTANCE--
24 REPORTING.--

25 A. The secretary shall establish by rule a list of
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1 reportable conditions of public health importance. The list
2 shall include conditions of humans or animals caused by
3 exposure to toxic substances, microorganisms or any other
4 pathogens or conditions that arise due to injury. The
5 secretary shall:

6 (1) prescribe the manner of and the person
7 responsible for reporting conditions of public health
8 importance;

9 (2) classify each reportable condition of
10 public health importance according to the urgency of
11 reporting; and

12 (3) revise the list of reportable conditions
13 of public health importance as necessary.

14 B. The secretary may enter into agreements or
15 other arrangements with federal and tribal public health
16 agencies for receipt and sharing of information regarding
17 reportable conditions of public health importance.

18 C. The department shall disseminate reporting
19 requirements to health care providers and other persons
20 required to report conditions of public health importance.

21 D. A person with knowledge of a reportable
22 condition of public health importance shall report the
23 condition to the department."

24 **SECTION 30.** A new section of the Public Health Act is
25 enacted to read:

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1 "[NEW MATERIAL] CONDITIONS OF PUBLIC HEALTH IMPORTANCE--
2 TESTING--SCREENING.--

3 A. The department shall establish testing and
4 screening procedures and programs to identify conditions of
5 public health importance among individuals or among the
6 general population of the state. The department:

7 (1) shall not conduct any test or screening
8 without the prior informed consent of the individual who is
9 the subject of the test or screening, except as otherwise
10 provided pursuant to this section or by state law;

11 (2) shall have a valid and reliable test for
12 the condition of public health importance;

13 (3) shall, when administering a test or
14 screening, identify a condition of public health importance
15 that poses a threat to an individual's or the public's health
16 and that may be avoided, cured, alleviated or made less
17 contagious through safe and effective treatment, modifications
18 in individual behavior or public health interventions;

19 (4) shall, prior to testing or screening,
20 explain to the individual the nature, scope, purposes,
21 benefits, risks and possible outcomes of the test or
22 screening; and

23 (5) shall fully inform the individual of the
24 individual's results, the meaning of the results, the possible
25 need for additional testing and the availability of

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1 appropriate health care services, including mental health care
2 and social and support services. If appropriate, the
3 department shall provide counseling or inform the individual
4 where such counseling services are available.

5 B. The department may petition to receive a court
6 order to require testing or medical examination of any
7 individual who has or may have been exposed to a condition of
8 public health importance that poses a significant risk or
9 threat to the individual or others or to the public's health,
10 in accordance with procedures established by department
11 rules."

12 SECTION 31. A new section of the Public Health Act is
13 enacted to read:

14 "[NEW MATERIAL] CONDITIONS OF PUBLIC HEALTH IMPORTANCE--
15 COMPULSORY SCREENING--CONDITIONAL SCREENING--ROUTINE VOLUNTARY
16 SCREENING.--The department may establish:

17 A. compulsory screening programs for conditions of
18 public health importance that pose a significant risk or
19 seriously threaten the public's health;

20 B. conditional screening programs when necessary
21 to achieve an important public health objective; provided
22 that:

23 (1) all individuals of a defined class are
24 subjected to the screening as a condition of participating in
25 or receiving a service or privilege; and

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1 (2) if an individual refuses to undergo the
2 screening, the department may prevent the individual from
3 participating in or receiving the service or privilege; and

4 C. routine, regular and ongoing screening programs
5 for conditions of public health importance. All individuals
6 of a defined class are subjected to the screening unless they
7 choose to opt out or refuse to consent."

8 SECTION 32. A new section of the Public Health Act is
9 enacted to read:

10 "[NEW MATERIAL] INDIVIDUALLY IDENTIFIABLE HEALTH
11 INFORMATION--CONDITIONS OF PUBLIC HEALTH IMPORTANCE--
12 CONFIDENTIALITY--USE--DISCLOSURE.--

13 A. Any use of individually identifiable health
14 information pursuant to this section shall be limited to the
15 minimum amount of information reasonably necessary to
16 accomplish a public health purpose.

17 B. Individually identifiable health information
18 received by the department shall not be public information and
19 shall not be disclosed without the authorization of the
20 individual who is the subject of the information, except as
21 otherwise provided in state or federal law.

22 C. In accordance with state and federal law, the
23 secretary shall adopt and promulgate rules to allow an
24 individual to have access to, inspect and obtain copies of the
25 individual's individually identifiable health information.

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