

State of Alaska

Department of Health & Social Services

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Public Health Law Reform in Alaska

This legislation will ensure the Department has the appropriate legal authorities to protect and promote the public's health.

Issues / Background:

- Law is critically important to public health practice as it provides both the statutory framework within which governmental public health agencies operate, and the legal authorities required to monitor health status in communities, identify health threats, and act to control the spread of disease.
- Law is also an important tool of public health, in that it provides the vehicle for certain public policy strategies used to protect and promote health, for example, seat belt laws and tobacco tax laws.
- This public health law reform initiative deals with the first area of public health law only – the provision of the statutory framework and legal authorities for the public health agency to act.
- The Department's legal authorities for public health pose a problem in that they are both:
 - Antiquated – the basic enabling statute for public health (18.05.010) has not been updated since 1949 (10 years prior to statehood); and,
 - Layered – there are disease-specific laws which have been added-on over time to the general enabling statute, causing confusion and concern that the department does not have sufficient authority to detect and respond to future new threats to public health, such as the predicted influenza pandemic.
- A third problem posed by current public health law is that it does not provide for clear protections of individual rights in the event of a public health police power action.
- Twice in the past ten years, the Alaska legislature has been forced to act to fix State laws when public health authorities were questioned:
 - 1st in the mid-90's, when questions in the judicial system led to the addition of a new law detailing tuberculosis control procedures;
 - 2nd in the Spring of 2003 when concerns over the potential lack of quarantine authority for the new public health threat – SARS – resulted in rapid enactment of a new law for that particular disease.

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Details:

- The proposed legislation will ensure that our State public health agency has:
 - a statutory framework that supports their mission, services and role;
 - clear authority for control of conditions of public health importance; and
 - established due process provisions for the protection of individual rights.
- The proposed legislation:
 - Defines “Essential Public Health Services” based on the nationally accepted description developed by the U.S. Public Health Functions Task Force
 - Describes the State’s role in protection and promotion of the public’s health
 - Provides clear authority for controlling of conditions of public health importance through:
 - Surveillance
 - Epidemiologic Investigation
 - Medical Treatment, Quarantine & Isolation
 - Requires protection of individual rights through modern due process provisions
 - Strengthens requirements for confidentiality and security of health records.
 - Adds new powers for the governor under the Alaska Disaster Act to enforce public health protection measures in the event of a declared disaster.

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