

Enrolled
House Bill 2185

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for Department of Human Services)

CHAPTER

AN ACT

Relating to public health; creating new provisions; amending ORS 401.657, 401.661, 431.035, 433.001, 433.004, 433.009, 433.035, 433.040, 433.140, 433.156, 433.216, 433.220, 433.390, 433.441, 433.443, 433.446, 433.448, 433.452, 433.735, 433.755, 433.765, 433.767, 433.855, 433.865, 433.875, 433.990 and 466.605; and repealing ORS 431.140, 433.019, 433.022, 433.106, 433.130 and 433.135.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 431.035 is amended to read:

431.035. (1) The Director of Human Services may delegate to any of the officers and employees of the Department of Human Services the exercise or discharge in the director’s name of any power, duty or function of whatever character vested in or imposed upon the director by the laws of Oregon. However, the power to administer oaths and affirmations, subpoena witnesses, take evidence and require the production of books, papers, correspondence, memoranda, agreements or other documents or records may be exercised by an officer or employee of the department only when specifically delegated in writing by the director.

(2) The official act of any such person so acting in the director’s name and by the authority of the director shall be deemed to be an official act of the director.

(3)(a) The Director of Human Services shall appoint a Public Health Director to perform the duties and exercise authority over public health emergency matters in the state and other duties as assigned by the Director of Human Services. The Director of Human Services may appoint the same person to serve as both the Public Health Director and the Public Health Officer appointed under ORS 431.045.

(b) The Public Health Director shall be an assistant director appointed by the Director of Human Services in accordance with ORS 409.130.

(c) The Public Health Director shall delegate to an employee of the department the duties, powers and functions granted to the Public Health Director by section 5 of this 2007 Act and ORS 433.443 in the event of the absence from the state or the unavailability of the director. The delegation must be in writing.

SECTION 2. Sections 3 to 5 of this 2007 Act are added to and made a part of ORS 431.035 to 431.530.

SECTION 3. As used in ORS 431.035 to 431.530:

(1) “Children’s facility” has the meaning given that term in ORS 433.235.

(2) “Communicable disease” means a disease or condition, the infectious agent of which may be transmitted by any means from one person or from an animal to another person, that may result in illness, death or severe disability.

(3) "Condition of public health importance" means a disease, syndrome, symptom, injury or other threat to public health that is identifiable on an individual or community level.

(4) "Disease outbreak" means a significant or notable increase in the number of cases of a disease or other condition of public health importance.

(5) "Epidemic" means the occurrence in a community or region of a group of similar conditions of public health importance that are in excess of normal expectancy and derived from a common or propagated source.

(6) "Local public health administrator" means the public health administrator of a county or health district appointed under ORS 431.418 or the authorized representative of that public health administrator.

(7) "Local public health authority" means a county government, or a health district created under ORS 431.414 or a person or agency a county or health district has contracted with to act as the local public health authority.

(8) "Public health law" means any statute, rule or local ordinance that has the purpose of promoting or protecting the public health and that establishes the authority of the Department of Human Services, the Public Health Director, the Public Health Officer, a local public health authority or local public health administrator to enforce the statute, rule or local ordinance.

(9) "Public health measure" means a test, medical examination, treatment, isolation, quarantine or other measure imposed on an individual or group of individuals in order to prevent the spread of or exposure to a communicable disease, toxic substance or transmissible agent.

(10) "Reportable disease" means a disease or condition, the reporting of which enables a public health authority to take action to protect or to benefit the public health.

(11) "School" has the meaning given that term in ORS 433.235.

(12) "Specimen" means blood, sputum, urine, stool or other bodily fluids and wastes, tissues, and cultures necessary to perform required tests.

(13) "Test" means any diagnostic or investigative analyses or medical procedures that determine the presence or absence of, or exposure to, a condition of potential public health importance, or its precursor in an individual.

(14) "Toxic substance" means a substance that may cause illness, disability or death to persons who are exposed to it.

SECTION 4. (1) The Department of Human Services and local public health administrators shall have the power to enforce public health laws. The enforcement powers authorized by this section include, but are not limited to, the authority to:

(a) Investigate possible violations of public health laws;

(b) Issue subpoenas requiring testimony or the production of physical or other evidence;

(c) Issue administrative orders to enforce compliance with public health laws;

(d) Issue a notice of violation of a public health law and impose a civil penalty as established by rule not to exceed \$500 a day per violation;

(e) Enter private property at any reasonable time with consent of the owner or custodian of the property to inspect, investigate, evaluate or conduct tests, or take specimens or samples for testing, as may be reasonably necessary to determine compliance with any public health law;

(f) Enter a public place to inspect, investigate, evaluate, conduct tests, or take specimens or samples for testing as may be reasonably necessary to determine compliance with the provisions of any public health law;

(g) Seek an administrative warrant from an appropriate court authorizing the inspection, investigation, evaluation or testing, or taking of specimens or samples for testing, if denied entry to property;

(h) Restrict access to contaminated property;

(i) Require removal or abatement of a toxic substance on any property and prescribe the proper measures for the removal or abatement;

(j) Maintain a civil action to enforce compliance with public health laws, including a petition to a court for an order imposing a public health measure appropriate to the public health threat presented;

(k) Refer any possible criminal violations of public health laws to a district attorney or other appropriate law enforcement official; and

(L) Request the Attorney General to assist in the enforcement of the public health laws.

(2) Any administrative actions undertaken by the state under this section shall comply with the provisions of ORS chapter 183.

(3) State and local law enforcement officials, to the extent resources are available, must assist the Department of Human Services and local public health administrators in ensuring compliance with administrative or judicial orders issued pursuant to this section.

(4) Nothing in this section shall be construed to limit any other enforcement authority granted by law to a local public health authority or to the state.

SECTION 5. (1) Unless the Governor has declared a public health emergency under ORS 433.441, the Public Health Director may, upon approval of the Governor or the designee of the Governor, take the public health actions described in subsection (2) of this section if the Public Health Director determines that:

(a)(A) A communicable disease, reportable disease, disease outbreak, epidemic or other condition of public health importance has affected more than one county;

(B) There is an immediate need for a consistent response from the state in order to adequately protect the public health;

(C) The resources of the local public health authority or authorities are likely to be quickly overwhelmed or unable to effectively manage the required response; and

(D) There is a significant risk to the public health; or

(b) A communicable disease, reportable disease, disease outbreak, epidemic or other condition of public health importance is reported in Oregon and is an issue of significant regional or national concern or is an issue for which there is significant involvement from federal authorities requiring state-federal coordination.

(2) The Public Health Director, after making the determinations required under subsection (1) of this section, may take the following public health actions:

(a) Coordinate the public health response across jurisdictions.

(b) Prescribe measures for the:

(A) Identification, assessment and control of the communicable disease or reportable disease, disease outbreak, epidemic or other condition of public health importance; and

(B) Allocation and distribution of antitoxins, serums, vaccines, immunizing agents, antibiotics, antidotes and other pharmaceutical agents, medical supplies or personal protective equipment.

(c) After consultation with appropriate medical experts, create and require the use of diagnostic and treatment guidelines and provide notice of those guidelines to health care providers, institutions and facilities.

(d) Require a person to obtain treatment and use appropriate prophylactic measures to prevent the introduction or spread of a communicable disease or reportable disease, unless:

(A) The person has a medical diagnosis for which a vaccination is contraindicated; or

(B) The person has a religious or conscientious objection to the required treatments or prophylactic measures.

(e) Notwithstanding ORS 332.075, direct a district school board to close a children's facility or school under the jurisdiction of the board. The authority granted to the Public Health Director under this paragraph supersedes the authority granted to the district school board under ORS 332.075 to the extent the authority granted to the board is inconsistent with the authority granted to the director.

- (f) Issue guidelines for private businesses regarding appropriate work restrictions.
- (g) Organize public information activities regarding the public health response to circumstances described in subsection (1) of this section.
- (h) Adopt reporting requirements for, and provide notice of those reporting requirements to, health care providers, institutions and facilities for the purpose of obtaining information directly related to the public health threat presented.
- (i) Take control of antitoxins, serums, vaccines, immunizing agents, antibiotics, antidotes and other pharmaceutical agents, medical supplies or personal protective equipment.
- (3) The authority granted to the Public Health Director under this section is not intended to override the general authority provided to a local public health authority except as already permitted by law, or under the circumstances described in subsection (1) of this section.
- (4) If the Department of Human Services adopts temporary rules to implement subsection (2) of this section, the rules adopted are not subject to the provisions of ORS 183.335 (6)(a). The department may amend the temporary rules adopted under this subsection as often as is necessary to respond to the public health threat.
- (5) If it is necessary for the department to purchase antitoxins, serums, vaccines, immunizing agents, antibiotics, antidotes or other pharmaceutical agents, medical supplies or personal protective equipment, the purchases are not subject to the provisions of ORS chapter 279A, 279B or 279C.
- (6) If property is taken under the authority granted to the Public Health Director under subsection (2) of this section, the owner of the property is entitled to reasonable compensation from the state.

SECTION 5a. The Public Health Director, after consultation with local public health authorities and local public health administrators, shall adopt rules governing the development of emergency plans and an incident management system.

SECTION 6. ORS 433.001 is amended to read:

433.001. As used in ORS 433.001 to 433.045 and 433.106 to 433.770 unless the context requires otherwise:

(1) "Communicable disease" *[means a disease or condition, the infectious agent of which may be transmitted from one person or an animal to another person, either by direct contact or through an intermediate host, vector or inanimate object, and that may result in illness, death or severe disability.]* has the meaning given that term in section 3 of this 2007 Act.

(2) "Condition of public health importance" has the meaning given that term in section 3 of this 2007 Act.

[(2)] (3) "Department" means the Department of Human Services.

[(3)] (4) "Director" means the Director of Human Services.

(5) "Isolation" means the physical separation and confinement of a person or group of persons who are infected or reasonably believed to be infected with a communicable disease or possibly communicable disease from nonisolated persons to prevent or limit the transmission of the disease to nonisolated persons.

[(4)] (6) "Local public health administrator" *[means the local public health administrator of the county or district under ORS 431.418 or the authorized representative of the public health administrator]* has the meaning given that term in section 3 of this 2007 Act.

(7) "Local public health authority" has the meaning given that term in section 3 of this 2007 Act.

[(5)] (8) "Property" means animals, inanimate objects, vessels, public conveyances, buildings and all other real or personal property.

[(6)] (9) "Public health measure" *[means isolation, quarantine or other preventative public health measure imposed on persons or property in order to prevent the spread of or exposure to diseases or contaminants of threat to the public]* has the meaning given that term in section 3 of this 2007 Act.

(10) **“Quarantine” means the physical separation and confinement of a person or group of persons who have been or may have been exposed to a communicable disease or possibly communicable disease and who do not show signs or symptoms of a communicable disease, from persons who have not been exposed to a communicable disease or possibly communicable disease, to prevent or limit the transmission of the disease to other persons.**

[(7)] (11) **“Reportable disease” [means a disease or condition, the reporting of which enables a public health agency to take action to protect or to benefit the public health] has the meaning given that term in section 3 of this 2007 Act.**

[(8)] (12) **“Toxic substance” [means a substance that may cause illness, disability or death to persons who are exposed to it] has the meaning given that term in section 3 of this 2007 Act.**

SECTION 6a. ORS 433.004 is amended to read:

433.004. (1) The Department of Human Services shall by rule:

- (a) Specify reportable diseases;
 - (b) Identify those categories of persons who must report reportable diseases and the circumstances under which the reports must be made;
 - (c) Prescribe the procedures and forms for making such reports and transmitting the reports to the department; and
 - (d) Prescribe measures for investigating the source and controlling reportable diseases.
- (2) Persons required under the rules to report reportable diseases shall do so by reporting to the local public health administrator. The local public health administrator shall transmit such reports to the department.

(3) In addition to other grounds for which a state agency may exercise disciplinary action against its licensees or certificate holders, the substantial or repeated failure of [*such*] a licensee or certificate holder to report **when required to do so** under subsection (2) of this section [*when required by department rule to do so*] shall be cause for the exercise of any of [*such*] **the** agency’s disciplinary powers.

(4) Any person making a report under this section is immune from any civil or criminal liability that might otherwise be incurred or imposed with respect to the making of a report under this section or to the contents of the report.

SECTION 6b. ORS 433.009 is amended to read:

433.009. (1) Notwithstanding ORS 192.501 (3), 192.502 (2) and 433.045, if, during the course of a criminal investigation, a law enforcement unit acquires information that the person who is charged with a crime or sentenced for a crime has a reportable disease, the law enforcement unit shall disclose that information to the public health authorities who shall confirm the diagnosis and notify any police officer, corrections officer or emergency medical technician who had significant exposure to the person.

(2) As used in this section:

- (a) “Emergency medical technician” has the meaning given that term in ORS 682.025.
- (b) “Law enforcement unit,” “police officer” and “corrections officer” have the meanings given those terms in ORS 181.610.

[(c) *“Reportable disease” has the meaning given the term in ORS 433.001.*]

(c) “Reportable disease” means a disease or condition, the reporting of which enables a public health authority to take action to protect or to benefit the public health.

SECTION 6c. ORS 433.040 is amended to read:

433.040. (1) As used in this section, “vaccine” includes vaccines, immune products and chemoprophylactic medications.

(2) When the State Health Officer of the Department of Human Services determines that there is clear evidence that adverse and avoidable health outcomes from a preventable and acute communicable disease are expected to affect identifiable categories of high-risk individuals throughout Oregon and that assistance with the administration of vaccine is warranted due to a vaccine shortage to protect or treat such individuals, the health officer shall implement the Oregon Vaccine Education and Prioritization Plan as provided in subsection (3) of this section.

(3) The Department of Human Services shall develop and adopt by rule the Oregon Vaccine Education and Prioritization Plan to protect the public health during a vaccine shortage. The plan shall consist of:

(a) Guidelines for physicians, nurses, hospitals, health systems, pharmacies and others that hold vaccines for the distribution and administration of vaccines. The guidelines shall include, but are not limited to, a definition of high-risk groups for priority protection or treatment in the event a vaccine shortage is imminent;

(b) Rules for imposing a civil penalty of \$500 against persons who knowingly violate the guidelines for each repeat violation of the guidelines; and

(c) Procedures for:

(A) Mobilizing public and private health resources to assist in vaccine distribution and administration; and

(B) Notifying health professional regulatory boards and licensing authorities of repeated violations of the guidelines by health professionals regulated by the board or licensed by the authority.

(4) If the department adopts temporary rules to implement subsection (2) of this section, the rules adopted are not subject to the requirements of ORS 183.335 (6)(a). The department may amend the temporary rules adopted pursuant to subsection (3) of this section as often as is necessary to respond to a vaccine shortage.

SECTION 7. Sections 8 to 17 of this 2007 Act are added to and made a part of ORS 433.106 to 433.770.

SECTION 8. (1) The Public Health Director or a local public health administrator may issue an emergency administrative order causing a person or group of persons to be placed in isolation or quarantine if the Public Health Director or the local public health administrator has probable cause to believe that a person or group of persons requires immediate detention in order to avoid a clear and immediate danger to others and that considerations of safety do not allow initiation of the petition process set out in section 9 of this 2007 Act. An administrative order issued under this section must:

(a) Identify the person or group of persons subject to isolation or quarantine;

(b) Identify the premises where isolation or quarantine will take place, if known;

(c)(A) Describe the reasonable efforts made to obtain voluntary compliance with a request for an emergency public health action including requests for testing or medical examination, treatment, counseling, vaccination, decontamination of persons or animals, isolation, quarantine, and inspection and closure of facilities; or

(B) Explain why reasonable efforts to obtain voluntary compliance are not possible and why the pursuit of these efforts creates a risk of serious harm to others;

(d) Describe the suspected communicable disease or toxic substance, if known, that is the basis for the issuance of the emergency administrative order and the anticipated duration of isolation or quarantine based on the suspected communicable disease or toxic substance;

(e) Provide information supporting the reasonable belief of the Public Health Director or the local public health administrator that the person or group of persons is, or is suspected to be, infected with, exposed to, or contaminated with a communicable disease or toxic substance that could spread to or contaminate others if remedial action is not taken;

(f) Provide information supporting the reasonable belief of the Public Health Director or the local public health administrator that the person or group of persons would pose a serious and imminent risk to the health and safety of others if not detained for purposes of isolation or quarantine;

(g) Describe the medical basis for which isolation or quarantine is justified and explain why isolation or quarantine is the least restrictive means available to prevent a risk to the health and safety of others;

(h) Establish the time and date at which the isolation or quarantine commences; and

(i) Contain a statement of compliance with the conditions of and principles for isolation and quarantine specified in section 12 of this 2007 Act.

(2) In lieu of issuing an emergency administrative order under subsection (1) of this section, the Public Health Director or a local public health administrator may petition the court for a written ex parte order. The petition to the court and the court's order must include the information described in subsection (1) of this section.

(3) Within 12 hours of the issuance of an order under subsection (1) or (2) of this section, the person or group of persons detained or sought for detention must be personally served with the written notice required by section 10 of this 2007 Act and with a copy of any order issued under subsection (1) or (2) of this section. If copies of the notice and order cannot be personally served in a timely manner to a group of persons because the number of persons in the group makes personal service impracticable, the Public Health Director or the local public health administrator may post the notice and order in a conspicuous place where the notice and order can be viewed by those detained or may find other means to meaningfully communicate the information in the notice and order to those detained.

(4) A person or group of persons detained pursuant to an order issued under subsection (1) or (2) of this section may not be detained for longer than 72 hours unless a petition is filed under section 9 of this 2007 Act.

(5) If the detention of a person or group of persons for longer than 72 hours is deemed necessary, immediately following the issuance of an order under subsection (1) or (2) of this section, the Public Health Director or the local public health administrator must petition the court in accordance with section 9 of this 2007 Act.

(6) A person or group of persons detained under subsection (1) or (2) of this section has the right to be represented by legal counsel in accordance with section 11 of this 2007 Act.

SECTION 9. (1) The Public Health Director or a local public health administrator may petition the court for an order authorizing:

(a) The isolation or quarantine of a person or group of persons; or

(b) The continued isolation or quarantine of a person or group of persons detained under section 8 of this 2007 Act.

(2) A petition filed under subsections (1) and (9) of this section must:

(a) Identify the person or group of persons subject to isolation or quarantine;

(b) Identify the premises where isolation or quarantine will take place, if known;

(c)(A) Describe the reasonable efforts made to obtain voluntary compliance with a request for an emergency public health action, including requests for testing or medical examination, treatment, counseling, vaccination, decontamination of persons or animals, isolation, quarantine and inspection and closure of facilities; or

(B) Explain why reasonable efforts to obtain voluntary compliance are not possible and why the pursuit of these efforts creates a risk of serious harm to others;

(d) Describe the suspected communicable disease or toxic substance, if known, and the anticipated duration of isolation or quarantine based on the suspected communicable disease, infectious agent or toxic substance;

(e) Provide information supporting the reasonable belief of the Public Health Director or the local public health administrator that the person or group of persons is, or is suspected to be, infected with, exposed to, or contaminated with a communicable disease or toxic substance that could spread to or contaminate others if remedial action is not taken;

(f) Provide information supporting the reasonable belief of the Public Health Director or the local public health administrator that the person or group of persons would pose a serious risk to the health and safety of others if not detained for purposes of isolation or quarantine;

(g) Describe the medical basis for which isolation or quarantine is justified and explain why isolation or quarantine is the least restrictive means available to prevent a serious risk to the health and safety of others;

(h) Establish the time and date on which the isolation or quarantine commences; and

(i) Contain a statement of compliance with the conditions of and principles for isolation and quarantine specified in section 12 of this 2007 Act.

(3) The person or group of persons detained or sought for detention must be personally served with a copy of the petition filed with the court under subsection (1) of this section and with the written notice required by section 10 of this 2007 Act. If copies of the petition and notice cannot be personally served in a timely manner to a group of persons because the number of persons in the group makes personal service impracticable, the Public Health Director or the local public health administrator may post the petition and notice in a conspicuous place where the petition and notice can be viewed by those detained or may find other means to meaningfully communicate the information in the petition and notice to those detained.

(4) A person or group of persons subject to a petition filed under subsection (1) or (9) of this section has the right to be represented by legal counsel in accordance with section 11 of this 2007 Act.

(5) The filing of a petition under subsection (1) of this section to continue isolation or quarantine for a person or group of persons detained under an emergency administrative order issued under section 8 of this 2007 Act extends the isolation or quarantine order until the court holds a hearing pursuant to subsection (6) of this section.

(6)(a) The court shall hold a hearing on a petition filed under subsection (1) of this section within 72 hours of the filing of the petition, exclusive of Saturdays, Sundays and legal holidays.

(b) In extraordinary circumstances and for good cause shown, or with consent of the affected persons, the Public Health Director or the local public health administrator may apply to continue the hearing date for up to 10 days. The court may grant a continuance at its discretion, giving due regard to the rights of the affected persons, the protection of the public health, the severity of the public health threat and the availability of necessary witnesses and evidence.

(c) The hearing required under this subsection may be waived by consent of the affected persons.

(d) The provisions of ORS 40.230, 40.235 and 40.240 do not apply to a hearing held under this subsection. Any evidence presented at the hearing that would be privileged and not subject to disclosure except as required by this paragraph shall be disclosed only to the court, the parties and their legal counsel or persons authorized by the court and may not be disclosed to the public.

(7) If a person or group of persons who is the subject of a petition filed under subsection (1) or (9) of this section cannot personally appear before the court because personal appearance poses a risk of serious harm to others, the court proceeding may be conducted by legal counsel for the person or group of persons and be held at a location or via any means that allows all parties to fully participate.

(8) The court shall grant the petition if, by clear and convincing evidence, the court finds that isolation or quarantine is necessary to prevent a serious risk to the health and safety of others. In lieu of or in addition to isolation or quarantine, the court may order the imposition of other public health measures appropriate to the public health threat presented. The court order must:

(a) Specify the maximum duration for the isolation or quarantine, which may not exceed 60 days unless there is substantial medical evidence indicating that the condition that is the basis of the public health threat is spread by airborne transmission and cannot be rendered noninfectious within 60 days or may recur after 60 days, in which case the maximum duration of the isolation or quarantine may not exceed a period of 180 days;

(b) Identify the person or group of persons subject to the order by name or shared or similar characteristics or circumstances;

(c) Specify the factual findings warranting imposition of isolation, quarantine or another public health measure;

(d) Include any conditions necessary to ensure that isolation or quarantine is carried out within the stated purposes and restrictions of this section; and

(e) Be served on all affected persons or groups in accordance with subsection (3) of this section.

(9) Prior to the expiration of a court order issued under subsection (8) or (10) of this section, the Public Health Director or the local public health administrator may petition the court to continue isolation or quarantine. A petition filed under this subsection must comply with the requirements of subsections (2) to (8) of this section.

(10)(a) The court will hold a hearing on a petition filed under subsection (9) of this section within 72 hours of filing, exclusive of Saturdays, Sundays and legal holidays.

(b) In extraordinary circumstances and for good cause shown, or with consent of the affected persons, the Public Health Director or the local public health administrator may apply to continue the hearing date for up to 10 days. The court may grant a continuance at its discretion, giving due regard to the rights of the affected persons, the protection of the public health, the severity of the public health threat and the availability of necessary witnesses and evidence.

(c) The hearing required under this subsection may be waived by consent of the affected parties.

(d) The court may continue the isolation or quarantine order if the court finds there is clear and convincing evidence that continued isolation or quarantine is necessary to prevent a serious threat to the health and safety of others. In lieu of or in addition to continued isolation or quarantine, the court may order the imposition of a public health measure appropriate to the public health threat presented.

(e) An order issued under this subsection must comply with the requirements of subsection (8) of this section.

(11) An order issued under subsection (10) of this section shall be for a period not to exceed 60 days and shall be served on all affected parties in accordance with subsection (3) of this section.

(12) In no case may a person or group of persons be in quarantine or isolation for longer than 180 days unless, following a hearing, a court finds that extraordinary circumstances exist and that the person or group of persons subject to isolation or quarantine continues to pose a serious threat to the health and safety of others if detention is not continued.

(13) Failure to obey a court order issued under this section shall subject the person in violation of the order to contempt proceedings under ORS 33.015 to 33.155.

SECTION 10. (1) The Public Health Director or the local public health administrator shall provide the person or group of persons detained or sought for detention under section 8 or 9 of this 2007 Act with a written notice informing the person or group of persons of:

(a) The right to legal counsel, including how to request and communicate with counsel;

(b) The right to petition the court for release from isolation or quarantine and the procedures for filing a petition;

(c) The conditions of and principles of isolation and quarantine specified in section 12 of this 2007 Act;

(d) The right to petition the court for a remedy regarding a breach of the conditions of isolation or quarantine imposed on the person or group of persons and the procedures for filing a petition; and

(e) The sanctions that may be imposed for violating an order issued under section 8 or 9 of this 2007 Act.

(2) The Public Health Director or the local public health administrator must ensure, to the extent practicable, that the person or group of persons receives the notice required un-

der this section in a language and in a manner the person or group of persons can understand.

(3) The Public Health Director may adopt rules prescribing the form of notice required by this section.

SECTION 11. (1) A person or group of persons subject to isolation or quarantine or other public health measure pursuant to section 8 or 9 of this 2007 Act has the right to be represented by legal counsel if the person or group of persons so elects. If the person or group of persons requests legal counsel and cannot afford counsel, the court shall appoint legal counsel. If no request for legal counsel is made, the court must appoint legal counsel unless counsel is expressly, knowingly and intelligently refused by the person or the group of persons. The person or the group of persons may request legal counsel at any time during the period of imposition of the isolation, quarantine or other public health measure.

(2) If a person is unable to afford legal counsel, the public defense services executive director shall determine and pay, as provided in ORS 135.055, the reasonable expenses of the person and compensation for legal counsel appointed to represent the person.

SECTION 12. When isolating or quarantining a person or group of persons in accordance with section 8 or 9 of this 2007 Act, the Public Health Director or the local public health administrator shall adhere to the following conditions and principles:

(1) Isolation or quarantine must be by the least restrictive means necessary to prevent the spread of a communicable disease or possibly communicable disease to others or to limit exposure to or contamination with a toxic substance by others, and may include, but is not limited to, confinement to private homes or other public or private premises.

(2) Confinement may not be in a prison, jail or other facility where those charged with a crime or a violation of a municipal ordinance are incarcerated unless:

(a) The person or group of persons represents an immediate and serious physical threat to the staff or physical facilities of a hospital or other facility in which the person or group of persons has been confined; or

(b) A person has been found in contempt of court because of failure to obey a court order.

(3) Isolated persons must be confined separately from quarantined persons. If a facility is not capable of separating isolated persons from quarantined persons, either the isolated persons or the quarantined persons must be moved to a separate facility.

(4) The health status of an isolated or quarantined person must be monitored regularly to determine if the person requires continued isolation or quarantine.

(5) A quarantined person who subsequently becomes infected or is reasonably believed to have become infected with a communicable disease or possibly communicable disease that the Public Health Director or the local public health administrator believes poses a significant threat to the health and safety of other quarantined persons must be promptly placed in isolation.

(6) An isolated or quarantined person must be released as soon as practicable when the Public Health Director or local public health administrator determines that the person has been successfully decontaminated or that the person no longer poses a substantial risk of transmitting a communicable disease or possibly communicable disease that would constitute a serious or imminent threat to the health and safety of others.

(7) The needs of a person who is isolated or quarantined must be addressed to the greatest extent practicable in a systematic and competent fashion, including, but not limited to, providing adequate food, medication, competent medical care, clothing, shelter and means of communication with other persons who are in isolation or quarantine and persons who are not under isolation or quarantine.

(8) Premises used for isolation or quarantine must, to the extent practicable, be maintained in a safe and hygienic manner to lessen the likelihood of further transmission of a

communicable disease or possibly communicable disease or of further harm to persons who are isolated and quarantined.

(9) Cultural and religious beliefs should be considered to the extent practicable in addressing the needs of persons who are isolated or quarantined and in establishing and maintaining premises used for isolation or quarantine.

(10)(a) Isolation or quarantine shall not abridge the right of any person to rely exclusively on spiritual means to treat a communicable disease or possibly communicable disease in accordance with religious or other spiritual tenets and practices.

(b) Nothing in sections 10 to 17 of this 2007 Act prohibits a person who relies exclusively on spiritual means to treat a communicable disease or possibly communicable disease and who is infected with a communicable disease or has been exposed to a toxic substance from being isolated or quarantined in a private place of the person's own choice, provided the private place is approved by the Public Health Director or the local health administrator and the person who is isolated or quarantined complies with all laws, rules and regulations governing control, sanitation, isolation and quarantine.

(11) Prior to placing a person or group of persons subject to isolation or quarantine in a health care facility as defined in ORS 442.015, the Public Health Director or the local public health administrator must provide to the managers of the health care facility notice of the intention to seek authorization from the court to place a person or group of persons in isolation or quarantine in the facility and must consult with the managers of the health care facility regarding how to best meet the requirements of this section.

(12) The Public Health Director or local public health administrator shall provide adequate means of communication between a person or a group of persons who is isolated or quarantined and legal counsel for the person or group of persons.

SECTION 13. (1) Entry into premises used for isolation or quarantine shall be allowed under the following conditions:

(a) The Public Health Director or the local public health administrator may authorize physicians or other health care workers or other persons access to persons or groups of persons who are in isolation or quarantine pursuant to section 8 or 9 of this 2007 Act as necessary to meet the needs of isolated or quarantined persons;

(b) Only persons authorized by the Public Health Director or the local public health administrator may enter premises used for isolation or quarantine;

(c) An authorized person entering premises used for isolation or quarantine shall be provided with infection control training and may be required to wear personal protective equipment or to receive vaccinations as determined by the Public Health Director or the local public health administrator; and

(d) A person entering premises used for isolation or quarantine with or without authorization of the Public Health Director or the local public health administrator may become subject to isolation or quarantine.

(2) Persons subject to isolation or quarantine and other persons entering premises used for isolation or quarantine are subject to rules and orders adopted by the Public Health Director or the local public health administrator. Failure to comply with rules and orders adopted by the Public Health Director or the local public health administrator is a Class D violation.

(3) If a health care facility as defined in ORS 442.015 is used as a premises for isolation or quarantine, the Public Health Director or the local public health administrator must consult with the managers of the health care facility regarding how best to meet the requirements of this section.

(4) Nothing in this section prohibits a physician or other health care worker in a health care facility from having access to a person or a group of persons who is in isolation or quarantine pursuant to section 8 or 9 of this 2007 Act if the infection control procedures and other precautions determined necessary by the Public Health Director are adhered to by the

facility and the physician or other health care worker seeking access to the isolated or quarantined person.

SECTION 14. (1)(a) Any person or group of persons who is isolated or quarantined pursuant to section 8 or 9 of this 2007 Act may apply to the court for an order to show cause why the individual or group should not be released.

(b) The court shall rule on the application to show cause within 48 hours of the filing of the application.

(c) The court must grant the application if there is a reasonable basis to support the allegations in the application, and the court shall schedule a hearing on the order requiring the Department of Human Services to appear and to show cause within five working days of the filing of the application.

(d) The issuance of an order to show cause and ordering the department to appear and show cause does not stay or enjoin an isolation or quarantine order.

(2)(a) A person or group of persons who is isolated or quarantined may request a hearing in the court for remedies regarding breaches of the conditions of isolation or quarantine required by section 12 of this 2007 Act.

(b) The court must hold a hearing if there is a reasonable basis to believe there has been a breach of the conditions of isolation or quarantine required by section 12 of this 2007 Act.

(c) A request for a hearing shall not stay or enjoin an order for isolation or quarantine.

(d) Upon receipt of a request under this subsection alleging extraordinary circumstances justifying the immediate granting of relief, the court shall hold a hearing on the matters alleged as soon as practicable.

(e) If a hearing is not granted under paragraph (c) of this subsection, the court shall hold a hearing on the matters alleged within five days from receipt of the request.

(3) In any proceedings brought for relief under this section, in extraordinary circumstances and for good cause shown, or with consent of the petitioner or petitioners the Public Health Director or local public health administrator may move the court to extend the time for a hearing. The court in its discretion may grant the extension giving due regard to the rights of the affected persons, the protection of the public health, the severity of the emergency and the availability of necessary witnesses and evidence.

(4) If a person or group of persons who is detained cannot personally appear before the court because such an appearance poses a risk of serious harm to others, the court proceeding may be conducted by legal counsel for the person or group of persons and be held at a location or via any means that allows all parties to fully participate.

(5) If the court finds, by clear and convincing evidence, that a person or group of persons no longer poses a serious risk to the health and safety to others, the court may order the release of that person or group of persons from isolation or quarantine.

(6) If the court finds by clear and convincing evidence that a person or group of persons is not being held in accordance with the conditions of isolation or quarantine required by section 12 of this 2007 Act, the court may order an appropriate remedy to ensure compliance with section 12 of this 2007 Act.

SECTION 15. Upon receiving multiple petitions under sections 9, 14 or 17 of this 2007 Act, to promote the fair and efficient operation of justice and having given due regard to the rights of affected persons, the severity of the threat to the public health, and the availability of necessary witnesses and evidence, a court may order the consolidation of the proceedings when:

(1) The number of persons involved or to be affected is so large that individual participation is rendered impracticable;

(2) There are questions of law or fact common to the individual petitions or rights to be determined;

(3) The group petitioner rights to be determined are typical of the affected persons' petitions or rights; and

(4) The entire group will be adequately represented in the consolidation.

SECTION 16. State and local law enforcement officials, to the extent resources are available, must assist the Public Health Director or the local public health administrator in enforcing orders issued under sections 8, 9 and 17 of this 2007 Act.

SECTION 17. (1) As used in this section, “to isolate property” means to restrict access to property in a manner that reduces or prevents exposure to a toxic substance by persons.

(2) The Public Health Director or a local public health administrator may petition the court to isolate property if there is reason to believe the property is contaminated with a toxic substance that poses a serious risk to the health and safety of others.

(3) The petition must:

(a) Describe the property subject to isolation;

(b)(A) Describe the reasonable efforts made to obtain voluntary compliance from the owner or custodian of the property with public health measures necessary to isolate the property; or

(B) Explain why reasonable efforts to obtain voluntary compliance are not possible and why the pursuit of these efforts creates a risk of serious harm to others;

(c) Describe the suspected toxic substance and the health effects of exposure to the toxic substance;

(d) Provide information supporting the reasonable belief of the Public Health Director or the local public health administrator that the toxic substance could spread to or contaminate others if remedial action is not taken;

(e) Provide information supporting the reasonable belief of the Public Health Director or the local public health administrator that the toxic substance poses a serious risk to the health and safety of others if the property is not isolated;

(f) Explain why isolation of the property is the least restrictive means available to prevent a serious risk to the health and safety of others; and

(g) Explain whether the property subject to isolation can be decontaminated or whether the property must be destroyed.

(4) The petition must be personally served on the owner or custodian of the property.

(5)(a) The court must hold a hearing within 72 hours of the filing of the petition, exclusive of Saturdays, Sundays and legal holidays.

(b) For good cause shown, or with consent of the affected owner or custodian of the property, the Public Health Director or the local public health administrator may apply to continue the hearing date for up to 10 days, which continuance the court may grant at its discretion giving due regard to the rights of the affected owner or custodian of the property, the protection of the public health, the severity of the public health threat and the availability of necessary witnesses and evidence.

(c) A hearing may be waived by the owner or custodian of the property.

(6) The court shall grant the petition if, by clear and convincing evidence, the court finds that isolation of property contaminated with a toxic substance is necessary to prevent a serious risk to the health and safety of others. An order authorizing isolation shall be in effect until the toxic substance no longer poses a serious risk to the health and safety of others.

(7) The court order must:

(a) Identify the property to be isolated;

(b) Specify factual findings warranting isolation, including a description of the toxic substance believed to be contaminating the property;

(c) Include any conditions necessary to ensure that isolation is carried out within the stated purposes and restrictions of this section; and

(d) Describe the remedial actions necessary to neutralize or remove the contamination.

SECTION 18. ORS 433.035 is amended to read:

433.035. (1)(a) *[Whenever the Director of Human Services or any local public health administrator reasonably believes any person within the jurisdiction of the director or local public health adminis-*

trator has any] **The Public Health Director or a local public health administrator may require testing or medical examination of any person who may have, or may have been exposed to, a communicable disease identified by rule of the Department of Human Services to be a reportable disease, a new or uncommon disease of potential public health significance, or a condition that is the basis of a state of *[impending public health crisis]* public health emergency** declared by the Governor as authorized by ORS 433.441*[, the director or local public health administrator may cause a medical examination to be made of such person to determine whether the person has a communicable disease]*. The *[person who orders an]* **Public Health Director or the local public health administrator must issue a written order for testing or medical examination** pursuant to this section. *[shall, in the order, make written]*

(b) A written order must:

(A) Include findings stating the communicable disease that the *[person ordering the examination]* **Public Health Director or the local public health administrator** believes the person has*[,]* **and** the reasons for that belief.*[, that]*

(B) State whether medical or laboratory confirmation of the disease is feasible and possible and *[that]* **whether** such confirmation would enable control measures to be taken to minimize infection of others with the disease. *[The order shall also]*

(C) Include a statement that the person may refuse to submit to the **testing or medical examination** and that if *[so, a public health measure may be imposed]* **the testing or examination is refused, the Public Health Director or the local public health administrator may seek the imposition of a public health measure, including isolation or quarantine pursuant to section 8 or 9 of this 2007 Act.**

(2) When *[any]* a person is directed to submit to *[an]* **a test or examination** under *[subsection (1) of]* this section and the person agrees to do so, the person shall submit to *[such]* **any testing or examination** as may be necessary to establish the presence or absence of the communicable disease for which the *[medical]* **testing or examination** was directed. The examination shall be carried out by the local health officer or a physician licensed by the Board of Medical Examiners for the State of Oregon or the Board of Naturopathic Examiners. A written report of the results of *[such]* **the test or examination** shall be *[made]* **provided** to the person ordering the **test or examination, and upon request, to the person tested or examined.** Laboratory examinations, if any, shall be carried out by the laboratory of the department whenever *[such]* **the examinations** are within the scope of the tests conducted by the laboratory. If treatment is needed, the person **or,***[]* the parent or guardian of the person shall be liable for the costs of treatment based on the examination carried out under this section, *[when]* **if the person liable is** able to pay *[such]* **the treatment** costs. Cost of any examination performed by a physician in private practice shall be paid from public funds available to the local public health administrator, if any, or from county funds available for general governmental expenses in the county *[for which]* **that** the local public health administrator serves or in the county where the person **tested or examined** resides if the local public health administrator serves more than one county or the **test or examination** was ordered by the *[director]* **Public Health Director or local public health administrator.**

[(3) If the person directed to submit to a medical examination pursuant to subsection (1) of this section refuses to do so the director or the local public health administrator may impose a public health measure pursuant to ORS 433.019, 433.022 and 433.106.]

[(4) In any proceeding under ORS 433.019, 433.022 and 433.106, the lack of confirming medical or laboratory evidence that could be obtained by an examination which was refused when requested under this section shall not preclude a finding that probable cause exists.]

(3) If a person has a communicable disease, a new or uncommon disease of potential public health significance, or a condition that is the basis of a state of public health emergency, the Public Health Director or the local public health administrator may issue an order requiring the person to complete an appropriate prescribed course of medication or other treatment for the communicable disease, including directly observed therapy if appropriate, and to follow infection control provisions for the disease. The order shall also include state-

ments that the person may refuse the medication or other treatment and that the person's failure to comply with the order issued under this subsection may result in the Public Health Director or the local public health administrator seeking the imposition of a public health measure, including isolation or quarantine as authorized by sections 8 and 9 of this 2007 Act.

(4) The Public Health Director or the local public health administrator must make every effort to obtain voluntary compliance from a person for any testing, medical examination and treatment required under this section.

(5) Any action taken by the Public Health Director or the local public health administrator under this section to compel testing, medical examination or treatment of a person who has a communicable disease, a new or uncommon disease of potential public health significance, or a condition that is the basis of a state of public health emergency must be the least restrictive alternative available to accomplish the results necessary to minimize the transmission of the disease to others.

SECTION 18a. ORS 433.156 is amended to read:

433.156. All state and local [*police officers*] **law enforcement authorities** shall cooperate with any officer authorized to impose isolation or quarantine in the enforcement thereof.

SECTION 19. ORS 433.216 is amended to read:

433.216. If the [*Director of Human Services*] **Public Health Director** finds that there is an imminent risk of the introduction into the state by means of any public or private conveyance of any dangerous communicable disease or toxic substance which presents a substantial threat to public health, the director may detain such conveyance for inspection or investigation.

SECTION 20. ORS 433.220 is amended to read:

433.220. (1) If upon inspection pursuant to ORS 433.216, there is discovered among the passengers or goods [*therein*] **being transported by any public or private conveyance** the existence of any communicable disease or toxic substance [*which*] **that** presents a substantial threat to public health, the [*Director of Human Services*] **Public Health Director**, under rules of the Department of Human Services may:

(a) **Issue an order for testing, medical examination or treatment under ORS 433.035.**

[(a)] (b) Isolate or quarantine [*or impose other public health measures on*] such persons or goods in accordance with [*ORS 433.019, 433.022 and 433.106*] **section 8, 9 or 17 of this 2007 Act.**

[(b)] (c) Cause the passengers and material in the involved conveyance to be subjected to requirements by the Department of **Human Services** for the control of the specific communicable disease or prevention of harm to the public health from the toxic substance.

[(c)] (d) Offer free immunization in those diseases to which such prophylactic treatment is applicable to all persons exposed in any conveyance.

(2) Should any question arise as to the existence of any emergency, the **Public Health Director** shall have final jurisdiction.

SECTION 21. Sections 22 and 28 of this 2007 Act are added to and made a part of ORS 433.441 to 433.452.

SECTION 22. As used in ORS 433.441 to 433.452:

(1) "Bioterrorism" means the intentional use of any microorganism, virus, infectious substance or biological product to cause death, disease or other biological harm to a human, an animal, a plant or another living organism.

(2) "Communicable disease" has the meaning given that term in section 3 of this 2007 Act.

(3) "Local public health authority" has the meaning given that term in section 3 of this 2007 Act.

(4) "Public health emergency" means an occurrence or imminent threat of an illness or health condition that:

(a) Is believed to be caused by any of the following:

(A) Bioterrorism;

(B) The appearance of a novel or previously controlled or eradicated infectious agent or biological toxin that may be highly contagious;

(C) An epidemic of communicable disease; or

(D) A natural disaster, a chemical attack or accidental chemical release or a nuclear attack or nuclear accident; and

(b) Poses a high probability of any of the following harms:

(A) A large number of deaths in the affected population;

(B) A large number of serious or long-term disabilities in the affected population; or

(C) Widespread exposure to an infectious or toxic agent that poses a significant risk of substantial future harm to a large number of persons in the affected population.

(5) "Public health measure" has the meaning given that term in section 3 of this 2007 Act.

SECTION 23. ORS 433.441 is amended to read:

433.441. (1) **Upon the occurrence of a public health emergency**, the Governor may [*proclaim a state of impending public health crisis after determining that a threat to the public health is imminent and likely to be widespread, life-threatening and of a scope that requires immediate medical action as authorized*] **declare a state of public health emergency as authorized** by ORS 433.441 to 433.452 to protect the public health.

(2) A proclamation of a state of [*impending public health crisis*] **public health emergency** must specify:

(a) The nature of the [*impending public health crisis. A public health crisis can result from bioterrorism, chemical or radiological contamination, pandemic influenza or any other unusual or extraordinary incidence of a communicable or reportable disease.*] **public health emergency**;

(b) **The political subdivision or geographic area subject to the proclamation;**

(c) **The conditions that have brought about the public health emergency; and**

(d) **The duration of the state of public health emergency, if the duration is less than 14 days.**

(3) **During a public health emergency, the Governor may:**

(a) **Close, order the evacuation of or the decontamination of any facility the Governor has reasonable cause to believe may endanger the public health.**

(b) **Regulate or restrict by any means necessary the use, sale or distribution of food, fuel, medical supplies, medicines or other goods and services.**

(c) **Prescribe modes of transportation, routes and destinations required for the evacuation of individuals or the provision of emergency services.**

(d) **Control or limit entry into, exit from, movement within and the occupancy of premises in any public area subject to or threatened by a public health emergency if such actions are reasonable and necessary to respond to the public health emergency.**

(e) **Take any other action that may be necessary for the management of resources, or to protect the public during a public health emergency, including any actions authorized under ORS 401.065, 401.074, 401.085 and 401.095.**

[(3)] (4) Nothing in ORS 433.441 to 433.452 limits the authority of the Governor to declare a state of emergency under ORS 401.055. If a state of emergency is declared as authorized under ORS 401.055, the Governor may implement any action authorized by ORS 433.441 to 433.452.

[(4)] (5) A proclamation of a state of [*impending public health crisis*] **public health emergency** expires when terminated by a declaration of the Governor or **no more than 14 days** after the date [*it*] **the public health emergency** is proclaimed unless the **Governor expressly extends the proclamation** [*is expressly extended*] for an additional 14-day period [*by the Governor*].

(6) **When real or personal property is taken under power granted by this section, the owner of the property shall be entitled to reasonable compensation from the state.**

SECTION 24. ORS 433.443 is amended to read:

433.443. [(1)(a)] *During a proclaimed state of impending public health crisis, the Department of Human Services may:*

(1)(a) During a public health emergency proclaimed under ORS 433.441, the Public Health Director may, as necessary to appropriately respond to the public health emergency:

(A) Adopt reporting requirements for and provide notice of those requirements to health care providers, institutions and facilities for the purpose of obtaining information directly related to the *[impending public health crisis]* **public health emergency;**

(B) After consultation with appropriate medical experts, create **and require the use of** diagnostic and treatment protocols to respond to the *[impending public health crisis]* **public health emergency** and provide notice of those protocols to health care providers, institutions and facilities;

(C) Order, or authorize local public health administrators to order, public health measures, *including temporary isolation or quarantine of individuals or groups, as provided in ORS 433.019, 433.022, 433.035 and 433.106;* **appropriate to the public health threat presented;**

(D) Upon approval of the Governor, take other *[reasonable administrative actions necessary to address the impending public health crisis]* **actions necessary to address the public health emergency** and provide notice of those actions to health care providers, institutions and facilities, **including public health actions authorized by section 5 of this 2007 Act;** *[and]*

(E) *[Impose]* **Take any enforcement action authorized by section 4 of this 2007 Act, including the imposition of** civil penalties of up to \$500 per day against individuals, institutions or facilities that knowingly fail to comply with requirements resulting from actions taken in accordance with the powers granted to the *[Department of Human Services]* **Public Health Director** under subparagraphs (A), (B) and (D) of this paragraph.; **and**

(F) The authority granted to the Public Health Director under this section:

(i) **Supersedes any authority granted to a local public health authority if the local public health authority acts in a manner inconsistent with guidelines established or rules adopted by the director under this section; and**

(ii) **Does not supersede the general authority granted to a local public health authority or a local public health administrator except as authorized by law or necessary to respond to a public health emergency.**

(b) The authority of the *[Department of Human Services]* **Public Health Director** to take administrative action, and the effectiveness of any action taken, under paragraph (a)(A), (B), *[and]* (D), **(E) and (F)** of this subsection terminates upon the expiration of the proclaimed state of *[impending public health crisis]* **public health emergency**, unless the actions are continued under other applicable law.

(2) Civil penalties under subsection (1) of this section shall be imposed in the manner provided in ORS 183.745. The *[Department of Human Services]* **Public Health Director** must establish that the individual, institution or facility subject to the civil penalty had actual notice of the action taken that is the basis for the penalty. The maximum aggregate total for penalties that may be imposed against an individual, institution or facility under subsection (1) of this section is \$500 for each day of violation, regardless of the number of violations of subsection (1) of this section that occurred on each day of violation.

(3)(a) During a proclaimed state of *[impending public health crisis]* **public health emergency**, the *[Department of Human Services]* **Public Health Director** and local public health administrators shall be given immediate access to individually identifiable health information necessary to:

(A) Determine the causes of an illness related to the *[impending public health crisis]* **public health emergency;**

(B) Identify persons at risk;

(C) Identify patterns of transmission;

(D) Provide treatment; and

(E) Take steps to control the disease.

(b) Individually identifiable health information accessed as provided by paragraph (a) of this subsection may not be used for conducting nonemergency epidemiologic research or to identify persons at risk for post-traumatic mental health problems, **or for any other purpose except the purposes listed in paragraph (a) of this subsection.**

(c) Individually identifiable health information obtained by the [Department of Human Services] **Public Health Director** or local public health administrators under this subsection may not be disclosed without written authorization of the identified individual except:

(A) Directly to the individual who is the subject of the information or to the legal representative of that individual;

(B) To state, local or federal agencies authorized to receive such information by state or federal law;

(C) To identify or to determine the cause or manner of death of a deceased individual; or

(D) Directly to a health care provider[, *institution or facility*] for the evaluation or treatment of a condition that is the subject of a proclamation of a state of [*impending public health crisis*] **public health emergency** issued under ORS 433.441.

(d) Upon expiration of the state of [*impending public health crisis*] **public health emergency**, the [Department of Human Services] **Public Health Director** or local public health administrators may not use or disclose any individually identifiable health information that has been obtained under [subsections (1) to (4) of] this section. If a state of emergency that is related to the state of [*impending public health crisis*] **public health emergency** has been declared under 401.055, the [Department of Human Services] **Public Health Director** and local public health administrators may continue to use any **individually identifiable** information obtained as provided [in subsections (1) to (4) of] **under** this section until termination of the state of emergency.

(4) As used in [subsections (1) to (4) of] this section:

(a) “Covered entity” means:

(A) The Children’s Health Insurance Program;

(B) The Family Health Insurance Assistance Program established under ORS 735.722;

(C) A health insurer that is an insurer as defined in ORS 731.106 and that issues health insurance as defined in ORS 731.162;

(D) The state medical assistance program; and

(E) A health care provider.

(b) “Health care provider” includes but is not limited to:

(A) A psychologist, occupational therapist, clinical social worker, professional counselor or marriage and family therapist licensed under ORS chapter 675 or an employee of the psychologist, occupational therapist, clinical social worker, professional counselor or marriage and family therapist;

(B) A physician, podiatric physician and surgeon, physician assistant or acupuncturist licensed under ORS chapter 677 or an employee of the physician, podiatric physician and surgeon, physician assistant or acupuncturist;

(C) A nurse or nursing home administrator licensed under ORS chapter 678 or an employee of the nurse or nursing home administrator;

(D) A dentist licensed under ORS chapter 679 or an employee of the dentist;

(E) A dental hygienist or denturist licensed under ORS chapter 680 or an employee of the dental hygienist or denturist;

(F) A speech-language pathologist or audiologist licensed under ORS chapter 681 or an employee of the speech-language pathologist or audiologist;

(G) An emergency medical technician certified under ORS chapter 682;

(H) An optometrist licensed under ORS chapter 683 or an employee of the optometrist;

(I) A chiropractic physician licensed under ORS chapter 684 or an employee of the chiropractic physician;

(J) A naturopathic physician licensed under ORS chapter 685 or an employee of the naturopathic physician;

(K) A massage therapist licensed under ORS 687.011 to 687.250 or an employee of the massage therapist;

(L) A direct entry midwife licensed under ORS 687.405 to 687.495 or an employee of the direct entry midwife;

(M) A physical therapist licensed under ORS 688.010 to 688.201 or an employee of the physical therapist;

(N) A radiologic technologist licensed under ORS 688.405 to 688.605 or an employee of the radiologic technologist;

(O) A respiratory care practitioner licensed under ORS 688.800 to 688.840 or an employee of the respiratory care practitioner;

(P) A pharmacist licensed under ORS chapter 689 or an employee of the pharmacist;

(Q) A dietitian licensed under ORS 691.405 to 691.585 or an employee of the dietitian;

(R) A funeral service practitioner licensed under ORS chapter 692 or an employee of the funeral service practitioner;

(S) A health care facility as defined in ORS 442.015;

(T) A home health agency as defined in ORS 443.005;

(U) A hospice program as defined in ORS 443.850;

(V) A clinical laboratory as defined in ORS 438.010;

(W) A pharmacy as defined in ORS 689.005;

(X) A diabetes self-management program as defined in ORS 743.694; and

(Y) Any other person or entity that furnishes, bills for or is paid for health care in the normal course of business.

(c) "Individual" means a natural person.

[*c*] **(d)** "Individually identifiable health information" means any oral or written health information in any form or medium that is:

(A) Created or received by a covered entity, an employer or a health care provider that is not a covered entity; and

(B) Identifiable to an individual, including demographic information that identifies the individual, or for which there is a reasonable basis to believe the information can be used to identify an individual, and that relates to:

(i) The past, present or future physical or mental health or condition of an individual;

(ii) The provision of health care to an individual; or

(iii) The past, present or future payment for the provision of health care to an individual.

(e) "Legal representative" means attorney at law, person holding a general power of attorney, guardian, conservator or any person appointed by a court to manage the personal or financial affairs of a person, or agency legally responsible for the welfare or support of a person.

(5) All civil penalties recovered under [*subsections (1) to (4) of*] this section shall be paid into the State Treasury and credited to the General Fund and are available for general governmental expenses.

(6) The Public Health Director may request assistance in enforcing orders issued pursuant to this section from state or local law enforcement authorities. If so requested by the Public Health Director, state and local law enforcement authorities, to the extent resources are available, shall assist in enforcing orders issued pursuant to this section.

(7) If the Department of Human Services adopts temporary rules to implement the provisions of this section, the rules adopted are not subject to the provisions of ORS 183.335 (6)(a). The department may amend temporary rules adopted pursuant to this subsection as often as necessary to respond to the public health emergency.

SECTION 25. ORS 433.446 is amended to read:

433.446. The Governor may seek assistance under the Emergency Management Assistance Compact during a state of [*impending public health crisis*] **public health emergency** to obtain additional resources for providing services directly related to mitigation of the crisis.

SECTION 26. ORS 433.448 is amended to read:

433.448. (1)(a) During a state of [*impending public health crisis*] **public health emergency** proclaimed under ORS 433.441 or during a state of emergency declared under ORS 401.055 that is related to a state of [*impending public health crisis*] **public health emergency** that has not expired,

the immunization registry and tracking and recall system established under ORS 433.094 may be used as a vaccination management and tracking system for the purpose of preventing the spread of diseases that can be prevented by vaccination or for tracking the mass administration of antibiotic prophylaxis.

(b) When being used as authorized by this section, an immunization registry may include persons of any age, and vaccination records may be shared with authorized users of the registry for purposes related to the proclaimed state of *[impending public health crisis]* **public health emergency** without obtaining the prior authorization of the clients of the registry.

(2) As used in this section, “client” and “immunization registry” have the meaning given those terms in ORS 433.090.

SECTION 27. ORS 433.452 is amended to read:

433.452. (1) If the *[Director of Human Services]* **Public Health Director** or the local public health administrator reasonably believes a person within the jurisdiction of the director or the administrator may have been exposed to a communicable disease identified by rule of the Department of Human Services to be a reportable disease or condition or a condition that is the basis for a state of *[impending public health crisis]* **public health emergency** declared by the Governor as authorized by ORS 433.441, the person may be detained for as long as reasonably necessary for the director or administrator to convey information to the person regarding the communicable disease or condition and to obtain contact information, including but not limited to the person’s residence and employment addresses, date of birth, telephone numbers and any other contact information required by the director or administrator.

(2) If a person detained under subsection (1) of this section refuses to provide the information requested, the director or administrator may impose a public health measure *[pursuant to ORS 433.019 and 433.022]* **appropriate to the public health threat presented pursuant to ORS 433.035 and sections 8 and 9 of this 2007 Act.**

SECTION 28. (1) As used in this section:

(a) “Contaminated material” means wastes or other materials exposed to or tainted by chemical, radiological, or biological substances or agents.

(b) “Transmissible agent” means a biological substance capable of causing disease or infection through individual to individual transmission, animal to individual transmission, or other modes of transmission.

(2) Notwithstanding any provision in ORS chapter 97 or 692, during a state of public health emergency, the Public Health Director may:

(a) Prescribe measures to provide for the safe disposal of human remains as may be reasonable and necessary to respond to the public health emergency. Measures adopted under this subsection may include the embalming, burial, cremation, interment, disinterment, transportation and disposal of human remains.

(b) Require any person in charge of disposing of human remains to clearly label the human remains of a deceased person with a communicable disease or transmissible agent with an external, clearly visible tag indicating that the human remains are infected or contaminated and, if known, the communicable disease or transmissible agent or contaminated materials present in the remains.

(c) After a medical examiner has certified the cause and manner of death, order a person in charge of disposing of human remains to dispose of the human remains of a person who has died of a communicable disease or transmissible agent through burial or cremation within a specified time period. To the extent practicable, religious, cultural, family and individual beliefs of the deceased person or the person’s family shall be considered when disposing of any human remains.

(3) The Public Health Director must consult and coordinate with the State Medical Examiner when exercising authority under this section. Nothing in this section is intended to override authority granted to the State Medical Examiner or district medical examiner under ORS 146.003 to 146.165 and 146.710 to 146.992.

SECTION 29. ORS 433.140 is amended to read:

433.140. (1) The expenses incurred under [ORS 433.135] **section 12 of this 2007 Act**, when properly certified by the [executive officer of such board] **local public health administrator**, shall be paid by the person **who is isolated or quarantined**, when **the person is** able to pay [them] **the expenses**.

(2) The Department of Human Services may provide general assistance, including medical care for [such person] **the person who is isolated or quarantined**, on the basis of need, provided that no payment shall be made for the care of any such person in or under the care of any public institution or public agency or municipality.

SECTION 30. ORS 433.990 is amended to read:

433.990. (1) Violation of ORS 433.004 or 433.008, 433.255, 433.260 or 433.715 is a Class A misdemeanor.

(2) Violation of ORS 433.010 is punishable, upon conviction, by imprisonment in the custody of the Department of Corrections for not more than three years.

(3) Violation of ORS 433.035 is punishable upon conviction by a fine of not less than \$10 nor more than \$100, or by imprisonment for not less than 10 days nor more than 30 days, or by both.

(4) Violation of section 13 of this 2007 Act is a Class D violation punishable by fines totaling not more than \$50 per day, not to exceed \$1,000 in any 30-day period.

[4] **(5)** Violation of ORS 433.850 is a Class D violation punishable by fines totaling not more than \$50 per day, not to exceed \$1,000 in any 30-day period.

[5] **(6)** Violation of ORS 433.345 or 433.365 is a Class B violation. Failure to obey any lawful order of the Director of Human Services issued under ORS 433.350 is a Class C misdemeanor.

[6] **(7)** Any organizer, as defined in ORS 433.735, violating ORS 433.745 is punishable, upon conviction, by a fine of not more than \$10,000.

SECTION 31. ORS 433.390 is amended to read:

433.390. (1) All moneys received by a county under ORS 433.340 to 433.390 and 433.990 [(5)] **(6)** shall be paid to the county dog control fund.

(2) The governing body of the county may, in the event of a rabies outbreak within the county, use such portion of the dog control fund as it deems necessary to purchase rabies vaccine for administration to animals under the direction of the state and local health officers.

SECTION 32. ORS 433.735 is amended to read:

433.735. As used in ORS 433.735 to 433.770 and 433.990 [(6)] **(7)**:

(1) "Outdoor mass gathering," unless otherwise defined by county ordinance, means an actual or reasonably anticipated assembly of more than 3,000 persons which continues or can reasonably be expected to continue for more than 24 consecutive hours but less than 120 hours within any three-month period and which is held primarily in open spaces and not in any permanent structure.

(2) "Organizer" includes any person who holds, stages or sponsors an outdoor mass gathering and the owner, lessee or possessor of the real property upon which the outdoor mass gathering is to take place.

(3) "Permanent structure" includes a stadium, an arena, an auditorium, a coliseum, a fairgrounds or other similar established places for assemblies.

(4) "Temporary structure" includes tents, trailers, chemical toilet facilities and other structures customarily erected or sited for temporary use.

SECTION 33. ORS 433.755 is amended to read:

433.755. (1) In reviewing an application for a permit to hold an outdoor mass gathering, the county governing body may require such plans, specifications and reports as it may deem necessary for proper review and it may request and shall receive from all public officers, departments and agencies of the state and its political subdivisions such cooperation and assistance as it may deem necessary. If the county governing body determines upon examination of the permit application that the outdoor mass gathering creates a potential for injury to persons or property, the county governing body may require organizers to obtain an insurance policy in an amount commensurate with the risk, but not exceeding \$1 million. The policy of casualty insurance shall provide coverage

against liability for death, injury or disability of any human or for damage to property arising out of the outdoor mass gathering. The county shall be named as an additional insured under the policy.

(2) In the event of failure to remove all debris or residue and repair any damage to personal or real property arising out of the outdoor mass gathering within 72 hours after its termination and to remove any temporary structures used at the outdoor mass gathering within three weeks after its termination, the county governing body may file suit against the organizer for financial settlement as is needed to remove debris, residue or temporary structures and to repair such damage to real or personal property of persons not attending the outdoor mass gathering. The organizer shall be wholly responsible for payment of any fines imposed under ORS 433.990 [(6)] (7).

SECTION 34. ORS 433.765 is amended to read:

433.765. Ordinances or regulations of a county enacted under a county charter adopted pursuant to section 10, Article VI, Oregon Constitution, and not inconsistent with ORS 433.735 to 433.770 and 433.990 [(6)] (7) or any rules adopted under ORS 433.735 to 433.770 and 433.990 [(6)] (7), are not superseded by ORS 433.735 to 433.770 and 433.990 [(6)] (7) or such rules. Nothing in ORS 433.735 to 433.770 and 433.990 [(6)] (7) or any rules adopted under ORS 433.735 to 433.770 and 433.990 [(6)] (7) precludes the right of a county to enact ordinances or regulations under a county charter if such ordinances or regulations are not inconsistent with ORS 433.735 to 433.770 and 433.990 [(6)] (7) or any rules adopted under ORS 433.735 to 433.770 and 433.990 [(6)] (7).

SECTION 35. ORS 433.767 is amended to read:

433.767. ORS 433.735 to 433.770 and 433.990 [(6)] (7) apply to outdoor mass gatherings defined by county ordinance as well as to those defined by ORS 433.735 (1).

SECTION 36. ORS 433.855 is amended to read:

433.855. (1) The Department of Human Services, in accordance with the provisions of ORS chapter 183:

(a) Shall adopt rules necessary to implement the provisions of ORS 433.835 to 433.875 and 433.990 [(4)] (5);

(b) Shall be responsible for compliance with such rules; and

(c) May impose a civil penalty not to exceed the amount specified in ORS 433.990 [(4)] (5) for each violation of a rule of the department applicable to ORS 433.850, to be collected in the manner provided in ORS 441.705 to 441.745. All penalties recovered shall be paid into the State Treasury and credited to the General Fund.

(2) In carrying out its duties under this section, the Department of Human Services is not authorized to require any changes in ventilation or barriers in any public place. However, nothing in this subsection is intended to limit the authority of the department to impose any requirements under any other provision of law.

(3) In public places which the Department of Human Services regularly inspects, the Department of Human Services shall check for compliance with the provisions of ORS 433.835 to 433.875 and 433.990 [(4)] (5). In other public places, the Department of Human Services shall respond in writing or orally by telephone to complaints, notifying the proprietor or person in charge of responsibilities of the proprietor or person in charge under ORS 433.835 to 433.875 and 433.990 [(4)] (5). If repeated complaints are received, the Department of Human Services may take appropriate action to insure compliance.

(4) When a county has received delegation of the duties and responsibilities under ORS 446.425 and 448.100, or contracted with the Department of Human Services under ORS 190.110, the county shall be responsible for enforcing the provisions of ORS 433.835 to 433.875 and 433.990 [(4)] (5) that are applicable to those licensed facilities and shall have the same authority as the Department of Human Services for such enforcement.

SECTION 37. ORS 433.865 is amended to read:

433.865. Upon request, the Department of Human Services may waive the provisions of ORS 433.835 to 433.875 and 433.990 [(4)] (5) for any public place if it determines that:

(1) There are valid reasons to do so; and

(2) A waiver will not significantly affect the health and comfort of nonsmokers.

SECTION 38. ORS 433.875 is amended to read:

433.875. ORS 433.835 to 433.875 and 433.990 [(4)] (5) shall be cited as the Oregon Indoor Clean Air Act.

SECTION 39. ORS 401.657 is amended to read:

401.657. (1) The Department of Human Services may designate all or part of a health care facility or other location as an emergency health care center. Upon the Governor declaring a state of emergency under ORS 401.055, or proclaiming a state of *[impending public health crisis]* **public health emergency** after determining that a threat to the public health is imminent and likely to be widespread, life-threatening and of a scope that requires immediate medical action to protect the public health, emergency health care centers may be used for:

- (a) Evaluation and referral of individuals affected by the emergency *[or crisis]*;
- (b) Provision of health care services; and
- (c) Preparation of patients for transportation.

(2) The department may enter into cooperative agreements with local public health authorities that allow local public health authorities to designate emergency health care centers under this section.

(3) An emergency health care center designated under this section must have an emergency operations plan and a credentialing plan that governs the use of emergency health care providers registered under ORS 401.654 and other health care providers who volunteer to perform health care services at the center under ORS 401.651 to 401.670. The emergency operations plan and credentialing plan must comply with rules governing those plans adopted by the department.

SECTION 40. ORS 401.661 is amended to read:

401.661. Upon the Governor declaring a state of emergency under ORS 401.055, or proclaiming a state of *[impending public health crisis]* **public health emergency** after determining that a threat to the public health is imminent and likely to be widespread, life-threatening and of a scope that requires immediate medical action to protect the public health:

(1) The Department of Human Services may direct emergency health care providers registered under ORS 401.654 who are willing to provide health care services on a voluntary basis to proceed to any place in this state where health care services are required by reason of the emergency or crisis; and

(2) Any emergency health care provider registered under ORS 401.654 or other health care provider may volunteer to perform health care services described in ORS 401.657 at any emergency health care center or health care facility in the manner provided by ORS 401.664.

SECTION 41. ORS 466.605 is amended to read:

466.605. As used in ORS 466.605 to 466.680 and 466.990 (3) and (4):

- (1) "Barrel" means 42 U.S. gallons at 60 degrees Fahrenheit.
- (2) "Cleanup" means the containment, collection, removal, treatment or disposal of oil or hazardous material; site restoration; and any investigations, monitoring, surveys, testing and other information gathering required or conducted by the Department of Environmental Quality.
- (3) "Cleanup costs" means all costs associated with the cleanup of a spill or release incurred by the state, its political subdivision or any person with written approval from the department when implementing ORS 466.205, 466.605 to 466.680, 466.990 (3) and (4) and 466.995 (2) or 468B.320.
- (4) "Commission" means the Environmental Quality Commission.
- (5) "Department" means the Department of Environmental Quality.
- (6) "Director" means the Director of the Department of Environmental Quality.
- (7) "Hazardous material" means one of the following:
 - (a) A material designated by the commission under ORS 466.630.
 - (b) Hazardous waste as defined in ORS 466.005.
 - (c) Radioactive waste as defined in ORS 469.300, radioactive material identified by the Energy Facility Siting Council under ORS 469.605 and radioactive substances as defined in ORS 453.005.

(d) Communicable disease agents as regulated by the Department of Human Services under [ORS chapter 431 and] ORS **431.035 to 431.530**, [433.010] **433.001** to 433.045 and 433.106 to [433.990] **433.770**.

(e) Hazardous substances designated by the United States Environmental Protection Agency under section 311 of the Federal Water Pollution Control Act, P.L. 92-500, as amended.

(8) "Oils" or "oil" includes gasoline, crude oil, fuel oil, diesel oil, lubricating oil, sludge, oil refuse and any other petroleum related product.

(9) "Person" means an individual, trust, firm, joint stock company, corporation, partnership, association, municipal corporation, political subdivision, interstate body, the state and any agency or commission thereof and the federal government and any agency thereof.

(10) "Reportable quantity" means one of the following:

(a) A quantity designated by the commission under ORS 466.625.

(b) The lesser of:

(A) The quantity designated for hazardous substances by the United States Environmental Protection Agency pursuant to section 311 of the Federal Water Pollution Control Act, P.L. 92-500, as amended;

(B) The quantity designated for hazardous waste under ORS 466.005 to 466.385, 466.990 (1) and (2) and 466.992;

(C) Any quantity of radioactive material, radioactive substance or radioactive waste;

(D) If spilled into waters of the state, or escape into waters of the state is likely, any quantity of oil that would produce a visible oily slick, oily solids, or coat aquatic life, habitat or property with oil, but excluding normal discharges from properly operating marine engines; or

(E) If spilled on land, any quantity of oil over one barrel.

(c) Ten pounds unless otherwise designated by the commission under ORS 466.625.

(11) "Respond" or "response" means:

(a) Actions taken to monitor, assess and evaluate a spill or release or threatened spill or release of oil or hazardous material;

(b) First aid, rescue or medical services, and fire suppression; or

(c) Containment or other actions appropriate to prevent, minimize or mitigate damage to the public health, safety, welfare or the environment which may result from a spill or release or threatened spill or release if action is not taken.

(12) "Spill or release" means the discharge, deposit, injection, dumping, spilling, emitting, releasing, leaking or placing of any oil or hazardous material into the air or into or on any land or waters of the state, as defined in ORS 468B.005, except as authorized by a permit issued under ORS chapter 454, 459, 459A, 468, 468A, 468B or 469, ORS 466.005 to 466.385, 466.990 (1) and (2) or 466.992 or federal law or while being stored or used for its intended purpose.

(13) "Threatened spill or release" means oil or hazardous material is likely to escape or be carried into the air or into or on any land or waters of the state.

SECTION 42. ORS 431.140, 433.019, 433.022, 433.106, 433.130 and 433.135 are repealed.

Passed by House May 16, 2007

.....
Chief Clerk of House

.....
Speaker of House

Passed by Senate May 25, 2007

.....
President of Senate

Received by Governor:

.....M,....., 2007

Approved:

.....M,....., 2007

.....
Governor

Filed in Office of Secretary of State:

.....M,....., 2007

.....
Secretary of State