

Representative Kera Birkeland proposes the following substitute bill:

PUBLIC HEALTH AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kera Birkeland

Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill amends provisions related to public health.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies when the Department of Health and Human Services and a local health department may invoke an order of restriction; and
- ▶ repeals an exception for medical students related to vaccination and face covering requirements implemented by an institution of higher education.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26A-1-114, as last amended by Laws of Utah 2023, Chapters 90, 327

26B-7-301, as renumbered and amended by Laws of Utah 2023, Chapter 308

26B-7-304, as renumbered and amended by Laws of Utah 2023, Chapter 308



- 26 **26B-7-307**, as renumbered and amended by Laws of Utah 2023, Chapter 308
- 27 **26B-7-310**, as renumbered and amended by Laws of Utah 2023, Chapter 308
- 28 **26B-7-311**, as renumbered and amended by Laws of Utah 2023, Chapter 308
- 29 **53B-2-113**, as last amended by Laws of Utah 2021, First Special Session, Chapter 7

30 REPEALS:

- 31 **26B-7-204**, as renumbered and amended by Laws of Utah 2023, Chapter 308

33 *Be it enacted by the Legislature of the state of Utah:*

34 Section 1. Section **26A-1-114** is amended to read:

35 **26A-1-114. Powers and duties of departments.**

36 (1) Subject to Subsections (7), (8), and (11), a local health department may:

37 (a) subject to the provisions in Section **26A-1-108**, enforce state laws, local ordinances,
 38 department rules, and local health department standards and regulations relating to public
 39 health and sanitation, including the plumbing code administered by the Division of
 40 Professional Licensing under Title 15A, Chapter 1, Part 2, State Construction Code
 41 Administration Act, and under Title 26B, Chapter 7, Part 4, General Sanitation and Food
 42 Safety, in all incorporated and unincorporated areas served by the local health department;

43 (b) establish, maintain, and enforce isolation and quarantine, and exercise physical
 44 control over property [~~and over individuals as the local health department finds necessary for~~
 45 ~~the protection of the public health]~~ in accordance with an order of restraint issued under Title
 46 26B, Chapter 7, Part 3, Treatment, Isolation, and Quarantine Procedures for Communicable
 47 Diseases;

48 (c) establish and maintain medical, environmental, occupational, and other laboratory
 49 services considered necessary or proper for the protection of the public health;

50 (d) establish and operate reasonable health programs or measures not in conflict with
 51 state law which:

52 (i) are necessary or desirable for the promotion or protection of the public health and
 53 the control of disease; or

54 (ii) may be necessary to ameliorate the major risk factors associated with the major
 55 causes of injury, sickness, death, and disability in the state;

56 (e) close theaters, schools, and other public places and prohibit gatherings of people

57 when necessary to protect the public health;

58 (f) abate nuisances or eliminate sources of filth and infectious and communicable
59 diseases affecting the public health and bill the owner or other person in charge of the premises
60 upon which this nuisance occurs for the cost of abatement;

61 (g) make necessary sanitary and health investigations and inspections on the local
62 health department's own initiative or in cooperation with the Department of Health and Human
63 Services or the Department of Environmental Quality, or both, as to any matters affecting the
64 public health;

65 (h) pursuant to county ordinance or interlocal agreement:

66 (i) establish and collect appropriate fees for the performance of services and operation
67 of authorized or required programs and duties;

68 (ii) accept, use, and administer all federal, state, or private donations or grants of funds,
69 property, services, or materials for public health purposes; and

70 (iii) make agreements not in conflict with state law which are conditional to receiving a
71 donation or grant;

72 (i) prepare, publish, and disseminate information necessary to inform and advise the
73 public concerning:

74 (i) the health and wellness of the population, specific hazards, and risk factors that may
75 adversely affect the health and wellness of the population; and

76 (ii) specific activities individuals and institutions can engage in to promote and protect
77 the health and wellness of the population;

78 (j) investigate the causes of morbidity and mortality;

79 (k) issue notices and orders necessary to carry out this part;

80 (l) conduct studies to identify injury problems, establish injury control systems,
81 develop standards for the correction and prevention of future occurrences, and provide public
82 information and instruction to special high risk groups;

83 (m) cooperate with boards created under Section 19-1-106 to enforce laws and rules
84 within the jurisdiction of the boards;

85 (n) cooperate with the state health department, the Department of Corrections, the
86 Administrative Office of the Courts, the Division of Juvenile Justice and Youth Services, and
87 the Crime Victim Reparations Board to conduct testing for HIV infection of alleged sexual

88 offenders, convicted sexual offenders, and any victims of a sexual offense;

89 (o) investigate suspected bioterrorism and disease pursuant to Section 26B-7-321; and

90 (p) provide public health assistance in response to a national, state, or local emergency,
91 a public health emergency as defined in Section 26B-7-301, or a declaration by the President of
92 the United States or other federal official requesting public health-related activities.

93 (2) The local health department shall:

94 (a) establish programs or measures to promote and protect the health and general
95 wellness of the people within the boundaries of the local health department;

96 (b) investigate infectious and other diseases of public health importance and implement
97 measures to control the causes of epidemic and communicable diseases and other conditions
98 significantly affecting the public health which may include involuntary testing of alleged sexual
99 offenders for the HIV infection pursuant to Section 53-10-802 and voluntary testing of victims
100 of sexual offenses for HIV infection pursuant to Section 53-10-803;

101 (c) cooperate with the department in matters pertaining to the public health and in the
102 administration of state health laws; and

103 (d) coordinate implementation of environmental programs to maximize efficient use of
104 resources by developing with the Department of Environmental Quality a Comprehensive
105 Environmental Service Delivery Plan which:

106 (i) recognizes that the Department of Environmental Quality and local health
107 departments are the foundation for providing environmental health programs in the state;

108 (ii) delineates the responsibilities of the department and each local health department
109 for the efficient delivery of environmental programs using federal, state, and local authorities,
110 responsibilities, and resources;

111 (iii) provides for the delegation of authority and pass through of funding to local health
112 departments for environmental programs, to the extent allowed by applicable law, identified in
113 the plan, and requested by the local health department; and

114 (iv) is reviewed and updated annually.

115 (3) The local health department has the following duties regarding public and private
116 schools within the local health department's boundaries:

117 (a) enforce all ordinances, standards, and regulations pertaining to the public health of
118 persons attending public and private schools;

119 (b) exclude from school attendance any person, including teachers, who is suffering
120 from any communicable or infectious disease, whether acute or chronic, if the person is likely
121 to convey the disease to those in attendance; and

122 (c) (i) make regular inspections of the health-related condition of all school buildings
123 and premises;

124 (ii) report the inspections on forms furnished by the department to those responsible for
125 the condition and provide instructions for correction of any conditions that impair or endanger
126 the health or life of those attending the schools; and

127 (iii) provide a copy of the report to the department at the time the report is made.

128 (4) If those responsible for the health-related condition of the school buildings and
129 premises do not carry out any instructions for corrections provided in a report in Subsection
130 (3)(c), the local health board shall cause the conditions to be corrected at the expense of the
131 persons responsible.

132 (5) The local health department may exercise incidental authority as necessary to carry
133 out the provisions and purposes of this part.

134 (6) Nothing in this part may be construed to authorize a local health department to
135 enforce an ordinance, rule, or regulation requiring the installation or maintenance of a carbon
136 monoxide detector in a residential dwelling against anyone other than the occupant of the
137 dwelling.

138 (7) (a) Except as provided in Subsection (7)(c), a local health department may not
139 declare a public health emergency or issue an order of constraint until the local health
140 department has provided notice of the proposed action to the chief executive officer of the
141 relevant county no later than 24 hours before the local health department issues the order or
142 declaration.

143 (b) The local health department:

144 (i) shall provide the notice required by Subsection (7)(a) using the best available
145 method under the circumstances as determined by the local health department;

146 (ii) may provide the notice required by Subsection (7)(a) in electronic format; and

147 (iii) shall provide the notice in written form, if practicable.

148 (c) (i) Notwithstanding Subsection (7)(a), a local health department may declare a
149 public health emergency or issue an order of constraint without approval of the chief executive

150 officer of the relevant county if the passage of time necessary to obtain approval of the chief
151 executive officer of the relevant county as required in Subsection (7)(a) would substantially
152 increase the likelihood of loss of life due to an imminent threat.

153 (ii) If a local health department declares a public health emergency or issues an order
154 of constraint as described in Subsection (7)(c)(i), the local health department shall notify the
155 chief executive officer of the relevant county before issuing the order of constraint.

156 (iii) The chief executive officer of the relevant county may terminate a declaration of a
157 public health emergency or an order of constraint issued as described in Subsection (7)(c)(i)
158 within 72 hours of declaration of the public health emergency or issuance of the order of
159 constraint.

160 (d) (i) The relevant county governing body may at any time terminate a public health
161 emergency or an order of constraint issued by the local health department by majority vote of
162 the county governing body in response to a declared public health emergency.

163 (ii) A vote by the relevant county governing body to terminate a public health
164 emergency or an order of constraint as described in Subsection (7)(d)(i) is not subject to veto
165 by the relevant chief executive officer.

166 (8) (a) Except as provided in Subsection (8)(b), a public health emergency declared by
167 a local health department expires at the earliest of:

168 (i) the local health department or the chief executive officer of the relevant county
169 finding that the threat or danger has passed or the public health emergency reduced to the
170 extent that emergency conditions no longer exist;

171 (ii) 30 days after the date on which the local health department declared the public
172 health emergency; or

173 (iii) the day on which the public health emergency is terminated by majority vote of the
174 county governing body.

175 (b) (i) The relevant county legislative body, by majority vote, may extend a public
176 health emergency for a time period designated by the county legislative body.

177 (ii) If the county legislative body extends a public health emergency as described in
178 Subsection (8)(b)(i), the public health emergency expires on the date designated by the county
179 legislative body.

180 (c) Except as provided in Subsection (8)(d), if a public health emergency declared by a

181 local health department expires as described in Subsection (8)(a), the local health department
182 may not declare a public health emergency for the same illness or occurrence that precipitated
183 the previous public health emergency declaration.

184 (d) (i) Notwithstanding Subsection (8)(c), subject to Subsection (8)(f), if the local
185 health department finds that exigent circumstances exist, after providing notice to the county
186 legislative body, the department may declare a new public health emergency for the same
187 illness or occurrence that precipitated a previous public health emergency declaration.

188 (ii) A public health emergency declared as described in Subsection (8)(d)(i) expires in
189 accordance with Subsection (8)(a) or (b).

190 (e) For a public health emergency declared by a local health department under this
191 chapter or under Title 26B, Chapter 7, Part 3, Treatment, Isolation, and Quarantine Procedures
192 for Communicable Diseases, the Legislature may terminate by joint resolution a public health
193 emergency that was declared based on exigent circumstances or that has been in effect for more
194 than 30 days.

195 (f) If the Legislature or county legislative body terminates a public health emergency
196 declared due to exigent circumstances as described in Subsection (8)(d)(i), the local health
197 department may not declare a new public health emergency for the same illness, occurrence, or
198 exigent circumstances.

199 (9) (a) During a public health emergency declared under this chapter or under Title
200 26B, Chapter 7, Part 3, Treatment, Isolation, and Quarantine Procedures for Communicable
201 Diseases:

202 (i) except as provided in Subsection (9)(b), a local health department may not issue an
203 order of constraint without approval of the chief executive officer of the relevant county;

204 (ii) the Legislature may at any time terminate by joint resolution an order of constraint
205 issued by a local health department in response to a declared public health emergency that has
206 been in effect for more than 30 days; and

207 (iii) a county governing body may at any time terminate by majority vote of the
208 governing body an order of constraint issued by a local health department in response to a
209 declared public health emergency.

210 (b) (i) Notwithstanding Subsection (9)(a)(i), a local health department may issue an
211 order of constraint without approval of the chief executive officer of the relevant county if the

212 passage of time necessary to obtain approval of the chief executive officer of the relevant
213 county as required in Subsection (9)(a)(i) would substantially increase the likelihood of loss of
214 life due to an imminent threat.

215 (ii) If a local health department issues an order of constraint as described in Subsection
216 (9)(b), the local health department shall notify the chief executive officer of the relevant county
217 before issuing the order of constraint.

218 (iii) The chief executive officer of the relevant county may terminate an order of
219 constraint issued as described in Subsection (9)(b) within 72 hours of issuance of the order of
220 constraint.

221 (c) (i) For a local health department that serves more than one county, the approval
222 described in Subsection (9)(a)(i) is required for the chief executive officer for which the order
223 of constraint is applicable.

224 (ii) For a local health department that serves more than one county, a county governing
225 body may only terminate an order of constraint as described in Subsection (9)(a)(iii) for the
226 county served by the county governing body.

227 (10) (a) During a public health emergency declared as described in this title:

228 (i) the department or a local health department may not impose an order of constraint
229 on a religious gathering that is more restrictive than an order of constraint that applies to any
230 other relevantly similar gathering; and

231 (ii) an individual, while acting or purporting to act within the course and scope of the
232 individual's official department or local health department capacity, may not:

233 (A) prevent a religious gathering that is held in a manner consistent with any order of
234 constraint issued pursuant to this title; or

235 (B) impose a penalty for a previous religious gathering that was held in a manner
236 consistent with any order of constraint issued pursuant to this title.

237 (b) Upon proper grounds, a court of competent jurisdiction may grant an injunction to
238 prevent the violation of this Subsection (10).

239 (c) During a public health emergency declared as described in this title, the department
240 or a local health department shall not issue a public health order or impose or implement a
241 regulation that substantially burdens an individual's exercise of religion unless the department
242 or local health department demonstrates that the application of the burden to the individual:

- 243 (i) is in furtherance of a compelling government interest; and
- 244 (ii) is the least restrictive means of furthering that compelling government interest.
- 245 (d) Notwithstanding Subsections (8)(a) and (c), the department or a local health
- 246 department shall allow reasonable accommodations for an individual to perform or participate
- 247 in a religious practice or rite.

248 (11) An order of constraint issued by a local health department pursuant to a declared

249 public health emergency does not apply to a facility, property, or area owned or leased by the

250 state, including the capitol hill complex, as that term is defined in Section 63C-9-102.

251 (12) A local health department may not:

252 (a) require a person to obtain an inspection, license, or permit from the local health

253 department to engage in a practice described in Subsection 58-11a-304(5); or

254 (b) prevent or limit a person's ability to engage in a practice described in Subsection

255 58-11a-304(5) by:

256 (i) requiring the person to engage in the practice at a specific location or at a particular

257 type of facility or location; or

258 (ii) enforcing a regulation applicable to a facility or location where the person chooses

259 to engage in the practice.

260 Section 2. Section 26B-7-301 is amended to read:

261 **26B-7-301. Definitions.**

262 As used in this part:

263 (1) "Bioterrorism" means:

264 (a) the intentional use of any microorganism, virus, infectious substance, or biological

265 product to cause death, disease, or other biological malfunction in a human, an animal, a plant,

266 or another living organism in order to influence, intimidate, or coerce the conduct of

267 government or a civilian population; and

268 (b) includes anthrax, botulism, small pox, plague, tularemia, and viral hemorrhagic

269 fevers.

270 (2) "Dangerous public health condition" means any of the following:

271 (a) cholera;

272 (b) pneumonic plague;

273 (c) severe acute respiratory syndrome;

- 274 (d) smallpox;
- 275 (e) tuberculosis;
- 276 (f) any viral hemorrhagic fever; and
- 277 (g) yellow fever.

278 [~~2~~] (3) "Diagnostic information" means a clinical facility's record of individuals who
279 present for treatment, including the reason for the visit, chief complaint, presenting diagnosis,
280 final diagnosis, and any pertinent lab results.

281 [~~3~~] (4) "Epidemic or pandemic disease":

282 (a) means the occurrence in a community or region of cases of an illness clearly in
283 excess of normal expectancy; and

284 (b) includes diseases designated by the department which have the potential to cause
285 serious illness or death.

286 [~~4~~] (5) "Exigent circumstances" means a significant change in circumstances
287 following the expiration of a public health emergency declared in accordance with this title
288 that:

289 (a) substantially increases the [~~threat~~] danger to public safety or health relative to the
290 circumstances in existence when the public health emergency expired;

291 (b) poses an imminent [~~threat~~] danger to public safety or health; and

292 (c) was not known or foreseen and could not have been known or foreseen at the time
293 the public health emergency expired.

294 [~~5~~] (6) "First responder" means:

295 (a) a law enforcement officer as defined in Section [53-13-103](#);

296 (b) emergency medical service personnel as defined in Section [26B-4-101](#);

297 (c) firefighters; and

298 (d) public health personnel having jurisdiction over the location where an individual
299 subject to an order of restriction is found.

300 [~~6~~] (7) "Health care provider" means the same as that term is defined in Section
301 [78B-3-403](#).

302 [~~7~~] (8) "Legislative emergency response committee" means the same as that term is
303 defined in Section [53-2a-203](#).

304 [~~8~~] (9) (a) "Order of constraint" means an order, rule, or regulation issued in response

305 to a declared public health emergency under this part, that:

306 (i) applies to all or substantially all:

307 (A) individuals or a certain group of individuals; or

308 (B) public places or certain types of public places; and

309 (ii) for the protection of the public health and in response to the declared public health
310 emergency:

311 (A) establishes, maintains, or enforces isolation or quarantine;

312 (B) establishes, maintains, or enforces a stay-at-home order;

313 (C) exercises physical control over property or individuals;

314 (D) requires an individual to perform a certain action or engage in certain behavior; or

315 (E) closes theaters, schools, or other public places or prohibits gatherings of people to
316 protect the public health.

317 (b) "Order of constraint" includes a stay-at-home order.

318 ~~[(9)]~~ (10) "Order of restriction" means an order issued by a department or a district
319 court which requires an individual or group of individuals who are subject to restriction to
320 submit to an examination, treatment, isolation, or quarantine.

321 ~~[(10)]~~ (11)(a) "Public health emergency" means an occurrence or imminent credible
322 threat of an illness or health condition, caused by bioterrorism, epidemic or pandemic disease,
323 or novel and highly fatal infectious agent or biological toxin, that poses a substantial risk of a
324 significant number of human fatalities or incidents of permanent or long-term disability. [~~Such~~
325 ~~illness or health condition includes an~~]

326 (b) "Public health emergency" includes an illness or health condition resulting from a
327 natural disaster.

328 ~~[(11)]~~ (12) "Public health official" means:

329 (a) the executive director or the executive director's authorized representative; or

330 (b) the executive director of a local health department or the executive director's
331 authorized representative.

332 ~~[(12)]~~ (13) "Reportable emergency illness and health condition" includes the diseases,
333 conditions, or syndromes designated by the department.

334 ~~[(13)]~~ (14) "Stay-at-home order" means an order of constraint that:

335 (a) restricts movement of the general population to suppress or mitigate an epidemic or

336 pandemic disease by directing individuals within a defined geographic area to remain in their
337 respective residences; and

338 (b) may include exceptions for certain essential tasks.

339 (15) "Threat to public health" means a situation where a dangerous public health
340 condition could spread to other individuals.

341 ~~[(14)]~~ (16) "Subject to restriction" as applied to an individual, or a group of
342 individuals, means the individual or group of individuals could create a threat to public
343 health.~~[is:]~~

344 ~~[(a) infected or suspected to be infected with a communicable disease that poses a~~
345 ~~threat to the public health and who does not take action as required by the department to~~
346 ~~prevent spread of the disease;]~~

347 ~~[(b) contaminated or suspected to be contaminated with an infectious agent that poses a~~
348 ~~threat to the public health, and that could be spread to others if remedial action is not taken;]~~

349 ~~[(c) in a condition or suspected condition which, if the individual is exposed to others,~~
350 ~~poses a threat to public health, or is in a condition which if treatment is not completed the~~
351 ~~individual will pose a threat to public health; or]~~

352 ~~[(d) contaminated or suspected to be contaminated with a chemical or biological agent~~
353 ~~that poses a threat to the public health and that could be spread to others if remedial action is~~
354 ~~not taken.]~~

355 Section 3. Section **26B-7-304** is amended to read:

356 **26B-7-304. Order of restriction.**

357 (1) Subject to Subsection (5), the department or a local health department having
358 jurisdiction over the location where an individual or a group of individuals who are subject to
359 restriction are found may:

360 (a) issue a written order of restriction for the individual or group of individuals
361 pursuant to Section **26B-1-202** or Subsection **26A-1-114(1)(b)** upon compliance with the
362 requirements of Sections **26B-7-304** through **26B-7-314**; and

363 (b) issue a verbal order of restriction for an individual or group of individuals pursuant
364 to Subsection (2)(c).

365 (2) (a) A department or local health department's determination to issue an order of
366 restriction shall be based upon the totality of circumstances reported to and known by the

367 department or local health department, including:

368 (i) observation;

369 (ii) information that the department or local health department determines is credible
370 and reliable information; and

371 (iii) knowledge of current public health risks based on medically accepted guidelines as
372 may be established by the department by administrative rule.

373 (b) An order of restriction issued by the department or a local health department shall:

374 (i) in the opinion of the public health official, be for the shortest reasonable period of
375 time necessary to protect the public health;

376 (ii) use the least intrusive method of restriction that, in the opinion of the department or
377 local health department, is reasonable based on the totality of circumstances known to the
378 department or local health department issuing the order of restriction;

379 (iii) be in writing unless the provisions of Subsection (2)(c) apply; and

380 (iv) contain notice of an individual's rights as required in Section 26B-7-307.

381 (c) (i) The department or a local health department may issue a verbal order of
382 restriction, without prior notice to the individual or group of individuals if the delay in
383 imposing a written order of restriction would significantly jeopardize the department or local
384 health department's ability to prevent or limit a threat to public health.[:]

385 [~~(A) the transmission of a communicable or possibly communicable disease that poses~~
386 ~~a threat to public health;]~~

387 [~~(B) the transmission of an infectious agent or possibly infectious agent that poses a~~
388 ~~threat to public health;]~~

389 [~~(C) the exposure or possible exposure of a chemical or biological agent that poses a~~
390 ~~threat to public health; or]~~

391 [~~(D) the exposure or transmission of a condition that poses a threat to public health.]~~

392 (ii) A verbal order of restriction issued under Subsection (2)(c)(i):

393 (A) is valid for 24 hours from the time the order of restriction is issued;

394 (B) may be verbally communicated to the individuals or group of individuals subject to
395 restriction by a first responder;

396 (C) may be enforced by the first responder until the department or local health
397 department is able to establish and maintain the place of restriction; and

398 (D) may only be continued beyond the initial 24 hours if a written order of restriction is
399 issued pursuant to the provisions of Section 26B-7-307.

400 (3) Pending issuance of a written order of restriction under Section 26B-7-307, or
401 judicial review of an order of restriction under Section 26B-7-311, an individual who is subject
402 to the order of restriction may be required to submit to involuntary examination, quarantine,
403 isolation, or treatment in the individual's home, a hospital, or any other suitable facility under
404 reasonable conditions prescribed by the department or local health department.

405 (4) The department or local health department that issued the order of restriction shall
406 take reasonable measures, including the provision of medical care, as may be necessary to
407 assure proper care related to the reason for the involuntary examination, treatment, isolation, or
408 quarantine of an individual ordered to submit to an order of restriction.

409 (5) (a) The Legislature may at any time terminate by joint resolution an order of
410 restriction issued by the department or local health department as described in this section in
411 response to a declared public health emergency.

412 (b) A county governing body may at any time terminate by majority vote an order of
413 restriction issued by the relevant local health department under this section issued in response
414 to a declared public health emergency.

415 Section 4. Section 26B-7-307 is amended to read:

416 **26B-7-307. Contents of notice of order of restriction -- Rights of individuals.**

417 (1) A written order of restriction issued by a department or local health department
418 shall include the following information:

419 (a) the identity of the individual or a description of the group of individuals subject to
420 the order of restriction;

421 (b) the identity or location of any premises that may be subject to restriction;

422 (c) the date and time for which the restriction begins and the expected duration of the
423 restriction;

424 (d) the suspected [~~communicable disease, infectious, chemical or biological agent, or~~
425 ~~other condition~~] dangerous public health condition that poses a threat to public health;

426 (e) the requirements for termination of the order of restriction, such as necessary
427 laboratory reports, the expiration of an incubation period, or the completion of treatment for the
428 communicable disease;

429 (f) any conditions on the restriction, such as limitation of visitors or requirements for
430 medical monitoring;

431 (g) the medical or scientific information upon which the restriction is based;

432 (h) a statement advising of the right to a judicial review of the order of restriction by
433 the court; and

434 (i) pursuant to Subsection (2), the rights of each individual subject to restriction.

435 (2) An individual subject to restriction has the following rights:

436 (a) the right to be represented by legal counsel in any judicial review of the order of
437 restriction in accordance with Subsection 26B-7-309(3);

438 (b) the right to be provided with prior notice of the date, time, and location of any
439 hearing concerning the order of restriction;

440 (c) the right to participate in any hearing, in a manner established by the court based on
441 precautions necessary to prevent additional exposure to communicable or possibly
442 communicable diseases or to protect the public health;

443 (d) the right to respond and present evidence and arguments on the individual's own
444 behalf in any hearing;

445 (e) the right to cross examine witnesses; and

446 (f) the right to review and copy all records in the possession of the department that
447 issued the order of restriction which relate to the subject of the written order of restriction.

448 (3) (a) Notwithstanding the provisions of Subsection (1), if the department or a local
449 health department issues an order of restriction for a group of individuals, the department or
450 local health department may modify the method of providing notice to the group or modify the
451 information contained in the notice, if the public health official determines the modification of
452 the notice is necessary to:

453 (i) protect the privacy of medical information of individuals in the group; or

454 (ii) provide notice to the group in a manner that will efficiently and effectively notify
455 the individuals in the group within the period of time necessary to protect the public health.

456 (b) When the department or a local health department modifies notice to a group of
457 individuals under Subsection (3)(a), the department or local health department shall provide
458 each individual in the group with notice that complies with the provisions of Subsection (1) as
459 soon as reasonably practical.

460 (4) (a) In addition to the rights of an individual described in Subsections (1) and (2), an
461 individual subject to an order of restriction may not be terminated from employment if the
462 reason for termination is based solely on the fact that the individual is or was subject to an
463 order of restriction.

464 (b) The department or local health department issuing the order of restriction shall give
465 the individual subject to the order of restriction notice of the individual's employment rights
466 under Subsection (4)(a).

467 (c) An employer in the state, including an employer who is the state or a political
468 subdivision of the state, may not violate the provisions of Subsection (4)(a).

469 Section 5. Section **26B-7-310** is amended to read:

470 **26B-7-310. Petition for judicial review of order of restriction -- Court-ordered**
471 **examination period.**

472 (1) (a) A department may petition for a judicial review of the department's order of
473 restriction for an individual or group of individuals who are subject to restriction by filing a
474 written petition with the court of the county in which the individual or group of individuals
475 reside or are located.

476 (b) (i) The county attorney for the county where the individual or group of individuals
477 reside or are located shall represent the local health department in any proceedings under
478 Sections [26B-7-304](#) through [26B-7-314](#).

479 (ii) The Office of the Attorney General shall represent the department when the
480 petitioner is the department in any proceedings under Sections [26B-7-304](#) through [26B-7-314](#).

481 (2) The petition under Subsection (1) shall be accompanied by:

482 (a) written affidavit of the department stating:

483 (i) a belief the individual or group of individuals are subject to restriction;

484 (ii) a belief that the individual or group of individuals who are subject to restriction are
485 likely to fail to submit to examination, treatment, quarantine, or isolation if not immediately
486 restrained;

487 (iii) this failure would pose a threat to the public health; and

488 (iv) the personal knowledge of the individual's or group of individuals' condition or the
489 circumstances that lead to that belief; and

490 (b) a written statement by a licensed physician or physician assistant indicating the

491 physician or physician assistant finds the individual or group of individuals are subject to
492 restriction.

493 (3) The court shall issue an order of restriction requiring the individual or group of
494 individuals to submit to involuntary restriction to protect the public health if the court finds:

495 (a) there is a reasonable basis to believe that the individual's or group of individuals'
496 condition requires involuntary examination, quarantine, treatment, or isolation pending
497 examination and hearing; or

498 (b) the individual or group of individuals have refused to submit to examination by a
499 health professional as directed by the department or to voluntarily submit to examination,
500 treatment, quarantine, or isolation.

501 (4) If the individual or group of individuals who are subject to restriction are not in
502 custody, the court may make its determination and issue its order of restriction in an ex parte
503 hearing.

504 (5) At least 24 hours prior to the hearing required by Section 26B-7-311, the
505 department which is the petitioner, shall report to the court, in writing, the opinion of qualified
506 health care providers:

507 (a) regarding whether the individual or group of individuals are infected by or
508 contaminated with a dangerous public health condition[:]

509 [~~(i) a communicable or possible communicable disease that poses a threat to public~~
510 ~~health;~~]

511 [~~(ii) an infectious agent or possibly infectious agent that poses a threat to public~~
512 ~~health;~~]

513 [~~(iii) a chemical or biological agent that poses a threat to public health; or]~~

514 [~~(iv) a condition that poses a threat to public health;~~]

515 (b) that despite the exercise of reasonable diligence, the diagnostic studies have not
516 been completed;

517 (c) whether the individual or group of individuals have agreed to voluntarily comply
518 with necessary examination, treatment, quarantine, or isolation; and

519 (d) whether the petitioner believes the individual or group of individuals will comply
520 without court proceedings.

521 Section 6. Section 26B-7-311 is amended to read:

522 **26B-7-311. Court determination for an order of restriction after examination**
523 **period.**

524 (1) The court shall set a hearing regarding the involuntary order of restriction of an
525 individual or group of individuals, to be held within 10 business days of the issuance of its
526 order of restriction issued pursuant to Section 26B-7-310, unless the petitioner informs the
527 court prior to this hearing that the individual or group of individuals:

528 (a) are not subject to restriction; or

529 (b) have stipulated to the issuance of an order of restriction.

530 (2) If the individual or an individual in a group of individuals has stipulated to the
531 issuance of an order of restriction, the court may issue an order as provided in Subsection (6)
532 for those individuals without further hearing.

533 (3) (a) If the examination report required in Section 26B-7-310 proves the individual or
534 group of individuals are not subject to restriction, the court may without further hearing
535 terminate the proceedings and dismiss the petition.

536 (b) The court may, after a hearing at which the individual or group of individuals are
537 present in person or by telephonic or other electronic means and have had the opportunity to be
538 represented by counsel, extend its order of restriction for a reasonable period, not to exceed 90
539 days, if the court has reason to believe the individual or group of individuals are infected by or
540 contaminated with a dangerous public health condition.[:]

541 ~~[(i) a communicable or possibly communicable disease that poses a threat to public~~
542 ~~health;]~~

543 ~~[(ii) an infectious agent or possibly infectious agent that poses a threat to public~~
544 ~~health;]~~

545 ~~[(iii) a chemical or biological agent that poses a threat to public health; or]~~

546 ~~[(iv) a condition that poses a threat to public health, but, despite the exercise of~~
547 ~~reasonable diligence the diagnostic studies have not been completed.]~~

548 (4) The petitioner shall, at the time of the hearing, provide the court with the following
549 items, to the extent that they have been issued or are otherwise available:

550 (a) the order of restriction issued by the petitioner;

551 (b) admission notes if any individual was hospitalized; and

552 (c) medical records pertaining to the current order of restriction.

553 (5) The information provided to the court under Subsection (4) shall also be provided
554 to the individual's or group of individual's counsel at the time of the hearing, and at any time
555 prior to the hearing upon request of counsel.

556 (6) (a) The court shall order the individual and each individual in a group of
557 individuals to submit to the order of restriction if, upon completion of the hearing and
558 consideration of the record, it finds by clear and convincing evidence that:

559 (i) the individual or group of individuals are infected with [~~a communicable disease or~~
560 ~~infectious agent, are contaminated with a chemical or biological agent, or are in a condition~~] a
561 dangerous public health condition that poses a threat to public health;

562 (ii) there is no appropriate and less restrictive alternative to a court order of
563 examination, quarantine, isolation, and treatment, or any of them;

564 (iii) the petitioner can provide the individual or group of individuals with treatment
565 that is adequate and appropriate to the individual's or group of individuals' conditions and
566 needs; and

567 (iv) it is in the public interest to order the individual or group of individuals to submit
568 to involuntary examination, quarantine, isolation, and treatment, or any of them after weighing
569 the following factors:

570 (A) the personal or religious beliefs, if any, of the individual that are opposed to
571 medical examination or treatment;

572 (B) the ability of the department to control the public health threat with treatment
573 alternatives that are requested by the individual;

574 (C) the economic impact for the department if the individual is permitted to use an
575 alternative to the treatment recommended by the department; and

576 (D) other relevant factors as determined by the court.

577 (b) If upon completion of the hearing the court does not find all of the conditions listed
578 in Subsection (6)(a) exist, the court shall immediately dismiss the petition.

579 (7) The order of restriction shall designate the period, subject to Subsection (8), for
580 which the individual or group of individuals shall be examined, treated, isolated, or
581 quarantined.

582 (8) (a) The order of restriction may not exceed six months without benefit of a court
583 review hearing.

584 (b) (i) The court review hearing shall be held prior to the expiration of the order of
585 restriction issued under Subsection (7).

586 (ii) At the review hearing the court may issue an order of restriction for up to an
587 indeterminate period, if the court enters a written finding in the record determining by clear and
588 convincing evidence that the required conditions in Subsection (6) will continue for an
589 indeterminate period.

590 Section 7. Section **53B-2-113** is amended to read:

591 **53B-2-113. Vaccination requirements -- Exemptions -- Face covering**
592 **requirements.**

593 (1) An institution of higher education described in Section **53B-2-101** may not require
594 proof of vaccination as a condition for enrollment or attendance unless the institution allows
595 for the following exemptions:

596 (a) a medical exemption if the student provides to the institution a statement that the
597 claimed exemption is for a medical reason; and

598 (b) a personal exemption if the student provides to the institution a statement that the
599 claimed exemption is for a personal or religious belief.

600 (2) An institution that offers both remote and in-person learning options may not deny
601 a student who is exempt from a requirement to receive a vaccine under Subsection (1) to
602 participate in an in-person learning option based upon the student's vaccination status.

603 (3) (a) For purposes of this Subsection (3), "face covering" means the same as that term
604 is defined in Section **53G-9-210**.

605 (b) An institution of higher education described in Section **53B-2-101** may not require
606 an individual to wear a face covering to attend or participate in in-person instruction,
607 institution-sponsored athletics, institution-sponsored extracurricular activities, in dormitories,
608 or in any other place on a campus of an institution within the system of higher education at any
609 time after the end of the spring semester in 2021.

610 ~~Ĥ~~→ [H] (4) **Subsections (1), (2), and (3) do not apply to a student studying in a medical**
610a **setting**
611 **at an institution of higher education if the institution of higher education provides the**
611a **student the same rights under Title VII of the Civil Rights Act to seek an exemption from a**
611b **vaccination mandate or face covering mandate as the institution of higher education provides**
611c **to a health care professional employed by the institution of higher education . [H] ←Ĥ**

612 [~~5~~] (4) Nothing in this section restricts a state or local health department from acting
613 under applicable law to contain the spread of an infectious disease.

615 This bill repeals:

616 Section **26B-7-204**, **Involuntary examination, treatment, isolation, and quarantine.**

617 Section 9. **Effective date.**

618 This bill takes effect on May 1, 2024.