
A BILL FOR AN ACT

RELATING TO HEALTH.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 PART I

2 SECTION 1. The State's experience with the COVID-19
3 pandemic demonstrates the need for preparation, flexibility, and
4 quick action in the face of ongoing or new risks presented by
5 outbreaks of communicable or dangerous diseases in the State or
6 in other parts of the world. The State has learned from
7 experience that a screening process for travelers is a key
8 component in the containment or mitigation of the spread of
9 disease. This Act serves to enhance the tools available to the
10 State in its effort to contain or mitigate the spread of
11 communicable or dangerous diseases, to enable the use of these
12 tools without a governor's emergency proclamation, and to make
13 the containment or mitigation effort more efficient and flexible
14 to protect the public health and safety.

15 This Act authorizes a screening process applicable to
16 travelers at any port of entry to the State whenever it is
17 determined by the director of health, upon consultation with and



1 authorization from the governor, to be necessary to prevent the
2 spread of communicable or dangerous diseases in order to protect
3 the public health and safety, including the health and safety of
4 the traveling public, and to ensure a positive visitor
5 experience, which is critical to sustaining the State's tourism
6 industry.

7 The screening may apply to any and all travelers, including
8 interisland, domestic, and international travelers, and it may
9 apply to both arrival and departure points within the State of
10 Hawaii. Benefits include the determination of whether
11 quarantine or isolation is necessary for the well-being of the
12 public, including travelers, travelers' household members, and
13 traveling companions, as well as the opportunity for timely
14 treatment to prevent or lessen symptoms or to shorten the
15 duration of the disease. To further enhance the effectiveness
16 of the screening process, and from experience, the legislature
17 also finds that it is necessary to establish penalties to
18 address individuals who are uncooperative or seek to evade the
19 screening process. This screening process will also authorize
20 the department of health to take certain actions upon completion
21 of traveler screening, including testing, investigating,



1 monitoring, quarantining, and isolating travelers, as determined
2 necessary by the director of health, upon consultation with and
3 authorization from the governor, to protect the public health
4 and safety.

5 This Act also amends existing law to work more efficiently
6 in conjunction with any emergency proclamation issued to respond
7 to the spread of a communicable or dangerous disease and allows
8 the director of health, upon consultation with and authorization
9 from the governor, to declare a public health emergency if there
10 is, or there is a potential for, an epidemic or serious outbreak
11 of communicable or dangerous disease.

12 PART II

13 SECTION 2. Chapter 325, Hawaii Revised Statutes, is
14 amended by adding a new part to be appropriately designated and
15 to read as follows:

16 "PART . DETECTION, PREVENTION, AND CONTROL OF DISEASE
17 TRANSMISSION

18 §325-A Director's authority to declare public health
19 emergency; consultation with governor; powers. (a) Except when
20 otherwise expressly addressed by the governor or the Hawaii
21 emergency management agency under chapter 127A, when in the



1 judgment of the director there is a potential for an epidemic or
2 serious outbreak of communicable or dangerous disease and after
3 consultation with and authorization from the governor,
4 notwithstanding any other laws, the director may declare a
5 public health emergency by written declaration, which shall set
6 forth the reasons for the public health emergency, and exercise
7 the following powers:

- 8 (1) Require health care provider reporting, screening,
9 testing, contact tracing, quarantine, and isolation of
10 persons deemed by the department to be infected, at
11 higher risk of infection, or at risk for spreading
12 infection;
- 13 (2) Require declarations from travelers of their health
14 status, travel history, and intended lodging or
15 residence plans;
- 16 (3) Require first responders and part or all of the public
17 to implement safeguards designed to prevent
18 infections, including but not limited to physical
19 distancing, temporary closure of schools, temporary
20 closure of businesses and operations, hygiene



1 procedures, and wearing of personal protective
2 equipment;

3 (4) Release otherwise confidential information if the
4 director determines that the disclosure is necessary
5 to protect the public health, safety, and welfare from
6 imminent harm; and

7 (5) Take any other action as deemed necessary by the
8 director to prevent, prepare for, respond to,
9 mitigate, and recover from a serious outbreak of
10 communicable or dangerous disease.

11 (b) Actions related to quarantine and isolation pursuant
12 to this section shall not be subject to the requirements of
13 section 325-8(a).

14 (c) Every police officer or state law enforcement officer
15 and the Hawaii emergency management agency shall aid and assist
16 the department in the enforcement of a declaration of a public
17 health emergency.

18 (d) The director's declaration of a public health
19 emergency shall be posted on the department's website and shall
20 terminate automatically ninety days after the declaration,
21 unless earlier terminated or extended or revoked by the governor



1 or director in consultation with and authorization from the
2 governor. Any extension shall terminate automatically after
3 ninety days, unless further extended by the governor or director
4 in consultation with and authorization from the governor.

5 **§325-B Detection of communicable or dangerous diseases in**
6 **travelers; screening, investigating, monitoring, quarantining,**
7 **isolating, data-sharing, and other actions to protect the public**
8 **health and safety.** (a) Whenever the director, after
9 consultation with and authorization from the governor,
10 determines it is necessary to detect, prevent, prepare for,
11 respond to, mitigate, or recover from the transmission of
12 communicable or dangerous diseases by traveling members of the
13 public, the department, by order of the director, may:

14 (1) Screen interisland, domestic, or international
15 travelers for evidence of communicable or dangerous
16 diseases by using a screening method approved by the
17 department;

18 (2) Investigate interisland, domestic, or international
19 travelers and persons in contact with those travelers,
20 as determined by the director to be necessary to



- 1 detect, prevent, or control the transmission of a
2 communicable or dangerous disease;
- 3 (3) Review the health status of interisland, domestic, or
4 international travelers after their arrival, after
5 consultation with and authorization from the governor
6 as determined by the department to be necessary to
7 detect, prevent, prepare for, respond to, mitigate, or
8 recover from the transmission of a communicable or
9 dangerous disease;
- 10 (4) Quarantine interisland, domestic, or international
11 travelers after their arrival, after consultation with
12 and authorization from the governor as determined by
13 the department to be necessary to detect, prevent,
14 prepare for, respond to, mitigate, or recover from the
15 transmission of a communicable or dangerous disease
16 pursuant to section 325-8;
- 17 (5) Isolate interisland, domestic, or international
18 travelers after their arrival, after consultation with
19 and authorization from the governor as determined by
20 the department to be necessary to detect, prevent,
21 prepare for, respond to, mitigate, or recover from the



1 transmission of a communicable or dangerous disease
2 pursuant to section 325-8; and

3 (6) Enlist the services or collaboration of any other
4 federal, state, county, or private entity to assist
5 with any of the activities in this section.

6 (b) Travelers arriving in a Hawaii port of entry may be
7 required to provide a completed State of Hawaii traveler
8 questionnaire on a form, or in a manner, approved by the
9 department. The failure to provide a completed State of Hawaii
10 travel questionnaire as directed by the department shall be a
11 violation of this section.

12 **§325-C Communicable or dangerous diseases, screening,**
13 **treatment, and isolation.** Upon entry to the State, all persons
14 may be required to submit to a screening for communicable or
15 dangerous diseases as deemed appropriate by the department. The
16 diseases screened for shall include those deemed a public health
17 and safety risk by the department at the time of the screening.
18 If the department deems it necessary for the public health,
19 treatment, quarantine, and isolation may be required, at the
20 expense of the person entering the State.



1 **§325-D Administrative rules.** (a) No later than
2 October 1, 2020, the department shall adopt rules, subject to
3 the approval of the governor, which shall be exempt from the
4 requirements of chapters 91 and 201M, to effectuate the purposes
5 of this part.

6 (b) The department may amend the rules, subject to the
7 approval of the governor, and the amendments shall be exempt
8 from the requirements of chapters 91 and 201M, to effectuate the
9 purposes of this chapter.

10 (c) The department shall make the adoption, amendment, or
11 repeal of rules known to the public by:

12 (1) Giving public notice of the substance of the proposed
13 rules at least once statewide; and

14 (2) Posting the full text of the proposed rulemaking
15 action on the Internet as provided pursuant to
16 section 91-2.6.

17 **§325-E Environmental impact statements not required.** No
18 action taken by the department to implement this part shall be
19 subject to chapter 343.



1 **§325-F Procurement exemption.** Contracts for the purchase
2 of goods and services to effectuate the purposes of this part
3 shall be exempt from chapters 103D and 103F.

4 **§325-G Travelers screening special fund.** (a) There is
5 established in the state treasury the travelers screening
6 special fund that shall be administered by the department, into
7 which shall be deposited:

- 8 (1) Fines collected as penalties pursuant to section
- 9 325-H;
- 10 (2) Appropriations made by the legislature to the fund;
- 11 (3) All moneys received by the fund from any other source;
- 12 and
- 13 (4) Interest earned on any moneys in the fund.

14 (b) Moneys in the travelers screening special fund shall
15 be used for the purposes set forth in sections 325-B and 325-C
16 regarding the detection of communicable or dangerous diseases in
17 travelers, and related screening, investigating, monitoring,
18 quarantining, isolating, data-sharing, other related actions,
19 and the related costs of operating the fund.

20 **§325-H Penalties.** Any person who violates any provision
21 of this part or who violates any rule adopted pursuant to this



1 part shall be guilty of a misdemeanor and fined not more than
2 \$5,000. All fines shall be deposited into the travelers
3 screening special fund."

4 PART III

5 SECTION 3. Chapter 325, Hawaii Revised Statutes, is
6 amended by adding four new sections to part I to be
7 appropriately designated and to read as follows:

8 **"§325-I Definitions. As used in this chapter:**

9 "Communicable disease" means an illness caused by a
10 specific infectious agent or its toxic products that arises
11 through transmission of that agent or its products from an
12 infected person or animal or a reservoir to a susceptible host,
13 either directly or indirectly through an intermediate animal
14 host, vector, or the inanimate environment. "Communicable
15 disease" includes "infectious disease" and any disease declared
16 to be "communicable" by the director.

17 "Dangerous disease" means any illness or health condition
18 that might pose a substantial risk of a significant number of
19 human fatalities or incidents of permanent or long-term
20 disability.

21 "Department" means the department of health.



1 "Director" means the director of health.

2 "Epidemic" means the occurrence of cases of an illness
3 clearly in excess of normal expectancy, as determined by the
4 director.

5 "Health care facility" means a health care facility as
6 defined in section 323D-2.

7 "Health care provider" means an individual or entity
8 licensed, certified, or otherwise authorized or permitted by law
9 to provide health care, testing, or testing results, in the
10 ordinary course of the individual's or entity's business or
11 profession.

12 "Infectious disease" means a disease that spreads from
13 person to person, directly or indirectly, and poses a
14 significant public health risk.

15 "Isolation" means the physical separation, including the
16 restriction of movement or confinement, of individuals or groups
17 confirmed by the department to have been infected with a
18 communicable or dangerous disease, from individuals who are
19 believed not to have been exposed or infected, as ordered by the
20 director, the governor, or a court of competent jurisdiction.



1 Conditions of isolation may be more restrictive than as for
2 quarantine.

3 "Quarantine" means the physical separation, including the
4 restriction of movement or confinement, of individuals or groups
5 who are believed to have been exposed to a communicable or
6 dangerous disease or who otherwise have or create a potential
7 risk of transmitting a communicable or dangerous disease to
8 others, from individuals who are believed not to have been
9 exposed or infected, as ordered by the director, the governor,
10 or a court of competent jurisdiction, based on information
11 collected and reviewed by the department.

12 "Screening" means a diagnostic tool administered to detect
13 the presence of a communicable or dangerous disease in an
14 individual and may include the measuring of a person's
15 temperature. "Screening" also includes the administration of
16 one or more questionnaires used to conduct surveillance of
17 disease activity or to determine to whom a test or diagnostic
18 tool is to be administered.

19 **§325-J Right to contest.** (a) An individual subject to
20 quarantine or isolation pursuant to this chapter may request a
21 hearing in the courts of this State to contest the order of



1 quarantine or isolation, the individual's treatment, or the
2 terms and conditions of the quarantine or isolation. The
3 request shall be in writing and shall be filed as a civil
4 proceeding with the circuit court in the circuit in which the
5 individual is quarantined or isolated. Upon receiving a
6 request, the court shall fix a date for a hearing. The hearing
7 shall take place within seven calendar days of the filing of the
8 request with the court. The request for a hearing shall not
9 alter or stay the order of quarantine or isolation. The
10 department shall be notified of the request for a hearing at
11 least seven days before the hearing by the individual requesting
12 the hearing. If, after a hearing, the court finds that the
13 quarantine or isolation of the individual is not in compliance
14 with this chapter, the court may fashion remedies reasonable
15 under the circumstances and consistent with this chapter.

16 (b) Judicial decisions pursuant to this chapter with
17 respect to whether an individual should be quarantined or
18 isolated shall be based upon clear and convincing evidence;
19 provided that in hearings to contest the individual's treatment
20 or the terms or conditions of the quarantine or isolation,
21 judicial decisions shall be based upon a preponderance of the



1 evidence. A written record of the disposition of the case shall
2 be made and retained. If the personal appearance before the
3 court of a quarantined or isolated individual is determined by
4 the director to pose a threat to individuals at the proceeding
5 and the quarantined or isolated individual does not waive the
6 right to attend the proceeding, the court shall appoint a
7 guardian ad litem to represent the quarantined or isolated
8 individual throughout the proceeding or shall hold the hearing
9 via any means that allow all parties to participate as fully and
10 safely as is reasonable under the circumstances.

11 (c) Upon written request, the court, in its discretion,
12 may appoint counsel to represent individuals or groups of
13 individuals who are or who are about to be quarantined or
14 isolated pursuant to this chapter and who are not otherwise
15 represented by counsel. Adequate means of communication between
16 those individuals or groups and their counsel or their guardian
17 ad litem shall be provided by the department if adequate means
18 of communication is not otherwise available to them.

19 (d) In any proceeding brought pursuant to this section, in
20 consideration of the protection of the public's health, the
21 severity of the emergency, and the availability of necessary



1 witnesses and evidence, the court may order the consolidation of
2 claims when:

3 (1) The number of individuals involved or to be affected
4 by an order of quarantine or isolation is so large as
5 to render individual participation impractical;

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

8 (3) The group claims or rights to be determined are
9 typical of the affected individuals' claims or rights;
10 and

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

13 **§325-K Collection, receipt, and use of information;**

14 **disclosure; confidentiality of information.** (a)

15 Notwithstanding any other law to the contrary, the department,
16 other governmental agencies, or private entities under contract
17 with the department, who act pursuant to this section, may
18 collect, receive, and use information for the purposes of
19 detecting, preventing, preparing for, responding to, mitigating,
20 or recovering from the transmission of communicable or dangerous
21 diseases. Collection, receipt, and use of the information may



1 include the sharing of the information between or among the
2 department, other governmental agencies, and private entities
3 under contract with the department. Collection, receipt, and
4 use shall not include disclosure of the information to other
5 departments, entities, or individuals except as provided in
6 subsection (b).

7 (b) The information to be collected, received, and used
8 pursuant to this section may be disclosed by the department to
9 the public only as necessary to prevent or lessen a serious and
10 imminent threat to the health or safety of a person or the
11 public, including the transmission of communicable or dangerous
12 diseases to others.

13 (c) All information collected, received, or used, pursuant
14 to this section shall be confidential and shall not be used or
15 disclosed except as allowed by this section or as required by
16 law. Any governmental agency or private entity that collects,
17 receives, or uses information pursuant to this section shall be
18 subject to the same restrictions on collection, receipt, and use
19 of that information as the department.

20 **§325-L Construction and severability.** (a) This chapter
21 shall be liberally construed to effectuate its purposes;



1 provided that this chapter shall not be construed as conferring
2 any power or permitting any action that is inconsistent with the
3 Constitution and laws of the United States, but, in so
4 construing this chapter, due consideration shall be given to the
5 circumstances as they exist from time to time.

6 (b) If any provision of this chapter or its application to
7 any person or circumstance is held invalid, the invalidity shall
8 not affect other provisions or applications of this chapter."

9 PART IV

10 SECTION 4. Section 325-2.5, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "[+]§325-2.5[+] **Health care-associated infection**
13 **reporting.** (a) Each health care facility in the State that is
14 certified by the Centers for Medicare and Medicaid Services
15 shall report information about health care-associated infections
16 to the Centers for Disease Control and Prevention's national
17 healthcare safety network, as specified in the rules of the
18 Centers for Medicare and Medicaid Services.

19 (b) Health care facilities subject to this section shall
20 authorize the Centers for Disease Control and Prevention to
21 allow the department to access health care-associated infection



1 data reported by those health care facilities to the national
2 healthcare safety network.

3 (c) The department may adopt rules pursuant to chapter 91
4 to require that health care-associated infections that are
5 multidrug-resistant be reported to the department through the
6 national healthcare safety network. The rules shall specify
7 which health care facilities are required to report those health
8 care-associated infections that are multidrug-resistant through
9 the national healthcare safety network, as well as the patient
10 populations that are to be targeted in the reports. The first
11 year of reporting required under this subsection shall be a
12 pilot test of the reporting system and shall not be reported or
13 disclosed to the public.

14 (d) The department shall preserve patient confidentiality
15 and shall not disclose to the public any patient-level data
16 obtained from any health care facility.

17 (e) The department may issue reports to the public
18 regarding health care-associated infections in aggregate data
19 form to protect individual patient identity. The reports may
20 identify individual health care facilities. The reports shall
21 use the methodology or any part of the methodology developed by



1 the Centers for Disease Control and Prevention and the Centers
2 for Medicare and Medicaid Services for national reporting of
3 health care-associated infections.

4 (f) Health care-associated infection information held by
5 the department as a result of reporting under this section is
6 not subject to subpoena, discovery, or introduction into
7 evidence in any civil or criminal proceeding; provided that
8 health care-associated infection information otherwise available
9 from other sources is not immune from subpoena, discovery, or
10 introduction into evidence through those sources solely because
11 the information was reported as required by this section.

12 (g) Beginning on June 30, 2013, and no later than June 30
13 of each year[7] thereafter, the department shall prepare a
14 public report, in accordance with this section, containing
15 information pertaining to health care-associated infections in
16 the State for the previous calendar year.

17 ~~[(h) For the purposes of this section:~~

18 ~~"Department" means the department of health.~~

19 ~~"Health care facility" means the same as in section~~

20 ~~323D-2.] "~~



1 SECTION 5. Section 325-8, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "~~§325-8 Infected persons and quarantine.~~ (a) [~~As used in~~
4 ~~this section:~~

5 "~~Communicable disease~~" means any disease declared to be
6 "~~communicable~~" by the director of health.

7 "~~Dangerous disease~~" means a disease as defined in section
8 325-20.

9 "~~Quarantine~~" means the compulsory physical separation,
10 including the restriction of movement or confinement of
11 individuals or groups believed to have been exposed to or known
12 to have been infected with a contagious disease, from
13 individuals who are believed not to have been exposed or
14 infected, by order of the department or a court of competent
15 jurisdiction.] By order of the director, the department may
16 quarantine or isolate an individual if:

17 (1) Any delay in the quarantine or isolation of the
18 individual would pose an immediate threat to the
19 public health;

20 (2) The individual is reasonably believed by the
21 department, based on its health guidance, to have been



1 exposed to or known to have been infected with a
2 communicable or dangerous disease; and
3 (3) A quarantine or isolation is the least restrictive
4 means by which the public's health, safety, and
5 welfare can be protected, due to the transmittable
6 nature of the communicable or dangerous disease and
7 the lack of preventive measures, or due to the failure
8 by the individual quarantined or isolated to accept or
9 practice less restrictive measures to prevent disease
10 transmission.

11 (b) In implementing a quarantine[7] or isolation, the
12 dignity of the individual quarantined or isolated shall be
13 respected at all times and to the greatest extent possible,
14 consistent with the objective of preventing or limiting the
15 transmission of the disease to others. The needs of individuals
16 quarantined or isolated shall be addressed in as systematic and
17 competent a fashion as is reasonable under the circumstances.
18 To the greatest extent possible, the premises in which
19 individuals are quarantined or isolated shall be maintained in a
20 safe and hygienic manner, designed to minimize the likelihood of
21 further transmission of infection or other harm to individuals



1 subject to quarantine[~~. Adequate~~] or isolation; provided that,
2 if an individual is quarantined or isolated in the individual's
3 own home or in a rented premises, the individual shall be
4 responsible for maintaining the premises in a safe and hygienic
5 manner. Access to adequate food, clothing, medication, and
6 other necessities, access to counsel, means of communication
7 with [~~those in and outside these settings,~~] others, and
8 [~~competent~~] appropriate medical care shall [~~be provided~~] not be
9 denied to the person quarantined[~~7~~] or isolated; provided that
10 the access shall be at that person's expense.

11 To the greatest extent possible, cultural and religious
12 beliefs shall be considered in addressing the needs of
13 quarantined or isolated individuals. The department may
14 establish and maintain places of quarantine and isolation and
15 quarantine or isolate any individual by the least restrictive
16 means necessary to protect the public health.

17 The department shall take all reasonable means to prevent
18 the transmission of infection between or among quarantined or
19 isolated individuals. The quarantine or isolation of any
20 individual shall be terminated when the director determines that



1 the quarantine or isolation of that individual is no longer
2 necessary to protect the public health.

3 (c) An individual subject to quarantine or isolation shall
4 obey the department's rules and orders, shall not go beyond the
5 quarantined or isolated premises, and shall not put the
6 individual's self in contact with any individual not subject to
7 quarantine or isolation other than a physician, health care
8 provider, or individual authorized to enter a quarantined or
9 isolated premises by the department. Violation of any of the
10 provisions of this subsection is a misdemeanor.

11 (d) No individual, other than an individual authorized by
12 the department, shall enter a quarantined or isolated premises.
13 Any individual entering a quarantined or isolated premises
14 without permission of the department shall be guilty of a
15 misdemeanor. If, by reason of an unauthorized entry into a
16 quarantined or isolated premises, the individual poses a danger
17 to public health, the individual may be subject to [the]
18 quarantine or isolation pursuant to this section.

19 ~~[(c) Before quarantining an individual, the department~~
20 ~~shall obtain a written, ex parte order from a court of this~~
21 ~~State authorizing such action. A petition for an ex parte order~~



1 ~~shall be filed with the circuit court of the circuit in which~~
2 ~~the individual resides, is suspected of residing, or is~~
3 ~~quarantined under subsection (f). Proceedings on or related to~~
4 ~~a petition for an ex parte order shall be a civil action. The~~
5 ~~court shall grant an ex parte order upon finding that probable~~
6 ~~cause exists to believe a quarantine is warranted pursuant to~~
7 ~~this section. A copy of the ex parte order shall be given to~~
8 ~~the individual quarantined, along with notification that the~~
9 ~~individual has a right to a hearing under this section.~~

10 ~~(f) Notwithstanding subsection (c), the department may~~
11 ~~quarantine an individual without first obtaining a written, ex~~
12 ~~parte order from the court if any delay in the quarantine of the~~
13 ~~individual would pose an immediate threat to the public health.~~
14 ~~Following such a quarantine, the department shall promptly~~
15 ~~obtain a written, ex parte order from the court authorizing the~~
16 ~~quarantine.~~

17 ~~(g) An individual quarantined pursuant to subsection (e)~~
18 ~~or (f) shall have the right to a court hearing to contest the ex~~
19 ~~parte order. If the individual, the individual's guardian ad~~
20 ~~litem, or the individual's counsel requests a hearing, the~~
21 ~~hearing shall be held within fourteen days of filing of the~~



1 ~~request. The request shall be in writing and shall be filed~~
2 ~~with the circuit court in the circuit in which the individual is~~
3 ~~quarantined. A request for a hearing shall not alter or stay~~
4 ~~the quarantine of the individual. The department shall be~~
5 ~~notified of the request for a hearing at least ten days before~~
6 ~~the hearing. At the hearing, the department shall show that the~~
7 ~~quarantine is warranted pursuant to this section. If, after~~
8 ~~hearing all relevant evidence, the court finds that the criteria~~
9 ~~for quarantine under subsection (i) have been met by clear and~~
10 ~~convincing evidence, the court shall authorize the continued~~
11 ~~quarantine of the individual.~~

12 ~~(h) On or after thirty days following the issuance of an~~
13 ~~ex parte order or a hearing as provided for in this section, an~~
14 ~~individual quarantined pursuant to this section may request in~~
15 ~~writing a court hearing to contest the continued quarantine.~~
16 ~~The hearing shall be held within fourteen days of the filing of~~
17 ~~the request. The request shall be in writing and shall be filed~~
18 ~~with the circuit court for the circuit in which the individual~~
19 ~~is quarantined. A request for a hearing shall not alter or stay~~
20 ~~the order of quarantine. The department shall be notified of~~
21 ~~the request for a hearing at least ten days before the hearing.~~



1 ~~At the hearing, the department shall show that continuation of~~
2 ~~the quarantine is warranted pursuant to this section. If, after~~
3 ~~hearing all relevant evidence, the court finds that the criteria~~
4 ~~for the quarantine under subsection (i) have been met by clear~~
5 ~~and convincing evidence, the court shall authorize the continued~~
6 ~~quarantine of the individual.~~

7 ~~(i) A court may order an individual to be quarantined if~~
8 ~~the court finds that:~~

9 ~~(1) The individual is reasonably believed to have been~~
10 ~~exposed to or known to have been infected with a~~
11 ~~communicable or dangerous disease; and~~

12 ~~(2) A quarantine is the least restrictive means by which~~
13 ~~the public's health, safety, and welfare can be~~
14 ~~protected, due to the transmittable nature of the~~
15 ~~communicable or dangerous disease and the lack of~~
16 ~~preventive measures, or due to the failure by the~~
17 ~~individual quarantined to accept or practice less~~
18 ~~restrictive measures to prevent disease transmission.~~

19 ~~(j) An individual quarantined pursuant to this section may~~
20 ~~request a hearing in the courts of this State regarding the~~
21 ~~individual's treatment and the terms and conditions of the~~



1 ~~quarantine. Upon receiving a request, the court shall fix a~~
2 ~~date for a hearing. The hearing shall take place within~~
3 ~~fourteen days of the filing of the request with the court. The~~
4 ~~request for a hearing shall not alter or stay the order of~~
5 ~~quarantine. The department shall be notified of the request for~~
6 ~~a hearing at least ten days before the hearing. If, upon a~~
7 ~~hearing, the court finds that the quarantine of the individual~~
8 ~~is not in compliance with subsection (b), the court may fashion~~
9 ~~remedies reasonable under the circumstances and consistent with~~
10 ~~this chapter.~~

11 ~~(k) Judicial decisions shall be based upon clear and~~
12 ~~convincing evidence, and a written record of the disposition of~~
13 ~~the case shall be made and retained. If the personal appearance~~
14 ~~before the court of a quarantined individual is determined by~~
15 ~~the director to pose a threat to individuals at the proceeding~~
16 ~~and the quarantined individual does not waive the right to~~
17 ~~attend the proceeding, the court shall appoint a guardian ad~~
18 ~~litem as provided in article V of chapter 560, to represent the~~
19 ~~quarantined individual throughout the proceeding or shall hold~~
20 ~~the hearing via any means that allow all parties to participate~~
21 ~~as fully and safely as is reasonable under the circumstances.~~



1 ~~(l) Upon written request, the court shall appoint counsel~~
2 ~~at state expense to represent individuals or groups of~~
3 ~~individuals who are or who are about to be quarantined pursuant~~
4 ~~to this section and who are not otherwise represented by~~
5 ~~counsel. Adequate means of communication between those~~
6 ~~individuals or groups and their counsel and guardians ad litem~~
7 ~~shall be provided.~~

8 ~~(m) In any proceeding brought pursuant to this section, in~~
9 ~~consideration of the protection of the public's health, the~~
10 ~~severity of the emergency, and the availability of necessary~~
11 ~~witnesses and evidence, the court may order the consolidation of~~
12 ~~claims by individuals involved or to be affected by a quarantine~~
13 ~~where:~~

14 ~~(1) The number of individuals involved or to be affected~~
15 ~~by a quarantine is so large as to render individual~~
16 ~~participation impractical;~~

17 ~~(2) There are questions of law or fact common to the~~
18 ~~individual claims or rights to be determined;~~

19 ~~(3) The group claims or rights to be determined are~~
20 ~~typical of the affected individuals' claims or rights;~~
21 ~~and~~



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

3 ~~(n)]~~ (e) Each individual quarantined or isolated shall be
4 responsible for the costs of food, lodging, and medical care,
5 except for those costs covered and paid by the individual's
6 health plan.

7 (f) By order of the director, the department, after
8 consultation with and authorization from the governor, may
9 inspect, quarantine, or isolate persons, properties, places,
10 cities, or counties, and take measures as are necessary to
11 ascertain the nature of the disease and prevent its spread
12 whenever in the department's judgment the action is necessary to
13 protect or preserve the public health."

14 SECTION 6. Section 325-20, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "~~[§325-20]~~ **Agreements; collaborative assistance in**
17 **control of disease outbreaks.** (a) The director may enter into
18 agreements for collaborative assistance with licensed health
19 care facilities and health care providers in the State to
20 control an epidemic of a dangerous disease~~[, which]~~ that



1 requires more physical facilities, materials, or personnel than
2 the department has available.

3 ~~[(b) Whenever used in this section, unless a different~~
4 ~~meaning clearly appears from the context.]~~

5 ~~"Dangerous disease" means any illness or health condition~~
6 ~~that might pose a substantial risk of a significant number of~~
7 ~~human fatalities or incidents of permanent or long-term~~
8 ~~disability.~~

9 ~~"Department" means the department of health.~~

10 ~~"Director" means the director of health.~~

11 ~~"Epidemic" means the occurrence of cases of an illness~~
12 ~~clearly in excess of normal expectancy, as determined by the~~
13 ~~director.~~

14 ~~"Health care facility" means a facility as defined in~~
15 ~~section 323D-2.~~

16 ~~"Health care provider" means a provider as defined in~~
17 ~~section 323D-2.~~

18 ~~(e)]~~ (b) Under collaborative agreements, health care
19 facilities or health care providers shall provide prophylactic
20 and treatment services for the epidemic disease in collaboration
21 with and under the general direction of the department and shall



1 seek reimbursement from the individuals who receive medical
2 care, the parties responsible for their care, or their health
3 plans. Persons having health plan benefits shall be responsible
4 for any copayments to the facilities or health care providers.

5 [~~(d)~~] (c) The agreements may provide that the department
6 shall use reasonable efforts to seek legislative appropriations
7 to reimburse health care facilities and health care providers
8 for the use of physical facilities, professional services, and
9 materials provided to persons without health plan coverage.

10 [~~(e)~~] (d) Except in cases of wilful misconduct, the
11 following persons shall not be liable for the death of or injury
12 to any person who is provided care pursuant to this section or
13 for damage to property when resulting from any act or omission
14 in the performance of [~~such~~] those services:

- 15 (1) The State or any political subdivision;
- 16 (2) A health care facility or health care provider acting
17 at the direction of the department under an agreement
18 as provided in this section; and
- 19 (3) Persons engaged in disease prevention and control
20 functions pursuant to this section or sections 325-8



1 and 325-9, including volunteers whose services are
2 accepted by any authorized person."

3 PART V

4 SECTION 7. Section 706-643, Hawaii Revised Statutes, is
5 amended by amending subsection (2) to read as follows:

6 "(2) All fines and other final payments received by a
7 clerk or other officer of a court shall be accounted for, with
8 the names of persons making payment, and the amount and date
9 thereof, being recorded. All [~~such~~] funds shall be deposited
10 with the director of finance to the credit of the general fund
11 of the State. With respect to fines and bail forfeitures that
12 are proceeds of the wildlife revolving fund under section 183D-
13 10.5, [~~and~~] fines that are proceeds of the compliance resolution
14 fund under sections 26-9(o) and 431:2-410, and fines that are
15 proceeds of the travelers screening special fund under sections
16 325-G and 325-H, the director of finance shall transmit the
17 fines and forfeitures to the respective funds."

18 PART VI

19 SECTION 8. Of the amount appropriated by section 37 of
20 Senate Bill No. 126, S.D. 1, H.D. 1, C.D. 1, to the office of
21 the governor to be used for eligible programs pursuant to Public



1 Law 116-136 and associated guidance issued by appropriate
2 federal agencies, the sum of \$5,200,000 or so much thereof as
3 may be necessary for fiscal year 2020-2021 shall be used for
4 purposes of health assurance for the period from July 1, 2020,
5 to December 28, 2020.

6 SECTION 9. Of the amount appropriated by section 37 of
7 Senate Bill No. 126, S.D. 1, H.D. 1, C.D. 1, to the office of
8 the governor to be used for eligible programs pursuant to Public
9 Law 116-136 and associated guidance issued by appropriate
10 federal agencies, the sum of \$5,000,000 or so much thereof as
11 may be necessary for fiscal year 2020-2021 shall be used to
12 provide grants for the period from July 1, 2020, to December 28,
13 2020, for hotels to provide coronavirus disease 2019, or COVID-
14 19, testing for hotel employees; provided that:

15 (1) The amount of each grant shall be determined by the
16 Hawaii tourism authority; provided that no hotel shall
17 receive more than \$250,000; and

18 (2) To qualify for a subsidy under this section, a hotel
19 shall:

20 (A) Test all of its employees for COVID-19 on a
21 regular basis;



- 1 (B) Sustain daily guest room cleaning; and
- 2 (C) Have established safety protocols that have been
- 3 approved by the department of health.

4 SECTION 10. Notwithstanding any other law to the contrary,
5 beginning January 1, 2021, of the revenues collected by the
6 transient accommodations tax pursuant to chapter 237D, Hawaii
7 Revised Statutes, the sum of \$18,000,000 or so much thereof as
8 may be necessary for fiscal year 2020-2021 shall be allocated to
9 the travelers screening special fund established pursuant to
10 section 325-G, Hawaii Revised Statutes; provided that upon the
11 commencement of allocations to the fund on January 1, 2021, this
12 allocation shall have a higher priority than any allocation
13 specified in section 237D-6.5(b), Hawaii Revised Statutes.

14 SECTION 11. There is appropriated out of the travelers
15 screening special fund the sum of \$18,000,000 or so much thereof
16 as may be necessary for fiscal year 2020-2021 to be used for
17 purposes of health assurance for the period from January 1,
18 2021, to June 30, 2021; provided that the amount appropriated
19 shall be expended notwithstanding the requirements of section
20 325-G(b), Hawaii Revised Statutes.

1 The sum appropriated shall be expended by the department of
2 health for the purposes of this Act.

3 PART VII

4 SECTION 12. In printing this Act, the revisor of statutes
5 shall substitute in sections 8 and 9 the corresponding act
6 numbers for bills identified herein.

7 SECTION 13. In codifying the new sections added by
8 sections 2 and 3 of this Act, the revisor of statutes shall
9 substitute appropriate section numbers for the letters used in
10 designating the new sections in this Act.

11 SECTION 14. This Act does not affect rights and duties
12 that matured, penalties that were incurred, and proceedings that
13 were begun before its effective date.

14 SECTION 15. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 16. This Act shall take effect on July 1, 2020;
17 provided that:

18 (1) Section 325-J, Hawaii Revised Statutes, in section 3
19 of this Act shall be repealed on June 30, 2022; and

20 (2) The amendments made to section 325-8(e) to (n), Hawaii
21 Revised Statutes, in section 5 of this Act shall be



1 repealed on June 30, 2022, and section 325-8(e) to
2 (n), Hawaii Revised Statutes, shall be reenacted in
3 the form in which it read on the day prior to the
4 effective date of this Act.



Report Title:

Department of Health; Communicable or Dangerous Diseases; Screening; Monitoring; Penalties; Quarantine; Isolation; COVID-19 Testing; Grants for Hotels; Appropriation

Description:

Authorizes the Director of Health, upon consultation with and authorization from the Governor, to screen, test, and monitor travelers. Provides for penalties for noncompliance. Amends and adds definitions and procedural and administrative provisions in chapter 325, Hawaii Revised Statutes. Allocates funds appropriated to the Governor by Senate Bill No. 126, S.D. 1, H.D. 1, C.D. 1, to be used for health assurance and grants for hotels to conduct COVID-19 testing for employees. Establishes a travelers screening special fund. Allocates funds from the transient accommodations tax to the travelers screening special fund for a portion of fiscal year 2020-2021. Sunsets certain provisions on 6/30/2022.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

