
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 in protecting 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' households, 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 it necessary to establish penalties to address
18 individuals who are uncooperative or seek to evade the screening
19 process. This screening process will also authorize the
20 department of health to take certain actions upon completion of
21 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 therefore, and exercise the following powers:

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



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

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

9 (b) Quarantine and isolation pursuant to this section
10 shall not be subject to the requirements pursuant to section
11 325-8(a).

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

16 (d) The director's declaration of a public health
17 emergency shall be posted on the department's website and shall
18 terminate automatically ninety days after the declaration,
19 unless earlier terminated or extended or revoked by the governor
20 or director in consultation with and authorization from the
21 governor. Any extension shall terminate automatically after



1 ninety days, unless further extended by the governor or director
2 in consultation with and authorization from the governor.

3 **§325-B Detection of communicable or dangerous diseases in**
4 **travelers; screening, investigating, monitoring, quarantining,**
5 **isolating, data-sharing, and other actions to protect the public**
6 **health and safety.** (a) Whenever the director, after
7 consultation with and authorization from the governor,
8 determines it is necessary to detect, prevent, prepare for,
9 respond to, mitigate, or recover from the transmission of
10 communicable or dangerous diseases by traveling members of the
11 public, the department may, by order of the director:

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

16 (2) Investigate interisland, domestic, or international
17 travelers and persons in contact with those travelers
18 as determined by the director to be necessary to
19 detect, prevent, or control the transmission of a
20 communicable or dangerous disease;



- 1 (3) Monitor interisland, domestic, or international
2 travelers after their arrival as determined by the
3 department to be necessary to detect, prevent, prepare
4 for, respond to, mitigate, or recover from the
5 transmission of a communicable or dangerous disease;
- 6 (4) Quarantine interisland, domestic, or international
7 travelers after their arrival as determined by the
8 department to be necessary to detect, prevent, prepare
9 for, respond to, mitigate, or recover from the
10 transmission of a communicable or dangerous disease
11 pursuant to section 325-8;
- 12 (5) Isolate interisland, domestic, or international
13 travelers after their arrival as determined by the
14 department to be necessary to detect, prevent, prepare
15 for, respond to, mitigate, or recover from the
16 transmission of a communicable or dangerous disease
17 pursuant to section 325-8; and
- 18 (6) Enlist the services or collaboration of any other
19 federal, state, county, or private entity to assist
20 with any of the activities in this section.



1 (b) Travelers arriving in a Hawaii port of entry may be
2 required to provide a completed State of Hawaii traveler
3 questionnaire on a form, or in a manner, approved by the
4 department. Failure to provide a completed State of Hawaii
5 travel questionnaire as directed by the department is a
6 violation of this section.

7 **§325-C Communicable or dangerous diseases, screening,**
8 **treatment, and isolation.** Upon entry to the State, all persons
9 may be required to submit to a screening for communicable or
10 dangerous diseases as deemed appropriate by the department. The
11 diseases screened for shall include those deemed a public health
12 and safety risk by the department at the time of the screening.
13 If the department deems it necessary for the public health,
14 treatment, quarantine, and isolation may be required, at the
15 expense of the person entering the State.

16 **§325-D Administrative rules.** (a) No later than June 30,
17 2022, the department shall adopt rules pursuant to chapter 91 to
18 effectuate the purposes of this part.

19 (b) No later than October 1, 2020, the department shall
20 adopt interim rules, which shall be exempt from the requirements
21 of chapter 91 and the requirements of chapter 201M, to



1 effectuate the purposes of this part; provided that the interim
2 rules shall remain in effect until rules are adopted pursuant to
3 subsection (a).

4 (c) The department may amend the interim rules, and the
5 amendments shall be exempt from the requirements of chapter 91
6 and from the requirements of chapter 201M, to effectuate the
7 purposes of this chapter; provided that any amended interim
8 rules shall remain in effect until rules are adopted pursuant to
9 subsection (a).

10 (d) The department shall make the adoption, amendment, or
11 repeal of interim 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 section
16 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 the provisions of or any requirement in 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 of set forth in sections 325-B and
16 325-C regarding the detection of communicable or dangerous
17 diseases in travelers, and related screening, investigating,
18 monitoring, quarantining, isolating, data-sharing, other related
19 actions, 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 rules 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 be appropriately
7 designated and to read as follows:

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

9 "Communicable disease" means an illness due to a specific
10 infectious agent or its toxic products that arises through
11 transmission of that agent or its products from an infected
12 person or animal or a reservoir to a susceptible host, either
13 directly, or indirectly through an intermediate animal host,
14 vector, or the inanimate environment. "Communicable disease"
15 includes "infectious disease" and any disease declared to be
16 "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 facility as defined in
6 section 323D-2.

7 "Infectious disease" means a disease that spreads from
8 person to person, directly or indirectly, that poses a
9 significant public health risk.

10 "Isolation" means the physical separation, including the
11 restriction of movement or confinement of individuals or groups
12 confirmed by the department to have been infected with a
13 communicable or dangerous disease, from individuals who are
14 believed not to have been exposed or infected, by order of the
15 director, the governor, or a court of competent jurisdiction.
16 Conditions of isolation may be more restrictive than as for
17 quarantine.

18 "Quarantine" means the physical separation, including the
19 restriction of movement or confinement of individuals or groups
20 believed to have been exposed to a communicable or dangerous
21 disease, or who otherwise have or create a potential risk of



1 transmitting a communicable or dangerous disease to others from
2 individuals who are believed not to have been exposed or
3 infected, by order of the director, the governor, or a court of
4 competent jurisdiction, based on information collected and
5 reviewed by the department.

6 "Screening" means a diagnostic tool administered to detect
7 the presence of a communicable or dangerous disease in an
8 individual and may include the measuring of a person's
9 temperature. "Screening" also includes the administration of
10 one or more questionnaires used to conduct surveillance of
11 disease activity or to determine to whom a test or diagnostic
12 tool is to be administered.

13 **§325-J Right to contest.** (a) An individual subject to
14 quarantine or isolation pursuant to this chapter may request a
15 hearing in the courts of this State to contest the order of
16 quarantine or isolation, the individual's treatment, or the
17 terms and conditions of the quarantine or isolation. The
18 request shall be in writing and shall be filed as a civil
19 proceeding with the circuit court in the circuit in which the
20 individual is quarantined or isolated. Upon receiving a
21 request, the court shall fix a date for a hearing. The hearing



1 shall take place within ten days of the filing of the request
2 with the court. The request for a hearing shall not alter or
3 stay the order of quarantine or isolation. The department shall
4 be notified of the request for a hearing at least seven days
5 before the hearing by the individual requesting the hearing.
6 If, after a hearing, the court finds that the quarantine or
7 isolation of the individual is not in compliance with this part,
8 the court may fashion remedies reasonable under the
9 circumstances and consistent with this chapter.

10 (b) Judicial decisions shall be based upon clear and
11 convincing evidence; provided that in hearings to contest the
12 individual's screening, treatment, or the terms or conditions of
13 the quarantine or isolation, judicial decisions shall be based
14 upon a preponderance of the evidence. A written record of the
15 disposition of the case shall be made and retained. If the
16 personal appearance before the court of a quarantined or
17 isolated individual is determined by the director to pose a
18 threat to individuals at the proceeding and the quarantined or
19 isolated individual does not waive the right to attend the
20 proceeding, the court shall appoint a guardian ad litem, to
21 represent the quarantined or isolated individual throughout the



1 proceeding or shall hold the hearing via any means that allow
2 all parties to participate as fully and safely as is reasonable
3 under the circumstances.

4 (c) Upon written request, the court may, in its
5 discretion, appoint counsel to represent individuals or groups
6 of individuals who are or who are about to be quarantined or
7 isolated pursuant to this section and who are not otherwise
8 represented by counsel. Adequate means of communication between
9 those individuals or groups and their counsel or their guardian
10 ad litem shall be provided by the department, if adequate means
11 of communication is not otherwise available to them.

12 (d) In any proceeding brought pursuant to this section, in
13 consideration of the protection of the public's health, the
14 severity of the emergency, and the availability of necessary
15 witnesses and evidence, the court may order the consolidation of
16 claims where:

17 (1) The number of individuals involved or to be affected
18 by an order of quarantine or isolation is so large as
19 to render individual participation impractical;
20 (2) There are questions of law or fact common to the
21 individual claims or rights to be determined;



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

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

6 §325-K Collection, receipt, and use of information;
7 disclosure; confidentiality of information. (a)

8 Notwithstanding any other law to the contrary, the department,
9 other governmental agencies, or private entities under contract
10 with the department, who act pursuant to this section, may
11 collect, receive, and use information for the purposes of
12 detecting, preventing, preparing for, responding to, mitigating,
13 or recovering from the transmission of communicable or dangerous
14 diseases. Collection, receipt, and use of the information may
15 include the sharing of the information between or among the
16 department, other governmental agencies, and private entities
17 under contract with the department. Collection, receipt, and
18 use shall not include disclosure of the information to other
19 departments, entities, or individuals except as provided in
20 subsection (b).



1 (b) The information to be collected, received, and used
2 pursuant to this section may be disclosed by the department to
3 the public only as necessary to prevent or lessen a serious and
4 imminent threat to the health or safety of a person or the
5 public, including the transmission of communicable or dangerous
6 diseases to others.

7 (c) All information collected, received, or used, pursuant
8 to this section shall be confidential and shall not be used or
9 disclosed, except as allowed by this section or as required by
10 law. Any governmental agency or private entity that collects,
11 receives, or uses information pursuant to this section shall be
12 subject to the same restrictions on collection, receipt, and use
13 of that information as the department.

14 **§325-L Construction and severability.** (a) This chapter
15 shall be liberally construed to effectuate its purposes;
16 provided that this chapter shall not be construed as conferring
17 any power or permitting any action that is inconsistent with the
18 Constitution and laws of the United States, but, in so
19 construing this chapter, due consideration shall be given to the
20 circumstances as they exist from time to time.



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

4 **PART IV**

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

7 "~~+~~§325-2.5~~+~~ **Health care-associated infection**
8 **reporting.** (a) Each health care facility in the State that is
9 certified by the Centers for Medicare and Medicaid Services
10 shall report information about health care-associated infections
11 to the Centers for Disease Control and Prevention's national
12 healthcare safety network, as specified in the rules of the
13 Centers for Medicare and Medicaid Services.

14 (b) Health care facilities subject to this section shall
15 authorize the Centers for Disease Control and Prevention to
16 allow the department to access health care-associated infection
17 data reported by those health care facilities to the national
18 healthcare safety network.

19 (c) The department may adopt rules pursuant to chapter 91
20 to require that health care-associated infections that are
21 multidrug-resistant be reported to the department through the



1 national healthcare safety network. The rules shall specify
2 which health care facilities are required to report those health
3 care-associated infections that are multidrug-resistant through
4 the national healthcare safety network, as well as the patient
5 populations that are to be targeted in the reports. The first
6 year of reporting required under this subsection shall be a
7 pilot test of the reporting system and shall not be reported or
8 disclosed to the public.

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

12 (e) The department may issue reports to the public
13 regarding health care-associated infections in aggregate data
14 form to protect individual patient identity. The reports may
15 identify individual health care facilities. The reports shall
16 use the methodology or any part of the methodology developed by
17 the Centers for Disease Control and Prevention and the Centers
18 for Medicare and Medicaid Services for national reporting of
19 health care-associated infections.

20 (f) Health care-associated infection information held by
21 the department as a result of reporting under this section is



1 not subject to subpoena, discovery, or introduction into
2 evidence in any civil or criminal proceeding; provided that
3 health care-associated infection information otherwise available
4 from other sources is not immune from subpoena, discovery, or
5 introduction into evidence through those sources solely because
6 the information was reported as required by this section.

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

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

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

14 ~~"Health care facility" means the same as in section~~
15 ~~323D-2.] "~~

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

18 **"§325-8 Infected persons and quarantine.** (a) ~~[As used in~~
19 ~~this section:~~

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



1 ~~"Dangerous disease" means a disease as defined in section~~
2 ~~325-20.~~

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

- 11 (1) Any delay in the quarantine or isolation of the
12 individual would pose an immediate threat to the
13 public health;
- 14 (2) The individual is reasonably believed to have been
15 exposed to or known to have been infected with a
16 communicable or dangerous disease; and
- 17 (3) A quarantine or isolation is the least restrictive
18 means by which the public's health, safety, and
19 welfare can be protected, due to the transmittable
20 nature of the communicable or dangerous disease and
21 the lack of preventive measures, or due to the failure



1 by the individual quarantined or isolated to accept or
2 practice less restrictive measures to prevent disease
3 transmission.

4 (b) In implementing a quarantine~~[7]~~ or isolation, the
5 dignity of the individual quarantined or isolated shall be
6 respected at all times and to the greatest extent possible,
7 consistent with the objective of preventing or limiting the
8 transmission of the disease to others. The needs of individuals
9 quarantined or isolated shall be addressed in as systematic and
10 competent a fashion as is reasonable under the circumstances.
11 To the greatest extent possible, the premises in which
12 individuals are quarantined or isolated shall be maintained in a
13 safe and hygienic manner, designed to minimize the likelihood of
14 further transmission of infection or other harm to individuals
15 subject to quarantine~~[—Adequate]~~ or isolation; provided that,
16 if an individual is quarantined or isolated in the individual's
17 own home or in a rented premises, the individual shall be
18 responsible for maintaining the premises in a safe and hygienic
19 manner. Access to adequate food, clothing, medication, and
20 other necessities, access to counsel, means of communication
21 with ~~[those in and outside these settings,]~~ others, and



1 ~~[competent]~~ appropriate medical care shall ~~[be provided]~~ not be
2 denied to the person quarantined~~[ed]~~ or isolated, at the person's
3 expense.

4 To the greatest extent possible, cultural and religious
5 beliefs shall be considered in addressing the needs of
6 quarantined or isolated individuals. The department may
7 establish and maintain places of quarantine and isolation and
8 quarantine or isolate any individual by the least restrictive
9 means necessary to protect the public health.

10 The department shall take all reasonable means to prevent
11 the transmission of infection between or among quarantined or
12 isolated individuals. The quarantine or isolation of any
13 individual shall be terminated when the director determines that
14 the quarantine or isolation of that individual is no longer
15 necessary to protect the public health.

16 (c) An individual subject to quarantine or isolation shall
17 obey the department's rules and orders, shall not go beyond the
18 quarantined or isolated premises, and shall not put the
19 individual's self in contact with any individual not subject to
20 quarantine or isolation other than a physician, health care
21 provider, or individual authorized to enter a quarantined or



1 isolated premises by the department. Violation of any of the
2 provisions of this subsection is a misdemeanor.

3 (d) No individual, other than an individual authorized by
4 the department, shall enter a quarantined or isolated premises.
5 Any individual entering a quarantined or isolated premises
6 without permission of the department shall be guilty of a
7 misdemeanor. If, by reason of an unauthorized entry into a
8 quarantined or isolated premises, the individual poses a danger
9 to public health, the individual may be subject to ~~[the]~~
10 quarantine or isolation pursuant to this section.

11 ~~[(e) Before quarantining an individual, the department~~
12 ~~shall obtain a written, ex parte order from a court of this~~
13 ~~State authorizing such action. A petition for an ex parte order~~
14 ~~shall be filed with the circuit court of the circuit in which~~
15 ~~the individual resides, is suspected of residing, or is~~
16 ~~quarantined under subsection (f). Proceedings on or related to~~
17 ~~a petition for an ex parte order shall be a civil action. The~~
18 ~~court shall grant an ex parte order upon finding that probable~~
19 ~~cause exists to believe a quarantine is warranted pursuant to~~
20 ~~this section. A copy of the ex parte order shall be given to~~



1 ~~the individual quarantined, along with notification that the~~
2 ~~individual has a right to a hearing under this section.~~

3 ~~(f) Notwithstanding subsection (e), the department may~~
4 ~~quarantine an individual without first obtaining a written, ex~~
5 ~~parte order from the court if any delay in the quarantine of the~~
6 ~~individual would pose an immediate threat to the public health.~~
7 ~~Following such a quarantine, the department shall promptly~~
8 ~~obtain a written, ex parte order from the court authorizing the~~
9 ~~quarantine.~~

10 ~~(g) An individual quarantined pursuant to subsection (e)~~
11 ~~or (f) shall have the right to a court hearing to contest the ex~~
12 ~~parte order. If the individual, the individual's guardian ad~~
13 ~~litem, or the individual's counsel requests a hearing, the~~
14 ~~hearing shall be held within fourteen days of filing of the~~
15 ~~request. The request shall be in writing and shall be filed~~
16 ~~with the circuit court in the circuit in which the individual is~~
17 ~~quarantined. A request for a hearing shall not alter or stay~~
18 ~~the quarantine of the individual. The department shall be~~
19 ~~notified of the request for a hearing at least ten days before~~
20 ~~the hearing. At the hearing, the department shall show that the~~
21 ~~quarantine is warranted pursuant to this section. If, after~~



1 ~~hearing all relevant evidence, the court finds that the criteria~~
2 ~~for quarantine under subsection (i) have been met by clear and~~
3 ~~convincing evidence, the court shall authorize the continued~~
4 ~~quarantine of the individual.~~

5 ~~(h) On or after thirty days following the issuance of an~~
6 ~~ex parte order or a hearing as provided for in this section, an~~
7 ~~individual quarantined pursuant to this section may request in~~
8 ~~writing a court hearing to contest the continued quarantine.~~
9 ~~The hearing shall be held within fourteen days of the filing of~~
10 ~~the request. The request shall be in writing and shall be filed~~
11 ~~with the circuit court for the circuit in which the individual~~
12 ~~is quarantined. A request for a hearing shall not alter or stay~~
13 ~~the order of quarantine. The department shall be notified of~~
14 ~~the request for a hearing at least ten days before the hearing.~~
15 ~~At the hearing, the department shall show that continuation of~~
16 ~~the quarantine is warranted pursuant to this section. If, after~~
17 ~~hearing all relevant evidence, the court finds that the criteria~~
18 ~~for the quarantine under subsection (i) have been met by clear~~
19 ~~and convincing evidence, the court shall authorize the continued~~
20 ~~quarantine of the individual.~~



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

3 ~~(1) The individual is reasonably believed to have been~~
4 ~~exposed to or known to have been infected with a~~
5 ~~communicable or dangerous disease, and~~

6 ~~(2) A quarantine is the least restrictive means by which~~
7 ~~the public's health, safety, and welfare can be~~
8 ~~protected, due to the transmittable nature of the~~
9 ~~communicable or dangerous disease and the lack of~~
10 ~~preventive measures, or due to the failure by the~~
11 ~~individual quarantined to accept or practice less~~
12 ~~restrictive measures to prevent disease transmission.~~

13 ~~(j) An individual quarantined pursuant to this section may~~
14 ~~request a hearing in the courts of this State regarding the~~
15 ~~individual's treatment and the terms and conditions of the~~
16 ~~quarantine. Upon receiving a request, the court shall fix a~~
17 ~~date for a hearing. The hearing shall take place within~~
18 ~~fourteen days of the filing of the request with the court. The~~
19 ~~request for a hearing shall not alter or stay the order of~~
20 ~~quarantine. The department shall be notified of the request for~~
21 ~~a hearing at least ten days before the hearing. If, upon a~~



1 ~~hearing, the court finds that the quarantine of the individual~~
2 ~~is not in compliance with subsection (b), the court may fashion~~
3 ~~remedies reasonable under the circumstances and consistent with~~
4 ~~this chapter.~~

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

16 ~~(l) Upon written request, the court shall appoint counsel~~
17 ~~at state expense to represent individuals or groups of~~
18 ~~individuals who are or who are about to be quarantined pursuant~~
19 ~~to this section and who are not otherwise represented by~~
20 ~~counsel. Adequate means of communication between those~~



1 ~~individuals or groups and their counsel and guardians ad litem~~
2 ~~shall be provided.~~

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

9 ~~(1) The number of individuals involved or to be affected~~
10 ~~by a quarantine is so large as to render individual~~
11 ~~participation impractical,~~

12 ~~(2) There are questions of law or fact common to the~~
13 ~~individual claims or rights to be determined,~~

14 ~~(3) The group claims or rights to be determined are~~
15 ~~typical of the affected individuals' claims or rights,~~
16 ~~and~~

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

19 ~~(n)]~~ (e) Each individual quarantined shall be responsible
20 for the costs of food, lodging, and medical care, except for
21 those costs covered and paid by the individual's health plan.



1 (f) By order of the director, the department may inspect,
2 quarantine, or isolate persons, property, places, cities, or
3 counties, and take measures as are necessary to ascertain the
4 nature of the disease and prevent its spread whenever in its
5 judgment the action is necessary to protect or preserve the
6 public health."

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

9 "~~{}~~§325-20~~{}~~ **Agreements; collaborative assistance in**
10 **control of disease outbreaks.** (a) The director may enter into
11 agreements for collaborative assistance with licensed health
12 care facilities and health care providers in the State to
13 control an epidemic of a dangerous disease~~[, which]~~ that
14 requires more physical facilities, materials, or personnel than
15 the department has available.

16 ~~[(b) Whenever used in this section, unless a different~~
17 ~~meaning clearly appears from the context:~~

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



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

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

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

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

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

10 ~~(e)]~~ (b) Under collaborative agreements, health care
11 facilities or health care providers shall provide prophylactic
12 and treatment services for the epidemic disease in collaboration
13 with and under the general direction of the department and shall
14 seek reimbursement from the individuals who receive medical
15 care, the parties responsible for their care, or their health
16 plans. Persons having health plan benefits shall be responsible
17 for any copayments to the facilities or health care providers.

18 ~~[(d)]~~ (c) The agreements may provide that the department
19 shall use reasonable efforts to seek legislative appropriations
20 to reimburse health care facilities and health care providers



1 for the use of physical facilities, professional services, and
2 materials provided to persons without health plan coverage.

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

- 8 (1) The State or any political subdivision;
- 9 (2) A health care facility or health care provider acting
10 at the direction of the department under an agreement
11 as provided in this section; and
- 12 (3) Persons engaged in disease prevention and control
13 functions pursuant to this section or sections 325-8
14 and 325-9, including volunteers whose services are
15 accepted by any authorized person."

16 **PART V**

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

19 "(2) All fines and other final payments received by a
20 clerk or other officer of a court shall be accounted for, with
21 the names of persons making payment, and the amount and date



1 thereof, being recorded. All such funds shall be deposited with
2 the director of finance to the credit of the general fund of the
3 State. With respect to fines and bail forfeitures that are
4 proceeds of the wildlife revolving fund under section 183D-10.5,
5 and fines that are proceeds of the compliance resolution fund
6 under sections 26-9(o) and 431:2-410, and fines that are
7 proceeds of the travelers screening special fund under sections
8 325-G and 325-H, the director of finance shall transmit the
9 fines and forfeitures to the respective funds."

10 **PART VI**

11 SECTION 8. Section 346-59.1, Hawaii Revised Statutes, is
12 amended by amending subsection (g) to read as follows:

13 "(g) For the purposes of this section:

14 "Distant site" means the location of the health care
15 provider delivering services through telehealth at the time the
16 services are provided.

17 "Health care provider" means a provider of services, as
18 defined in title 42 United States Code section 1395x(u), a
19 provider of medical and other health services, as defined in
20 title 42 United States Code section 1395x(s), other
21 practitioners licensed by the State and working within their



1 scope of practice, and any other person or organization who
2 furnishes, bills, or is paid for health care in the normal
3 course of business, including but not limited to primary care
4 providers, mental health providers, oral health providers,
5 physicians and osteopathic physicians licensed under chapter
6 453, advanced practice registered nurses licensed under chapter
7 457, psychologists licensed under chapter 465, and dentists
8 licensed under chapter 448.

9 "Originating site" means the location where the patient is
10 located, whether accompanied or not by a health care provider,
11 at the time services are provided by a health care provider
12 through telehealth, including but not limited to a health care
13 provider's office, hospital, critical access hospital, rural
14 health clinic, federally qualified health center, a patient's
15 home, and other non-medical environments such as school-based
16 health centers, university-based health centers, or the work
17 location of a patient.

18 "Telehealth" means the use of telecommunications services,
19 as defined in section 269-1, to encompass four modalities:
20 store and forward technologies, remote monitoring, live
21 consultation, and mobile health; and which shall include but not



1 be limited to real-time video conferencing-based communication,
 2 secure interactive and non-interactive web-based communication,
 3 and secure asynchronous information exchange, to transmit
 4 patient medical information, including diagnostic-quality
 5 digital images and laboratory results for medical interpretation
 6 and diagnosis, for the purpose of delivering enhanced health
 7 care services and information while a patient is at an
 8 originating site and the health care provider is at a distant
 9 site. [~~Standard telephone contacts, facsimile~~] Facsimile
 10 transmissions, or e-mail text, in combination or by itself, does
 11 not constitute a telehealth service for the purposes of this
 12 section."

13 SECTION 9. Section 431:10A-116.3, Hawaii Revised Statutes,
 14 is amended by amending subsection (g) to read as follows:

15 "(g) For the purposes of this section:

16 "Distant site" means the location of the health care
 17 provider delivering services through telehealth at the time the
 18 services are provided.

19 "Health care provider" means a provider of services, as
 20 defined in title 42 United States Code section 1395x(u), a
 21 provider of medical and other health services, as defined in



1 title 42 United States Code section 1395x(s), other
2 practitioners licensed by the State and working within their
3 scope of practice, and any other person or organization who
4 furnishes, bills, or is paid for health care in the normal
5 course of business, including but not limited to primary care
6 providers, mental health providers, oral health providers,
7 physicians and osteopathic physicians licensed under chapter
8 453, advanced practice registered nurses licensed under chapter
9 457, psychologists licensed under chapter 465, and dentists
10 licensed under chapter 448.

11 "Originating site" means the location where the patient is
12 located, whether accompanied or not by a health care provider,
13 at the time services are provided by a health care provider
14 through telehealth, including but not limited to a health care
15 provider's office, hospital, health care facility, a patient's
16 home, and other nonmedical environments such as school-based
17 health centers, university-based health centers, or the work
18 location of a patient.

19 "Telehealth" means the use of telecommunications services,
20 as defined in section 269-1, to encompass four modalities:
21 store and forward technologies, remote monitoring, live



1 consultation, and mobile health; and which shall include but not
2 be limited to real-time video conferencing-based communication,
3 secure interactive and non-interactive web-based communication,
4 and secure asynchronous information exchange, to transmit
5 patient medical information, including diagnostic-quality
6 digital images and laboratory results for medical interpretation
7 and diagnosis, for the purpose of delivering enhanced health
8 care services and information while a patient is at an
9 originating site and the health care provider is at a distant
10 site. [~~Standard telephone contacts, facsimile~~] Facsimile
11 transmissions, or e-mail text, in combination or by itself, does
12 not constitute a telehealth service for the purposes of this
13 chapter."

14 SECTION 10. Section 432:1-601.5, Hawaii Revised Statutes,
15 is amended by amending subsection (g) to read as follows:

16 "(g) For the purposes of this section:

17 "Health care provider" means a provider of services, as
18 defined in title 42 United States Code section 1395x(u), a
19 provider of medical and other health services, as defined in
20 title 42 United States Code section 1395x(s), other
21 practitioners licensed by the State and working within their



1 scope of practice, and any other person or organization who
2 furnishes, bills, or is paid for health care in the normal
3 course of business, including but not limited to primary care
4 providers, mental health providers, oral health providers,
5 physicians and osteopathic physicians licensed under chapter
6 453, advanced practice registered nurses licensed under chapter
7 457, psychologists licensed under chapter 465, and dentists
8 licensed under chapter 448.

9 "Originating site" means the location where the patient is
10 located, whether accompanied or not by a health care provider,
11 at the time services are provided by a health care provider
12 through telehealth, including but not limited to a health care
13 provider's office, hospital, health care facility, a patient's
14 home, and other nonmedical environments such as school-based
15 health centers, university-based health centers, or the work
16 location of a patient.

17 "Telehealth" means the use of telecommunications services,
18 as defined in section 269-1, to encompass four modalities:
19 store and forward technologies, remote monitoring, live
20 consultation, and mobile health; and which shall include but not
21 be limited to real-time video conferencing-based communication,



1 secure interactive and non-interactive web-based communication,
2 and secure asynchronous information exchange, to transmit
3 patient medical information, including diagnostic-quality
4 digital images and laboratory results for medical interpretation
5 and diagnosis, for the purpose of delivering enhanced health
6 care services and information while a patient is at an
7 originating site and the health care provider is at a distant
8 site. [~~Standard telephone contacts, facsimile~~] Facsimile
9 transmissions, or e-mail text, in combination or by itself, does
10 not constitute a telehealth service for the purposes of this
11 chapter."

12 SECTION 11. Section 432D-23.5, Hawaii Revised Statutes, is
13 amended by amending subsection (g) to read as follows:

14 "(g) For the purposes of this section:

15 "Distant site" means the location of the health care
16 provider delivering services through telehealth at the time the
17 services are provided.

18 "Health care provider" means a provider of services, as
19 defined in title 42 United States Code section 1395x(u), a
20 provider of medical and other health services, as defined in
21 title 42 United States Code section 1395x(s), other



1 practitioners licensed by the State and working within their
2 scope of practice, and any other person or organization who
3 furnishes, bills, or is paid for health care in the normal
4 course of business, including but not limited to primary care
5 providers, mental health providers, oral health providers,
6 physicians and osteopathic physicians licensed under chapter
7 453, advanced practice registered nurses licensed under chapter
8 457, psychologists licensed under chapter 465, and dentists
9 licensed under chapter 448.

10 "Originating site" means the location where the patient is
11 located, whether accompanied or not by a health care provider,
12 at the time services are provided by a health care provider
13 through telehealth, including but not limited to a health care
14 provider's office, hospital, health care facility, a patient's
15 home, and other nonmedical environments such as school-based
16 health centers, university-based health centers, or the work
17 location of a patient.

18 "Telehealth" means the use of telecommunications services,
19 as defined in section 269-1, to encompass four modalities:
20 store and forward technologies, remote monitoring, live
21 consultation, and mobile health; and which shall include but not



1 be limited to real-time video conferencing-based communication,
2 secure interactive and non-interactive web-based communication,
3 and secure asynchronous information exchange, to transmit
4 patient medical information, including diagnostic-quality
5 digital images and laboratory results for medical interpretation
6 and diagnosis, for the purpose of delivering enhanced health
7 care services and information while a patient is at an
8 originating site and the health care provider is at a distant
9 site. [~~Standard telephone contacts, facsimile~~] Facsimile
10 transmissions, or e-mail text, in combination or by itself, does
11 not constitute a telehealth service for the purposes of this
12 chapter."

13 **PART VII**

14 SECTION 12. There is appropriated out of the general
15 revenues of the State of Hawaii the sum of \$ or so
16 much thereof as may be necessary for fiscal year 2020-2021 to be
17 deposited into the travelers screening special fund established
18 pursuant to section 325-G, Hawaii Revised Statutes.

19 SECTION 13. There is appropriated out of the travelers
20 screening special fund the sum of \$ or so much thereof



1 as may be necessary for fiscal year 2020-2021 to carry out the
2 purposes of this Act.

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

5 **PART VIII**

6 SECTION 14. In codifying the new sections added by
7 sections 2 and 3 of this Act, the revisor of statutes shall
8 substitute appropriate section numbers for the letters used in
9 designating the new sections in this Act.

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

12 SECTION 16. This Act shall take effect on July 1, 2050;
13 provided that parts III and IV shall be repealed on June 30,
14 2025; provided further that sections 325-2.5, 325-8, and 325-20,
15 Hawaii Revised Statutes, shall be reenacted in the form in which
16 they read on the day prior to the effective date of this Act.



Report Title:

DOH; Communicable or Dangerous Diseases; Screening; Monitoring; Penalties; Quarantine; Isolation; Telehealth; 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. Establishes a travelers screening special fund. Repeals the statutory prohibitions on the use of telephone services as part of telehealth coverage, under certain conditions. Provides an appropriation. Effective 7/1/2050. Sunsets certain provisions on 6/30/2025. (SD1)

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