

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL 670

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Mary Jane M Garcia

AN ACT

RELATING TO PUBLIC HEALTH; ESTABLISHING ISOLATION PROCEDURES FOR PATIENTS WITH COMMUNICABLE DISEASES; AMENDING A SECTION OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 24-1-15 NMSA 1978 (being Laws 1973, Chapter 359, Section 15) is amended to read:

"24-1-15. REPORTING OF CONTAGIOUS DISEASES. --

A. Whenever any physician or other person knows that any person is sick with any disease dangerous to the public health, he shall promptly notify [the district health officer] a public health official or his authorized agent.

~~[B. Any health authority receiving notice that any person is infected with disease dangerous to the public health shall secure his voluntary isolation, or if such person~~

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 ~~refuses to submit to isolation, he shall file a complaint with~~
2 ~~any magistrate or district court judge having jurisdiction~~
3 ~~over the infected person. The complaint shall state the facts~~
4 ~~as related, under oath, by the health authority or the facts~~
5 ~~according to his information and belief. Any magistrate or~~
6 ~~district court judge having jurisdiction may upon proper~~
7 ~~complaint issue a warrant directed to an officer authorized to~~
8 ~~serve arrest warrants requiring such officer under the~~
9 ~~direction of the complaining health authority to isolate the~~
10 ~~person.]~~

11 B. A public health official who has knowledge that
12 a person is currently infected with a threatening communicable
13 disease and has refused voluntary treatment, detention or
14 observation shall petition the court for an order to detain
15 and treat the person who is infected with the threatening
16 communicable disease until the person is no longer a
17 contagious threat to the public or the person voluntarily
18 complies with the appropriate treatment and contagion
19 precautions.

20 C. The petition shall be made under oath or shall
21 be accompanied by a sworn affidavit setting out specific facts
22 showing that the person is infected with a threatening
23 communicable disease.

24 D. The petition shall state that the person to be
25 detained:

underscored material = new
[bracketed material] = delete

1 (1) is actively infectious with a threatening
2 communicable disease or presents a substantial likelihood of
3 having a threatening communicable disease based on credible
4 medical evidence;

5 (2) poses a substantial likelihood of
6 transmission of the threatening communicable disease to others
7 because of inadequate separation from others; and

8 (3) after being advised of his condition and
9 the risks posed thereby, has refused voluntary treatment.

10 E. Upon the filing of a petition the court shall:

11 (1) immediately grant ex parte a temporary
12 order of protection to isolate and begin treating the person
13 infected with the threatening communicable disease if there is
14 probable cause from the specific facts shown by the affidavit
15 or by the petition to give the judge reason to believe that
16 the person infected with a threatening communicable disease
17 poses a substantial threat to the public health and safety;

18 (2) cause the temporary order of protection,
19 notice of hearing and an advisement of the terms of the
20 temporary protective order, including his right to
21 representation and re-petition for termination of any
22 protective order that removes, detains and treats the infected
23 person, to be immediately served on the allegedly infected
24 person; and

25 (3) within five days after the granting of

underscored material = new
[bracketed material] = delete

1 the temporary order of protection, hold an evidentiary hearing
2 to determine if the court shall continue the order.

3 F. A person held pursuant to a temporary
4 protective order as set forth in Subsection E of this section
5 shall be:

6 (1) entitled to representation by counsel at
7 the evidentiary hearing and at all hearings thereafter for the
8 duration of the period of removal, detention and treatment;
9 and

10 (2) permitted to communicate on any matter,
11 including his removal, detention and treatment, with persons
12 by telephone, or other reasonably available means, that do not
13 expose other persons to the risk of infection for the duration
14 of the period of removal, detention and treatment.

15 G. At the evidentiary hearing the court shall
16 review the circumstances surrounding the temporary order and
17 order a subsequent hearing within ninety days of the temporary
18 order's issuance and every ninety days thereafter until:

19 (1) the person being held and treated
20 completes his treatment and is certified by a public health
21 official to pose no further risk of infecting others;

22 (2) the person being held and treated can
23 show, by clear and convincing evidence, that he can and will
24 comply with appropriate treatment and contagion precautions
25 voluntarily; or

underscored material = new
[bracketed material] = delete

1 (3) exceptional circumstances exist
2 warranting the termination of the temporary protective order.

3 H. The provisions of this section do not permit
4 the forcible administration of any other medications not
5 reasonably required for the treatment of the threatening
6 communicable disease without a prior court order.

7 I. For purposes of this section:

8 (1) "court" means the district court of the
9 judicial district where the person who is alleged to be
10 infected with a threatening communicable disease resides or is
11 found;

12 (2) "public health official" means a district
13 health officer, the director of the public health division of
14 the department of health, a chief medical officer or a person
15 designated by the secretary of health to carry out the duties
16 provided in this section; and

17 (3) "threatening communicable disease" means
18 a deadly disease that causes death or great bodily harm,
19 passes from one person to another and for which there is no
20 means by which the public reasonably can avoid the risk of
21 contracting the disease. "