

SENATE BILL NO. 495

May 27, 2021, Introduced by Senators HORN and LASATA and referred to the Committee on Health Policy and Human Services.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 2253 and 2453 (MCL 333.2253 and 333.2453),
section 2253 as amended by 2006 PA 157.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2253. (1) ~~If~~**Subject to this section, if** the director
2 determines that control of an epidemic is necessary to protect the
3 public health, the director by emergency order may prohibit the
4 gathering of people for any purpose and may establish procedures **in**

1 **the emergency order** to be followed during the epidemic to ~~insure~~
2 **ensure** continuation of essential public health services and
3 enforcement of health laws. Emergency procedures ~~shall~~**are** not be
4 limited to this code.

5 (2) If an epidemic ~~described in subsection (1)~~ involves avian
6 influenza or another virus or disease that is or may be spread by
7 contact with animals, the department of agriculture **and rural**
8 **development** shall cooperate with and assist the director in the
9 director's response to the epidemic.

10 (3) ~~Upon~~**On** request from the director, the department of
11 agriculture **and rural development** shall assist the department in
12 any review or update of the department's pandemic influenza plan
13 under section 5112.

14 (4) **An emergency order issued under this section must identify**
15 **the epidemic that is the subject of the emergency order and include**
16 **both of the following:**

17 (a) **A description of how any prohibition on the gathering of**
18 **persons or procedures to be followed in the emergency order**
19 **protects the public health.**

20 (b) **All information that the director used when making the**
21 **determination to issue the emergency order, including, but not**
22 **limited to, data or statistics used by the director in determining**
23 **that the control of the epidemic through emergency order is**
24 **necessary to protect the public health.**

25 (5) **Subject to subsection (6), the department shall not issue**
26 **a statewide emergency order under this section unless all of the**
27 **following requirements are met:**

28 (a) **The department determines that each health facility**
29 **located in this state maintains a surge capacity below 20% in**

1 admissions or patient transfers.

2 (b) That all of the following are met for the qualified
3 condition that is the subject of the epidemic:

4 (i) The percentage of positive test results for the qualified
5 condition is at or above 10% within a 14-day period for each county
6 within this state.

7 (ii) The percentage of patients who are presented to emergency
8 departments exhibiting symptoms of or to receive treatment for the
9 qualified condition is at or above 25% within a 14-day period for
10 each county within this state.

11 (iii) The number of beds available in intensive care units is at
12 or below 25% within a 14-day period for each county within this
13 state.

14 (iv) The number of ventilators available to patients is at or
15 below 25% within a 14-day period for each county within this state.

16 (6) A calculation performed for purposes of subsection (5)
17 must not include individuals who are housed in any of the
18 following:

19 (a) A state or federal correctional facility.

20 (b) A county jail.

21 (c) A congregate care setting.

22 (7) The director shall immediately terminate a statewide
23 emergency order issued under this section if 1 or more of the
24 requirements described in subsection (5) are no longer met.

25 (8) As used in this section:

26 (a) "Communicable disease" means that term as defined in
27 section 5101.

28 (b) "Congregate care setting" means a residential environment
29 where a group of individuals reside, meet, or gather in close

1 proximity for a limited or extended period of time.

2 (c) "County jail" means a facility operated by a county for
3 the physical detention and correction of individuals charged with,
4 or convicted of, criminal offenses or ordinance violations or
5 individuals found guilty of civil or criminal contempt.

6 (d) "Epidemic" means an increase in the number of cases of a
7 qualified condition during a specific time period or in a
8 geographic area or demographic segment of the population, due to an
9 infectious agent being effectively conveyed from a source to a
10 susceptible host and that results from 1 or more of the following:

11 (i) An increase in amount or virulence of the infectious agent
12 in a defined geographic area.

13 (ii) The introduction of the infectious agent into a setting
14 where it has not been before.

15 (iii) An enhanced mode of transmission causing individuals who
16 are more susceptible to the infectious agent being exposed.

17 (iv) A change in the susceptibility of a host's response to the
18 infectious agent.

19 (v) A factor that increases a host's exposure to the
20 infectious agent or involves the introduction of the infectious
21 agent through a new portal of entry.

22 (e) "Health facility" means a health facility or agency as
23 that term is defined in section 20106.

24 (f) "Qualified condition" means a communicable disease,
25 infection, or other health condition.

26 Sec. 2453. (1) If a local health officer determines that
27 control of an epidemic is necessary to protect the public health
28 and that the factors described in subsection (3) are met, the local
29 health officer may issue an emergency order to prohibit the

1 gathering of people for any purpose and may establish procedures **in**
2 **the emergency order** to be followed by persons, including a local
3 governmental entity, during the epidemic to ~~insure~~**ensure**
4 continuation of essential public health services and enforcement of
5 health laws. Emergency procedures ~~shall~~**are** not ~~be~~ limited to this
6 code.

7 (2) A local health department or the department may provide
8 for the involuntary detention and treatment of individuals with
9 hazardous communicable disease in the manner prescribed in sections
10 5201 to ~~5238~~**5210**.

11 (3) Subject to subsections (4) and (5), before issuing an
12 emergency order under this section, a local health officer must
13 determine that all of the following are met:

14 (a) That each health facility located in the area served by
15 the local health department maintains a surge capacity below 20% in
16 admissions or patient transfers.

17 (b) That all of the following are met for the qualified
18 condition that is the subject of the epidemic:

19 (i) The number of confirmed cases of the qualified condition is
20 above 55 per 1,000,000 within a 14-day period.

21 (ii) The percentage of positive test results for the qualified
22 condition is at or above 10% within a 14-day period.

23 (iii) Hospitalizations for the qualified condition have
24 increased by 25% or more within a 14-day period.

25 (4) A calculation performed for purposes of subsection (3)
26 must not include individuals who are housed in any of the
27 following:

28 (a) A state or federal correctional facility.

29 (b) A county jail.

1 (c) A congregate care setting.

2 (5) The following apply for purposes of performing the
3 calculations described in subsection (3) (b):

4 (a) If the local health department is a county health
5 department for a single county as provided under section 2413, the
6 calculations must be performed for the county.

7 (b) If the local health department is a district health
8 department created under section 2415, the calculations must be
9 performed separately for each county that united to create the
10 district health department or separately for each city and each
11 county that united to create the district health department. The
12 local health officer shall not issue an emergency order under this
13 section that covers the entire area served by the local health
14 department unless each county or city described in this
15 subdivision, as applicable, meets the requirements described in
16 subsection (3) (b).

17 (c) If the local health department is a city health department
18 created under section 2421, the calculations must be performed for
19 the city.

20 (6) The local health officer shall immediately terminate an
21 emergency order issued under this section if 1 or more of the
22 requirements described in subsection (3) are no longer met.

23 (7) As used in this section:

24 (a) "Congregate care setting" means a residential environment
25 where a group of individuals reside, meet, or gather in close
26 proximity for a limited or extended period of time.

27 (b) "County jail" means a facility operated by a county for
28 the physical detention and correction of individuals charged with,
29 or convicted of, criminal offenses or ordinance violations or

1 individuals found guilty of civil or criminal contempt.

2 (c) "Epidemic" means that term as defined in section 2253.

3 (d) "Health facility" means a health facility or agency as
4 that term is defined in section 20106.

5 (e) "Qualified condition" means that term as defined in
6 section 2253.