



## State Laws Pertaining to Quarantines

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According to the U.S. Centers for Disease Control and Prevention (CDC), isolation and quarantine help protect the public by preventing exposure to people who have or may have a contagious disease. *Isolation* separates sick people with a communicable disease from people who are not sick, while *quarantine* separates and restricts the movement of people exposed to a contagious disease to see if they become sick.

Isolation and quarantine serve medical functions, but they are also police powers, derived from the right of the state to take actions affecting individuals for the benefit of society.

In Colorado state law, isolation and quarantine can be applied to humans, animals, or plants. This *issue brief* focuses on human quarantines and provides a brief history of their use, as well as a discussion of state and federal law governing quarantine in Colorado.

### Federal Authority

The federal government's authority for isolation and quarantine derives from the commerce clause of the U.S. Constitution.<sup>1</sup> Under Section 361 of the Public Health Service Act,<sup>2</sup> the U.S. Secretary of Health and Human Services is authorized to take measures to prevent the entry and spread of communicable diseases from foreign countries into the United States and between states. The authority to carry out these functions on a daily basis has been delegated to the CDC.

Specifically, federal law says an individual "reasonably believed to be infected with a communicable disease" who is entering one state from another state or from a foreign country can be apprehended, detained, and

examined. The CDC operates quarantine stations at 20 ports of entry and land-border crossings where international travelers arrive in the United States.

In the last 60 years, there have been two federal quarantine orders. In 2007, an American with an antibiotic-resistant form of tuberculosis traveled internationally against medical advice and was quarantined upon return to the United States. In 1963, a passenger arriving in the United States from Sweden with a suspected case of smallpox was subjected to an involuntary quarantine order. In general, the CDC defers to local health authorities to apply quarantine powers, although it frequently works with travelers to voluntarily monitor specific communicable diseases.

### Governor's Authority

In Colorado, the Governor has certain powers during a state of emergency related to a public health crisis, both under the Colorado Constitution and state statutes.

**Constitutional authority.** The Colorado Constitution does not expressly give the Governor any specific authority related to quarantines; however, under the constitution, the Governor is the commander-in-chief of the military forces of the state. These forces are made up collectively of the different branches of the Colorado National Guard. Under this power, the Governor can use the National Guard to execute laws, suppress insurrection, or repeal invasion. This power may allow the Governor to use the National Guard to enforce a quarantine order, if necessary.<sup>3</sup>

**Colorado Disaster Emergency Act.** Under state law, the Governor is responsible for addressing the dangers

<sup>1</sup>U.S. Const. art. I, § 8.

<sup>2</sup>42 U.S.C. § 264.

<sup>3</sup> Colo. Const. art. IV, § 5.

disasters pose to Colorado and its people. If the Governor finds a disaster has occurred or that the threat of a disaster is imminent, he or she can declare a disaster emergency by issuing an executive order or proclamation. The Colorado Emergency Act, which was originally enacted in 1992, outlines the Governor's duties and responsibilities during a disaster, including utilizing all available resources of the state government to cope with the disaster emergency.<sup>4</sup>

**Governor's Expert Emergency Epidemic Response Committee.** The Colorado Emergency Act also establishes the Governor's Expert Emergency Epidemic Response Committee (GEEERC). The GEEERC provides expert public health advice to the Governor in the event of an emergency epidemic. If an emergency epidemic is declared a disaster emergency, the GEEERC can advise the Governor regarding reasonable and appropriate measures to reduce or prevent the spread of a disease, agent, or toxin and to protect the public health. The Governor can then act by executive order to implement the measures recommended by the GEEERC, which can include:

- procuring or taking supplies of medicines and vaccines;
- ordering physicians and hospitals to transfer or cease admission of patients or perform medical examinations of persons;
- isolating or quarantining persons or property;
- determining whether to seize, destroy, or decontaminate property or objects that may threaten the public health;
- determining how to safely dispose of corpses and infectious waste;
- assessing the adequacy and potential contamination of food and water supplies;
- providing mental health support to affected persons; and
- informing the citizens of the state how to protect themselves, what actions are being taken to control the epidemic, and when the epidemic is over.<sup>5</sup>

## Public Health Departments

In addition to the Governor, certain state and local departments have powers and duties related to

isolation and quarantine under state law, which have existed in some form since statehood.

**Colorado Department of Public Health and Environment (CDPHE).** CDPHE administers public health and environmental protection services. CDPHE has the power and duty to control epidemics and communicable diseases to protect the public health. Under state law, CDPHE can establish, maintain, and enforce isolation and quarantine. In doing so, CDPHE can exercise physical control over property and people within the state as it finds necessary for the protection of the public health.<sup>6</sup> In performing its duties, CDPHE has the power to close theaters, schools, and other public places, and to forbid gatherings of people when necessary to protect the public health.<sup>7</sup>

If at any time there is, in the opinion of CDPHE or a county, district, or municipal public health agency, danger of an epidemic from a communicable disease for which an immunization is required by the state, no exemption or exception from immunization against the disease can be recognized; however, quarantine by CDPHE or a local public health agency is authorized as a legal alternative to immunization.<sup>8</sup>

**Local departments of public health.** Each county in Colorado has either established a county health department or participates in a district public health agency. Similar to CDPHE, a local public health agency can establish, maintain, and enforce isolation and quarantine. This can include exercising physical control over property and over the people within the jurisdiction of the agency as the agency finds necessary for the protection of the public health.<sup>9</sup> Local health authorities have used quarantine powers in recent years for suspected cases of Ebola, tuberculosis, and hepatitis A. Denver Health is a regional Ebola treatment center and has a tuberculosis clinic for the Denver metro area. Anyone who willfully violates, disobeys, or disregards public health laws or any lawful notice, order, standard, or rule is guilty of a class 1 misdemeanor and can be punished for the violation under state law.<sup>10</sup> Contact information for each local public health department can be found through the following link: <https://www.colorado.gov/pacific/cdphe/find-your-local-public-health-agency>

<sup>4</sup>Section 24-33.5-704, C.R.S.

<sup>5</sup>Section 24-33.5-704.5, C.R.S.

<sup>6</sup>Section 25-1.5-102, C.R.S.

<sup>7</sup>Section 25-1.5-101 (1)(a), C.R.S.

<sup>8</sup>Section 25-4-908, C.R.S.

<sup>9</sup>Section 25-1-506, C.R.S.

<sup>10</sup>Section 25-1-516, C.R.S.