

# State of South Dakota

NINETIETH SESSION  
LEGISLATIVE ASSEMBLY, 2015

400W0366

## HOUSE ENGROSSED NO. **HB 1058** - 01/27/2015

Introduced by: The Committee on Health and Human Services at the request of the  
Department of Health

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding contagious disease  
2 control quarantine measures.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 34-22 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 Terms used in this chapter mean:

7 (1) "Carrier," a person who harbors a specific infectious agent in the absence of  
8 discernible clinical disease and serves as a potential source or reservoir of infection  
9 for other persons;

10 (2) "Communicable disease," includes:

11 (a) An illness due to a specific infectious agent or its toxic products that arises  
12 through transmission of that agent or its products from an infected person,  
13 animal, fomite, or reservoir to a susceptible host, either directly or indirectly,  
14 through an intermediate plant or animal host, vector, or inanimate environment  
15 and which is determined to be a reportable disease pursuant to § 34-22-12 and



1 any rules promulgated pursuant to that section; and

2 (b) Any disease or condition which is the subject of a declared public health  
3 emergency pursuant to § 34-22-42;

4 (3) "Department," the Department of Health.

5 Section 2. That § 34-22-1 be amended to read as follows:

6 34-22-1. ~~Whenever~~ If necessary the Department of Health may establish and enforce a  
7 system of quarantine against the introduction into the state of any ~~plague or other~~ communicable  
8 disease by a common carriers carrier doing business across ~~its~~ the state's borders. ~~Its members,~~  
9 ~~officers, and agents~~ Any member, officer, or agent of the department may board any conveyance  
10 used by ~~such carriers~~ a common carrier to inspect the ~~same and if it be~~ conveyance. ~~If the~~  
11 ~~conveyance is found infected, contaminated, or otherwise containing any disease-causing agent,~~  
12 the department may detain ~~such~~ the conveyance, and isolate and quarantine any or all persons  
13 found ~~thereon, with their~~ in the conveyance, including luggage, until all danger of disease  
14 ~~therefrom~~ from the conveyance is removed.

15 Section 3. That § 34-22-2 be repealed.

16 ~~34-22-2. It is a petty offense for any superintendent or vice-president of the county board of~~  
17 ~~health, or any deputy appointed under the provisions of chapter 34-2 to refuse, neglect, or fail~~  
18 ~~to quarantine any and all cases of infectious, contagious, or communicable disease subject to~~  
19 ~~quarantine, pursuant to the rules and regulations of the Department of Health, when he shall~~  
20 ~~have actual notice thereof.~~

21 Section 4. That § 34-22-5 be amended to read as follows:

22 34-22-5. ~~Every~~ Each person who intentionally exposes himself or herself or another person  
23 infected with any ~~contagious~~ communicable disease in any public place ~~or thoroughfare~~, except  
24 in ~~his~~ the person's necessary removal from a public place in a manner not dangerous to the

1 public health, is guilty of a Class 2 misdemeanor.

2 Section 5. That § 34-22-7 be repealed.

3 ~~—34-22-7. It is declared to be the purpose of the Legislature in enacting this program for~~  
4 ~~tuberculosis control and eradication for South Dakota that there shall be a state-wide program~~  
5 ~~for case finding and that all persons within South Dakota suspected or found to have~~  
6 ~~tuberculosis shall be subject to a program for the prevention, control, and treatment of the~~  
7 ~~disease, and shall be entitled to adequate diagnosis and treatment as a public health measure at~~  
8 ~~state expense regardless of place of legal residence or ability to pay, to achieve the eventual goal~~  
9 ~~of eradication of tuberculosis in South Dakota.~~

10 Section 6. That § 34-22-8 be repealed.

11 ~~—34-22-8. The State Department of Health shall create a Division of Tuberculosis and~~  
12 ~~Communicable Disease Control, in the manner provided in § 34-1-9.~~

13 Section 7. That § 34-22-9 be amended to read as follows:

14 34-22-9. The ~~Department of Health~~ department shall establish and direct the operations of  
15 a state-wide system for communicable disease prevention, control, and treatment. The  
16 department may promulgate rules, pursuant to chapter 1-26, to:

- 17 (1) Conduct communicable disease surveillance which includes detection, assessment,  
18 and analysis;
- 19 (2) Prescribe criteria for communicable disease case definitions;
- 20 (3) Prescribe procedures for communicable disease case and contact notification,  
21 referral, and management;
- 22 (4) Prescribe methods and procedures for the prevention and control of communicable  
23 disease;
- 24 (5) Prescribe methods and procedures for the control of communicable disease patients

1 and carriers, including the monitoring, quarantine, and isolation of any patient or  
2 carrier;

3 (6) Prescribe medical and posttreatment supervision measures for communicable disease  
4 patients and carriers;

5 (7) Prescribe methods and procedures for the prevention and control of  
6 occupationally-related communicable diseases; and

7 (8) Prescribe procedures for ~~universal precautions~~ infection prevention measures for  
8 communicable disease control and prevention ~~by health care facilities and workers.~~

9 Section 8. That § 34-22-11 be amended to read as follows:

10 34-22-11. The ~~State Department of Health shall have the power and authority, and it shall~~  
11 ~~be the duty of such~~ department, to may provide facilities and personnel which will encourage  
12 participation in periodic prescribed screening of the general population and high-risk segments  
13 of the general population through testing for ~~tuberculosis and other~~ communicable diseases.

14 Section 9. That § 34-22-11.2 be amended to read as follows:

15 34-22-11.2. The term, "specific health services," as it relates to § 34-22-11.1 shall include  
16 the following:

17 (1) Application of intradermal skin tests for the purpose of determining the presence of  
18 tuberculosis;

19 (2) ~~Venepuncture~~ Venipuncture for the purpose of ~~withdrawing~~ drawing blood for  
20 laboratory examinations to determine the presence of current or past disease  
21 infection;

22 (3) Administration of vaccines or other prophylactic agents, either orally or parenterally,  
23 for the purpose of ~~infectious~~ communicable disease control; and

24 (4) The gathering of specimens through nonsurgical procedures for the purpose of

1 laboratory examination to determine the presence of bacteria, viruses, or other agents  
2 of ~~infectious~~ communicable disease.

3 Section 10. That § 34-22-13 be amended to read as follows:

4 34-22-13. The ~~State Department of Health shall have the power and~~ department has the  
5 ~~authority, and it shall be the duty of such department,~~ to consult with physicians, hospitals,  
6 institutions, and individuals engaged in diagnosing and treating ~~tuberculous persons,~~ provide  
7 ~~to such persons and institutions clinical information, and refer cases for diagnosis and treatment~~  
8 ~~upon the request of attending physicians~~ any person diagnosed with or reasonably suspected of  
9 being exposed to a communicable disease.

10 Section 11. That § 34-22-14 be amended to read as follows:

11 34-22-14. The ~~State Department of Health shall have the power and~~ department has the  
12 ~~authority, and it shall be the duty of such department,~~ to provide for the enforcement of  
13 regulations for the control and eradication of ~~tuberculosis and~~ communicable diseases through  
14 isolation, prevention, and treatment.

15 Section 12. That § 34-22-15 be repealed.

16 ~~34-22-15. The State Department of Health shall have the power and authority, and it shall~~  
17 ~~be the duty of such department, to arrange for the care on a contractual basis of tuberculous~~  
18 ~~persons in South Dakota, without regard to residence or means tests, at public or private medical~~  
19 ~~installations, within or outside the state, at which care may be provided and paid for by the state~~  
20 ~~after any insurance, worker's compensation, retirement plan, or other benefits accruing to the~~  
21 ~~patient shall have been exhausted; provided, however, that this section shall not be deemed to~~  
22 ~~preclude supplementation by state funds of such other sources of benefits prior to the exhaustion~~  
23 ~~of the latter.~~

24 Section 13. That § 34-22-16 be repealed.

1 ~~34-22-16. The State Department of Health shall have the power and authority, and it shall~~  
2 ~~be the duty of such department, to arrange for the care on a contractual basis of tuberculous~~  
3 ~~persons, without regard to residence or means tests, by private physicians where home-isolation,~~  
4 ~~out-patient hospital care, or office visits with a physician will prove desirable and feasible in the~~  
5 ~~cure of the patient and the eradication of tuberculosis.~~

6 Section 14. That § 34-22-17 be amended to read as follows:

7 34-22-17. The diagnosis, control, and treatment of suspected or ~~actual~~ confirmed cases of  
8 ~~tuberculosis~~ communicable diseases in ~~South Dakota~~ the state shall be under the supervision  
9 and surveillance of the ~~State Department of Health~~ department. The program of diagnosis,  
10 control, and treatment of ~~tuberculosis~~ communicable diseases, established in §§ ~~34-22-7 to 34-~~  
11 ~~22-20, inclusive, and under~~ this chapter and rules and regulations issued in compliance with  
12 ~~chapter 1-26 in the implementation of said sections, promulgated pursuant to this chapter shall~~  
13 ~~be state-wide in application and shall be available, as a matter of right, to all persons within the~~  
14 ~~State of South Dakota, regardless of place of residence or ability to pay~~ applied statewide.

15 Section 15. That § 34-22-18 be amended to read as follows:

16 34-22-18. Any person in the ~~State of South Dakota~~ state reasonably suspected of being  
17 ~~infected with~~ having active tuberculosis, middle east respiratory syndrome (MERS), severe  
18 acute respiratory syndrome (SARS), smallpox, or viral hemorrhagic fevers, or any disease or  
19 condition which is the subject of a declared public health emergency pursuant to § 34-22-42,  
20 shall accept necessary diagnosis or treatment, or both, ~~and any.~~ Any person who intentionally  
21 refuses to accept such the diagnosis or treatment, or both, or who fails to follow the reasonable  
22 and necessary directives of the ~~State Department of Health~~ department issued for the protection  
23 of other persons, is guilty of a Class 1 misdemeanor.

24 Section 16. That § 34-22-19 be amended to read as follows:

1       34-22-19. ~~None of the provisions of §§ 34-22-7 to 34-22-18, inclusive, shall~~ No provision  
2 of this chapter may be deemed to bar freedom of the individual any person to seek diagnosis or  
3 treatment, or both, by a physician or in an institution of ~~his~~ the person's choice, at ~~his~~ the  
4 person's own expense, or under entitlement by the federal government, medical or hospital  
5 insurance contracts, workers' compensation, retirement plans, or the medical care and disability  
6 provisions of programs under the supervision of the Department of Social Services; ~~provided,~~  
7 ~~however, that.~~ However, all cases of suspected or ~~actual~~ confirmed tuberculosis or other  
8 communicable diseases in South Dakota the state shall be under the surveillance of the ~~Division~~  
9 ~~of Tuberculosis and Communicable Disease Control of the South Dakota Department of Health,~~  
10 ~~created by § 34-22-8~~ department.

11       Section 17. That § 34-22-20 be repealed.

12       ~~34-22-20. Any other provision of §§ 34-22-7 to 34-22-21, inclusive, to the contrary~~  
13 ~~notwithstanding, nothing in these sections changes the privileges or responsibilities of patients,~~  
14 ~~inmates, members, or students in, or the duties and powers of the supervisor or administrator~~  
15 ~~of, the state penitentiary, the South Dakota Human Services Center, the South Dakota~~  
16 ~~Developmental Center--Redfield, the state training school, and the state veterans' home.~~

17       Section 18. That § 34-22-21 be repealed.

18       ~~34-22-21. Sections 34-22-7 to 34-22-20, inclusive, do not affect rights and duties that~~  
19 ~~matured, penalties that were incurred, and proceedings that were begun before July 1, 1963.~~

20       Section 19. That § 34-22-22 be repealed.

21       ~~34-22-22. When any hospital or private bacteriologic laboratory in the state receives a~~  
22 ~~specimen for culture to grow or isolate mycobacterium tuberculosis, it shall report to the State~~  
23 ~~Department of Health the name of the patient from whom the specimen was collected, the name~~  
24 ~~of the physician in charge of the patient, and the results of the culture whether it be positive or~~

1 ~~negative. The report required by this section shall be made within seven days after the results~~  
2 ~~of the culture have been determined. In no event shall the report be submitted later than eight~~  
3 ~~weeks after the specimen has been received.~~

4 ~~— The only exception from the reporting requirements of this section shall be bacteriologic~~  
5 ~~laboratories operated directly by the federal government or its agencies.~~

6 Section 20. That § 34-22-24 be repealed.

7 ~~— 34-22-24. Every person affected with tuberculosis shall comply with all rules and~~  
8 ~~regulations of the State Department of Health relating to the control and treatment of that~~  
9 ~~disease as it may promulgate in compliance with chapter 1-26, and no person shall maliciously,~~  
10 ~~wantonly, or negligently cause, contribute to, or promote the spread of tuberculosis.~~

11 Section 21. That § 34-22-25 be amended to read as follows:

12 34-22-25. Any health officer or physician who has information that any person, including  
13 a patient, is by his the person's conduct or mode of living, endangering the health or well-being  
14 of his the person's family or other persons because of tuberculosis communicable diseases, shall  
15 make a report thereof the information to the State Department of Health department. The report  
16 shall state the name and address of such the person and shall include a summary of the pertinent  
17 information available ~~to~~ and known by the health officer or physician.

18 Section 22. That § 34-22-26 be repealed.

19 ~~— 34-22-26. The health officer, or his successor in office, or the physician making the report~~  
20 ~~referred to in § 34-22-25, shall be deemed a party to all proceedings had in connection~~  
21 ~~therewith.~~

22 Section 23. That § 34-22-27 be repealed.

23 ~~— 34-22-27. If, upon the examination of the report required by § 34-22-26, the secretary of~~  
24 ~~health or his agent shall have reasonable cause to believe that such person is infected with~~



1 ~~tuberculosis in the infectious stage and is by his conduct or mode of living endangering the~~  
2 ~~health or well-being of his family or other persons, he shall so find and may by a notarized~~  
3 ~~resolution, including all of the material facts and medical conclusions, direct that such person~~  
4 ~~immediately report and be admitted to a hospital or sanatorium designated in the resolution~~  
5 ~~where such person shall remain until discharged as no longer infectious by the chief medical~~  
6 ~~officer of the institution or by his physician at the institution.~~

7 Section 24. That § 34-22-28 be repealed.

8 ~~— 34-22-28. A copy of the resolution required by § 34-22-27 shall be served upon such person~~  
9 ~~in the manner of service of a summons in a civil action.~~

10 Section 25. That § 34-22-29 be repealed.

11 ~~— 34-22-29. If such person refuses to go to such institution as directed by the resolution, a copy~~  
12 ~~of the resolution, together with proof of service as aforesaid certified to by the person who made~~  
13 ~~such service, shall be filed with the clerk of the circuit court for the county wherein such person~~  
14 ~~resides or wherein he may be found, and upon presentation thereof to a judge of said court, such~~  
15 ~~judge shall order the sheriff or some other law enforcement officer to apprehend such person~~  
16 ~~and deliver him to the institution named in the resolution.~~

17 Section 26. That § 34-22-30 be repealed.

18 ~~— 34-22-30. Any party aggrieved by the resolution of the secretary of health or his agent in~~  
19 ~~committing or refusing to commit any person on whom a report is made pursuant to § 34-22-25~~  
20 ~~may appeal therefrom as provided by chapter 1-26.~~

21 Section 27. That § 34-22-34 be repealed.

22 ~~— 34-22-34. If the secretary of health or his agent shall have reasonable cause to believe that~~  
23 ~~any person is afflicted with tuberculosis in the infectious stage and that he is, by his conduct or~~  
24 ~~mode of living, endangering the health or well-being of his family or other persons, and has~~

1 ~~further reasonable cause to believe that such person will not willingly or voluntarily comply~~  
2 ~~with the resolution provided for in § 34-22-27 and that it is imminent to the public health,~~  
3 ~~safety, and welfare, such secretary or his agent may directly petition the circuit court for the~~  
4 ~~commitment of such person to a hospital or sanatorium.~~

5 Section 28. That § 34-22-35 be repealed.

6 ~~—34-22-35. If the circuit court finds and determines it to be to the best interests of such person~~  
7 ~~as described in § 34-22-34, his family or the public, then it shall issue a warrant, in duplicate,~~  
8 ~~to the sheriff committing such person to the custody of the hospital or institution named in its~~  
9 ~~order where the patient shall remain until discharged therefrom by its chief medical officer or~~  
10 ~~superintendent upon the finding that such discharge will not endanger the health of any other~~  
11 ~~person, or by the court upon the petition of the person so committed.~~

12 Section 29. That § 34-22-36 be repealed.

13 ~~—34-22-36. If such person as described in § 34-22-34 fails to obey any order of the court or~~  
14 ~~if there is no facility available for the commitment of such person, the court may with the~~  
15 ~~approval of the appropriate department head, commit such person to any state institution under~~  
16 ~~the executive branch's control and supervision until such time as a physician or the secretary of~~  
17 ~~health or his agent determines that such person may safely be cared for at a private hospital or~~  
18 ~~in his home or that the person is no longer in an infectious state or endangers the persons around~~  
19 ~~him. Similarly, the court may commit such person temporarily to a county jail. In either event,~~  
20 ~~the secretary may, with the approval of the court, authorize the transfer of such person at any~~  
21 ~~time to a private hospital or his home.~~

22 Section 30. That § 34-22-37 be repealed.

23 ~~—34-22-37. The expense of the proceedings provided for in §§ 34-22-25 to 34-22-36,~~  
24 ~~inclusive, together with all costs for the care, treatment, and maintenance furnished to any~~

1 ~~person committed pursuant hereto, shall be paid for by the Division of Tuberculosis Control of~~  
2 ~~the State Department of Health, in accordance with its tuberculosis control activities.~~

3 Section 31. That § 34-22-38 be repealed.

4 ~~— 34-22-38. Any person entering any public or private hospital, sanatorium, or other facility~~  
5 ~~for tuberculosis care and treatment under the provisions of §§ 34-22-22 to 34-22-40, inclusive,~~  
6 ~~or any other law, including rules and regulations, of this state, shall observe all rules and~~  
7 ~~regulations of such facility or facilities. When any person fails to obey such rules and~~  
8 ~~regulations, a report of his activities shall be filed with the secretary of health. If it appears to~~  
9 ~~the secretary or his agent and the chief medical officer or physician in charge that such repeated~~  
10 ~~violations constitute a menace to the facility or to the health or well-being of other persons in~~  
11 ~~or around such facility or to the public health by the definite threat of spreading tuberculosis to~~  
12 ~~others, then the secretary may petition the circuit court for the commitment of such person to~~  
13 ~~an institution of confinement or to a county jail and, upon such a finding and as hereinbefore~~  
14 ~~provided with regard to such facilities, the court shall enter an order making such commitment.~~

15 Section 32. That § 34-22-40 be repealed.

16 ~~— 34-22-40. The secretary of health, representing the State Department of Health, is authorized~~  
17 ~~to enter into contracts with the proper authorities of another state, or municipalities of another~~  
18 ~~state for the support, maintenance, care, and treatment of persons receiving like institutional care~~  
19 ~~in that area.~~

20 ~~— The expense of such support, maintenance, care, and treatment as agreed upon shall be paid~~  
21 ~~out of the funds available to the State Department of Health.~~

22 Section 33. That chapter 34-22 be amended by adding thereto a NEW SECTION to read as  
23 follows:

24 If the department has determined by medical or epidemiological information that a person

1 is infected with, or is reasonably suspected of having active tuberculosis, any middle east  
2 respiratory syndrome (MERS), severe acute respiratory syndrome (SARS), smallpox, or viral  
3 hemorrhagic fevers, or any disease or condition which is the subject of a declared public health  
4 emergency pursuant to § 34-22-42, and that person presents a health threat to others, the  
5 department may commence an action in circuit court, pursuant to chapters 15-6 and 21-8, for  
6 injunctive relief as necessary to enforce any applicable department directive or order. The court  
7 shall treat individually identifying information including the gender, age, ethnicity, race,  
8 national origin, location, or identity of any person subject to the proceedings as strictly  
9 confidential information. If necessary, identifying numbers or initials may be used to protect  
10 the individually identifying information of the person.