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SUPERIOR COURT RULES

Administrative Directive

Superior Court Administrative Directive No. 20-1: Protocol governing actions to enforce isolation or quarantine orders issued by state or local public health departments, based on coronavirus (COVID-19) risks

ADOPTED DATE:

04/24/2020

EFFECTIVE DATE:

04/24/2020

REFERENCED SOURCES:

MGL c. 111, §§ 6, 7, and 95 (https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXVI/Chapter111)
105 CMR 300.00: Reportable diseases, surveillance, and isolation and quarantine requirements (/regulations/105-CMR-30000-reportable-diseases-surveillance-and-isolation-and-quarantine)

UPDATES:

Adopted April 24, 2020, effective April 24, 2020 (https://www.mass.gov/media/2125706/download)

Under G. L. c. 111, §§ 6, 7, and 95, and 105 CMR 300.000 et seq., the Massachusetts Department of Public Health (DPH), or a local board of health, can order a person isolated or quarantined if the person is a confirmed or suspected carrier of a communicable disease dangerous to the public health and has not complied with requests to voluntarily isolate or quarantine. The Coronavirus (COVID-19) is a communicable disease dangerous to the public health, and so DPH and local boards of health are authorized to issue isolation or quarantine orders based on risks of contagion of COVID-19. This administrative directive governs

actions filed in Superior Court by DPH or a local board of health seeking to enforce an isolation or quarantine order.

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TABLE OF CONTENTS

I. Issuance of isolation or quarantine order (#i-issuance-of-isolation-or-quarantine-order)
II. Enforcement and extension of isolation or quarantine order (#ii-enforcement-and-extension-of-isolation-or-quarantine-order)
Downloads (#downloads)
Contact (#contact)

()

I. Issuance of isolation or quarantine order

A. Administrative order. DPH or a local board of health may issue an order of isolation or quarantine orally or in writing. 105 CMR 300.210(C), (D). If issued orally, the order must be followed by a written order within 24 hours. 105 CMR 300.210(D). The order identifies the person(s) subject to the order; the date, time, and place of the isolation or quarantine, when the isolation or quarantine is to begin, and its duration; the reason for the order and its legal authority; any special instructions or precautions to be followed; and a notice that the order may be appealed to a designated health official (a telephone number for that official is provided with the order). 105 CMR 300.210(E)(1).

B. Duration of order. An isolation or quarantine order "that has not expired shall be rescinded when the individual or group no longer poses a serious danger to public health." 105 CMR 300.210(B)(4). See Part

II(C) below for the requirement that DPH or a local board of health seek a court order to extend an involuntary isolation or quarantine beyond 10 days.

C. Appeal from order. A person ordered isolated or quarantined can challenge the order by (1) contacting the health official whose phone number was provided with the order of isolation or quarantine (see Part I(A) above); or (2) filing "a petition" in the Superior Court "at any time." 105 CMR 300.210(F)(1), (2). The order remains in effect "until any appeal is finally determined." 105 CMR 300.210(F)(3).

II. Enforcement and extension of isolation or quarantine order

A. Generally. If a person violates an isolation or quarantine order, DPH or a local board of health "may apply to a judge of the Superior Court for an order to enforce the isolation or quarantine in a manner that will protect the public health." 105 CMR 300.201(G)(2).

B. Warrant for removal. Under G. L. c. 111, § 96, DPH or a local board of health may apply to a judge of the Superior Court for a warrant authorizing appropriate law enforcement personnel to take custody of a person who refuses to comply with, or is in violation of, an isolation or quarantine order, and remove the person, with the aid of medical professionals, as necessary, to a designated place of isolation. See also 105 CMR 300.210(G)(1) (DPH or local board of health "shall take all reasonable measures to minimize the risk of exposure to disease of police officers and others assisting with enforcement of an isolation or quarantine order").

1. Procedure

a. Judge. The Chief Justice of the Superior Court will, as needed, designate a judge sitting in Suffolk County to address applications for removal warrants sought under G. L. c. 111, § 96. Because of the time-sensitive nature of applications for removal warrants, all applications for removal warrants shall be filed in the Office of the Civil Clerk for Suffolk County, regardless where in Massachusetts the isolation or quarantine order issued.

b. Filing. An application for a removal warrant may be filed in the Office of the Civil Clerk for Suffolk County by email, suffolkcivil.clerksoffice@jud.state.ma.us. The filer shall give prompt notice to the Committee for Public Counsel Services:

Mlarsen@publiccounsel.net (mailto:Mlarsen@publiccounsel.net)

Jrobinson@publiccounsel.net (mailto:Jrobinson@publiccounsel.net)

Mhassignments@publiccounsel.net (mailto:Mhassignments@publiccounsel.net)

i. An application for a removal warrant shall, as necessary, be accompanied by a motion for impoundment and required supporting materials, in accordance with Trial Court Rule VIII: Uniform Rules on Impoundment Procedure.

ii. The application shall be accompanied by an appropriate affidavit setting forth facts supporting the application, and a proposed warrant.

c. Hearing. Following the issuance of a removal warrant after hours, the court shall, on the next day that court is open, hold a hearing by video or telephone, as may be feasible in the circumstances, to address the warrant's issuance, unless the hearing is waived by the person who is the subject of the warrant. A motion filed by DPH or a local board of health for a court order to extend the isolation or quarantine order beyond the initial 10 days may, but need not, be heard at the same hearing. See Part II(C) below.

C. Court order to extend isolation or quarantine beyond 10 days. If a person is ordered isolated or quarantined at a location other than the person's residence, and DPH or a local board of health seeks to keep the person involuntarily isolated or quarantined, then, as soon as practicable after the isolation or quarantine begins -- but no later than 10 days after the isolation or quarantine begins -- DPH or local board of health must obtain an order of the court authorizing the isolation or quarantine. 105 CMR 300.210(E)(2).

1. A request for a court order authorizing isolation or quarantine beyond the initial 10-day period may be made by a motion for a preliminary injunction or temporary restraining order.

2. A motion for a court order authorizing isolation or quarantine shall, as necessary, be accompanied by a motion for impoundment and required supporting materials, in accordance with the Trial Court Rule VIII: Uniform Rules on Impoundment Procedure.

3. The court shall conduct a hearing, by video or telephone, as may be feasible in the circumstances, on a motion for a court order to authorize isolation or quarantine. This hearing may, but need not, occur on the same day as a hearing following the after-hours issuance of a removal warrant. See Part II(B)(1)(c) above.

Downloads

Superior Court Administrative Directive No. 20-1: Protocol governing actions to enforce isolation or quarantine orders issued by state or local public health departments, based on coronavirus (COVID-19) risks

(https://www.mass.gov/doc/superior-court-administrative-directive-no-20-1-protocol-governing-actions-to-enforce-isolation/download)

(PDF 139.11 KB)

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