

State Court Administrator's Office 2008

STATUTORY AUTHORITY

The commissioner of health shall obtain a written ex parte order authorizing isolation or quarantine either: 1) before isolating or quarantining a person or group of persons; or 2) after a temporary hold has been issued upon the commissioner's directive. Minn. Stat. § 144.4195, subs. 1, 2.

UPON RECEIPT OF APPLICATION FOR AN EX PARTE ORDER

Evidence or testimony in support of an application may be made or taken by telephone, facsimile, video, or other electronic communication. Minn. Stat. § 144.4195, subd. 1(a).

REQUIRED DOCUMENTS

- Application for ex parte order to isolate or quarantine
- Supporting documents (affidavits, memorandum), if any
- Proposed order

In addition, if a temporary hold is issued by the commissioner

- Copy of directive and requisite notices
- Proof of service/posting of directive and notices

ISSUANCE OF THE EX PARTE ORDER

The court shall grant the order upon finding that probable cause exists to believe isolation or quarantine is warranted to protect the public health. Minn. Stat. § 144.4195, subd. 1(a). If a temporary hold has been issued upon the commissioner's directive, the court must rule on the application for an ex parte order **within 24 hours** of receipt of the application or sooner if practicable or necessary; if the court does not rule **within 36 hours** after the execution of the directive, the commissioner's directive shall expire. Minn. Stat. § 144.4195, subd. 2(a).

THE EX PARTE ORDER MUST STATE:

1. The specific facts justifying isolation or quarantine. Minn. Stat. § 144.4195, subd. 1(b).
2. Notice that a person being isolated or quarantined has a right to: a) a court hearing under Minn. Stat. § 144.4195; and b) representation by counsel during any proceeding under Minn. Stat. § 144.4195. Minn. Stat. § 144.4195, subd. 1(b).
3. The duration of isolation or quarantine (not to exceed 21 days without hearing). Minn. Stat. § 144.4195, subd. 1(e).
4. The type of service/notice required (see Notice below). Minn. Stat. § 144.4195, subd. 1(c).

NOTICE

The order must be provided **immediately** to each person isolated or quarantined. Minn. Stat. § 144.4195, subd. 1(b).

1) Personal service. If practical, the order shall be provided to each person isolated or quarantined. **2) Posting.** If impractical to provide a copy to each individual, one order shall suffice and a copy of the order and notice shall be posted in a conspicuous place: a) post in the isolation/quarantine premises, but only if the isolated or quarantined persons are already at the premises and have adequate access to the order; b) otherwise post in another location where the persons are located and have adequate access to the posted order. **3) Best means available.** If the court determines that posting the order is not practical, the court must use the best means available to ensure that the affected persons are fully informed of the order and notice. Minn. Stat. § 144.4195, subd. 1(b), (c).

PETITION CONTESTING COURT ORDER OR HOLD**-REQUIRES HEARING WITHIN 72 HOURS**

A person isolated or quarantined under an ex parte order or a temporary hold, or the person's representative, may petition the court to contest the court order or temporary hold at any time prior to the expiration of the order or temporary hold. If a petition is filed, the court must hold a hearing **within 72 hours** from the date of the filing. A petition for a hearing does not stay the order of isolation or quarantine. At the hearing, the commissioner must show by clear and convincing evidence that the isolation/quarantine is warranted to protect the public health. Minn. Stat. § 144.4195, subd. 3(a).

REQUEST FOR HEARING ON CONDITIONS OF ISOLATION OR QUARANTINE**-REQUIRES HEARING WITHIN 7 DAYS**

A person isolated or quarantined may request a hearing for remedies regarding the treatment during and the terms and conditions of isolation or quarantine. The hearing must be held **within 7 days** from the date of the court's receipt of the request for hearing. If the court finds that isolation or quarantine is not in compliance with Minn. Stat. § 144.419, the court may fashion remedies appropriate to the circumstances of the emergency. Minn. Stat. § 144.4195, subd. 4.

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21 DAY LIMIT

No person may be isolated or quarantined pursuant to an ex parte order issued under Minn. Stat. § 144.4195, subd. 1 for longer than 21 days without a court hearing under subd. 3 to determine whether isolation or quarantine should continue. Minn. Stat. § 144.4195, subd. 1(e).

EXTENSION OF THE EX PARTE ORDER

If the commissioner wishes to extend the order for isolation or quarantine, the commissioner must petition the court to do so. Minn. Stat. § 144.4195, subd. 3(b). The court may order continued isolation or quarantine if it finds by clear and convincing evidence that the person or persons would pose an imminent health threat to others if isolation or quarantine was lifted. Isolation or quarantine cannot be continued for longer than 30 days from the date of the extension order unless the commissioner petitions for another extension. Minn. Stat. § 144.4195, subd. 3(d). Any hearing to extend an isolation or quarantine order is governed by Minn. Stat. § 144.4195, subd. 3.

IMPORTANT: RIGHT TO COUNSEL

In any hearing under section 144.4195, subdivision 3 or 4, persons not otherwise represented may request that the court appoint counsel at the expense of the Dept. of Health or of a local public health board.

The court shall appoint counsel and may have one counsel represent a group of persons similarly situated. Minn. Stat. § 144.4195, subd. 5(b).

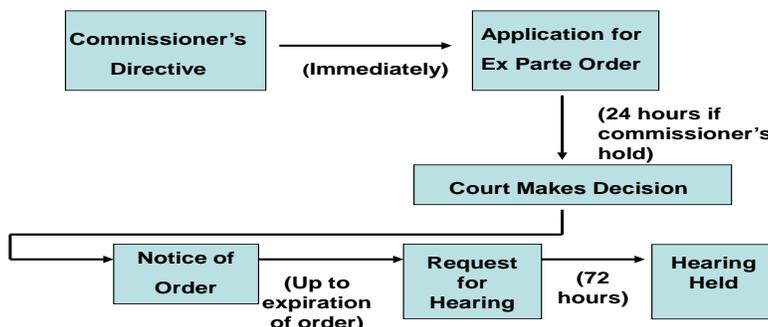
HEARINGS BY ITV or OTHER ELECTRONIC MEANS

The court may choose to conduct a hearing contesting an order or hold, a hearing on conditions, or a hearing for an extension order by telephonic, ITV, or other electronic means to maintain isolation or quarantine precautions and reduce the risk of spreading a communicable disease. Minn. Stat. § 144.4195, subd. 5(c).

HELPFUL DEFINITIONS

"Isolation" means separation, during the period of communicability, of a person infected with a communicable disease, in a place and under conditions so as to prevent direct or indirect transmission of an infectious agent to others. Minn. Stat. § 144.419, subd. 1(3).

"Quarantine" means restriction, during a period of communicability, of activities or travel of an otherwise healthy person who likely has been exposed to a communicable disease to prevent disease transmission during the period of communicability in the event the person is infected. Minn. Stat. § 144.419, subd. 1(4).

**ISOLATION & QUARANTINE
COURT PROCESS****FOR ADDITIONAL ASSISTANCE,
PLEASE CONTACT:**

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