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EMAIL TO: All Sheriffs
FROM: Eddie Caldwell
Executive Vice President and General Counsel
North Carolina Sheriffs' Association
SENT: April 11, 2020
SUBJECT: Quarantine Orders and Isolation Orders ---
Law Enforcement's Authority

The current COVID-19 pandemic has given rise to multiple questions regarding enforcement of isolation orders and quarantine orders issued by local public health directors. The following information briefly describes the authority of law enforcement officers to enforce these orders and also answers some common questions sheriffs may have regarding this issue.

Who can issue isolation orders and quarantine orders?

G.S. § 130A-145(a) allows the State Health Director or a local health director to issue an isolation order or quarantine order. While these orders are issued for different reasons, in practice they have the same effect of placing restrictions on a person's freedom of movement.

When is an isolation order issued?

Pursuant to G.S. § 130A-2(3a), an isolation order can be issued when a person is **INFECTED** or is reasonably suspected of being infected with a communicable disease, such as COVID-19.

When is a quarantine order issued?

G.S. § 130A-2(7a) allows for issuance of a quarantine order for a slightly different reason in that a quarantine order may be issued when a person has only been exposed to or is reasonably suspected of having been exposed to a communicable disease, such as COVID-19.

How long is an isolation order or quarantine order effective?

Pursuant to G.S. § 130A-145(d), because these orders limit freedom of movement, they shall not exceed 30 calendar days. Under limited circumstances, the State Health Director or a local health director can seek a longer order but this would require filing an action in Superior court to have a judge review the matter before a longer period of time is authorized. The order could be for less than 30 calendar days.



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Who serves isolation orders and quarantine orders?

Staff from the local health department will serve the isolation order or quarantine order on the person and will ask the person to sign the order acknowledging their receipt of it. But if the person refuses, the staff from the local health department will document the refusal to sign by the person and issue the order anyway. The person doesn't have sign for receipt of the order for the order to be effective. These local health department officials will be able to explain the restrictions to the person and will be able to answer any questions the person may have.

How will my agency be made aware that an isolation order or quarantine order has been served on a person by the State Health Director or local health director?

There are two scenarios where your agency may be made aware that an isolation order or quarantine order has been served on a person.

First, your agency may be asked by the State Health Director or your local health director to assist with serving one of these orders. Law enforcement's role during the service of an isolation order or quarantine order by the State Health Director or the local health director is merely to be available in case there is a breach of the peace or other criminal law violation by the person being served with the order, or someone else at the premises. Under this circumstance, your agency may choose to maintain a list of individuals who have been served with an isolation order or quarantine order in case you are thereafter called upon to take enforcement action for a criminal violation of the order. However, this information is confidential, is not a public record and should not be disclosed to the public per G.S. § 130A-143.

Second, your agency may be asked by the State Health Director or a local health director to assist in the enforcement of an isolation order or quarantine order that is being violated by the person who is subject to the order. G.S. § 130A-143(7) authorizes the State Health Director or local health director to provide information about a violation of an order to law enforcement agencies for the purpose of enforcing these orders.

Can the sheriff be required to place a deputy at a residence or other location to ensure the person's compliance with the order?

No. We can find no legal authority in our General Statutes or in case law that gives the State Health Director or a local health director, or any other State or local official, the legal authority to require the sheriff or a chief of police to assign an officer to ensure a person's compliance with an isolation order or quarantine order.

Criminal enforcement for violating an isolation order or quarantine order

G.S. § 130A-25(a) makes violation of the public health law a misdemeanor. As such, if a person violates an isolation order or quarantine order it is within each officer's discretion, based on guidance from their sheriff or chief of police, whether to: (1) issue a verbal warning, (2) issue a citation, (3) seek a criminal summons, (4) seek an arrest warrant, or (5) make a custodial arrest for violation of an isolation order or quarantine order. Also, the officer may suggest that the State Health Director or local health director seek an arrest warrant for the violation, and if a warrant is issued, then it will be served on the defendant by the appropriate law enforcement officer.

G.S. § 130A-25(b) states the crime is not punished under structured sentencing laws, but instead allows a person to be sentenced for up to two years for the violation of an isolation order or quarantine order.

Be prepared to educate local judicial officials

Charging someone with a misdemeanor for the violation of a public health order is uncommon. Officers should be prepared to guide judicial officials to G.S. § 130A-145 (authority to issue quarantine orders and isolation orders) and G.S. § 130A-25 (making the violation a crime) and should be prepared to explain how the defendant violated the order.

Charging language may ultimately be left to the discretion of a magistrate, but officers should ensure that the charging document indicates that **both** G.S. § 130A-25 and G.S. § 130A-145 are the relevant laws violated.

Officers should be aware that G.S. § 130A-143(7) gives law enforcement officers the authority to disclose confidential communicable disease information to a judicial official to establish probable cause for a violation of an isolation order or quarantine order.

Attached is an example of an isolation order and a quarantine order provided by the North Carolina Department of Health and Human Services, Division of Public Health. Your local health departments may use forms that look different, but the content of the order should have substantially similar information.

On each of these forms there is a section entitled "requirements of this order." This section contains the control measures placed on the subject of the order and are also the provisions a law enforcement officer would allege a defendant violated if charging a person with a violation of an isolation order or quarantine order under G.S. § 130A-25 and G.S. § 130A-145.

Arrest and pre-trial release for violation of an isolation order or quarantine order

When a defendant is arrested by a law enforcement officer for violation of an isolation order or quarantine order, G.S. § 15A-401(b)(4) allows the defendant to be detained in an area designated by the State Health Director or a local health director until their first appearance.

Therefore, the defendant does not have to be taken by the arresting officer to jail or held in a jail prior to their first appearance if the State Health Director or local health director orders a different location, such as a hospital.

Pursuant to G.S. § 15A-534.5, at the defendant's first appearance for violation of an isolation order or quarantine order, when setting pre-trial release conditions, the judicial official must consider whether the person poses a threat to the health and safety of others. If the judicial official determines the defendant is such a threat, then pre-trial release must be denied, and the defendant will be ordered confined by the arresting law enforcement officer or another officer from the same agency in the location selected by the judicial official. Before making this decision, the judicial official must receive a recommendation from the State Health Director or the local health director.

What enforcement action can law enforcement take if a person who is hospitalized for COVID-19 checks out of the hospital against medical advice?

If a person is hospitalized on suspicion of COVID-19, is awaiting testing, or has a confirmed case, and is subject to an isolation order or quarantine order, a law enforcement officer may choose to: (1) issue a verbal warning, (2) issue a citation, (3) seek a criminal summons, (4) seek an arrest warrant, or (5) make a custodial arrest for violation of an isolation order or quarantine order. Also,

the officer may suggest that the State Health Director or local health director seek an arrest warrant for the violation, and if a warrant is issued, then it will be served on the defendant by the appropriate law enforcement officer.

If the individual is in the hospital showing symptoms associated with COVID-19, but there is no isolation order or quarantine order in place, then there is no legal authority for an officer to take enforcement action. However, the officer should consult with the State Health Director or local health director who may issue an isolation order or quarantine order that can be enforced by law enforcement officers.

Civil enforcement of isolation orders or quarantine orders

Finally, be aware that violations of the orders discussed in this email may be enforced civilly instead of criminally. This, however, will not involve law enforcement officers going to court to file for such relief.

Under G.S. § 130A-18, a local health director may ask a superior court judge to order a person to comply with quarantine or isolation orders, as well as communicable disease control measures contained therein. Typically, the County Attorney will handle this legal process. One who fails to comply with the court's order may be held in civil contempt of court. The penalty for civil contempt is imprisonment for up to 90 days, which may be renewed in 90-day periods not to exceed one year, so long as the contempt continues. G.S. § 5A-21.

If you have any questions or need any additional information regarding isolation or quarantine orders, please do not hesitate to contact Matthew Boyatt, NCSA Deputy General Counsel, at mboyatt@ncsheriffs.net or 919-459-6467.

Thanks....Eddie C.



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North Carolina Sheriffs' Association
Proudly Serving the Sheriffs and Citizens of North Carolina since 1922



Coronavirus disease 2019 (COVID-19) Isolation and Quarantine Orders

March 13, 2020 (replaces version dated March 4, 2020)

These are not for routine use. The quarantine order for persons at medium risk are only intended for individuals noncompliant with person under monitoring guidance. For consultation, please contact the North Carolina Division of Public Health Communicable Disease Branch 24/7 Epidemiologist on Call at 919-733-3419.

HEALTH DEPARTMENT LETTERHEAD

COVID-19 (Coronavirus Disease 2019) ISOLATION ORDER

COVID-19 is a respiratory virus that can cause illness including fever, cough, and shortness of breath. In some patients COVID-19 causes severe illness and death. It is passed from person to person, including by coughing or sneezing. On January 30, 2020, the World Health Organization announced a Public Health Emergency of International Concern and on January 31, 2020 the U.S. Department of Health and Human Services declared a public health emergency. If COVID-19 spreads in the community, it could have severe public health consequences. Imported cases of COVID-19 in travelers have been detected in the U.S. Person-to-person spread of COVID-19 also has been seen among close contacts of infected travelers returning from affected areas, and close contacts of other infected persons.

You are diagnosed or are reasonably expected to be infected with the virus that causes COVID-19. Your infection requires public health actions to prevent further spread of infection. To prevent the spread of infection, you must comply with this order until a public health official verifies with healthcare personnel that you are no longer at risk for spreading the virus to others.

I, _____ (name), Health Director of _____ Local Health Department, pursuant to authority vested in me by North Carolina General Statute (G.S.) 130A-145, issue this isolation order to _____ (Person's name) (Date of Birth: ____/____/_____).

REQUIREMENTS OF THIS ORDER

Restrictions of Movement:

____ Remain at (address) _____ until you are cleared by public health authorities.

____ If you plan to move to a new address or leave the county, you are required to obtain approval from the _____ Local Health Department at () _____ - _____.

Required Actions:

____ Contact the health department immediately if you develop new or worsening symptoms like fever, cough, or shortness of breath.

____ If medical evaluation is needed, seek medical care. Before seeking medical care, call ahead and get instructions from the provider before arriving at the medical office, clinic or hospital. If EMS transport indicated, it should occur with pre-notification to Emergency Medical Services (EMS) and with all recommended infection control precautions in place. Next notify the _____ Local Health Department at () _____ - _____.

____ If a medical emergency arises and you need to call 911, inform the First Responders that you have or are suspected of having COVID-19. Next notify the _____ Local Health Department at () _____ - _____.

____ Adhere to all guidance set forth by the North Carolina Division of Public Health for Home Care of patients that is based on guidance from the Center for Disease Control and Prevention with suspected or confirmed COVID-19 that is provided with this isolation order and found at: <https://epi.dph.ncdhhs.gov/cd/coronavirus/nonhealthcare.html>

____ Keep a log of visitors to your home using the form provided. Any visitors to your home must be aware of your isolation status.

____ Other requirements: _____

Failure to comply with this order is a violation of G.S. 130A-145. If you fail to comply with this isolation order, you may be subject to injunctive relief (G.S. 130A-18) or prosecution for a misdemeanor offense pursuant NC law (G.S. 130A-25) and punishable by up to two (2) years imprisonment. You may petition the Superior Court for review of the restriction of your freedom of movement contained in this isolation order pursuant to G.S. 130A-145(d).

You have been properly informed and counseled by _____, R.N., Communicable Disease Nurse with the _____ Local Health Department regarding the control measures for COVID-19.

Your health and the health of our community are our top priorities. The staff of this Health Department remain available to provide assistance and counseling to you about COVID-19 and compliance with this isolation order.

HEALTH DEPARTMENT LETTERHEAD

Local Health Director: _____

Date: ____/____/____

Issued by: _____ Time: _____

Date: ____/____/____

I have received the original copy of this order: _____

Date: ____/____/____

Patient Signature

HEALTH DEPARTMENT LETTERHEAD

COVID-19 (CORONAVIRUS DISEASE) QUARANTINE ORDER FOR PERSONS AT MEDIUM RISK

You have been or are reasonably suspected of having been exposed to a person with Coronavirus disease 2019 (COVID-19) infection. Your exposure requires public health actions to prevent further spread of infection. COVID-19 is a respiratory virus that can cause illness including fever, cough, and shortness of breath. In some patients COVID-19 causes severe illness and death. It is passed from person to person, including by coughing or sneezing. On January 30, 2020, the World Health Organization announced a Public Health Emergency of International Concern and on January 31, 2020 the U.S. Department of Health and Human Services declared a public health emergency. If COVID-19 spreads in the community, it could have severe public health consequences.

I, _____ (name), Health Director of _____ Local Health Department, pursuant to authority vested in me by North Carolina General Statute (G.S.) 130A-145, issue this quarantine order to _____ (Person's name) (DOB: ____/____/____).

REQUIREMENTS OF THIS ORDER

You must comply with these control measures through ____/____/____ (14 days after last possible exposure).

During this time, you are required to (The local health department will initial and check all that apply):

Restrictions of Movement:

- Remain at (address) _____ to the extent possible.
- Avoid close contact¹ with any persons other than those in your household. Practice social distancing.² Do not occupy any enclosed public spaces for gatherings or group meetings. Notify any visitors of your quarantine status. Maintain a 6-foot distance from others while in outdoor non-congregate settings (e.g. jogging in a park).
- If you plan to move to a new address or leave the county, you are required to obtain approval from the _____ Local Health Department at () _____-

Required Actions:

- Record your temperature and symptoms every 12 hours using the form provided.
- Report your temperature and symptoms 1 time per day to the local health department nurse by ____AM / PM , or immediately if temperature or symptoms develop, at () _____-
- Keep a log of visitors to your address using the form provided.
- Call a doctor or seek care if you have an urgent medical need. Before seeking medical care, call ahead and get instructions from the provider before arriving at the medical office, clinic or hospital. Notify them that you may have been exposed to COVID-19 so arrangements can be made, as necessary, to prevent transmission to others in the healthcare setting. Next notify the _____ Local Health Department at () _____-
- If a medical emergency arises and you need to call 911, inform the First Responders that you may have been exposed to COVID-19. Next notify the _____ Local Health Department at () _____-
- Other requirements: _____

Failure to comply with this order is a violation of G.S. 130A-145. If you fail to comply with this quarantine order, you may be subject to injunctive relief (G.S. 130A-18) or prosecution for a misdemeanor offense pursuant NC law (G.S. 130A-25) and punishable by up to two (2) years imprisonment. You may petition the Superior Court for review of the restriction of your freedom of movement contained in this quarantine order pursuant to G.S. 130A-145(d).

You have been properly informed and counseled by _____, R.N., Communicable Disease Nurse with the _____ Local Health Department regarding the control measures for COVID-19.

¹ Close contact is defined as being within approximately 6 feet (2 meters) for a prolonged period of time
² Social distancing means remaining out of public places where close contact may occur (e.g., shopping centers, movie theaters, stadiums), workplaces (unless you work in an office space that allows distancing from others), schools and classroom settings, and local public conveyances (e.g., bus, subway, taxi, ride share).
COVID-19 March 4, 2020

HEALTH DEPARTMENT LETTERHEAD

Your health and the health of our community are our top priorities. The staff of this Health Department remain available to provide assistance and counseling to you about COVID-19 and compliance with this quarantine order.

Local Health Director: _____ Date: ____/____/____

Issued by: _____ Time: _____ Date: ____/____/____

I have received the original copy of this order: _____ Date: ____/____/____
Patient Signature

HEALTH DEPARTMENT LETTERHEAD

COVID-19 (CORONAVIRUS DISEASE) QUARANTINE ORDER FOR PERSONS AT HIGH RISK

You have been or are reasonably suspected of having been exposed to a person with Coronavirus disease 2019 (COVID-19) infection. Your exposure requires public health actions to prevent further spread of infection. COVID-19 is a respiratory virus that can cause illness including fever, cough, and shortness of breath. In some patients COVID-19 causes severe illness and death. It is passed from person to person, including by coughing or sneezing. On January 30, 2020, the World Health Organization announced a Public Health Emergency of International Concern and on January 31, 2020 the U.S. Department of Health and Human Services declared a public health emergency. If COVID-19 spreads in the community, it could have severe public health consequences.

I, _____ (name), Health Director of _____ Local Health Department, pursuant to authority vested in me by North Carolina General Statute (G.S.) 130A-145, issue this quarantine order to _____ (Person's name) (DOB: ____/____/____).

REQUIREMENTS OF THIS ORDER

You must comply with these control measures through ____/____/____ (14 days after last possible exposure).

During this time, you are required to (The local health department will initial and check all that apply):

Restrictions of Movement:

____ Remain at (address) _____.

____ If you plan to move to a new address or leave the county, you are required to obtain approval from the _____ Local Health Department at () _____ - _____.

Required Actions:

____ Record your temperature and symptoms every 12 hours using the form provided.

____ Report your temperature and symptoms 1 time per day to the local health department nurse by ____AM / PM or immediately if temperature or symptoms develop, at () _____ - _____.

____ Keep a log of visitors to your address using the form provided. Notify any visitors of your quarantine status.

____ Call a doctor or seek care if you have an urgent medical need. Before seeking medical care, call ahead and get instructions from the provider before arriving at the medical office, clinic or hospital. Notify them that you may have been exposed to COVID-19 so arrangements can be made, as necessary, to prevent transmission to others in the healthcare setting. Next notify the _____ Local Health Department at () _____ - _____.

____ If a medical emergency arises and you need to call 911, inform the First Responders that you may have been exposed to COVID-19. Next notify the _____ Local Health Department at () _____ - _____.

____ Other requirements: _____

Failure to comply with this order is a violation of G.S. 130A-145. If you fail to comply with this quarantine order, you may be subject to injunctive relief (G.S. 130A-18) or prosecution for a misdemeanor offense pursuant NC law (G.S. 130A-25) and punishable by up to two (2) years imprisonment. You may petition the Superior Court for review of the restriction of your freedom of movement contained in this quarantine order pursuant to G.S. 130A-145(d).

You have been properly informed and counseled by _____, R.N., Communicable Disease Nurse with the _____ Local Health Department regarding the control measures for COVID-19.

Your health and the health of our community are our top priorities. The staff of this Health Department remain available to provide assistance and counseling to you about COVID-19 and compliance with this quarantine order.

Local Health Director: _____ Date: ____/____/____

Issued by: _____ Time: _____ Date: ____/____/____

I have received the original copy of this order: _____ Date: ____/____/____

Patient Signature