



www.lsc.ohio.gov

# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

S.B. 311  
133<sup>rd</sup> General Assembly

## Bill Analysis

[Click here for S.B. 311's Fiscal Note](#)

**Version:** As Passed by the Senate

**Primary Sponsors:** Sens. McColley and Roegner

S. Ben Fogle, Attorney

### SUMMARY

- Prohibits the Department of Health (ODH) from issuing a general, mandatory statewide or regional quarantine or isolation order that applies to and is enforced against individuals who have not been either directly exposed to or medically diagnosed with the disease that is the subject of the order.
- Allows the General Assembly to adopt a concurrent resolution to rescind certain ODH orders or rules for preventing the spread of contagious or infectious diseases.

### DETAILED ANALYSIS

#### Department of Health orders regarding disease

The bill modifies three different provisions of law that give the Department of Health (ODH) authority to act to prevent the spread of disease. Those current law provisions do the following:

1. State that ODH has supervision of all matters relating to the preservation of the life and health of the people, has ultimate authority in matters of quarantine and isolation, and may declare, modify, and enforce quarantine and isolation;
2. Allow ODH to make special or standing orders or rules for preventing the spread of contagious or infectious diseases;
3. Require the Director of ODH to investigate or make inquiry as to the cause of disease or illness, including contagious, infectious, epidemic, pandemic, or endemic conditions, and take prompt action to control and suppress it.

The bill removes the word “ultimate” from provision (1) above. And, the bill prohibits ODH from using any of those three provisions to issue a general, mandatory statewide or regional quarantine or isolation order that applies to and is enforced against individuals who

have not been either directly exposed to or medically diagnosed with the disease that is the subject of the order.<sup>1</sup>

Continuing law does not specifically define “quarantine” or “isolation.” According to the federal Centers for Disease Control and Prevention, a quarantine is used to keep an individual who *might have been exposed* to a disease away from others, while isolation is the separation of a person who *is infected* with a disease from those who are not.<sup>2</sup>

## Rescission of order or rule

Additionally, under the bill, the General Assembly may adopt a concurrent resolution to rescind a special or standing order issued by ODH for preventing the spread of contagious or infectious diseases under the provision of law listed as (2) above (see **COMMENT**).<sup>3</sup>

---

## COMMENT

The bill allows the General Assembly to rescind certain ODH orders or rules by adopting a concurrent resolution. A reviewing court might examine this provision of the bill because the Ohio Constitution specifies that, “The General Assembly shall enact no law except by bill,” which must be presented to the Governor for approval and, unless an exception applies, is subject to the referendum. The Ohio Supreme Court has previously ruled that a resolution cannot have the effect of a law.<sup>4</sup>

---

## HISTORY

Action	Date
Introduced	05-15-20
Reported, S. Health, Human Services & Medicaid	09-02-20
Passed Senate (20-13)	09-23-20

S0311-PS-133/ec

---

<sup>1</sup> R.C. 3701.13(A) and (B) and 3701.14(A).

<sup>2</sup> Centers for Disease Control and Prevention, [Quarantine and Isolation](#).

<sup>3</sup> R.C. 3701.13(B).

<sup>4</sup> Ohio Constitution Article II, Sections 1c, 1d, and 15 and *Cleveland Terminal and Valley Railroad Company v. State*, 85 Ohio St. 251, 294 (1912).