

CHAPTER [34-22](#)
CONTAGIOUS DISEASE CONTROL

[34-22-1](#) Definitions.

[34-22-1.1](#) State system of quarantine--Inspection and isolation of conveyances of common carriers.

[34-22-2](#) [34-22-2](#). Repealed by SL 2015, ch 181, § 3.

[34-22-3](#) [34-22-3](#), 34-22-4. Repealed by SL 2002, ch 168, §§ 36, 37.

[34-22-5](#) Exposure of self or others to communicable disease as misdemeanor.

[34-22-6](#) Compelling vaccination as misdemeanor.

[34-22-7](#) [34-22-7](#), 34-22-8. Repealed by SL 2015, ch 181, §§ 5, 6.

[34-22-9](#) State-wide system for prevention, control, and treatment of communicable disease--Promulgation of rules.

[34-22-10](#) Laboratory and radiological services provided by department.

[34-22-11](#) Screening and testing for communicable disease.

[34-22-11.1](#) Approved medically accepted procedures required for performance of specific health services.

[34-22-11.2](#) Specific health services.

[34-22-12](#) Mandatory communicable disease reports from physicians, laboratories, and institutions--State tuberculosis register--Surveillance and control--Adoption of rules.

[34-22-12.1](#) Confidentiality of reports--Exceptions.

[34-22-12.2](#) Violation of confidentiality as misdemeanor.

[34-22-12.3](#) Effect of good faith reporting.

[34-22-12.4](#) Compliance with reporting requirements--Liability.

[34-22-12.5](#) Sharing of immunization records permitted unless signed refusal in medical record--Violation as a misdemeanor.

[34-22-13](#) Consultation with physicians and institutions.

[34-22-14](#) Enforcement of regulations for control of communicable diseases.

[34-22-15](#) [34-22-15](#), 34-22-16. Repealed by SL 2015, ch 181, §§ 12, 13.

[34-22-17](#) Communicable disease control supervised by department--Program applied statewide.

[34-22-18](#) Refusal to accept diagnosis or treatment or to follow directives as misdemeanor.

[34-22-18.1](#) Action for injunction to enforce department directive or order--Confidential information.

[34-22-19](#) Freedom to select physician or institution preserved--Cases under surveillance of department.

[34-22-20](#) [34-22-20](#) to 34-22-22. Repealed by SL 2015, ch 181, §§ 17 to 19.

[34-22-23](#) Inspection of records of hospital or laboratory by secretary.

[34-22-24](#) [34-22-24](#). Repealed by SL 2015, ch 181, § 20.

[34-22-25](#) Health officer or physician to report information on person with dangerous communicable disease.

[34-22-26](#) [34-22-26](#) to 34-22-30. Repealed by SL 2015, ch 181, §§ 22 to 26.

[34-22-31](#) [34-22-31](#) to 34-22-33. Omitted.

[34-22-34](#) [34-22-34](#) to 34-22-38. Repealed by SL 2015, ch 181, §§ 27 to 31.

[34-22-39](#) Religious rights and practices preserved.

[34-22-40](#) [34-22-40](#). Repealed by SL 2015, ch 181, § 32.

[34-22-41](#) "Public health emergency" defined.

[34-22-42](#) Secretary may declare public health emergency--Contents of order.

[34-22-43](#) Department primarily responsible for public health emergency response--Scope of authority--Promulgation of rules.

[34-22-44](#) Termination of declared emergency--Renewal.

[34-22-44.1](#) Definition of statewide emergency registry volunteer.

[34-22-44.2](#) Statewide emergency registry volunteers--Immunity from civil liability.

[34-22-45](#) (Section effective on the date federal funding received for administering vaccinations for first responders.) Voluntary vaccination program for first responders--Exposure to infectious diseases at disaster locations.

[34-22-1](#). Definitions.

Terms used in this chapter mean:

- (1) "Carrier," a person who harbors a specific infectious agent in the absence of discernible clinical disease and serves as a potential source or reservoir of infection for other persons;
- (2) "Communicable disease," includes:
 - (a) An illness due to a specific infectious agent or its toxic products that arises through transmission of that agent or its products from an infected person, animal, fomite, or reservoir to a susceptible host, either directly or indirectly, through an intermediate plant or animal host, vector, or inanimate environment and which is determined to be a reportable disease pursuant to § [34-22-12](#) and any rules promulgated pursuant to that section; and
 - (b) Any disease or condition which is the subject of a declared public health emergency pursuant to § [34-22-42](#);
- (3) "Department," the Department of Health.

Source: SL 2015, ch 181, § 1.

[34-22-1.1](#). State system of quarantine--Inspection and isolation of conveyances of common carriers.

If necessary the Department of Health may establish and enforce a system of quarantine against the introduction into the state of any communicable disease by a common carrier doing business across the state's borders. Any member, officer, or agent of the department may board any conveyance used by a common carrier to inspect the conveyance. If the conveyance is found infected, contaminated, or otherwise containing any disease-causing agent, the department may detain the conveyance, and isolate and quarantine any or all persons found in the conveyance, including luggage, until all danger of disease from the conveyance is removed.

Source: SL 1913, ch 109, § 6; RC 1919, § 7669; SDC 1939, § 27.0107; SDCL § [34-22-1](#); SL 2015, ch 181, § 2.

34-22-2. Repealed by SL 2015, ch 181, § 3.

34-22-3, 34-22-4. Repealed by SL 2002, ch 168, §§ 36, 37.

[34-22-5](#). Exposure of self or others to communicable disease as misdemeanor.

Each person who intentionally exposes himself or herself or another person infected with any communicable disease in any public place, except in the person's necessary removal from a public place in a manner not dangerous to the public health, is guilty of a Class 2 misdemeanor.

Source: PenC 1877, § 470; CL 1887, § 6671; RPenC 1903, § 485; RC 1919, § 3994; SDC 1939, § 13.1505; SL 1977, ch 190, § 58; SL 2015, ch 181, § 4.

[34-22-6](#). Compelling vaccination as misdemeanor.

It is a Class 2 misdemeanor for any board, physician, or person to compel another by the use of physical force to submit to the operation of vaccination with smallpox or other virus.

Source: SL 1903, ch 223, §§ 1, 3; RC 1919, §§ 7691, 7693; SDC 1939, §§ 27.2201, 27.9938; SL 1977, ch 190, § 59.

34-22-7, 34-22-8. Repealed by SL 2015, ch 181, §§ 5, 6.

34-22-9. State-wide system for prevention, control, and treatment of communicable disease--Promulgation of rules.

The department shall establish and direct the operations of a state-wide system for communicable disease prevention, control, and treatment. The department may promulgate rules, pursuant to chapter [1-26](#), to:

- (1) Conduct communicable disease surveillance which includes detection, assessment, and analysis;
- (2) Prescribe criteria for communicable disease case definitions;
- (3) Prescribe procedures for communicable disease case and contact notification, referral, and management;
- (4) Prescribe methods and procedures for the prevention and control of communicable disease;
- (5) Prescribe methods and procedures for the control of communicable disease patients and carriers, including the monitoring, quarantine, and isolation of any patient or carrier;
- (6) Prescribe medical and posttreatment supervision measures for communicable disease patients and carriers;
- (7) Prescribe methods and procedures for the prevention and control of occupationally-related communicable diseases; and
- (8) Prescribe procedures for infection prevention measures for communicable disease control and prevention.

Source: SL 1963, ch 380, § 5 (1); SL 1992, ch 246; SL 2015, ch 181, § 7.

34-22-10. Laboratory and radiological services provided by department.

The State Department of Health shall have the power and authority, and it shall be the duty of such department, to provide laboratory and radiological services necessary for the maintenance of a control and eradication program for tuberculosis and communicable diseases.

Source: SL 1963, ch 380, § 5 (8).

34-22-11. Screening and testing for communicable disease.

The department may provide facilities and personnel which will encourage participation in prescribed screening of the general population and high-risk segments of the general population through testing for communicable diseases.

Source: SL 1963, ch 380, § 5 (5); SL 2015, ch 181, § 8.

34-22-11.1. Approved medically accepted procedures required for performance of specific health services.

Notwithstanding the provisions of chapter [36-4](#) and chapter [36-9](#), any person performing specific health services under federal, state, and local programs affecting the public health, shall carry out such services through medically accepted procedures approved by the State Board of Medical and Osteopathic Examiners and the State Department of Health.

Source: SL 1977, ch 289, § 1.

34-22-11.2. Specific health services.

The term, specific health services, as it relates to § [34-22-11.1](#) shall include the following:

- (1) Application of intradermal skin tests for the purpose of determining the presence of tuberculosis;
- (2) Venipuncture for the purpose of drawing blood for laboratory examinations to determine the presence of current or past disease infection;
- (3) Administration of vaccines or other prophylactic agents, either orally or parenterally, for the purpose of communicable disease control; and
- (4) The gathering of specimens through nonsurgical procedures for the purpose of laboratory examination to determine the presence of bacteria, viruses, or other agents of communicable disease.

Source: SL 1977, ch 289, § 2; SL 1986, ch 27, § 34; SL 2015, ch 181, § 9.

34-22-12. Mandatory communicable disease reports from physicians, laboratories, and institutions--State tuberculosis register--Surveillance and control--Adoption of rules.

The State Department of Health shall provide for the collection and processing of mandatory reports of identifiable and suspected cases of communicable disease, communicable disease carriers, and laboratory tests for communicable disease carriers, from all physicians, hospitals, laboratories, and institutions. The State Department of Health shall maintain a complete case register of tuberculosis suspects, active and presumably active cases, tuberculosis contacts, and arrested or presumably arrested cases. The State Department of Health shall provide information necessary for disease surveillance and control. To implement this section, the State Department of Health may adopt, pursuant to chapter [1-26](#), rules specifying the methods by which disease reports shall be made, the contents and timeliness of such reports, and diseases which shall be considered in such reports.

Source: SL 1963, ch 380, § 5 (6); SL 1978, ch 251, §§ 1, 2.

34-22-12.1. Confidentiality of reports--Exceptions.

Any report required to be submitted pursuant to § [34-22-12](#) is strictly confidential medical information. No report may be released, shared with any agency or institution, or made public, upon subpoena, search warrant, discovery proceedings, or otherwise. No report is admissible as evidence in any action of any kind in any court or before any tribunal, board, agency, or person. However, the Department of Health may release medical or epidemiological information under any of the following circumstances:

- (1) For statistical purposes in such a manner that no person can be identified;
- (2) With the written consent of the person identified in the information released;
- (3) To the extent necessary to enforce the provisions of this chapter and rules promulgated pursuant to this chapter concerning the prevention, treatment, control, and investigation of communicable diseases;
- (4) To the extent necessary to protect the health or life of a named person;
- (5) To the extent necessary to comply with a proper judicial order requiring release of human immunodeficiency virus test results and related information to a prosecutor for an investigation of a violation of § [22-18-31](#); and
- (6) To the attorney general or an appropriate state's attorney if the secretary of the Department of Health has reasonable cause to suspect that a person violated § [22-18-31](#).

Source: SL 1989, ch 296, § 1; SL 2003, ch 184, § 1.

34-22-12.2. Violation of confidentiality as misdemeanor.

Except as provided in § [34-22-12.1](#), any person responsible for recording, reporting, or maintaining medical reports required to be submitted pursuant to § [34-22-12](#) who knowingly or intentionally discloses or

fails to protect medical reports declared to be confidential under § [34-22-12.1](#), or who compels another person to disclose such medical reports, is guilty of a Class 1 misdemeanor.

Source: SL 1989, ch 296, § 2.

[34-22-12.3](#). Effect of good faith reporting.

Good faith reporting or disclosure pursuant to § [34-22-12](#) does not constitute a libel or slander or a violation of the right of privacy or privileged communication.

Source: SL 1989, ch 296, § 3.

[34-22-12.4](#). Compliance with reporting requirements--Liability.

Any person who in good faith complies with the reporting requirements of § [34-22-12](#) is immune from civil and criminal liability for such action taken in compliance with the provisions of § [34-22-12](#). Compliance by a person or facility with the reporting requirements of § [34-22-12](#) fulfills any duty of such person or facility to protect the public health.

Source: SL 1989, ch 296, § 4.

[34-22-12.5](#). Sharing of immunization records permitted unless signed refusal in medical record--Violation as a misdemeanor.

A patient's immunization record shall be shared among health care providers, health care facilities, federal or state health agencies, child welfare agencies, schools, or family day care facilities, without the consent of the patient or the person acting on the patient's behalf unless the patient's signed refusal to release immunization information is part of the patient's medical record. The provider shall provide notice in any written form to the patient, or if the patient is a minor, the patient's parent or guardian of the patient's ability to refuse to permit immunization information to be shared. If the patient is a minor, the refusal to release immunization information may be signed by the patient's parent or guardian on behalf of the minor patient. Any person who receives immunization data pursuant to this section and knowingly or intentionally discloses or fails to protect the confidentiality of the data is guilty of a Class 1 misdemeanor.

Source: SL 1996, ch 214; SL 2015, ch 182, § 1.

[34-22-13](#). Consultation with physicians and institutions.

The department has the authority to consult with physicians, hospitals, institutions, and individuals engaged in diagnosing and treating any person diagnosed with or reasonably suspected of being exposed to a communicable disease.

Source: SL 1963, ch 380, § 5 (7); SL 2015, ch 181, § 10.

[34-22-14](#). Enforcement of regulations for control of communicable diseases.

The department has the authority to provide for the enforcement of regulations for the control and eradication of communicable diseases through isolation, prevention, and treatment.

Source: SL 1963, ch 380, § 5 (4); SL 2015, ch 181, § 11.

34-22-15, 34-22-16. Repealed by SL 2015, ch 181, §§ 12, 13.

34-22-17. Communicable disease control supervised by department--Program applied statewide.

The diagnosis, control, and treatment of suspected or confirmed cases of communicable diseases in the state shall be under the supervision and surveillance of the department. The program of diagnosis, control, and treatment of communicable diseases, established in this chapter and rules promulgated pursuant to this chapter shall be applied statewide.

Source: SL 1963, ch 380, § 4; SL 1972, ch 15, § 4; SL 2015, ch 181, § 14.

34-22-18. Refusal to accept diagnosis or treatment or to follow directives as misdemeanor.

Any person in the state reasonably suspected of having active tuberculosis, middle east respiratory syndrome (MERS), severe acute respiratory syndrome (SARS), smallpox, or viral hemorrhagic fevers, or any disease or condition which is the subject of a declared public health emergency pursuant to § [34-22-42](#), shall accept necessary diagnosis or treatment, or both. Any person who intentionally refuses to accept the diagnosis or treatment, or both, or who fails to follow the reasonable and necessary directives of the department issued for the protection of other persons, is guilty of a Class 1 misdemeanor.

Source: SL 1963, ch 380, § 6; SL 1977, ch 190, § 60; SL 2015, ch 181, § 15.

34-22-18.1. Action for injunction to enforce department directive or order--Confidential information.

If the department has determined by medical or epidemiological information that a person is confirmed to be infected with an active tuberculosis, any middle east respiratory syndrome (MERS), severe acute respiratory syndrome (SARS), smallpox, or viral hemorrhagic fevers, or any disease or condition which is the subject of a declared public health emergency pursuant to § [34-22-42](#), or for the period beginning July 1, 2021, and ending June 30, 2022, severe acute respiratory syndrome coronavirus 2, which causes the disease known as COVID-19, and if that person presents a health threat to others, the department may commence an action in circuit court, pursuant to chapters [15-6](#) and [21-8](#), for injunctive relief as necessary to enforce any applicable department directive or order. The court shall treat individually identifying information including the gender, age, ethnicity, race, national origin, location, or identity of any person subject to the proceedings as strictly confidential information. If necessary, identifying numbers or initials may be used to protect the individually identifying information of the person.

Nothing in this section authorizes the department to compel a person to be vaccinated.

Source: SL 2015, ch 181, § 33; SL 2020, ch 145, § 1, eff. Mar. 31, 2020; SL 2021, ch 147, § 1.

34-22-19. Freedom to select physician or institution preserved--Cases under surveillance of department.

No provision of this chapter may be deemed to bar freedom of any person to seek diagnosis or treatment, or both, by a physician or in an institution of the person's choice, at the person's own expense, or under entitlement by the federal government, medical or hospital insurance contracts, workers' compensation, retirement plans, or the medical care and disability provisions of programs under the supervision of the Department of Social Services. However, all cases of suspected or confirmed tuberculosis or other communicable diseases in the state shall be under the surveillance of the department.

Source: SL 1963, ch 380, § 2; SL 2015, ch 181, § 16.

34-22-20 to 34-22-22. Repealed by SL 2015, ch 181, §§ 17 to 19.

34-22-23. Inspection of records of hospital or laboratory by secretary.

The secretary of health or his authorized agent shall from time to time at his discretion be authorized to inspect any or all records of any facility as is deemed necessary to determine compliance with the provisions of § [34-22-25](#).

Source: SL 1968, ch 119, § 1.

34-22-24. Repealed by SL 2015, ch 181, § 20.

34-22-25. Health officer or physician to report information on person with dangerous communicable disease.

Any health officer or physician who has information that any person, including a patient, is by the person's conduct or mode of living, endangering the health or well-being of the person's family or other persons because of communicable diseases, shall report the information to the department. The report shall state the name and address of the person and shall include a summary of the pertinent information available and known by the health officer or physician.

Source: SL 1968, ch 119, § 3; SL 2015, ch 181, § 21.

34-22-26 to 34-22-30. Repealed by SL 2015, ch 181, §§ 22 to 26.

34-22-31 to 34-22-33. Omitted.

34-22-34 to 34-22-38. Repealed by SL 2015, ch 181, §§ 27 to 31.

34-22-39. Religious rights and practices preserved.

Nothing in this chapter shall be construed to interfere with the recognized religious rights or practice of any individual who is exercising such rights or practice in good faith.

Source: SL 1968, ch 119, § 5; SL 1977, ch 190, § 60A.

34-22-40. Repealed by SL 2015, ch 181, § 32.

34-22-41. "Public health emergency" defined.

For the purposes of §§ [34-3-26](#), [34-16-22](#) to [34-16-25](#), inclusive, and [34-22-41](#) to [34-22-44](#), inclusive, a public health emergency is an occurrence or imminent threat of an illness, health condition, or widespread exposure to an infectious or toxic agent that poses a significant risk of substantial harm to the affected population.

Source: SL 2002, ch 168, § 1.

34-22-42. Secretary may declare public health emergency--Contents of order.

The secretary of health, with the consent of the Governor, may declare a public health emergency as defined by § [34-22-41](#). In declaring a public health emergency, the secretary shall issue an order that specifies:

- (1) The nature of the public health emergency;
- (2) The geographic area subject to the declaration;
- (3) The conditions that have brought about the public health emergency; and
- (4) The expected duration of the state of public health emergency, if less than thirty days.

Source: SL 2002, ch 168, § 2.

34-22-43. Department primarily responsible for public health emergency response--Scope of authority--Promulgation of rules.

The department shall have primary jurisdiction, responsibility, and authority for responding to a public health emergency declared pursuant to § [34-22-42](#) including:

- (1) Planning and executing public health emergency assessment, mitigation, preparedness, and response;
- (2) Coordinating public health emergency response between state and local authorities;
- (3) Collaborating with relevant federal, state, tribal, and local authorities; and
- (4) Organizing public information activities regarding public health emergency response operations.

The Department of Health may promulgate rules, pursuant to chapter [1-26](#), to implement the provisions of this section.

Source: SL 2002, ch 168, § 3.

34-22-44. Termination of declared emergency--Renewal.

Any public health emergency declared pursuant to § [34-22-42](#) shall be terminated automatically after thirty days unless renewed by the secretary under the same standards and procedures set forth in § [34-22-42](#).

Source: SL 2002, ch 168, § 4.

34-22-44.1. Definition of statewide emergency registry volunteer.

Terms used in § [34-22-44.2](#) mean:

- (1) "Statewide Emergency Registry of Volunteers for South Dakota (SERV SD)," the state's version of the Emergency System for Advance Registration of Health Professions Volunteers authorized by Public Law 107-188, known as the Public Health Security and Bioterrorism Preparedness and Response Act of 2002;
- (2) "Volunteer," an individual who, without the expectation of receiving compensation for services, responds to and acts in accordance with a call to service under the SERV SD program in response to a declared public health emergency as provided for in §§ [34-22-41](#) to [34-22-44](#), inclusive.

Source: SL 2009, ch 167, § 1.

34-22-44.2. Statewide emergency registry volunteers--Immunity from civil liability.

Any volunteer, as defined in § [34-22-44.1](#), is immune from civil liability in any action brought in any court in this state on the basis of any act or omission resulting in damage or injury if:

- (1) The volunteer was acting in good faith and within the scope of the volunteer's official functions; and
- (2) The damage or injury was not caused by gross negligence or willful and wanton misconduct by the volunteer.

Source: SL 2009, ch 167, § 2.

34-22-45. (Section effective on the date federal funding received for administering vaccinations for first responders.) Voluntary vaccination program for first responders--Exposure to infectious diseases at disaster locations.

The Department of Health shall offer a vaccination program for first responders who may be exposed to infectious diseases when deployed to disaster locations. For purposes of this section, the term, first responder, means state and local law enforcement personnel, fire department personnel, and emergency medical personnel who will be deployed to sites of bioterrorism attacks, terrorist attacks, catastrophic or natural disasters, and other disasters. The vaccinations shall include vaccinations for hepatitis B, diphtheria, tetanus, influenza, and other vaccinations when recommended by the United States Public Health Service and in accordance with Federal Emergency Management Agency policy. Immune globulin shall be made available if necessary. Participation in the vaccination program is voluntary.

Source: SL 2005, ch 185, § 1.