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# SENATE COMMITTEE ON HEALTH

Senator Dr. Richard Pan, Chair

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**BILL NO:** SB 1464  
**AUTHOR:** Pan  
**VERSION:** April 18, 2022  
**HEARING DATE:** April 20, 2022  
**CONSULTANT:** Melanie Moreno

**SUBJECT:** Law enforcement: public health orders

**SUMMARY:** Requires, rather than permits, sheriffs and peace officers to enforce all orders of the California Department of Public Health or a local health officer issued for the purpose of preventing the spread of any contagious, infectious, or communicable disease. Prohibits any state funds allocated for the purpose of pandemic response from being provided to any law enforcement agency that publicly announces that they will oppose, or adopts a policy to oppose, a public health order.

**Existing law:**

- 1) Establishes the California Department of Public Health (CDPH), directed by a state Public Health Officer (PHO), to be vested with all the duties, powers, purposes, functions, responsibilities, and jurisdiction as they relate to public health and licensing of health facilities, as specified. Gives the PHO, broad authority to detect, monitor, and prevent the spread of communicable disease in the state. [HSC §131050 and §120130, et seq.]
- 2) Requires each county board of supervisors to appoint a local health officer (LHO). Requires LHOs to enforce and observe orders and ordinances of the board of supervisors, pertaining to the public health and sanitary matters, orders, including quarantine and other regulations, prescribed by CDPH, and statutes relating to public health. [HSC §101000 and §101030]
- 3) Permits the sheriff of each county to enforce all orders of CDPH or an LHO issued for the purpose of preventing the spread of any contagious, infectious, or communicable disease. Permits peace officers of political subdivisions of the county to enforce all orders of CDPH or an LHO issued for the purpose of preventing the spread of any contagious, infectious, or communicable disease. Permits CDPH and LHOs, when deciding whether to request assistance in enforcement of its orders, to consider whether it would be necessary to advise the enforcement agency of any measures that should be taken to prevent infection of the enforcement officers. [HSC §101029 and §120155]

**This bill:**

- 1) Requires, rather than permits, sheriffs and peace officers to enforce all orders of CDPH or an LHO issued for the purpose of preventing the spread of any contagious, infectious, or communicable disease.
- 2) Prohibits any state funds allocated for the purpose of pandemic response from being provided to a law enforcement agency that publicly announces that they will not follow, or adopts a policy stating that they will not follow, a public health order. Requires state funds withheld from a law enforcement agency to be reallocated, for public health purposes, to the public health department of the county in which the law enforcement agency operates.

**FISCAL EFFECT:** This bill has not been analyzed by a fiscal committee.

**COMMENTS:**

- 1) *Author's statement.* According to the author, in the two years since California's first COVID-19 case, over 8.8 million Californians have contracted the disease. Of those 8.8 million, over 80,000 have died and many more are left with long term or permanent health consequences. To help reduce the impacts of COVID-19, public health officials worked tirelessly in attempt to control the spread of this disease. Lawful public health orders were adopted at the city, county, and state-level, but in many jurisdictions across the state, law enforcement agencies publicly undermined these life-saving measures. In order to protect and serve our communities during this pandemic and the next, law enforcement must work alongside their partners in public health. The willingness of the public to follow public health and safety measures rests on the coordination of public health entities and public safety officers. This bill would take steps to ensure law enforcement protects public safety by withholding state funding from law enforcement agencies that refuse to enforce public health orders, and amends existing law to require these agencies to uphold legal public health orders. This bill is a necessary step in saving lives and upholding public safety as the paramount duty of government.
- 2) *California's public health system.* In California, CDPH is charged with protecting the health of the state's residents. CDPH is comprised of more than 200 programs, which are responsible for a wide range of functions, including: enforcing California's tobacco control law; assisting in the response to local emergencies; administering federal HIV funds; conducting newborn screening; licensing and certification for health facilities, labs, and certain health care professionals; maintaining vital records for California's 38 million residents; and, conducting surveillance and research of chronic disease. In addition, CDPH is the entity responsible for ensuring the tracking and control of communicable disease for the state. According to CDPH's website, its Division of Communicable Disease Control works to promptly identify, prevent and control infectious diseases that pose a threat to public health, including emerging and re-emerging infectious diseases, vaccine-preventable agents, bacterial toxins, bioterrorism, and pandemics. CDPH works with LHOs to implement infectious disease control at the local level through the 61 legally-appointed physician LHOs in California, one from each of the 58 counties and the three cities of Berkeley, Long Beach, and Pasadena.
- 3) *LHOs role.* LHOs have a broad mandate to take measures necessary to preserve and protect public health. While LHOs administer many of the programs identified under CDPH, LHOs have a fundamental role as the front line for delivery of public health services to California's communities. The structure and size of LHOs vary by jurisdiction, and some include operations such as public hospitals, primary care clinics, and animal control services. Select core functions include: infectious disease control; emergency preparedness and response; and, maternal, child, and adolescent health.
- 4) *COVID-19 public health emergency.* On March 11, 2020, the novel Coronavirus (SARS-CoV-2), which causes the infection known as COVID-19, was declared a global pandemic and set in motion public health emergency declarations across the U.S. The COVID-19 outbreak was declared a nationwide public health emergency on January 31, 2020 (retroactive to January 27, 2020), and a national emergency on March 13, 2020. On March 4, 2020, Governor Newsom declared a state of emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies, and help the state prepare for broader spread of COVID-19.

As of April 12, 2022, COVID19.CA.GOV reports 8,529,333 positive cases of COVID-19 and 88,748 deaths in California, with a disproportionate impact on communities of color.

- 5) *Pandemic response.* Local health departments (LHDs) have played a critical role in testing, tracing, and tracking the spread of the COVID-19; vaccination efforts; providing up-to-date health information and education to communities; collaborating with mental and behavioral health organizations to reduce anxiety and promote well-being in these uncertain times; and, offering resources to help battle stigma and discrimination. According to a Health Affairs post entitled "No Longer Invisible: The Critical Role of LHDs in Responding to COVID-19," despite intense media coverage of the pandemic, there has been limited public recognition of the role of LHDs in preparing for and responding to crises such as COVID-19. LHDs are engaged in many activities that have been necessary to slow the epidemic and minimize its impact on communities. While LHDs are critical to our response to COVID-19, they face considerable challenges to their work. As invisible participants, they are chronically underfunded, with limited investment in the public health workforce. According to the Health Officers Association of California, since the start of the pandemic, 20 LHOs, 20 agency directors, and 21 LHD directors have left their position. Regardless of the reason for leaving – whether it was caused by a planned retirement, a burnout-fueled resignation, or accepting another position – filling these positions caused a drain on the public health workforce during the pandemic.
- 6) *Enforcement of public health orders.* According to a December 2020 Kaiser Health News article, early in the pandemic, instead of strictly penalizing businesses for violations of public health orders to control the spread of COVID-19, the Newsom Administration relied on educating owners about infectious disease mandates. According to the article, the state's lenient enforcement policy put enormous responsibility and pressure on cities and counties struggling to gain compliance with COVID measures. Many localities also were fighting political battles over mask mandates, curfews, and other COVID safety measures. As a result, some counties enforced the rules and some didn't, and some businesses ignored the rules. This enforcement model remained in place for most counties, for the duration of the pandemic. Additionally, there have been several high-profile cases where sheriffs refused to enforce public health orders. For example, in July 2021, the Los Angeles County Sheriff's Department on stated that a reinstated indoor mask mandate was "not backed by science" and that the law enforcement agency wouldn't enforce it. In September 2021, the Riverside County Sheriff said he wouldn't require Sheriff's Department employees or job applicants to be vaccinated against COVID-19 despite a state public health order mandating vaccinations or regular coronavirus testing for those working in jails.
- 7) *Double referral.* This bill is double referred. Should it pass out of this committee, it will be referred to the Committee on Public Safety.
- 8) *Support.* ProtectUS, the sponsor of this bill, writes that throughout the pandemic, we have seen law enforcement officials compromise the safety of our residents by publicly subverting public health orders. In response to Governor Newsom's November 2020 stay-at-home order, over a dozen law enforcement agencies across the state released statements refusing to uphold health orders related to the curfew, and in 2021, other sheriff departments publicly declared their refusal to enforce county mask mandates. These messages, which contradict sharply with the policies created by our state's public health officials, only hinder our ability to build confidence in public health to bring an end to our pandemic. The Health Officers Association of California writes that LHOs must operate in a manner consistent with the U.S.

and California constitutions. Case law in the United States has shown that health officer orders should be narrowly tailored and be the least restrictive reasonable means of preventing disease. This is why it is incredibly important that LHO orders be enforced. The California Code contains numerous other laws that sheriffs and peace officers are required to enforce, and LHO orders should be treated in the same way.

- 9) *Opposition.* Supervisor Jill Cox, Trinity County Board of Supervisors, District 2 and Sheriff TD Saxon, Trinity County, write that public health is best accomplished through agency partnerships and dissemination of accurate information to the public, not through mandates. It is their position that the law as written currently allows our office to appropriately prioritize the needs of our public in the face of various challenges. Supervisor Cox and Sheriff Saxon further state that the changes suggested in this bill could create mistrust between the public and our Sheriff's office, which would need additional staffing to manage additional enforcement along with current criminal investigations within Trinity County. The San Bernardino County Sheriff's Department states that peace officers should adopt tactics that reflect their role in public health and not arresting their way out of a pandemic. Instead of making arrests, officers should explain the rules, issue a warning, and engage in creative problem solving. Real Impact writes that this bill places an undue burden upon sheriffs and officers of having to act as health officials and law enforcement agents at the same time. The bill also states "no state funds shall be provided to any law enforcement agency that publicly announces that they will oppose, or adopts a policy to oppose, a public health order," which is clearly political retribution for sheriff and peace officers who do not believe these orders to be constitutional and cannot violate their consciences to enforce them. The National Vaccine Information Center (NVIC) states that this bill covers all public health orders, which would include vaccine passports and vaccine mandates. NVIC is strongly opposed to government ordered forced vaccination and limiting access to goods and services based on vaccination status. NVIC further states that his bill could require already-strained sheriff departments to enforce harmful vaccine mandates instead of dealing with significant public safety issues affecting Californians. Educate. Advocate. states that this bill would redirect valuable resources and manpower from policing important crimes like robbery and assault to policing local public health matters that may infringe on the constitutional oath of office of our peace officers.

### **SUPPORT AND OPPOSITION:**

**Support:** ProtectUS (sponsor)  
California Association of Environmental Health Administrators  
Health Officers Association of California  
Four individuals

**Oppose:** Arcadia Police Officers Association  
Association for Los Angeles Deputy Sheriffs  
Burbank Police Officers Association  
California Coalition of School Safety Professionals  
California Health Coalition Advocacy  
California Parents United  
California State Sheriff's Association  
Catholic Families 4 Freedom, California  
Catholic Families for Freedom San Bernardino  
Chad Bianco, Riverside County Sheriff  
Children's Health Defense, California Chapter

City of Rocklin  
Claremont Police Officers Association  
Committee to Support Parental Engagement in Santa Clarita School Districts  
Corona Police Officers Association  
Culver City Police Officers Association  
Eagle Forum of California  
Educate. Advocate.  
Freedom Keepers United  
Fresno Police Department  
Fullerton Police Officers Association  
Inglewood Police Association  
Los Angeles County Sheriff's Department  
Los Angeles School Police Association  
National Vaccine Information Center  
Natomas USD for Freedom  
Newport Beach Police Association  
Nuremburg 2.0  
Orange County Sheriff's Department  
Palos Verdes Police Officers Association  
Peace Officers Research Association of California  
Placer County Board of Supervisors  
Placer County Deputy Sheriff's Association  
Pomona Police Officers Association  
Protection of the Educational Rights of Kids  
Real Impact  
Riverside County Sheriff's Department  
Riverside Police Officers Association  
Riverside Sheriffs' Association  
San Bernardino County Sheriff's Department  
San Joaquin County Liberty Coalition  
Santa Ana Police Officers Association  
Siskiyou Conservative Republicans  
Stand Up Sacramento County  
Supervisor Jill Cox, Trinity County Board of Supervisors, District 2  
T. D. Saxon, Trinity County Sheriff  
Unity Project  
Upland Police Officers Association  
Over 1900 individuals

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