

SECOND EXTRAORDINARY SESSION

SENATE BILL NO. 2

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KOENIG.

Read 1st time December 1, 2020, and ordered printed.

ADRIANE D. CROUSE, Secretary.

5949S.01I

AN ACT

To repeal sections 44.100, 77.530, 79.380, 192.006, 192.020, 192.300, and 192.320, RSMo, and to enact in lieu thereof thirteen new sections relating to public health, with an existing penalty provision and an emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 44.100, 77.530, 79.380, 192.006, 192.020, 192.300, and
2 192.320, RSMo, are repealed and thirteen new sections enacted in lieu thereof,
3 to be known as sections 44.100, 44.103, 67.265, 77.530, 79.380, 139.305, 192.006,
4 192.020, 192.300, 192.320, 192.321, 197.145, and 210.067, to read as follows:

44.100. 1. The emergency powers of the governor shall be as follows:

2 (1) The provisions of this section shall be operative only during the
3 existence of a state of emergency (referred to in this section as "emergency"). The
4 existence of an emergency may be proclaimed by the governor or by resolution of
5 the legislature, if the governor in his proclamation, or the legislature in its
6 resolution, finds that a natural or man-made disaster of major proportions has
7 actually occurred within this state, and that the safety and welfare of the
8 inhabitants of this state require an invocation of the provisions of this section;

9 (2) Any emergency, whether proclaimed by the governor or by the
10 legislature, shall terminate upon the proclamation thereof by the governor, or the
11 passage by the legislature, of a resolution terminating such emergency;

12 (3) During the period that the state of emergency exists or continues, the
13 governor shall:

14 (a) Enforce and put into operation all plans, rules and regulations relating
15 to disasters and emergency management of resources adopted under this law and
16 to assume direct operational control of all emergency forces and volunteers in the
17 state;

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

18 (b) Take action and give directions to state and local law enforcement
19 officers and agencies as may be reasonable and necessary for the purpose of
20 securing compliance with the provisions of this law and with the orders, rules and
21 regulations made pursuant thereof;

22 (c) Seize, take or requisition to the extent necessary to bring about the
23 most effective protection of the public:

24 a. Any means of transportation, other than railroads and railroad
25 equipment and fuel, and all fuel necessary for the propulsion thereof;

26 b. Any communication system or part thereof necessary to the prompt and
27 efficient functioning of the emergency management of the state;

28 c. All stocks of fuel;

29 d. Facilities for housing, feeding and hospitalization of persons, including
30 buildings and plants;

31 (d) Control, restrict and regulate by rationing, freezing, use of quotas,
32 prohibitions on shipments, price fixing, allocation or other means the use, sale or
33 distribution of food, feed, fuel, clothing and other commodities, materials, goods
34 or services;

35 (e) Prescribe and direct activities in connection with but not limited to
36 use, conservation, salvage and prevention of waste of materials, services and
37 facilities, including production, transportation, power and communication
38 facilities, training and supply of labor, utilization of industrial plants, health and
39 medical care, nutrition, housing, including the use of existing and private
40 facilities, rehabilitation, education, welfare, child care, recreation, consumer
41 protection and other essential civil needs;

42 (f) Use or distribute all or any of this property among the inhabitants of
43 the state in any area adversely affected by a natural or man-made disaster and
44 to account to the state treasurer for any funds received thereof;

45 (g) Waive or suspend the operation of any statutory requirement or
46 administrative rule regarding the licensing, certification or issuance of permits
47 evidencing professional, mechanical or other skills;

48 (h) Waive or suspend the operation of any statutory requirement or
49 administrative rule prescribing procedures for conducting state business, where
50 strict compliance with such requirements and rules would prevent, hinder, or
51 delay necessary action by the department of health and senior services to respond
52 to a declared emergency or increased health threat to the population;

53 (i) In accordance with rules or regulations, provide that all law

54 enforcement authorities and other emergency response workers and agencies of
55 other states who may be within this state at the request of the governor or
56 pursuant to state or local mutual-aid agreements or compacts shall have the same
57 authority and possess the same powers, duties, rights, privileges and immunities
58 as are possessed by like law enforcement authorities and emergency response
59 workers and agencies of this state;

60 (j) Perform and exercise such other functions, powers and duties as may
61 be necessary to promote and secure the safety and protection of the civilian
62 population;

63 (k) Authorize the director of finance and the director of credit unions to
64 waive or suspend the operation of any statutory requirement or administrative
65 rule applicable to the division of finance, banking, financial services, or the
66 division of credit unions and take action and give direction to banks, credit
67 unions, and financial institutions, including coordinating actions with emergency
68 responders, federal agencies, and state banking and credit union associations as
69 may be reasonable and necessary to preserve the safety and soundness of banks,
70 credit unions, and financial institutions; and facilitate disaster response and
71 recovery efforts to serve essential civil needs and protect the public interest.

72 2. When any property is seized, taken or requisitioned under this section,
73 the circuit court of the county in which the property was taken may on the
74 application of the owner thereof or on the application of the governor in cases
75 where numerous claims may be filed, appoint three disinterested commissioners
76 in the manner provided by section 523.040 to assess the damages which the
77 owners may have sustained by reason of the appropriation thereof. Upon the
78 application the amount due because of the seizure of property shall be determined
79 in the manner provided in chapter 523 for the determination of damages in case
80 of the exercise of the power of eminent domain.

81 **3. No authority granted to the governor under this section, or**
82 **any law enforcement officers and agencies or state agencies empowered**
83 **under this section, shall be interpreted to authorize any orders, plans,**
84 **rules, or regulations governing the number of persons gathering or**
85 **residing on private residential property during a state of emergency**
86 **declared under this section.**

44.103. Notwithstanding section 1.302 to the contrary, the state,
2 any state agency, political subdivision, county commission, county
3 health board, or person shall not enact, adopt, maintain, or enforce any

4 order, ordinance, rule, regulation, policy, or other similar measure that
5 imposes any restrictions, directly or indirectly, on the free exercise of
6 religion, including attendance or participation in any prayer, service,
7 meeting, or similar religious activity, or use of a building or premises
8 owned or operated for the purpose of religious activity, during a
9 declared state of emergency.

67.265. 1. No political subdivision of this state shall make and
2 promulgate any public health orders, ordinances, rules, or regulations
3 during a declared state of emergency and pertaining to such state of
4 emergency for a cumulative period longer than fourteen days in a two-
5 year period, unless so authorized by a concurrent resolution of the
6 general assembly permitting any political subdivision of this state to
7 make and promulgate such orders, ordinances, rules, or regulations for
8 longer durations; provided that such concurrent resolution shall be for
9 a limited period of time, apply statewide, and be specific to the
10 declared state of emergency.

11 2. No political subdivision of this state shall make and
12 promulgate any orders, ordinances, rules, or regulations during a
13 declared state of emergency and pertaining to such state of emergency
14 governing the number of persons gathering or residing on private
15 residential property.

16 3. No political subdivision of this state shall make or modify any
17 orders, ordinances, rules, or regulations during a declared state of
18 emergency that have the effect, directly or indirectly, of a prohibited
19 order, ordinance, rule, or regulation under this section.

77.530. The council may make regulations and pass ordinances for the
2 prevention of the introduction of contagious diseases into the city, and for the
3 abatement of the same, and may make quarantine laws and enforce the same
4 within five miles of the city; provided, that no such regulation or
5 ordinance made and passed during a declared state of emergency and
6 pertaining to such state of emergency shall be issued for a cumulative
7 period longer than fourteen days in a two-year period, unless so
8 authorized by a concurrent resolution of the general assembly
9 permitting any political subdivision of this state to make and
10 promulgate such orders, ordinances, rules, or regulations for longer
11 durations; provided that such concurrent resolution shall be for a
12 limited period of time, apply statewide, and be specific to the declared

13 **state of emergency. Additionally, no such regulation or ordinance made**
14 **and passed during a declared state of emergency pertaining to such**
15 **state of emergency shall be issued governing the number of persons**
16 **gathering or residing on private residential property.** The council may
17 purchase or condemn and hold for the city, within or without the city limits,
18 within ten miles therefrom, all necessary lands for hospital purposes, waterworks,
19 sewer carriage and outfall, and erect, establish and regulate hospitals,
20 workhouses, poorhouses, police stations, fire stations and provide for the
21 government and support of the same, and make regulations to secure the general
22 health of the city, and to prevent and remove nuisances; provided, however, that
23 the condemnation of any property outside of the city limits shall be regulated in
24 all respects as the condemnation of property or railroad purposes is regulated by
25 law; and provided further, that the police jurisdiction of the city shall extend over
26 such lands and property to the same extent as over public cemeteries, as provided
27 in this chapter.

79.380. The board of aldermen may make regulations and pass ordinances
2 for the prevention of the introduction of contagious diseases in the city, and for
3 the abatement of the same, and may make quarantine laws and enforce the same
4 within five miles of the city; **provided, that no such regulation or**
5 **ordinance made and passed during a declared state of emergency and**
6 **pertaining to such state of emergency shall be issued for a cumulative**
7 **period longer than fourteen days in a two-year period, unless so**
8 **authorized by a concurrent resolution of the general assembly**
9 **permitting any political subdivision of this state to make and**
10 **promulgate such orders, ordinances, rules, or regulations for longer**
11 **durations; provided that such concurrent resolution shall be for a**
12 **limited period of time, apply statewide, and be specific to the declared**
13 **state of emergency. Additionally, no such regulation or ordinance made**
14 **and passed during a declared state of emergency pertaining to such**
15 **state of emergency shall be issued governing the number of persons**
16 **gathering or residing on private residential property.** They may purchase
17 or condemn and hold for the city, within or without the city limits, or within ten
18 miles therefrom, all necessary lands for hospital purposes, waterworks, sewer
19 carriage and outfall, and erect, establish and regulate hospitals, workhouses,
20 poorhouses, airports and provide for the government and support of the same, and
21 make regulations to secure the general health of the city, and to prevent and

22 remove nuisances; except that the condemnation of any property outside of the
23 city limits shall be regulated in all respects as the condemnation of property for
24 railroad purposes is regulated by law. The police jurisdiction of the city shall
25 extend over such land and property to the same extent as over other city
26 property, as provided in this chapter.

**139.305. 1. Notwithstanding any provision of law to the contrary,
2 beginning January 1, 2021, any taxpayer who is a resident of a city or
3 county that imposes any city-wide or county-wide ordinance or order
4 prohibiting or otherwise restricting the use of such taxpayer's real
5 property, including, but not limited to, occupancy restrictions, shall
6 receive a credit on property taxes owed on such affected real property.**

**7 2. The amount of the credit authorized by this section shall be
8 a percentage of the property tax liability that is equal to the
9 percentage of the calendar year that the taxpayer was subject to
10 restrictions on the use of his or her real property.**

**11 3. Any city or county imposing a city-wide or county-wide
12 ordinance or order as described in this section shall adjust its tax bills
13 to reflect any credit authorized by this section.**

**14 4. The provisions of this section shall only apply to real property
15 tax liabilities owed to a city or county imposing any city-wide or
16 county-wide ordinance or order prohibiting or otherwise restricting the
17 use of a taxpayer's real property, and shall not apply to property tax
18 liabilities owed to any other taxing jurisdiction or to property tax
19 liabilities owed on tangible personal property.**

**192.006. The department of health and senior services may adopt, appeal
2 and amend rules necessary to carry out the duties assigned to it. All rules shall
3 be promulgated pursuant to the provisions of this section and chapter 536. The
4 department of health and senior services may be permitted, pursuant
5 to an executive order issued in a declared state of emergency under
6 chapter 44, to delegate the power and authority to promulgate rules;
7 provided that such delegation shall be limited to county commissions,
8 county councils, or county health boards of trustees. No rule or portion
9 of a rule promulgated under the authority of this chapter shall become effective
10 unless it has been promulgated pursuant to the provisions of section 536.024.**

**192.020. 1. It shall be the general duty and responsibility of the
2 department of health and senior services to safeguard the health of the people in**

3 the state and all its subdivisions. It shall make a study of the causes and
4 prevention of diseases. It shall designate those diseases which are infectious,
5 contagious, communicable or dangerous in their nature and shall make and
6 enforce adequate orders, findings, rules and regulations to prevent the spread of
7 such diseases and to determine the prevalence of such diseases within the state.
8 It shall have power and authority, with approval of the director of the
9 department, to make such orders, findings, rules and regulations as will prevent
10 the entrance of infectious, contagious and communicable diseases into the state.

11 2. The department of health and senior services shall include in its list
12 of communicable or infectious diseases which must be reported to the department
13 methicillin-resistant staphylococcus aureus (MRSA), carbapenem-resistant
14 enterobacteriaceae (CRE) as specified by the department, and
15 vancomycin-resistant enterococcus (VRE).

16 **3. The department of health and senior services may be**
17 **permitted, pursuant to an executive order issued in a declared state of**
18 **emergency under chapter 44, to delegate the power and authority to**
19 **promulgate rules; provided that such delegation shall be limited to**
20 **county commissions, county councils, or county health boards of**
21 **trustees, and no rule or portion of a rule promulgated under this**
22 **authority of this subsection shall become effective unless it has been**
23 **promulgated pursuant to the provisions of chapter 536.**

192.300. 1. The county commissions, **county council**, and the county
2 health center boards **of trustees** of the several counties may make and
3 promulgate orders, ordinances, rules or regulations, respectively as will tend to
4 enhance the public health and prevent the entrance of infectious, contagious,
5 communicable or dangerous diseases into such county, but any orders, ordinances,
6 rules or regulations shall not:

7 (1) Be in conflict with any rules or regulations authorized and made by
8 the department of health and senior services in accordance with this chapter or
9 by the department of social services under chapter 198; [or]

10 (2) Impose standards or requirements on an agricultural operation and
11 its appurtenances, as such term is defined in section 537.295, that are
12 inconsistent with or more stringent than any provision of this chapter or chapters
13 260, 640, 643, and 644, or any rule or regulation promulgated under such
14 chapters; **or**

15 **(3) Be issued for a cumulative period longer than fourteen days**

16 in a two year period in cases of orders, ordinances, rules, or
17 regulations made and promulgated during a declared state of
18 emergency and pertaining to such state of emergency, unless so
19 authorized by a concurrent resolution of the general assembly
20 permitting any county health board of this state to make and
21 promulgate such orders, ordinances, rules, or regulations for longer
22 durations; provided that such concurrent resolution shall be for a
23 limited period of time, apply statewide, and be specific to the declared
24 state of emergency. Additionally, no such order, ordinance, rule, or
25 regulation made and passed during a declared state of emergency
26 pertaining to such state of emergency shall be issued governing the
27 number of persons gathering or residing on private residential
28 property.

29 2. The county commissions and the county health center boards of the
30 several counties may establish reasonable fees to pay for any costs incurred in
31 carrying out such orders, ordinances, rules or regulations, however, the
32 establishment of such fees shall not deny personal health services to those
33 individuals who are unable to pay such fees or impede the prevention or control
34 of communicable disease. Fees generated shall be deposited in the county
35 treasury. All fees generated under the provisions of this section shall be used to
36 support the public health activities for which they were generated.

37 3. After the promulgation and adoption of such orders, ordinances, rules
38 or regulations by such county commission, **county council**, or county health
39 **center board of trustees**, such commission, **county council**, or county health
40 **center board of trustees** shall make and enter an order or record declaring such
41 orders, ordinances, rules or regulations to be printed and available for
42 distribution to the public in the office of the county clerk, and shall require a copy
43 of such order to be published in some newspaper in the county in three successive
44 weeks, not later than thirty days after the entry of such order, ordinance, rule or
45 regulation.

46 4. Any person, firm, corporation or association which violates any of the
47 orders or ordinances adopted, promulgated and published by such county
48 commission, **county council**, or **county health center board of trustees in**
49 **compliance with the provisions of this section** is guilty of a misdemeanor
50 and shall be prosecuted, tried and fined as otherwise provided by law. The
51 county commission, **county council**, or county health **center board of trustees**

52 of any such county has full power and authority to initiate the prosecution of any
53 action under this section.

54 **5. Before the promulgation and adoption of orders, ordinances,**
55 **rules, or regulations made under subdivision (3) of subsection 1 of this**
56 **section, the county commission, county health center board of trustees,**
57 **or county health officer shall submit such orders, ordinances, rules, or**
58 **regulations to the governing body of the county or political subdivision**
59 **for approval, rejection, or modification. If the governing body fails to**
60 **approve, with or without modification, such orders, ordinances, rules,**
61 **or regulations within thirty days of submission, then the orders,**
62 **ordinances, rules, or regulations shall be considered rejected and shall**
63 **not go into effect or become operative unless resubmitted for the**
64 **governing body's consideration.**

65 **6. The county health officer may submit recommended orders,**
66 **ordinances, rules, or regulations to the county commission, county**
67 **council, or county health center board of trustees for consideration and**
68 **adoption, but shall not have the authority to enact any orders,**
69 **ordinances, rules, or regulations. Such authority under this section**
70 **shall be reserved for the county commissions, county councils, or**
71 **county health center board of trustees.**

192.320. Any person or persons violating any of the provisions of sections
2 192.010, 192.020 to 192.490, 192.600 to 192.620 or who shall leave any pesthouse,
3 or isolation hospital, or quarantined house or place without the consent of the
4 health officer having jurisdiction, or who evades or breaks quarantine or
5 knowingly conceals a case of contagious, infectious, or communicable disease, or
6 who removes, destroys, obstructs from view, or tears down any quarantine card,
7 cloth or notice posted by the attending physician or by the health officer, or by
8 direction of a proper health officer, shall be deemed guilty of a class A
9 misdemeanor; **provided, that no quarantine order shall require, under**
10 **penalty of law, that a person subject to quarantine isolate himself or**
11 **herself from members of the same physical household.**

192.321. 1. **The department shall not make and promulgate any**
2 **public health orders, rules, or regulations during a declared state of**
3 **emergency and pertaining to such state of emergency for a cumulative**
4 **period longer than fourteen days in a two-year period, unless so**
5 **authorized by a concurrent resolution of the general assembly**
6 **permitting the department to make and promulgate such orders, rules,**

7 or regulations for longer durations; provided that such concurrent
8 resolution shall be for a limited period of time and be specific to the
9 declared state of emergency.

10 2. The department shall not make and promulgate any orders,
11 rules, or regulations during a declared state of emergency and
12 pertaining to such state of emergency governing the number of persons
13 gathering or residing on private residential property.

14 3. No public health order issued by any political subdivision,
15 county health board, or state agency shall infringe on the parental
16 rights of an individual, including, but not limited to, decisions on the
17 minor child's care and custody, upbringing, education, religious
18 instruction, place of habitation, and physical and mental health
19 care. Nothing in this subsection shall be interpreted to limit the ability
20 of such political subdivision or state agency to protect a child from a
21 clear, immediate, and substantial threat of child abuse or neglect as
22 otherwise provided for under state law.

197.145. No hospital shall adopt, nor any political subdivision
2 impose, any policy restricting:

3 (1) The presence of or visitation by one visitor if requested by
4 pregnant and new mother patients, in accordance with the hospital's
5 established regular visitation hours; and

6 (2) The presence or visitation by a parent or guardian of a minor
7 child; provided that such parent or guardian has legal custody or
8 visitation privileges with the child.

210.067. A test result indicating the presence of severe acute
2 respiratory syndrome coronavirus 2, otherwise known as COVID-19, in
3 a child or in a parent or guardian of a child shall not be a sole or
4 determining cause for removal of a child, temporary or otherwise, from
5 the care and custody of such parent or guardian.

Section B. Because of the immediate threat of government overreach to
2 the residents of Missouri, section A of this act is deemed necessary for the
3 immediate preservation of the public health, welfare, peace, and safety, and is
4 hereby declared to be an emergency act within the meaning of the constitution,
5 and section A of this act shall be in full force and effect upon its passage and
6 approval.

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