

HOUSE AMENDMENT NO. ____
TO
HOUSE AMENDMENT NO. ____

Offered By

AMEND House Amendment No. ____ to House Committee Substitute for House Bill No. 1858,
Page 1, Line 1, by inserting after the number "1858," the following:

"Page 2, Section 37.850, Line 36, by inserting after all of said section and line the following:

"67.265. 1. For purposes of this section, the ~~[term "order" shall]~~ following terms mean:

(1) "Local elected governing body", the board of aldermen, city council, county commission, or other like body of officials elected to represent an entire city or county. "Local elected governing body" shall not include any inferior body whose duties are limited to a specific area of responsibility or expertise within the city or county including, but not limited to, a local health authority;

(2) "Order", a public health order, ordinance, rule, or regulation issued by a political subdivision[~~, including by a health officer, local public health agency, public health authority, or the political subdivision's executive, as such term is defined in section 67.750,~~] in response to an actual or perceived threat to public health for the purpose of preventing the spread of a contagious disease;

(3) "Prohibited order", any order that has been terminated under subsection 3 or expired under subsection 2 of this section;

(4) "Statewide pandemic", an outbreak of a particularly dangerous disease affecting a high proportion of the population, appearing in three or more counties.

2. Notwithstanding any other provision of law to the contrary, all orders shall be approved by a vote of the local elected governing body of the city or county, shall be issued by the same, and shall be subject to the following:

(1) Any order issued during and related to an emergency declared pursuant to chapter 44 that directly or indirectly closes, partially closes, or places restrictions on the opening of or access to any one or more business organizations, churches, schools, or other places of public or private gathering or assembly, including any order, ordinance, rule, or regulation of general applicability [or] that prohibits or otherwise limits attendance at any public or private gatherings, or requires the wearing of face coverings, [shall not remain in effect for longer than thirty calendar days in a one hundred eighty-day period, including the cumulative duration of similar orders issued concurrently, consecutively, or successively, and] shall automatically expire at the end of [the] thirty days or as specified in the order, whichever is shorter, unless so authorized by a simple majority vote of the [political subdivision's] local elected governing body to extend such order or approve a similar order prior to the expiration or termination of the original order; provided that such extension or approval of similar orders shall not [exceed thirty calendar days in duration and any order may be extended more than once] extend beyond sixty days from the effective date of the original order passed

Action Taken _____ Date _____

1 pursuant to this subdivision; [and]

2 (2) Any order of general applicability issued at a time other than an emergency declared
 3 pursuant to chapter 44 that directly or indirectly closes, partially closes, or places restrictions on the
 4 opening of or access to any one or more business organizations, an entire classification of business
 5 organizations, churches, schools, or other places of public or private gathering or assembly,
 6 including any order, ordinance, rule, or regulation of general applicability that prohibits or otherwise
 7 limits attendance at any public or private gatherings, or requires the wearing of face coverings, shall
 8 ~~[not remain in effect for longer than twenty-one calendar days in a one hundred eighty-day period,~~
 9 ~~including the cumulative duration of similar orders issued concurrently, consecutively, or~~
 10 ~~successively, and shall]~~ automatically expire at the end of ~~[the twenty-one]~~ twenty days or as
 11 specified in the order, whichever is shorter, unless so authorized by a two-thirds majority vote of the
 12 ~~[political subdivision's]~~ local elected governing body to extend such order or approve a similar order
 13 prior to the expiration or termination of the original order ; provided that such extension or approval
 14 of similar orders ~~[may be extended more than once]~~ shall not extend beyond sixty days from the
 15 effective date of the original order passed pursuant to this subdivision; and

16 (3) Upon the expiration of sixty days as set forth in subdivision (1) or (2) of this subsection,
 17 only the director of the department of health and senior services shall be authorized to issue or
 18 extend any further order relating to the actual or perceived threat to public health or safety that gave
 19 rise to the order authorized by the local elected governing body or to terminate the same.

20 ~~[2-]~~ 3. The ~~[governing bodies of the political subdivisions]~~ local elected governing body
 21 issuing orders under this section shall at all times have the authority to terminate ~~[an order]~~ local
 22 orders issued or extended under this section upon a simple majority vote of the body.

23 ~~[3-]~~ 4. In the case of local public health agencies created through an agreement by multiple
 24 counties under chapter 70, all of the participating counties' local elected governing bodies shall be
 25 required to approve or terminate orders in accordance with the provisions of this section.

26 ~~[4-]~~ 5. Prior to or concurrent with the issuance or extension of any order under subdivisions
 27 (1) and (2) of subsection ~~[4]~~ 2 of this section, the health officer, local public health agency, public
 28 health authority, or executive shall provide a report to the local elected governing body containing
 29 information supporting the need for such order and may submit a draft order, which shall not have
 30 any legal effect until it is approved by a vote of the local elected governing body taken in a session
 31 that is open to the public. Such report shall include specific studies or other evidence relied upon in
 32 the creation of the order, along with an explanation of the legal authority upon which the order is
 33 based. Such report shall also include a summary of the general nature and extent of the comments
 34 submitted in support of or opposition to the proposed order and a concise summary of the testimony
 35 presented at all hearings in which the order was discussed. In addition, the report shall contain a
 36 summary of the findings regarding the merits of any such testimony or comments submitted by
 37 members of the public who are opposed, in whole or in part, to the proposed order.

38 ~~[5-]~~ 6. No ~~[political subdivision]~~ local elected governing body of this state shall make or
 39 modify any orders that have the effect, directly or indirectly, of a prohibited order under this section.

40 ~~[6-]~~ 7. No directive, rule, or regulation issued by the department of health and senior
 41 services shall authorize a local health official, health officer, local public health agency, or public
 42 health authority to create or enforce any order, ordinance, rule, or regulation described in section
 43 192.300 or this section that is inconsistent with the provisions of this section.

44 8. (1) No local elected governing body shall issue or authorize any order relating to a
 45 statewide pandemic pursuant to this section unless the governor has, by executive order pursuant to
 46 an emergency declared under chapter 44, directed the director of the department of health and senior
 47 services to authorize, by written directive containing sufficiently specific criteria, local elected
 48 governing bodies to issue or approve such order; except that, no such local order shall be more
 49 expansive than the written directive issued by the department and shall be subject to review and

1 alteration by the director.

2 (2) Not less than thirty days after the issuance of a written directive by the director of the
 3 department, as provided in this subsection, the department shall replace such directive with an
 4 emergency rule promulgated as set forth in chapter 536.

5 (3) Any order issued by a local elected governing body that is not in compliance with this
 6 subsection shall be void ab initio.

7 (4) Any order issued by a local elected governing body shall be subject to the time
 8 limitations set forth in subsection 2 of this section.

9 9. Except as provided in subsection 11 of this section, the existence of a statewide pandemic
 10 may be declared by the governor or the director of the department of health and senior services.

11 During a statewide pandemic, only the director shall have the authority to close a public or private
 12 school or other place of public or private assembly or to reduce, alter, suspend, or otherwise restrict
 13 the operations or hours thereof. The director shall consult with the local health authorities prior to
 14 any closing.

15 10. (1) Any person aggrieved by the actions of a political subdivision, including its local
 16 elected governing body, its officers, employees, or agents, in violation of this section shall have a
 17 civil claim for damages against such political subdivision for:

18 (a) Injunctive relief;

19 (b) Treble compensatory damages;

20 (c) Punitive damages;

21 (d) Costs of litigation including, but not limited to, court costs and expert witness fees; and

22 (e) Reasonable attorneys fees.

23 (2) Neither sovereign immunity nor official immunity shall be a defense in any such civil
 24 action.

25 (3) Venue for any civil action filed pursuant to this section shall, at the election of the
 26 aggrieved party, be in the county within which the aggrieved party resides, in the county within
 27 which the alleged harm occurred, or Cole County.

28 (4) In any civil action filed by a person with standing or by the attorney general under this
 29 section, upon a showing that a material fact is in dispute, the political subdivision shall bear the
 30 burden of showing, by clear and convincing evidence, that its order was necessary to prevent the
 31 actual or anticipated harm and that no less restrictive means to prevent such actual or anticipated
 32 harm were available.

33 11. The general assembly may, by the passage of a concurrent resolution, declare the
 34 existence of a statewide pandemic. Such resolution shall not extend the declaration of a statewide
 35 pandemic for more than thirty days beyond the convening of the next regular session of the general
 36 assembly but may by its own provisions specify the expiration date of the declaration prior to that
 37 time. The general assembly may approve subsequent declarations in like manner and subject to the
 38 same limitations.

39 67.308. 1. No county, city, town or village in this state receiving public funds shall require
 40 documentation of an individual having received a vaccination against COVID-19 in order for the
 41 individual to access transportation systems or services or any other public accommodations.

42 2. No private person, business, corporation, organization, or other nongovernment entity
 43 shall be required to assist in any manner in the enforcement of any order issued pursuant to section
 44 67.265, nor shall such person or entity suffer any adverse action including, but not limited to, a fine,
 45 loss of a business license, closure, or citation for any such refusal to assist.

46 3. (1) Any person aggrieved by the actions of a political subdivision or any public official
 47 under this section shall have a civil claim for damages against such political subdivision or public
 48 official for:

49 (a) Injunctive relief;

1 (b) Treble compensatory damages;

2 (c) Punitive damages;

3 (d) Costs of litigation including, but not limited to, court costs and expert witness fees; and

4 (e) Reasonable attorneys fees.

5 (2) Neither sovereign immunity nor official immunity shall be a defense in any such civil
6 action.

7 (3) Venue for any civil action filed pursuant to this section or section 67.265 shall, at the
8 election of the aggrieved party, be the county in which the aggrieved party resides, the county where
9 the alleged harm occurred or Cole County.

10 (4) In any civil action filed by a person with standing or by the attorney general under this
11 section, upon a showing that a material fact is in dispute, the political subdivision shall bear the
12 burden of showing, by clear and convincing evidence, that its order was necessary to prevent the
13 actual or anticipated harm and that no less restrictive means to prevent such actual or anticipated
14 harm were available."; and

15 Further amend said bill,"; and

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17 Further amend said amendment and page, Line 8, by inserting after all of said line the following:

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19 "Further amend said bill and section, Page 5, Line 94, by inserting after all of said section
20 and line the following:

21
22 "167.029. 1. A public school district may require students to wear a school uniform or
23 restrict student dress to a particular style in accordance with the law. The school district may
24 determine the style and color of the school uniform.

25 2. No public or charter school shall implement or enforce any student dress requirements
26 that include a mask or other face covering or respirator.

27 167.181. 1. The department of health and senior services, after consultation with the
28 department of elementary and secondary education, shall promulgate rules and regulations
29 governing the immunization against poliomyelitis, rubella, rubeola, mumps, tetanus, pertussis,
30 diphtheria, and hepatitis B, to be required of children attending public, private, parochial or parish
31 schools. Such rules and regulations may modify the immunizations that are required of children in
32 this subsection. The immunizations required and the manner and frequency of their administration
33 shall conform to recognized standards of medical practice. The department of health and senior
34 services shall supervise and secure the enforcement of the required immunization program.

35 2. It is unlawful for any student to attend school unless he has been immunized as required
36 under the rules and regulations of the department of health and senior services, and can provide
37 satisfactory evidence of such immunization; except that if he produces satisfactory evidence of
38 having begun the process of immunization, he may continue to attend school as long as the
39 immunization process is being accomplished in the prescribed manner. It is unlawful for any parent
40 or guardian to refuse or neglect to have his child immunized as required by this section, unless the
41 child is properly exempted.

42 3. This section shall not apply to any child if one parent or guardian objects in writing to his
43 school administrator against the immunization of the child, because of religious beliefs or medical
44 contraindications. In cases where any such objection is for reasons of medical contraindications, a
45 statement from a duly licensed physician must also be provided to the school administrator.

46 4. Each school superintendent, whether of a public, private, parochial or parish school, shall
47 cause to be prepared a record showing the immunization status of every child enrolled in or
48 attending a school under his jurisdiction. The name of any parent or guardian who neglects or
49 refuses to permit a nonexempted child to be immunized against diseases as required by the rules and

1 regulations promulgated pursuant to the provisions of this section shall be reported by the school
2 superintendent to the department of health and senior services.

3 5. The immunization required may be done by any duly licensed physician or by someone
4 under his direction. If the parent or guardian is unable to pay, the child shall be immunized at public
5 expense by a physician or nurse at or from the county, district, city public health center or a school
6 nurse or by a nurse or physician in the private office or clinic of the child's personal physician with
7 the costs of immunization paid through the state Medicaid program, private insurance or in a
8 manner to be determined by the department of health and senior services subject to state and federal
9 appropriations, and after consultation with the school superintendent and the advisory committee
10 established in section 192.630. When a child receives his or her immunization, the treating
11 physician may also administer the appropriate fluoride treatment to the child's teeth.

12 6. Funds for the administration of this section and for the purchase of vaccines for children
13 of families unable to afford them shall be appropriated to the department of health and senior
14 services from general revenue or from federal funds if available.

15 7. No student shall be required, as a condition of school attendance or participation in
16 school-sponsored extracurricular activities, to be immunized against COVID 19. No school shall
17 require students to wear face masks or other face coverings or respirators as an alternative to
18 receiving a COVID-19 vaccination. No school shall require students to undergo COVID-19
19 diagnostic testing or otherwise implement a "test to stay" policy requiring testing as an alternative to
20 receiving a COVID-19 vaccination; provided, that nothing in this subsection shall be interpreted to
21 preclude a school from requiring a student to be tested as described in section 167.191 as a condition
22 for school attendance or participation in school-sponsored extracurricular activities. For purposes of
23 the section, "COVID 19" shall include any variant thereof.

24 8. No rule or portion of a rule promulgated under the authority of this section shall become
25 effective unless it has been promulgated pursuant to the provisions of chapter 536. Any rule or
26 portion of a rule, as that term is defined in section 536.010, that is created under the authority
27 delegated in this section shall become effective only if it complies with and is subject to all of the
28 provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are
29 nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to
30 review, to delay the effective date or to disapprove and annul a rule are subsequently held
31 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after
32 August 28, 2001, shall be invalid and void.

33 167.191. 1. It is unlawful for any child to attend any of the public schools of this state while
34 afflicted with any contagious or infectious disease, or while liable to transmit such disease after
35 having been exposed to it. For the purpose of determining the diseased condition, or the liability of
36 transmitting the disease, the teacher or board of directors may require any child to be examined by a
37 physician, physician assistant, or advanced practice registered nurse and exclude the child from
38 school so long as there is any liability of such disease being transmitted by the pupil. For purposes
39 of this section, the term "liability" shall mean that symptoms of such a contagious or infectious
40 disease are present and that disease transmission is more likely than not to occur. If the parent or
41 guardian refuses to have an examination made by a physician, physician assistant, or advanced
42 practice registered nurse pursuant to [at] the written request of [the teacher] a school administration
43 or school board of directors, the [teacher or board of directors] child may be [exclude the child]
44 excluded from school. Any parent or guardian who persists in sending a child to school, after
45 having been examined as provided by this section, and found to be afflicted with any contagious or
46 infectious disease, or liable to transmit the disease, or refuses to have the child examined as herein
47 provided, is guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less
48 than five nor more than one hundred dollars.

49 2. If the parent or guardian of the child presents a written document, signed by a physician,

1 physician assistant, or advanced practice registered nurse stating that the child is not afflicted with
2 any contagious or infectious disease, or liable to transmit the disease, the child shall not be excluded
3 from school under subsection 1.

4 171.011. 1. The school board of each school district in the state may make all needful rules
5 and regulations for the organization, grading and government in the school district. The rules shall
6 take effect when a copy of the rules, duly signed by order of the board, is deposited with the district
7 clerk. The district clerk shall transmit forthwith a copy of the rules to the teachers employed in the
8 schools. The rules may be amended or repealed in like manner.

9 2. No school administrator, teacher, staff, or other personnel of any public school or charter
10 school, nor any school board, shall have authority to adopt rules, regulations, policies, directives, or
11 any other order relating to quarantines, isolation, or other health-related requirements for students
12 except as provided in section 167.191; except that, nothing in this section or section 167.191 shall
13 be construed to authorize any such order relating to masking or vaccinations.

14 3. During a statewide pandemic as defined in section 67.265, all generally applicable orders
15 relating to the spread of an infectious or contagious disease shall be made by a local elected
16 governing body as provided in section 67.265.

17 192.290. All rules and regulations authorized and made by the department of health and
18 senior services in accordance with this chapter shall supersede as to those matters to which this
19 chapter relates, all local orders, ordinances, rules, and regulations and shall be observed throughout
20 the state and enforced by all local and state health authorities. Nothing herein shall limit the right of
21 local authorities under section 192.300 to make such further orders, ordinances, rules, and
22 regulations not inconsistent with or more restrictive than the rules and regulations prescribed by the
23 department of health and senior services, which may be necessary for the particular locality under
24 the jurisdiction of such local authorities; except that, all such orders, ordinances, rules and
25 regulations made by local authorities shall comply with the provisions of section 67.265."; and"; and
26

27 Further amend said bill by amending the title, enacting clause, and intersectional references
28 accordingly.
29

30 THIS AMENDMENT AMENDS 4070H03.01H