

FIRST REGULAR SESSION

# HOUSE BILL NO. 725

## 101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE COLEMAN (32).

1586H.011

DANA RADEMAN MILLER, Chief Clerk

### AN ACT

To repeal sections 44.100, 77.530, 79.380, 192.006, 192.020, 192.300, 192.320, and 452.395, RSMo, and to enact in lieu thereof fifteen new sections relating to public health, with 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, 192.320, and  
2 452.395, RSMo, are repealed and fifteen new sections enacted in lieu thereof, to be known as  
3 sections 44.100, 44.103, 67.265, 77.530, 79.380, 139.305, 192.006, 192.020, 192.300, 192.320,  
4 192.321, 197.145, 198.094, 210.067, and 452.395, 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 existence of a state  
3 of emergency (referred to in this section as "emergency"). The existence of an emergency may  
4 be proclaimed by the governor or by resolution of the legislature, if the governor in his **or her**  
5 proclamation, or the legislature in its resolution, finds that a natural or man-made disaster of  
6 major proportions has actually occurred within this state, and that the safety and welfare of the  
7 inhabitants of this state require an invocation of the provisions of this section;

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

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

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

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

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

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

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

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

24 c. All stocks of fuel;

25 d. Facilities for housing, feeding and hospitalization of persons, including buildings and  
26 plants;

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

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

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

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

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

47 (i) In accordance with rules or regulations, provide that all law enforcement authorities  
48 and other emergency response workers and agencies of other states who may be within this state  
49 at the request of the governor or pursuant to state or local mutual-aid agreements or compacts  
50 shall have the same authority and possess the same powers, duties, rights, privileges and

51 immunities as are possessed by like law enforcement authorities and emergency response  
52 workers and agencies of this state;

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

55 (k) Authorize the director of finance and the director of credit unions to waive or  
56 suspend the operation of any statutory requirement or administrative rule applicable to the  
57 division of finance, banking, financial services, or the division of credit unions and take action  
58 and give direction to banks, credit unions, and financial institutions, including coordinating  
59 actions with emergency responders, federal agencies, and state banking and credit union  
60 associations as may be reasonable and necessary to preserve the safety and soundness of banks,  
61 credit unions, and financial institutions; and facilitate disaster response and recovery efforts to  
62 serve essential civil needs and protect the public interest.

63 2. When any property is seized, taken or requisitioned under this section, the circuit court  
64 of the county in which the property was taken may on the application of the owner thereof or on  
65 the application of the governor in cases where numerous claims may be filed, appoint three  
66 disinterested commissioners in the manner provided by section 523.040 to assess the damages  
67 which the owners may have sustained by reason of the appropriation thereof. Upon the  
68 application the amount due because of the seizure of property shall be determined in the manner  
69 provided in chapter 523 for the determination of damages in case of the exercise of the power  
70 of eminent domain.

71 **3. No authority granted to the governor under this section, or to any law**  
72 **enforcement officers or agencies or state agencies empowered under this section, shall be**  
73 **interpreted to authorize any orders, plans, rules, or regulations governing the number of**  
74 **persons gathering or residing on private residential property during a state of emergency**  
75 **declared under this section.**

**44.103. Notwithstanding section 1.302 to the contrary, neither the state nor any**  
2 **state agency, political subdivision, county commission, county health board, or person shall**  
3 **enact, adopt, maintain, or enforce any order, ordinance, rule, regulation, policy, or other**  
4 **similar measure that imposes any restrictions, directly or indirectly, on the free exercise**  
5 **of religion, including attendance or participation in any prayer, service, meeting, or similar**  
6 **religious activity, or use of a building or premises owned or operated for the purpose of**  
7 **religious activity, during a declared state of emergency.**

**67.265. 1. No political subdivision of this state shall make or promulgate any public**  
2 **health orders, ordinances, rules, or regulations during a declared state of emergency and**  
3 **pertaining to such state of emergency for a cumulative period longer than fourteen days**  
4 **in a two-year period unless so authorized by a concurrent resolution of the general**

5 **assembly permitting any political subdivision of this state to make and promulgate such**  
6 **orders, ordinances, rules, or regulations for longer durations; provided that, such**  
7 **concurrent resolution shall be for a limited period of time, apply statewide, and be specific**  
8 **to the declared state of emergency.**

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

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

77.530. The council may make regulations and pass ordinances for the prevention of the  
2 introduction of contagious diseases into the city, and for the abatement of the same, and may  
3 make quarantine laws and enforce the same within five miles of the city; **provided that, no such**  
4 **regulation made or ordinance passed during a declared state of emergency and pertaining**  
5 **to such state of emergency shall be issued for a cumulative period longer than fourteen**  
6 **days in a two-year period unless so authorized by a concurrent resolution of the general**  
7 **assembly permitting any political subdivision of this state to make and promulgate such**  
8 **regulations or ordinances for longer durations; provided that, such concurrent resolution**  
9 **shall be for a limited period of time, apply statewide, and be specific to the declared state**  
10 **of emergency. Additionally, no such regulation made or ordinance passed during a**  
11 **declared state of emergency pertaining to such state of emergency shall govern the number**  
12 **of persons gathering or residing on private residential property.** The council may purchase  
13 or condemn and hold for the city, within or without the city limits, within ten miles therefrom,  
14 all necessary lands for hospital purposes, waterworks, sewer carriage and outfall, and erect,  
15 establish and regulate hospitals, workhouses, poorhouses, police stations, fire stations and  
16 provide for the government and support of the same, and make regulations to secure the general  
17 health of the city, and to prevent and remove nuisances; provided, however, that the  
18 condemnation of any property outside of the city limits shall be regulated in all respects as the  
19 condemnation of property or railroad purposes is regulated by law; and provided further, that the  
20 police jurisdiction of the city shall extend over such lands and property to the same extent as over  
21 public cemeteries, as provided in this chapter.

79.380. The board of aldermen may make regulations and pass ordinances for the  
2 prevention of the introduction of contagious diseases in the city, and for the abatement of the  
3 same, and may make quarantine laws and enforce the same within five miles of the city;  
4 **provided that, no such regulation made or ordinance passed during a declared state of**

5 emergency and pertaining to such state of emergency shall be issued for a cumulative  
6 period longer than fourteen days in a two-year period unless so authorized by a concurrent  
7 resolution of the general assembly permitting any political subdivision of this state to make  
8 and promulgate such regulations or ordinances for longer durations; provided that, such  
9 concurrent resolution shall be for a limited period of time, apply statewide, and be specific  
10 to the declared state of emergency. Additionally, no such regulation made or ordinance  
11 passed during a declared state of emergency pertaining to such state of emergency shall  
12 govern the number of persons gathering or residing on private residential property. They  
13 may purchase or condemn and hold for the city, within or without the city limits, or within ten  
14 miles therefrom, all necessary lands for hospital purposes, waterworks, sewer carriage and  
15 outfall, and erect, establish and regulate hospitals, workhouses, poorhouses, airports and provide  
16 for the government and support of the same, and make regulations to secure the general health  
17 of the city, and to prevent and remove nuisances; except that the condemnation of any property  
18 outside of the city limits shall be regulated in all respects as the condemnation of property for  
19 railroad purposes is regulated by law. The police jurisdiction of the city shall extend over such  
20 land and property to the same extent as over other city property, as provided in this chapter.

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

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

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

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

192.006. The department of health and senior services may adopt, appeal and amend  
2 rules necessary to carry out the duties assigned to it. All rules shall be promulgated pursuant to  
3 the provisions of this section and chapter 536. **The department of health and senior services**

4 **may be permitted, in accordance with an executive order issued in a declared state of**  
5 **emergency under chapter 44, to delegate the power and authority to promulgate rules;**  
6 **provided that, such delegation shall be limited to county commissions, county councils, or**  
7 **county health center boards of trustees.** No rule or portion of a rule promulgated under the  
8 authority of this chapter shall become effective unless it has been promulgated pursuant to the  
9 provisions of section 536.024.

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

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

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

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

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

9 (2) Impose standards or requirements on an agricultural operation and its appurtenances,  
10 as such term is defined in section 537.295, that are inconsistent with or more stringent than any

11 provision of this chapter or chapters 260, 640, 643, and 644, or any rule or regulation  
12 promulgated under such chapters; or

13 **(3) Be issued for a cumulative period longer than fourteen days in a two-year**  
14 **period in cases of orders, ordinances, rules, or regulations made and promulgated during**  
15 **a declared state of emergency and pertaining to such state of emergency unless so**  
16 **authorized by a concurrent resolution of the general assembly permitting county**  
17 **commissions, county councils, and county health center boards of trustees to make and**  
18 **promulgate such orders, ordinances, rules, or regulations for longer durations; provided**  
19 **that, such concurrent resolution shall be for a limited period of time, apply statewide, and**  
20 **be specific to the declared state of emergency. Additionally, no such order, ordinance, rule,**  
21 **or regulation made or passed during a declared state of emergency pertaining to such state**  
22 **of emergency shall govern the number of persons gathering or residing on private**  
23 **residential property.**

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

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

38 4. Any person, firm, corporation or association which violates any of the orders or  
39 ordinances adopted, promulgated and published by such county commission, **county council**,  
40 **or county health center board of trustees in compliance with the provisions of this section**  
41 is guilty of a misdemeanor and shall be prosecuted, tried and fined as otherwise provided by law.  
42 The county commission, **county council**, or county health **center board of trustees** of any such  
43 county has full power and authority to initiate the prosecution of any action under this section.

44 **5. Before the promulgation and adoption of orders, ordinances, rules, or**  
45 **regulations made under subdivision (3) of subsection 1 of this section, the county**  
46 **commission, county health center board of trustees, or county health officer shall submit**

47 such orders, ordinances, rules, or regulations to the governing body of the county or  
48 political subdivision for approval, rejection, or modification. If the governing body fails  
49 to approve, with or without modification, such orders, ordinances, rules, or regulations  
50 within thirty days of submission, the orders, ordinances, rules, or regulations shall be  
51 considered rejected and shall not go into effect or become operative unless resubmitted for  
52 the governing body's consideration.

53 **6. The county health officer may submit recommended orders, ordinances, rules,**  
54 **or regulations to the county commission, county council, or county health center board of**  
55 **trustees for consideration and adoption, but the county health officer shall not have the**  
56 **authority to enact any orders, ordinances, rules, or regulations. Such authority under this**  
57 **section shall be reserved for the county commissions, county councils, and county health**  
58 **center boards of trustees.**

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

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

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

12 **3. No public health order issued by any political subdivision, county health board,**  
13 **or state agency shall infringe on the parental rights of an individual including, but not**  
14 **limited to, the right to make decisions on the minor child's care and custody, upbringing,**  
15 **education, religious instruction, place of habitation, and physical and mental health care.**



16 **Nothing in this subsection shall be interpreted to limit the ability of such political**  
17 **subdivision or state agency to protect a child from a clear, immediate, and substantial**  
18 **threat of child abuse or neglect as otherwise provided for under state law.**

**197.145. 1. For purposes of this section, the following terms mean:**

2 **(1) "Hospital", the same meaning given to the term in section 197.020;**

3 **(2) "Immediate family member", a spouse, child, parent, or sibling of a patient in**  
4 **a hospital.**

5 **2. A hospital shall not adopt a policy in response to an outbreak of a contagious**  
6 **illness that restricts an immediate family member who is willing to comply with reasonable**  
7 **safety protocols from visiting a patient or attending medical appointments with the patient.**

8 **3. A political subdivision shall not require any hospital to adopt a policy that the**  
9 **hospital is prohibited from adopting under subsection 2 of this section.**

**198.094. 1. For purposes of this section, the following terms mean:**

2 **(1) "Immediate family member", a spouse, child, parent, or sibling of a resident;**

3 **(2) "Long-term care facility", the same meaning given to the term in section**  
4 **198.610;**

5 **(3) "Resident", a person residing in a long-term care facility.**

6 **2. A long-term care facility shall not adopt a policy in response to an outbreak of**  
7 **a contagious illness that restricts an immediate family member who is willing to comply**  
8 **with reasonable safety protocols from visiting a resident or attending medical**  
9 **appointments with the resident.**

10 **3. A political subdivision shall not require any long-term care facility to adopt a**  
11 **policy that the long-term care facility is prohibited from adopting under subsection 2 of**  
12 **this section.**

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

**452.395. 1. Custody proceedings shall receive priority in being set for hearing. The**  
2 **court shall not delay any hearing in a custody proceeding solely due to general public**  
3 **health concerns associated with an outbreak of a contagious illness.**

4 **2. The court without a jury shall determine questions of law and fact. If it finds that a**  
5 **public hearing may be detrimental to the child's best interests, the court may exclude the public**  
6 **from a custody hearing, but may admit any person who has a direct and legitimate interest in the**  
7 **particular case.**

8           3. If the court finds it necessary to protect the child's welfare that the record of any  
9 interview, report, investigation, or testimony in a custody proceeding be kept secret, the court  
10 may make an appropriate order sealing the record.

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

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