

Senate File 91 - Introduced

SENATE FILE 91
BY SALMON

A BILL FOR

1 An Act relating to powers and duties applicable to state of
2 disaster emergencies and public health disasters.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 29C.6, subsection 1, Code 2023, is
2 amended to read as follows:

3 1. a. After finding a disaster exists or is threatened,
4 proclaim a state of disaster emergency. This proclamation
5 shall be in writing, indicate the area affected and the facts
6 upon which it is based, be signed by the governor, and be
7 filed with the secretary of state. If the state of disaster
8 emergency specifically constitutes a public health disaster
9 as defined in [section 135.140](#), the written proclamation shall
10 include a statement to that effect. A state of disaster
11 emergency shall continue for ~~thirty~~ sixty days, unless sooner
12 ~~terminated or rescinded, extended in writing, or amended by~~
13 ~~the governor~~ general assembly. The general assembly may,
14 by concurrent resolution, rescind, extend, or amend this
15 proclamation. Any initial extension of this proclamation by
16 the general assembly shall not exceed sixty days, and any
17 subsequent extension shall not exceed sixty-day increments.
18 If the general assembly is not in session, the legislative
19 council may, by majority vote, rescind, extend, or amend this
20 proclamation only once and any extension shall not exceed
21 sixty days. ~~Rescission~~ Following any rescission, extension,
22 or amendment of this proclamation by the legislative council,
23 any additional action may only be taken by the general
24 assembly. Any rescission, extension, or amendment shall be
25 effective upon the filing of the concurrent resolution or
26 resolution of the legislative council with the secretary of
27 state. A proclamation of disaster emergency shall activate the
28 disaster response and recovery aspect of the state, local, and
29 interjurisdictional disaster emergency plans applicable to the
30 political subdivision or area in question and be authority for
31 the deployment and use of any forces to which the plan applies,
32 and for use or distribution of any supplies, equipment, and
33 materials and facilities assembled, stockpiled, or arranged to
34 be made available.

35 b. A measure dictated in a state of disaster emergency

1 proclamation shall not do any of the following:

2 (1) Infringe on a fundamental constitutionally protected
3 right unless the measure is justified by a compelling state
4 interest, is narrowly tailored to achieve its specific purpose,
5 and is achieved by the least restrictive means possible.

6 (2) Restrict rights, interests, or activities in a manner
7 that is not neutral or generally applicable.

8 (3) Prohibit in-person interactions between religious
9 leaders or individuals who are related by consanguinity or
10 affinity with patients or residents of hospitals or health care
11 facilities.

12 (4) Authorize the use of mobile, cellular, or any other
13 digital technologies to track or surveil persons without
14 providing prior notice to and receiving consent from such
15 persons.

16 (5) Authorize the use of any drones, unmanned
17 aerial vehicles, advanced robotics, or any artificial
18 intelligence-based systems to enforce the proclamation.

19 (6) Restrict the practice of a person holding a valid
20 license to practice a health-related profession regulated
21 by a board designated pursuant to section 147.13 or by the
22 department of health and human services, or restrict the scope
23 of service delivery of a hospital, clinic, or health care
24 professional if the person or entity is otherwise practicing
25 within the scope of a valid license.

26 (7) Allow a board designated pursuant to section 147.13 to
27 restrict the prescribing authority of a licensed health-related
28 professional in a way that acts as a deterrent for a prescriber
29 to use a medication or treatment in accordance with the
30 prescriber's best professional judgment.

31 (8) Require identification and monitoring of persons
32 who may be at risk of contracting a contagious or infectious
33 disease by virtue of contact with a contagious person
34 in a manner consistent with known or suspected modes
35 of transmission; require a person to comply with such

1 identification and monitoring efforts including efforts that
2 infringe on a person's freedom of association; or establish,
3 authorize, or enforce penalties for a person's refusal to
4 participate in the identification and monitoring efforts.

5 Sec. 2. Section 135.144, subsections 3, 5, 6, 7, and 8, Code
6 2023, are amended to read as follows:

7 3. Take reasonable measures as necessary to prevent
8 the transmission of infectious disease and to ensure that
9 all cases of communicable disease are properly identified,
10 controlled, and treated. However, such reasonable measures
11 shall not include requiring identification and monitoring of
12 persons who may be at risk of contracting a contagious or
13 infectious disease by virtue of contact with a contagious
14 person in a manner consistent with known or suspected modes
15 of transmission; requiring a person to comply with such
16 identification and monitoring efforts including efforts that
17 infringe on a person's freedom of association; or establishing,
18 authorizing, or enforcing penalties for a person's refusal
19 to participate in the identification and monitoring efforts
20 including efforts that infringe on a person's freedom of
21 association.

22 5. ~~Order~~ Recommend physical examinations and tests and
23 ~~collect~~ the collection of specimens as necessary for the
24 diagnosis or treatment of individuals, to be performed by
25 any qualified person authorized to do so by the department.
26 An examination or test shall not be ~~performed or ordered~~
27 recommended if the examination or test is reasonably likely
28 to lead to serious harm to the affected individual. The
29 department may isolate ~~or quarantine~~, pursuant to [chapter 139A](#)
30 and the rules implementing [chapter 139A](#) and [this subchapter](#),
31 any infected individual whose refusal of medical examination or
32 testing ~~results in uncertainty regarding whether the individual~~
33 ~~has been exposed to or is infected with a communicable or~~
34 ~~potentially communicable disease or otherwise poses a danger~~
35 to public health.

1 6. ~~a. Vaccinate or order~~ Recommend that individuals be
2 vaccinated with a vaccine approved by the United States food
3 and drug administration against an infectious disease and to
4 prevent the spread of communicable or potentially communicable
5 disease. Vaccinations shall be administered by any qualified
6 person authorized to do so by the department. Prior to
7 administration of a vaccine, an adult or the parent or legal
8 representative of a minor receiving the vaccine shall be
9 provided with the federal vaccine information statement for
10 the vaccine and verbally informed of the known and potential
11 benefits and risks of the vaccine. The vaccination shall
12 not be ~~provided or ordered~~ recommended if it is reasonably
13 likely to lead to serious harm to the affected individual. To
14 prevent the spread of communicable or potentially communicable
15 disease, the department may isolate ~~or quarantine,~~ pursuant to
16 chapter 139A and the rules implementing [chapter 139A](#) and this
17 subchapter, any infected person who is unable or unwilling to
18 undergo vaccination pursuant to [this subsection](#).

19 b. Notwithstanding any provision to the contrary in
20 paragraph "a", a vaccination shall not be recommended for a
21 person pursuant to this subsection and the department shall
22 not isolate an infected person who is unable or unwilling to
23 undergo vaccination pursuant to this subsection if either of
24 the following applies:

25 (1) The person, or if the person is a minor, the person's
26 parent or legal guardian, submits to the department a statement
27 signed by a physician, advanced registered nurse practitioner,
28 or physician assistant who is licensed by the board of
29 medicine, board of nursing, or board of physician assistants
30 that the vaccination would be injurious to the health and
31 well-being of the person or any member of the person's family.

32 (2) The person, or if the person is a minor, the person's
33 parent or legal guardian, submits to the department an
34 affidavit signed by the person, or if the person is a minor,
35 the person's parent or legal guardian, stating that the

1 vaccination conflicts with the sincerely held religious beliefs
2 of the applicant, or if the applicant is a minor, of the
3 applicant's parent or legal guardian.

4 7. ~~Treat or order~~ Recommend that individuals ~~exposed to~~
5 ~~or~~ infected with disease receive treatment or prophylaxis.
6 Treatment or prophylaxis shall be administered by any qualified
7 person authorized to do so by the department. Treatment or
8 prophylaxis shall not be ~~provided or ordered~~ recommended if
9 the treatment or prophylaxis is reasonably likely to lead
10 to serious harm to the affected individual. To prevent the
11 spread of communicable or potentially communicable disease, the
12 department may isolate ~~or quarantine~~, pursuant to [chapter 139A](#)
13 and the rules implementing [chapter 139A](#) and [this subchapter](#),
14 any infected individual who is unable or unwilling to undergo
15 treatment or prophylaxis pursuant to [this section](#).

16 8. Isolate ~~or quarantine~~ infected individuals or groups of
17 individuals pursuant to [chapter 139A](#) and the rules implementing
18 [chapter 139A](#) and [this subchapter](#).

19 Sec. 3. Section 135.144, Code 2023, is amended by adding the
20 following new subsection:

21 NEW SUBSECTION. 14. Provide a link on the department's
22 internet website for qualified individuals to submit
23 evidence-based information regarding a public health emergency
24 or public health disaster and for members of the public to
25 share their experiences. The department shall adopt rules
26 pursuant to [chapter 17A](#) to administer this subsection,
27 including the criteria a qualified individual must meet to
28 participate.

29 Sec. 4. Section 139A.8, subsection 4, paragraph a,
30 subparagraph (2), Code 2023, is amended to read as follows:

31 (2) The applicant, or if the applicant is a minor, the
32 applicant's parent or legal guardian, submits an affidavit
33 signed by the applicant, or if the applicant is a minor,
34 the applicant's parent or legal guardian, stating that the
35 immunization conflicts with the ~~tenets and practices of a~~

1 ~~recognized sincerely held religious denomination beliefs~~
2 of which the applicant is ~~an adherent or member~~, or if the
3 applicant is a minor, of the applicant's parent or legal
4 guardian.

5 Sec. 5. Section 139A.8, subsection 4, paragraph b, Code
6 2023, is amended to read as follows:

7 b. The exemptions under **this subsection** ~~do not~~ apply in
8 times of emergency or epidemic as determined by the ~~state board~~
9 of counsel on health and human services and as declared by the
10 director of public health and human services.

11 EXPLANATION

12 The inclusion of this explanation does not constitute agreement with
13 the explanation's substance by the members of the general assembly.

14 This bill relates to duties and powers relative to emergency
15 situations including a state of disaster emergency and public
16 health disasters.

17 The bill amends provisions relating to the proclamation of
18 a state of disaster emergency by the governor. Current law
19 provides that a state of disaster emergency shall continue for
20 30 days unless sooner terminated or extended by the governor
21 and that the general assembly, by concurrent resolution when
22 in session or through the legislative council by majority vote
23 if not in session, may rescind the proclamation. Under the
24 bill, a state of disaster emergency shall continue for 60 days
25 unless sooner rescinded, extended, or amended by the general
26 assembly, not the governor, and that any initial extension of
27 the proclamation by the general assembly shall not exceed 60
28 days, and any subsequent extension shall not exceed 60-day
29 increments. Any rescission, extension, or amendment by the
30 general assembly shall be effective upon the filing of the
31 concurrent resolution or resolution of the legislative council
32 with the secretary of state. The bill also provides that
33 if the general assembly is not in session, the legislative
34 council may, by majority vote, rescind, extend, or amend this
35 proclamation only once and any extension shall not exceed 60

1 days. Following any rescission, extension, or amendment of the
2 proclamation by the legislative council, any additional action
3 may only be taken by the general assembly.

4 The bill also provides that a measure dictated in a state
5 of disaster emergency proclamation shall not do any of the
6 following: infringe on a fundamental constitutionally
7 protected right unless the measure is justified by a compelling
8 state interest, is narrowly tailored to achieve its specific
9 purpose, and is achieved by the least restrictive means
10 possible; restrict rights, interests, or activities in a manner
11 that is not neutral or generally applicable; prohibit in-person
12 interactions between religious leaders or individuals who are
13 related by consanguinity or affinity with patients or residents
14 of hospitals or health care facilities; authorize the use of
15 mobile, cellular, or any other digital technologies to track or
16 surveil persons without providing prior notice to and receiving
17 consent from such persons; authorize the use of any drones,
18 unmanned aerial vehicles, advanced robotics, or any artificial
19 intelligence-based systems to enforce the proclamation;
20 restrict the practice of a person holding a valid license to
21 practice a health-related profession, or restrict the scope
22 of service delivery of a hospital, clinic, or health care
23 professional if the person or entity is otherwise practicing
24 within the scope of a valid license; allow a health-related
25 professional board to restrict the prescribing authority of a
26 licensed health-related professional in a way that acts as a
27 deterrent for a prescriber to use a medication or treatment in
28 accordance with the prescriber's best professional judgment;
29 or require identification and monitoring of persons who may
30 be at risk of contracting a contagious or infectious disease
31 by virtue of contact with a contagious person in a manner
32 consistent with known or suspected modes of transmission,
33 require a person to comply with such identification and
34 monitoring efforts including efforts that infringe on a
35 person's freedom of association, or establish, authorize, or

1 enforce penalties for a person's refusal to participate in the
2 identification and monitoring efforts.

3 The bill amends the duties of the department of health
4 and human services (HHS or the department) relative to a
5 public health disaster. The bill provides that the reasonable
6 measures taken by HHS to prevent the transmission of infectious
7 disease and to ensure that all cases of communicable disease
8 are properly identified, controlled, and treated shall
9 not include requiring identification and monitoring of
10 persons who may be at risk of contracting a contagious or
11 infectious disease by virtue of contact with a contagious
12 person in a manner consistent with known or suspected modes
13 of transmission; requiring a person to comply with such
14 identification and monitoring efforts including efforts that
15 infringe on a person's freedom of association; or establishing,
16 authorizing, or enforcing penalties for a person's refusal
17 to participate in the identification and monitoring efforts
18 including efforts that infringe on a person's freedom of
19 association. The department may recommend, but not order,
20 physical examinations, testing, and the collection of specimens
21 necessary for the diagnosis and treatment of individuals and
22 may isolate only infected individuals who refuse medical
23 examination or testing and who pose a danger to the public
24 health. The department may recommend that individuals be
25 vaccinated with a vaccine approved by the United State food
26 and drug administration, but not vaccinate or order that
27 individuals be vaccinated against an infectious disease or to
28 prevent the spread of communicable or potentially communicable
29 disease. Prior to administration of a vaccine, an adult or
30 the parent or legal representative of a minor receiving the
31 vaccine shall be provided with the federal vaccine information
32 statement for the vaccine and verbally informed of the known
33 and potential benefits and risks of the vaccine. Vaccination
34 shall not be recommended if it is reasonably likely to lead to
35 serious harm to the affected individual. The department may

1 isolate only infected individuals who are unable or unwilling
2 to undergo vaccination. However, the bill provides that
3 a vaccination shall not be recommended for a person under
4 this provision of the bill and that HHS shall not isolate
5 an infected person who is unable or unwilling to undergo
6 vaccination pursuant to the bill if either of the following
7 applies: the person, or if the person is a minor, the person's
8 parent or legal guardian, submits to HHS a statement signed
9 by a physician, advanced registered nurse practitioner, or
10 physician assistant who is licensed by the board of medicine,
11 board of nursing, or board of physician assistants that the
12 vaccination would be injurious to the health and well-being
13 of the person or any member of the person's family; or the
14 person, or if the person is a minor, the person's parent or
15 legal guardian, submits to HHS an affidavit signed by the
16 person, or if the person is a minor, the person's parent or
17 legal guardian, stating that the vaccination conflicts with
18 the sincerely held religious beliefs of the applicant, or if
19 the applicant is a minor, of the applicant's parent or legal
20 guardian.

21 The department may recommend, but not treat or order,
22 that individuals infected with disease receive treatment or
23 prophylaxis. Treatment or prophylaxis shall not be recommended
24 if the treatment or prophylaxis is reasonably likely to lead
25 to serious harm to the affected individual. The department
26 may isolate only individuals infected with disease who are
27 unable or unwilling to undergo treatment or prophylaxis and may
28 isolate only infected individuals or groups of individuals.

29 The bill requires the department to provide a link on the
30 department's internet website for qualified individuals to
31 submit evidence-based information regarding a public health
32 emergency or public health disaster and for members of the
33 public to share their experiences. The department shall adopt
34 rules pursuant to Code chapter 17A to administer the bill,
35 including the criteria a qualified individual must meet to

1 participate.

2 The bill amends provisions relating to the immunization of
3 children to provide that if a child is exempt from vaccination,
4 the exemption applies during times of emergency or epidemic and
5 provides that the religious exemption is based on the sincerely
6 held religious beliefs of the applicant, or if the applicant is
7 a minor, of the applicant's parent or legal guardian, rather
8 than based on a conflict with the tenets and practices of a
9 recognized religious denomination of which the applicant is an
10 adherent or member.