

House File 2087 - Introduced

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BY GEARHART and DIEKEN

A BILL FOR

1 An Act relating to the powers and duties applicable to
2 state of disaster emergencies and public health disasters,
3 including a prohibition on regulating religious institutions
4 and practices.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. NEW SECTION. **7.19 Regulation of religious**
 2 **institutions and practices — limitation.**

3 Notwithstanding any provision of law to the contrary, the
 4 governor shall not dictate a measure in a proclamation of a
 5 state of disaster emergency issued pursuant to section 29C.6 that
 6 unduly interferes with the operations of a religious institution
 7 or otherwise impedes an individual's practice of religion. For
 8 purposes of this section, a "religious institution" means a
 9 building in which individuals engage in religious practices.

10 Sec. 2. Section 29C.6, subsection 1, Code 2026, is amended to
 11 read as follows:

12 1. a. After finding a disaster exists or is threatened,
 13 proclaim a state of disaster emergency. This proclamation shall
 14 be in writing, indicate the area affected and the facts upon
 15 which it is based, be signed by the governor, and be filed with
 16 the secretary of state. If the state of disaster emergency
 17 specifically constitutes a public health disaster as defined
 18 in section 135.140, the written proclamation shall include a
 19 statement to that effect. A state of disaster emergency shall
 20 continue for ~~thirty~~ fifteen days, unless sooner ~~terminated or~~
 21 rescinded, extended, or amended in writing by the ~~governor~~
 22 general assembly. The general assembly may, by concurrent
 23 resolution, rescind, extend, or amend this proclamation. An
 24 initial extension of this proclamation by the general assembly
 25 shall not exceed fifteen days, and any subsequent extension shall
 26 not exceed fifteen-day increments. If the general assembly is
 27 not in session, the legislative council may, by majority vote,
 28 rescind, extend, or amend this proclamation only once and the
 29 extension shall not exceed fifteen days. ~~Rescission~~ Following
 30 any rescission, extension, or amendment of this proclamation by
 31 the legislative council, only the general assembly may take any
 32 additional action. Any rescission, extension, or amendment shall
 33 be effective upon filing of the concurrent resolution of the
 34 general assembly or resolution of the legislative council with
 35 the secretary of state. A proclamation of disaster emergency

1 shall activate the disaster response and recovery aspect of the
2 state, local, and interjurisdictional disaster emergency plans
3 applicable to the political subdivision or area in question
4 and be authority for the deployment and use of any forces
5 to which ~~the~~ each disaster emergency plan applies, and for
6 use or distribution of any supplies, equipment, and materials
7 and facilities assembled, stockpiled, or arranged to be made
8 available.

9 b. A measure dictated in a state of disaster emergency
10 proclamation shall not do any of the following:

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

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

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

20 (4) Authorize the use of mobile, cellular, or any other
21 digital technologies to track or surveil persons without
22 providing prior notice to and receiving consent from such
23 persons. A request to consent to specific terms of surveillance
24 shall not be combined with any other terms requiring consent.

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

28 (6) Restrict the practice of a person holding a valid license
29 to practice a health-related profession regulated by a board
30 designated pursuant to section 147.13 or by the department
31 of inspections, appeals, and licensing, or restrict the scope
32 of service delivery of a hospital, clinic, or health care
33 professional if the person or entity is otherwise practicing
34 within the scope of a valid license.

35 (7) Allow a board designated pursuant to section 147.13 to

1 restrict the prescribing authority of a licensed health-related
2 professional in a way that deters the professional from
3 prescribing medication or treatment in accordance with the
4 professional's best professional judgment.

5 (8) Require identification and monitoring of persons who may
6 be at risk of contracting a contagious or infectious disease by
7 virtue of contact with a contagious person in a manner consistent
8 with known or suspected modes of transmission.

9 (9) Establish, authorize, or enforce penalties for a person's
10 refusal to participate in identification and monitoring efforts.

11 Sec. 3. Section 135.144, subsections 3, 5, 6, 7, and 8, Code
12 2026, are amended to read as follows:

13 3. Take reasonable measures as necessary to prevent the
14 transmission of infectious disease and to ensure that all cases
15 of communicable disease are properly identified, controlled, and
16 treated. Reasonable measures shall not include any of the
17 following:

18 a. Requiring identification and monitoring of persons who may
19 be at risk of contracting a contagious or infectious disease by
20 virtue of contact with a contagious person in a manner consistent
21 with known or suspected modes of transmission.

22 b. Requiring a person to comply with such identification and
23 monitoring efforts including efforts that infringe on a person's
24 freedom of association.

25 c. Establishing, authorizing, or enforcing penalties for
26 a person's refusal to participate in the identification and
27 monitoring efforts.

28 5. ~~Order~~ Recommend physical examinations and tests and
29 ~~collect~~ the collection of specimens as necessary for the
30 diagnosis or treatment of individuals, to be performed by any
31 qualified person authorized to do so by the department. ~~An A~~
32 physical examination or test shall not be performed or ordered
33 recommended if the physical examination or test is reasonably
34 likely to lead to serious harm to the affected individual.
35 The affected individual has the ultimate authority to determine

1 whether to submit to the recommended physical examination or
 2 testing, and shall not be subject to undue pressure or compulsion
 3 to submit to the recommendation. The department may isolate ~~or~~
 4 ~~quarantine,~~ pursuant to chapter 139A and the rules implementing
 5 chapter 139A and this subchapter, any infected individual whose
 6 refusal of ~~medical~~ a physical examination or testing ~~results in~~
 7 ~~uncertainty regarding whether the individual has been exposed to~~
 8 ~~or is infected with a communicable or potentially communicable~~
 9 ~~disease or otherwise~~ poses a danger to public health. The length
 10 of isolation shall not exceed the longest usual incubation period
 11 for the specific communicable disease.

12 6. ~~Vaccinate or order~~ Recommend that individuals be
 13 vaccinated with a vaccine approved by the United States food and
 14 drug administration as safe and effective against an infectious
 15 disease and to prevent the spread of communicable or potentially
 16 communicable disease. Vaccinations shall be administered by any
 17 qualified person authorized to do so by the department. Prior
 18 to administration of a vaccine, an adult or the parent or legal
 19 representative of a minor receiving the vaccine shall be provided
 20 with the federal vaccine information statement for the vaccine
 21 and verbally informed of the known and potential benefits and
 22 risks of the vaccine. The vaccination shall not be ~~provided~~
 23 ~~or ordered~~ recommended if it is reasonably likely to lead to
 24 serious harm to the affected individual. The affected individual
 25 has the ultimate authority to determine whether to submit to
 26 the recommended vaccination, and shall not be subject to undue
 27 pressure or compulsion to submit to the recommendation. To
 28 prevent the spread of communicable or potentially communicable
 29 disease, the department may isolate ~~or quarantine,~~ pursuant to
 30 chapter 139A and the rules implementing chapter 139A and this
 31 subchapter, any infected person ~~who is unable or unwilling to~~
 32 ~~undergo vaccination pursuant to this subsection.~~

33 7. ~~Treat or order~~ Recommend that individuals ~~exposed to~~
 34 ~~or~~ infected with disease receive treatment or prophylaxis.
 35 Treatment or prophylaxis shall be administered by any qualified

1 person authorized to do so by the department. Treatment or
2 prophylaxis shall not be ~~provided or ordered~~ recommended if
3 the treatment or prophylaxis is reasonably likely to lead to
4 serious harm to the ~~affected~~ infected individual. The infected
5 individual has the ultimate authority to determine whether to
6 submit to the recommended treatment or prophylaxis, and shall
7 not be subject to undue pressure or compulsion to submit to
8 the recommendation. To prevent the spread of communicable or
9 potentially communicable disease, the department may isolate ~~or~~
10 ~~quarantine~~, pursuant to chapter 139A and the rules implementing
11 chapter 139A and this subchapter, any infected individual who is
12 unable or unwilling to undergo treatment or prophylaxis pursuant
13 to this ~~section~~ subsection.

14 8. Isolate ~~or quarantine~~ infected individuals or groups of
15 individuals pursuant to chapter 139A and the rules implementing
16 chapter 139A and this subchapter.

17 Sec. 4. Section 135.144, Code 2026, is amended by adding the
18 following new subsection:

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

26 Sec. 5. Section 139A.4, subsection 1, Code 2026, is amended
27 to read as follows:

28 1. The type and length of isolation or quarantine imposed for
29 a specific communicable disease shall be in accordance with rules
30 adopted by the department. The length of isolation or quarantine
31 shall not exceed the longest usual incubation period for the
32 specific communicable disease.

33 Sec. 6. Section 139A.8, subsection 4, paragraph a,
34 subparagraph (2), Code 2026, is amended to read as follows:

35 (2) The applicant, or if the applicant is a minor, the

1 applicant's parent or legal guardian, submits an affidavit signed
2 by the applicant, or if the applicant is a minor, the applicant's
3 parent or legal guardian, stating that the immunization conflicts
4 with the ~~tenets and practices of a recognized~~ sincerely held
5 religious denomination beliefs of which the applicant is an
6 adherent or member, or if the applicant is a minor, of the
7 applicant's parent or legal guardian.

8 Sec. 7. Section 139A.8, subsection 4, paragraph b, Code 2026,
9 is amended to read as follows:

10 b. The exemptions under this subsection ~~do not~~ apply in
11 times of emergency or epidemic as determined and declared by the
12 director.

13 EXPLANATION

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

16 This bill relates to the powers and duties applicable during
17 a state of disaster emergency or a public health disaster
18 and prohibits the governor's ability to regulate religious
19 institutions and practices during these emergencies.

20 The bill prohibits the governor from dictating a measure in
21 a proclamation of a state of disaster emergency (proclamation)
22 that unduly interferes with operations of a religious institution
23 or otherwise impedes an individual's practice of religion.
24 "Religious institution" is defined in the bill.

25 Current law provides that a state of disaster emergency
26 shall continue for 30 days unless terminated or extended by the
27 governor. The general assembly, by concurrent resolution when in
28 session, or through the legislative council by majority vote if
29 not in session, may rescind the proclamation. Under the bill,
30 a state of disaster emergency shall continue for 15 days unless
31 rescinded, extended, or amended by the general assembly, any
32 initial extension of the proclamation shall not exceed 15 days,
33 and any subsequent extension shall not exceed 15-day increments.
34 The bill also provides that if the general assembly is not in
35 session, the legislative council may, by majority vote, rescind,

1 extend, or amend the proclamation only once and the extension
2 shall not exceed 15 days.

3 The bill places certain restrictions on measures dictated in a
4 proclamation relating to constitutional rights, religious rights,
5 patient rights, surveillance, health-related profession licensing
6 and prescribing authority, and disease contraction monitoring.

7 Current law allows the department of health and human
8 services (HHS) to take reasonable measures to prevent the
9 transmission of and ensure proper identification, control, and
10 treatment of infectious diseases. The bill provides that
11 requiring identification and monitoring of a person at risk of
12 contracting a contagious or infectious disease through contact
13 with a contagious person or requiring a person to comply with
14 such identification and monitoring efforts are not reasonable
15 measures.

16 Under current law, HHS can take or order certain disease
17 prevention actions be taken during a public health disaster.
18 The bill instead provides that the department may only
19 recommend vaccines approved by the United States food and drug
20 administration and not reasonably likely to lead to serious harm
21 to the individual. Under the bill, HHS may only recommend
22 physical examinations, testing, and the collection of specimens
23 necessary for the diagnosis and treatment of infected individuals
24 and not reasonably likely to harm the individual. An affected
25 individual has the ultimate authority to determine whether to
26 submit to the department's recommendations, and shall not be
27 subject to undue pressure or compulsion to submit.

28 Under current law, during a public health disaster, HHS can
29 quarantine or isolate certain infected individuals. The bill
30 instead allows HHS to isolate certain infected individuals for a
31 period not to exceed the longest usual incubation period for the
32 specific communicable disease.

33 The bill provides that prior to administration of a vaccine,
34 an adult or the parent or legal representative of a minor
35 receiving the vaccine shall be provided with the federal vaccine

1 information statement and verbally informed of the known and
2 potential benefits and risks of the vaccine. The department may
3 isolate infected individuals.

4 Under current law, during a public health disaster, HHS
5 can order infected individuals to receive certain treatments
6 or prophylaxes. Under the bill, HHS may only recommend that
7 infected individuals receive treatment or prophylaxis if not
8 reasonably likely to lead to serious harm to the individual.
9 The infected individual has the ultimate authority to determine
10 whether to submit to the recommendation, and shall not be subject
11 to undue pressure or compulsion to submit. Under current law,
12 HHS can quarantine or isolate infected individuals unwilling
13 to undergo treatment or prophylaxis. Under the bill, HHS may
14 isolate infected individuals unable or unwilling to undergo
15 treatment or prophylaxis.

16 The bill requires HHS to provide a link on the department's
17 internet site for qualified individuals to submit evidence-based
18 information regarding a public health emergency or public
19 health disaster and for members of the public to share their
20 experiences. The department shall adopt rules to administer this
21 provision, including the criteria a qualified individual must
22 meet to participate.

23 The bill provides that the type and length of isolation or
24 quarantine imposed for a specific communicable disease shall be
25 in accordance with rules adopted by the department, and that
26 the length of the isolation or quarantine shall not exceed the
27 longest usual incubation period for the specific communicable
28 disease.

29 Under current law, immunization is not required for enrollment
30 in an elementary or secondary school or licensed child care
31 center if a person, or, if the person is a minor, the minor's
32 parent or guardian, submits an affidavit stating that the
33 immunization conflicts with the tenets and practices of a
34 recognized religious denomination of which the person or the
35 minor's parent or guardian is an adherent or member. Under the

1 bill, the submitted affidavit shall be accepted if it states the
2 immunization conflicts with the sincerely held religious beliefs
3 of the person or, if the person is a minor, the beliefs of the
4 minor's parent or guardian.

5 The bill provides that if a child is exempt from vaccination,
6 the exemption applies during times of emergency or epidemic.

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