

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 760 (Delegate Krebs, *et al.*)
Health and Government Operations

States of Emergency and Catastrophic Health Emergencies - Renewals -
Authorization by General Assembly or Legislative Policy Committee

This bill prohibits the Governor from renewing a state of emergency or proclamation of a catastrophic health emergency for more than one additional 30-day period without approval by the General Assembly or the Legislative Policy Committee (LPC). Specifically, the Governor may renew a state of emergency or a proclamation of a catastrophic health emergency for more than one additional 30-day period only (1) if the General Assembly by joint resolution approves the renewal of the state of emergency or proclamation for one or more additional 30-day periods or (2) when the General Assembly is not in session, if LPC approves by majority vote the renewal of the state of emergency or proclamation for one or more additional 30-day periods. The bill also clarifies that a state of emergency continues until it expires, if not otherwise terminated or extended as provided under current law.

Fiscal Summary

State Effect: The bill's changes are generally procedural in nature and do not directly affect State finances, as discussed below.

Local Effect: The bill does not directly affect local government finances or operations, as discussed below.

Small Business Effect: None.

Analysis

Current Law:

States of Emergency

Title 14, Subtitle 1 of the Public Safety Article requires the Governor to declare a state of emergency by executive order or proclamation if he or she finds that an emergency has developed or is impending due to any cause. The state of emergency continues until the Governor (1) finds that the threat or danger has passed or the emergency has been dealt with to the extent that emergency conditions no longer exist and (2) terminates the state of emergency by executive order or proclamation. A state of emergency may not continue for longer than 30 days unless renewed by the Governor. The General Assembly may terminate a state of emergency at any time by joint resolution.

The Secretary of Emergency Management is responsible for coordinating the activities of State agencies and affected political subdivisions in all actions that serve to prevent or alleviate the ill effects of the imminent or actual emergency. An executive order or proclamation that declares a state of emergency activates the emergency response and recovery aspects of State and local emergency plans, as specified.

After declaring a state of emergency, the Governor may take specified actions if he or she finds them necessary in order to protect the public health, welfare, or safety. For example, the Governor may suspend the effect of any statute or rule or regulation of an agency of the State or a political subdivision and may direct and compel the evacuation of all or part of the population from a stricken or threatened area in the State. Chapters 3 and 7 of the 2021 special session require the Governor to provide written notice to LPC and, if applicable, the Administrative, Executive, and Legislative Review Committee within 72 hours after suspending the effect of a statute or rule or regulation during a declared state of emergency. The notice must identify the statute or rule or regulation being suspended and explain the reasons that suspending the statute or rule or regulation is necessary to address the emergency.

Catastrophic Health Emergency

Title 14, Subtitle 3A of the Public Safety Article authorizes the Governor to issue a proclamation declaring the existence of a catastrophic health emergency. “Catastrophic health emergency” means a situation in which extensive loss of life or serious disability is threatened imminently because of exposure to a deadly agent, including a biological or chemical agent capable of causing extensive loss of life or serious disability or radiation at levels capable of causing extensive loss of life or serious disability.

The Governor must rescind the proclamation whenever the Governor determines that the catastrophic health emergency no longer exists. Unless renewed, the proclamation expires 30 days after issuance. The Governor may renew the proclamation for successive periods of up to 30 days if he or she determines that a catastrophic health emergency continues to exist.

After proclaiming a catastrophic health emergency, the Governor may order the Secretary of Health or other designated official to:

- seize immediately anything needed to respond to the medical consequences of the catastrophic health emergency;
- work collaboratively, to the extent feasible, with health care providers to designate and gain access to a facility needed to respond to the catastrophic health emergency; and
- control, restrict, or regulate the use, sale, dispensing, distribution, or transportation of anything needed to respond to the medical consequences of the catastrophic health emergency by (1) rationing or using quotas; (2) creating and distributing stockpiles; (3) prohibiting shipments; (4) setting prices; or (5) taking other appropriate actions.

If medically necessary and reasonable to treat, prevent, or reduce the spread of the disease or outbreak believed to have been caused by the exposure to a deadly agent, the Governor may order the Secretary of Health or other designated official to:

- require individuals to submit to medical examination or testing;
- require individuals to submit to vaccination or medical treatment unless the vaccination or treatment likely will cause serious harm to the individual;
- establish places of treatment, isolation, and quarantine; or
- require individuals to go and remain in places of isolation or quarantine until the Secretary of Health or other designated official determines that the individuals no longer pose a substantial risk of transmitting the disease or condition to the public.

In addition, the Governor may order the evacuation, closing, or decontamination of any facility. If necessary and reasonable to save lives or prevent exposure to a deadly agent, the Governor may order individuals to remain indoors or refrain from congregating.

State/Local Fiscal Effect: Any change in General Assembly or LPC activities as a result of the bill can be absorbed within existing budgeted resources.

If, under the bill, the General Assembly or LPC does not approve the proposed renewal of a state of emergency or of a proclamation of a catastrophic health emergency, State and

local operations and/or finances are potentially affected. (For example, the Maryland Department of Emergency Management advises that the State is unable to utilize assistance through the interstate Emergency Management Assistance Compact outside of an active state of emergency.) Any such impact, however, cannot be reliably predicted, as it depends on the circumstances of the emergency and the timing of when the state of emergency or proclamation would otherwise terminate in the absence of the bill. As discussed above, the General Assembly may, under current law, terminate a declared state of emergency at any time by joint resolution. Thus, for purposes of this fiscal and policy note, it is assumed that the bill's changes primarily alter procedures for renewing a state of emergency or proclamation of a catastrophic health emergency and do not directly affect State or local finances or operations.

Additional Information

Prior Introductions: HB 835 of 2021 received a hearing in the House Health and Government Operations Committee, but no further action was taken.

Designated Cross File: None.

Information Source(s): Maryland Association of County Health Officers; Department of Commerce; Maryland Department of Emergency Management; Governor's Office; Judiciary (Administrative Office of the Courts); Maryland State Department of Education; Department of Housing and Community Development; Department of Legislative Services

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Analysis by: Elizabeth J. Allison

Direct Inquiries to:
(410) 946-5510
(301) 970-5510