

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 701 (Delegate Cox)
Health and Government Operations

Public Safety - Governor's Health Emergency Powers - Repeal

This bill repeals the authorization for the Governor to issue a proclamation declaring a catastrophic health emergency, as well as the powers of the Governor and the Secretary of Health relating to a proclamation of a catastrophic health emergency.

Fiscal Summary

State Effect: The impact on State finances and operations cannot be reliably predicted, as it depends on the timing, nature, and duration of future public health emergencies, as discussed below.

Local Effect: The impact on local government finances and operations cannot be reliably predicted, as discussed below.

Small Business Effect: Unknown. The bill broadly affects the State's ability to respond to public health emergencies, of which the impact on small businesses cannot be predicted.

Analysis

Current Law: Title 14, Subtitle 3A of the Public Safety Article authorizes the Governor to issue a proclamation declaring the existence of a catastrophic health emergency. (*Under the bill*, this subtitle is repealed.) "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 proclamation must indicate the nature of the catastrophic health emergency, the areas threatened or affected, and the conditions that led to the catastrophic health emergency or made possible the termination of the emergency. 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.

The Secretary of Health may require an individual to isolate or quarantine if the individual is a competent adult and refuses an order issued under a catastrophic health emergency for vaccination, medical examination, treatment, or testing. An individual or group of individuals who have been directed to isolate or quarantine may request a hearing in a circuit court to contest the isolation or quarantine, as specified.

A health care provider who acts in good faith under a catastrophic health emergency proclamation is immune from civil or criminal liability.

A person who knowingly and willfully fails to comply with an order, requirement, or directive related to a catastrophic health emergency is guilty of a misdemeanor and subject to imprisonment for up to one year and/or a fine of up to \$5,000.

State/Local Fiscal Effect: The bill repeals the Governor’s health emergency powers under State law and, thus, broadly affects the State’s ability to respond to public health emergencies. To the extent that the bill precludes the proclamation of catastrophic health emergencies in response to public health emergencies, the bill likely inhibits the State’s ability to deploy resources and otherwise effectively respond to public health emergencies and, thus, has a potentially significant effect on State and local finances and operations. For context, the state of emergency and catastrophic health emergency declared in response to the COVID-19 pandemic lasted from March 2020 to August 2021 and initiated a series of executive actions to control and prevent the spread of COVID-19; a subsequent state of emergency and proclamation of a catastrophic health emergency, declared in response to a surge of COVID-19, lasted from January 4, 2022, through February 3, 2022. However, the bill’s impact on State and local governments cannot be reliably quantified or fully predicted, as it depends on the timing, nature, and duration of future public health emergencies, which are unknown.

The bill does not repeal or affect the Governor’s authority to declare a state of emergency under Title 14, Subtitle 1 (Maryland Emergency Management Act) or Subtitle 3 (Governor’s Emergency Powers) of the Public Safety Article.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Maryland Association of County Health Officers; Department of Commerce; Maryland Association of Counties; Maryland Department of Emergency Management; Maryland Municipal League; Judiciary (Administrative Office of the Courts); Maryland State Department of Education; Maryland Department of Health; Department of Housing and Community Development; Department of State Police; Maryland Department of Transportation; Military Department; Department of Legislative Services

Fiscal Note History: First Reader - February 24, 2022
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