

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1371 (Delegate McKay, *et al.*)
Health and Government Operations

**Public Safety - States of Emergency and Catastrophic Health Emergencies -
Treatment of Religious Organizations**

This bill specifies that an order, rule, or regulation promulgated by the Governor under a state of emergency or catastrophic health emergency must authorize a religious organization to operate and engage in religious services to the same or a greater extent than organizations providing essential services are authorized to operate. For purposes of the bill, “essential service” means a service that is necessary and vital to the health and welfare of the public during a catastrophic health emergency. The bill may not be construed to prohibit the State or a local government from requiring a religious organization to comply with a neutral, generally applicable law or regulation.

Fiscal Summary

State Effect: The bill does not directly affect State finances.

Local Effect: The bill does not directly affect local finances.

Small Business Effect: None.

Analysis

Current Law:

Governor’s Emergency Powers

Under Title 14, Subtitle 3 of the Public Safety Article (Governor’s Emergency Powers), the General Assembly recognizes the Governor’s broad authority in the exercise of the

police power of the State to provide adequate control over persons and conditions during impending or actual public emergencies. The subtitle's provisions must be broadly construed to carry out its purpose.

Section 14-303 of the Public Safety Article authorizes the Governor to proclaim a state of emergency and designate the emergency area during a public emergency in the State. After proclaiming a state of emergency, and in accordance with specified public notice requirements, the Governor may promulgate reasonable orders, rules, or regulations that he or she considers necessary to protect life and property or calculated effectively to control and terminate the public emergency in the emergency area, including orders, rules, or regulations to:

- control traffic in the emergency area;
- designate specific zones in the emergency area in which occupancy and use of buildings and vehicles may be controlled;
- control the movement of individuals or vehicles into, in, or from the designated zones;
- control places of amusement and places of assembly;
- control individuals on public streets;
- establish curfews;
- control the sale, transportation, and use of alcoholic beverages;
- control the possession, sale, carrying, and use of firearms, other dangerous weapons, and ammunition;
- control the storage, use, and transportation of explosives or flammable materials or liquids considered to be dangerous to public safety; and
- authorize the use of alternative care sites.

An order, rule, or regulation promulgated under this provision (1) takes effect from the time and in the manner specified in the order, rule, or regulation; (2) may be amended or rescinded, in the same manner as the original order, by the Governor at any time during the state of emergency; and (3) terminates when the Governor declares that the state of emergency no longer exists.

Governor's Health Emergency Powers

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.

The state of emergency and catastrophic health emergency issued in March 2020 in response to the COVID-19 pandemic resulted in numerous executive orders to control the spread of COVID-19, including those limiting social, community, spiritual, religious, recreational, leisure, and sporting gatherings and events.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Maryland Association of County Health Officers; Baltimore, Carroll, Harford, Queen Anne's, and St. Mary's counties; Maryland Association of Counties; Maryland Department of Emergency Management; Maryland Municipal League; Governor's Office; Maryland Department of Health; Department of Legislative Services

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Analysis by: Elizabeth J. Allison

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