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State of Minnesota

HOUSE OF REPRESENTATIVES

SPECIAL SESSION

H. F. No. 28

06/14/2021 Authored by Bahr, Lucero, Mekeland, Drazkowski, Munson and others
The bill was read for the first time and referred to the Committee on Rules and Legislative Administration

1.1 A bill for an act
1.2 relating to emergency management; protecting citizen rights; specifying citizen
1.3 responsibilities; establishing a civil cause of action; defining terms; requiring
1.4 legislative approval to extend a declared emergency beyond five days; requiring
1.5 legislative approval before certain executive orders and rules may have the force
1.6 and effect of law; amending Minnesota Statutes 2020, sections 12.03, subdivision
1.7 1e, by adding subdivisions; 12.21, subdivision 3; 12.31, subdivisions 2, 3; 12.32;
1.8 12.36; 12.61, subdivision 2; proposing coding for new law in Minnesota Statutes,
1.9 chapter 12; repealing Minnesota Statutes 2020, section 12.45.

1.10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.11 Section 1. TITLE.

1.12 This act shall be known as the "Never Again Bill."

1.13 Sec. 2. [12.025] PROTECTION OF CITIZENS' RIGHTS.

1.14 Nothing in this chapter authorizes the governor or the state director to suspend the rights
1.15 of the people within the borders of Minnesota, including but not limited to:

1.16 (1) the right of free speech;

1.17 (2) the right to practice one's religion;

1.18 (3) the right to assemble;

1.19 (4) the right to keep and bear arms;

1.20 (5) the freedom of travel; and

1.21 (6) the right to operate a business lawfully as determined by the laws prior to the
1.22 emergency.

2.1 Sec. 3. [12.027] CITIZENS' RESPONSIBILITIES IN AN EMERGENCY.

2.2 Subdivision 1. **Personal responsibility.** A person exercising any of the rights listed in
 2.3 section 12.025, or operating a business in contravention of documented public health and
 2.4 safety guidance through the state and its agents, is advised that any loss or injury to
 2.5 themselves or others is their responsibility. By exercising their rights, a person assumes
 2.6 absolute custodial responsibility for the safety of persons who may be adversely affected
 2.7 by their actions. This liability may extend to other individuals who may come in contact
 2.8 with the individual or reside in or occupy the same or adjacent premises including invitees,
 2.9 trespassers, or employees of the individual. This section does not apply to an individual
 2.10 whose actions were compelled or required by others including a state or federal authority.

2.11 Subd. 2. **Cause of action.** A person who is deemed by the court to be an innocent party
 2.12 to the actions of another who is exercising the rights in section 12.025 and who is injured,
 2.13 suffers bodily harm or death, or incurs economic loss or expense, property damage, or any
 2.14 other compensable loss that could have been avoided by following documented public health
 2.15 and safety guidance shall have a civil cause of action against the person whose actions
 2.16 caused the harm. In addition to any other damages authorized by law, the person may be
 2.17 awarded reasonable attorney fees, expert witness costs, and other costs necessary to bring
 2.18 the cause of action.

2.19 Subd. 3. **Limitation.** The statute of limitations for an action under this section is two
 2.20 years from the date of the occurrence of the conduct which gave rise to damages under this
 2.21 section.

2.22 Sec. 4. Minnesota Statutes 2020, section 12.03, subdivision 1e, is amended to read:

2.23 Subd. 1e. **Declared emergency.** "Declared emergency" means a national security
 2.24 emergency or ~~peacetime~~ emergency declared by the governor under section 12.31.

2.25 Sec. 5. Minnesota Statutes 2020, section 12.03, is amended by adding a subdivision to
 2.26 read:

2.27 Subd. 12. **Bioterrorism.** "Bioterrorism" means the intentional use of any microorganism,
 2.28 virus, infectious substance, or biological product that may be engineered as a result of
 2.29 biotechnology, or any naturally occurring or bioengineered component of any such
 2.30 microorganism, virus, infectious substance, or biological product, to cause death, disease,
 2.31 or other biological malfunction in a human, an animal, a plant, or another living organism
 2.32 in order to influence the conduct of government or to intimidate or coerce a civilian
 2.33 population.

3.1 Sec. 6. Minnesota Statutes 2020, section 12.03, is amended by adding a subdivision to
3.2 read:

3.3 Subd. 13. **Public health emergency.** "Public health emergency" means an occurrence
3.4 or imminent threat of an illness or health condition in Minnesota:

3.5 (1) where there is evidence to believe the illness or health condition is caused by:

3.6 (i) bioterrorism; or

3.7 (ii) the appearance of a new, novel, or previously controlled or eradicated airborne
3.8 infectious agent or airborne biological toxin; and

3.9 (2) the illness or health condition poses a high probability of any of the following harms:

3.10 (i) a large number of deaths in the affected population;

3.11 (ii) a large number of serious or long-term disabilities in the affected population; or

3.12 (iii) widespread exposure to an airborne infectious or airborne toxic agent that poses a
3.13 significant risk of substantial future harm to a large number of people in the affected
3.14 population.

3.15 Sec. 7. Minnesota Statutes 2020, section 12.21, subdivision 3, is amended to read:

3.16 Subd. 3. **Specific authority.** In performing duties under this chapter and to effect its
3.17 policy and purpose, the governor may:

3.18 (1) make, amend, and rescind the necessary orders and rules to carry out the provisions
3.19 of this chapter and section 216C.15 within the limits of the authority conferred by this
3.20 section, with due consideration of the plans of the federal government and without complying
3.21 with sections 14.001 to 14.69, ~~but no order or rule has the effect of law except as provided~~
3.22 ~~by section 12.32;~~

3.23 (2) ensure that a comprehensive emergency operations plan and emergency management
3.24 program for this state are developed and maintained, and are integrated into and coordinated
3.25 with the emergency plans of the federal government and of other states to the fullest possible
3.26 extent;

3.27 (3) in accordance with the emergency operations plan and the emergency management
3.28 program of this state, procure supplies, equipment, and facilities; institute training programs
3.29 and public information programs; and take all other preparatory steps, including the partial
3.30 or full activation of emergency management organizations in advance of actual disaster to

4.1 ensure the furnishing of adequately trained and equipped forces of emergency management
4.2 personnel in time of need;

4.3 (4) make studies and surveys of the industries, resources, and facilities in this state as
4.4 may be necessary to ascertain the capabilities of the state for emergency management and
4.5 to plan for the most efficient emergency use of those industries, resources, and facilities;

4.6 (5) on behalf of this state, enter into mutual aid arrangements or cooperative agreements
4.7 with other states, tribal authorities, and Canadian provinces, and coordinate mutual aid plans
4.8 between political subdivisions of this state;

4.9 (6) delegate administrative authority vested in the governor under this chapter, except
4.10 the power to make rules, and provide for the subdelegation of that authority;

4.11 (7) cooperate with the president and the heads of the armed forces, the Emergency
4.12 Management Agency of the United States and other appropriate federal officers and agencies,
4.13 and with the officers and agencies of other states in matters pertaining to the emergency
4.14 management of the state and nation, including the direction or control of:

4.15 (i) emergency preparedness drills and exercises;

4.16 (ii) warnings and signals for drills or actual emergencies and the mechanical devices to
4.17 be used in connection with them;

4.18 (iii) shutting off water mains, gas mains, electric power connections and the suspension
4.19 of all other utility services;

4.20 (iv) the conduct of persons in the state, including entrance or exit from any stricken or
4.21 threatened public place, occupancy of facilities, and the movement and cessation of
4.22 movement of pedestrians, vehicular traffic, and all forms of private and public transportation
4.23 during, prior, and subsequent to drills or actual emergencies;

4.24 (v) public meetings or gatherings; and

4.25 (vi) the evacuation, reception, and sheltering of persons;

4.26 (8) contribute to a political subdivision, within the limits of the appropriation for that
4.27 purpose, not more than 25 percent of the cost of acquiring organizational equipment that
4.28 meets standards established by the governor;

4.29 (9) formulate and execute, with the approval of the Executive Council, plans and rules
4.30 for the control of traffic in order to provide for the rapid and safe movement over public
4.31 highways and streets of troops, vehicles of a military nature, and materials for national
4.32 defense and war or for use in any war industry, for the conservation of critical materials, or

5.1 for emergency management purposes; and coordinate the activities of the departments or
 5.2 agencies of the state and its political subdivisions concerned directly or indirectly with
 5.3 public highways and streets, in a manner that will best effectuate those plans;

5.4 (10) alter or adjust by executive order, without complying with sections 14.01 to 14.69,
 5.5 the working hours, workdays and work week of, and annual and sick leave provisions and
 5.6 payroll laws regarding all state employees in the executive branch as the governor deems
 5.7 necessary to minimize the impact of the disaster or emergency, conforming the alterations
 5.8 or adjustments to existing state laws, rules, and collective bargaining agreements to the
 5.9 extent practicable;

5.10 (11) authorize the commissioner of education to alter school schedules, curtail school
 5.11 activities, or order schools closed as defined in section 120A.05, subdivisions 9, 11, 13, and
 5.12 17, and including charter schools under chapter 124E, and elementary schools enrolling
 5.13 prekindergarten pupils in district programs; and

5.14 (12) transfer the direction, personnel, or functions of state agencies to perform or facilitate
 5.15 response and recovery programs.

5.16 Sec. 8. Minnesota Statutes 2020, section 12.31, subdivision 2, is amended to read:

5.17 Subd. 2. **Declaration of ~~peacetime~~ emergency.** (a) The governor may declare a
 5.18 ~~peacetime~~ an emergency. A ~~peacetime~~ declaration of emergency may be declared only when
 5.19 an act of nature, a technological failure or malfunction, a terrorist incident, an industrial
 5.20 accident, a hazardous materials accident, or a civil disturbance endangers life and property
 5.21 and local government resources are inadequate to handle the situation. If the ~~peacetime~~
 5.22 emergency occurs on Indian lands, the governor or state director of emergency management
 5.23 shall consult with tribal authorities before the governor makes such a declaration. Nothing
 5.24 in this section shall be construed to limit the governor's authority to act without such
 5.25 consultation when the situation calls for prompt and timely action. When the governor
 5.26 declares a ~~peacetime~~ an emergency, the governor must immediately notify the majority and
 5.27 minority leaders of the senate and the speaker and majority and minority leaders of the
 5.28 house of representatives. ~~A peacetime~~ An emergency must not be continued for more than
 5.29 five days unless extended by a joint resolution of the ~~Executive Council up to 30 days~~ house
 5.30 of representatives and senate. ~~An order, or proclamation declaring,~~ Upon passage of both
 5.31 houses, the resolution continuing, ~~or terminating~~ an emergency must be given prompt and
 5.32 general publicity and filed with the secretary of state.

5.33 (b) By majority vote of each house of the legislature, the legislature may ~~terminate~~ extend
 5.34 a ~~peacetime~~ declared emergency ~~extending beyond~~ to more than 30 days. If the governor

6.1 determines a need to extend the ~~peacetime~~ emergency declaration beyond 30 days and the
 6.2 legislature is not sitting in session, the governor must issue a call immediately convening
 6.3 both houses of the legislature. If not renewed by the legislature, the governor may not reissue
 6.4 a declaration of emergency for the same or similar emergency. Nothing in this section limits
 6.5 the governor's authority over or command of the National Guard as described in the Military
 6.6 Code, chapters 190 to 192A, and required by the Minnesota Constitution, article V, section
 6.7 3.

6.8 Sec. 9. Minnesota Statutes 2020, section 12.31, subdivision 3, is amended to read:

6.9 Subd. 3. **Effect of declaration of ~~peacetime~~ emergency.** A declaration of a ~~peacetime~~
 6.10 emergency in accordance with this section authorizes the governor to exercise for a period
 6.11 not to exceed the time specified in this section the powers and duties conferred and imposed
 6.12 by this chapter for a ~~peacetime~~ declared emergency and invokes the necessary portions of
 6.13 the state emergency operations plan developed pursuant to section 12.21, subdivision 3,
 6.14 relating to response and recovery aspects and may authorize aid and assistance under the
 6.15 plan. Nothing in this section shall preclude the governor or the governor's commissioners
 6.16 from pursuing all federal funding available. An emergency declared in response to
 6.17 bioterrorism or a public health emergency is governed by chapter 144.

6.18 Sec. 10. Minnesota Statutes 2020, section 12.32, is amended to read:

6.19 **12.32 GOVERNOR'S ORDERS AND RULES, EFFECT.**

6.20 Orders and rules promulgated by the governor under authority of section 12.21,
 6.21 subdivision 3, clause (1), ~~when approved by the Executive Council and filed in the Office~~
 6.22 ~~of the Secretary of State, have,~~ during a ~~national security emergency, peacetime~~ declared
 6.23 emergency, public health emergency, or energy supply emergency, do not have the full
 6.24 force and effect of law unless passed by the legislature within five days and filed with the
 6.25 Office of the Secretary of State. Rules and ordinances of any agency or political subdivision
 6.26 of the state inconsistent with the provisions of this chapter or with any order or rule having
 6.27 the force and effect of law issued under the authority of this chapter, is suspended during
 6.28 the period of time and to the extent that the emergency exists.

6.29 Sec. 11. Minnesota Statutes 2020, section 12.36, is amended to read:

6.30 **12.36 GOVERNOR'S POWERS TO FAST PROVIDE EMERGENCY AID.**

6.31 (a) The governor, during an emergency or disaster and ~~notwithstanding any other law,~~
 6.32 unless otherwise provided by law, may:

7.1 (1) enter into contracts and incur obligations necessary to combat the disaster by
7.2 protecting the health and safety of persons and the safety of property and by providing
7.3 emergency assistance to the victims of the disaster; and

7.4 (2) exercise the powers vested by this subdivision in the light of the exigencies of the
7.5 disaster without compliance with time-consuming procedures and formalities prescribed
7.6 by law pertaining to:

7.7 (i) the performance of public work;

7.8 (ii) entering into contract;

7.9 (iii) incurring of obligations;

7.10 (iv) employment of temporary workers;

7.11 (v) rental of equipment;

7.12 (vi) purchase of supplies and materials, for example, but not limited to, publication of
7.13 calls for bids;

7.14 (vii) provisions of the Civil Service Act and rules;

7.15 (viii) provisions relating to low bids; and

7.16 (ix) requirements for the budgeting and allotment of funds.

7.17 (b) All contracts must be in writing, executed on behalf of the state by the governor or
7.18 a person delegated by the governor in writing so to do, and must be promptly filed with the
7.19 commissioner of management and budget, who shall forthwith encumber funds appropriated
7.20 for the purposes of the contract for the full contract liability and certify thereon that the
7.21 encumbrance has been made.

7.22 Sec. 12. Minnesota Statutes 2020, section 12.61, subdivision 2, is amended to read:

7.23 Subd. 2. **Emergency executive order.** (a) During a ~~national security~~ declared emergency
7.24 ~~or a peacetime emergency declared under section 12.31~~, the governor may issue an
7.25 emergency executive order upon finding that the number of seriously ill or injured persons
7.26 exceeds the emergency hospital or medical transport capacity of one or more regional
7.27 hospital systems and that care for those persons has to be given in temporary care facilities.

7.28 (b) During the effective period of the emergency executive order, a responder in any
7.29 impacted region acting consistent with emergency plans is not liable for any civil damages
7.30 or administrative sanctions as a result of good-faith acts or omissions by that responder in

8.1 rendering emergency care, advice, or assistance. This section does not apply in case of
8.2 malfeasance in office or willful or wanton actions.

8.3 Sec. 13. **REVISOR INSTRUCTION.**

8.4 The revisor of statutes must renumber the subdivisions in Minnesota Statutes, section
8.5 12.03, in alphabetical order and revise all cross-references accordingly.

8.6 Sec. 14. **REPEALER.**

8.7 Minnesota Statutes 2020, section 12.45, is repealed.

12.45 VIOLATIONS, PENALTIES.

Unless a different penalty or punishment is specifically prescribed, a person who willfully violates a provision of this chapter or a rule or order having the force and effect of law issued under authority of this chapter is guilty of a misdemeanor and upon conviction must be punished by a fine not to exceed \$1,000, or by imprisonment for not more than 90 days.