

**SENATE
STATE OF MINNESOTA
SPECIAL SESSION**

S.F. No. 42

(SENATE AUTHORS: TOMASSONI)

DATE
06/17/2021

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Introduction and first reading
Referred to Rules and Administration

OFFICIAL STATUS

1.1 A bill for an act
1.2 relating to state government; defining public health emergency; clarifying
1.3 governor's authority to declare a peacetime emergency for a public health
1.4 emergency; prohibiting adjournment during a peacetime emergency; requiring
1.5 reports and public hearings; establishing a process to terminate certain orders and
1.6 rules; prescribing the form of certain orders and rules; modifying vote and quorum
1.7 requirements during a peacetime emergency; amending Minnesota Statutes 2020,
1.8 sections 4.035, subdivision 1; 12.03, by adding a subdivision; 12.31, subdivision
1.9 2; 12.32.

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

1.11 Section 1. Minnesota Statutes 2020, section 4.035, subdivision 1, is amended to read:

1.12 Subdivision 1. **Applicability.** (a) A written statement or order executed by the governor
1.13 pursuant to constitutional or statutory authority and denominated as an executive order, or
1.14 a statement or order of the governor required by law to be in the form of an executive order,
1.15 shall be uniform in format except as provided in paragraph (b), shall be numbered
1.16 consecutively, and shall be effective and expire as provided in this section. Executive orders
1.17 creating agencies shall be consistent with the provisions of this section and section 15.0593.

1.18 (b) An executive order that has the full force and effect of law under section 12.32 must
1.19 be in the form required under section 12.32, paragraph (b).

1.20 Sec. 2. Minnesota Statutes 2020, section 12.03, is amended by adding a subdivision to
1.21 read:

1.22 Subd. 12. **Public health emergency.** "Public health emergency" means an occurrence
1.23 or imminent threat of an illness or health condition in Minnesota if:

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

- 2.1 (i) bioterrorism; or
- 2.2 (ii) the appearance of a new, novel, previously controlled or eradicated airborne infectious
- 2.3 agent or airborne biological toxin; and
- 2.4 (2) the illness or health condition poses a high probability of any of the following harms:
- 2.5 (i) a large number of deaths in the affected population;
- 2.6 (ii) a large number of serious or long-term disabilities in the affected population; or
- 2.7 (iii) widespread exposure to an airborne infectious or airborne toxic agent that poses a
- 2.8 significant risk of substantial future harm to a large number of people in the affected
- 2.9 population.

2.10 Sec. 3. Minnesota Statutes 2020, section 12.31, subdivision 2, is amended to read:

2.11 **Subd. 2. Declaration of peacetime emergency.** (a) The governor may declare a

2.12 peacetime emergency. A peacetime declaration of emergency may be declared only when

2.13 an act of nature, a technological failure or malfunction, a terrorist incident, a pandemic or

2.14 other public health emergency, an industrial accident, a hazardous materials accident, or a

2.15 civil disturbance endangers life and property and local government resources are inadequate

2.16 to handle the situation. If the peacetime emergency occurs on Indian lands, the governor or

2.17 state director of emergency management shall consult with tribal authorities before the

2.18 governor makes such a declaration. Nothing in this section shall be construed to limit the

2.19 governor's authority to act without such consultation when the situation calls for prompt

2.20 and timely action. When the governor declares a peacetime emergency, the governor must

2.21 immediately notify the majority and minority leaders of the senate and the speaker and

2.22 majority and minority leaders of the house of representatives. A peacetime emergency must

2.23 not be continued for more than five days unless extended by resolution of the Executive

2.24 Council up to 30 days. An order, or proclamation declaring, continuing, or terminating an

2.25 emergency must be given prompt and general publicity and filed with the secretary of state.

2.26 (b) By majority vote of each house of the legislature, the legislature may terminate a

2.27 peacetime emergency extending beyond 30 days. If the governor determines a need to extend

2.28 the peacetime emergency declaration beyond 30 days and the legislature is not sitting in

2.29 session, the governor must issue a call immediately convening both houses of the legislature.

2.30 Nothing in this section limits the governor's authority over or command of the National

2.31 Guard as described in the Military Code, chapters 190 to 192A, and required by the

2.32 Minnesota Constitution, article V, section 3.

2.33 (c) If a peacetime emergency extends beyond 30 days:

3.1 (1) the house of representatives and senate, if convened by the governor under paragraph
3.2 (b), must not adjourn the special session sine die until the peacetime emergency expires or
3.3 is terminated by the proper authority;

3.4 (2) the governor must immediately report to all legislators the rationale and specific
3.5 legal authority for each order or rule in effect and promulgated by the governor in response
3.6 to the peacetime emergency that has the full force and effect of law under section 12.32;

3.7 (3) within ten days the Legislative Coordinating Commission must hold one or more
3.8 public hearings and recommend to both houses whether each order or rule under clause (2)
3.9 should be maintained, superseded and modified by law, or terminated; and

3.10 (4) by majority vote of each house, the legislature may terminate an order or rule
3.11 promulgated by the governor in response to a peacetime emergency, with termination
3.12 effective no earlier than 21 days after the order or rule is filed in the Office of the Secretary
3.13 of State. If a member of the house of representatives or senate moves during the appropriate
3.14 order of business to terminate an order or rule under this clause, the presiding officer must
3.15 put the question to the body. If the vote fails in a house, a motion to terminate the same
3.16 order or rule is not in order in that house until 21 days after the failed vote.

3.17 (d) For purposes of paragraph (b) and paragraph (c), clause (4), the quorum and vote
3.18 requirements in section 3.96 apply.

3.19 Sec. 4. Minnesota Statutes 2020, section 12.32, is amended to read:

3.20 **12.32 GOVERNOR'S ORDERS AND RULES, EFFECT.**

3.21 (a) Orders and rules promulgated by the governor under authority of section 12.21,
3.22 subdivision 3, clause (1), when written as required under paragraph (b), approved by the
3.23 Executive Council, and filed in the Office of the Secretary of State, have, during a national
3.24 security emergency, peacetime emergency, or energy supply emergency, the full force and
3.25 effect of law. Rules and ordinances of any agency or political subdivision of the state
3.26 inconsistent with the provisions of this chapter or with any order or rule having the force
3.27 and effect of law issued under the authority of this chapter, is suspended during the period
3.28 of time and to the extent that the emergency exists.

3.29 (b) Rules that have the full force and effect of law under paragraph (a) must be written
3.30 in the manner required under chapter 14 and approved as to form by the revisor of statutes.
3.31 Orders that have the full force and effect of law under paragraph (a) must be written in the
3.32 general style of a bill or amendment and approved as to form by the revisor of statutes, as
3.33 follows:

4.1 (1) if an order or portion of an order conflicts with an existing state law or statute, the
4.2 order must include the text of the law or statute and denote amendments with underscored
4.3 or stricken language; and

4.4 (2) if an order does not conflict with an existing state law or statute, the order must be
4.5 written with sections and subdivisions that are arranged and subdivided in like manner as
4.6 Minnesota Statutes.

4.7 (c) The governor's exercise of powers granted by this chapter in an order or rule is subject
4.8 to judicial review.

4.9 **Sec. 5. EFFECTIVE DATE.**

4.10 This act is effective August 1, 2021, and applies to peacetime emergencies declared
4.11 after that date.