

House Research Act Summary

CHAPTER: 150

SESSION: 2005 Regular Session

TOPIC: Emergency Health Powers Act

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Analyst: Janelle Taylor, 651-296-5808

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Overview

This act modifies the Emergency Health Powers Act. The modifications include: adding liability protections for volunteers and employees; removing specific language regarding “public health emergency” to create an “all hazard approach” to emergency planning and response; authorizing professionals from Canada and the District of Columbia to provide assistance during emergencies; requiring health care providers to notify individuals of their right to refuse treatment; and removing the sunset date for certain sections.

Section

- 1 Declared emergency.** Amends § 12.03 by adding subd. 1e. Defines “declared emergency” as a national security or peacetime emergency declared by the governor under section 12.31.
- 2 Facility.** Amends § 12.03, subd. 4d. Adds a licensed health care facility (only when there are no feasible alternatives) to the definition of “facility.”
- 3 Volunteer protections.** Amends § 12.22, subd. 2a. Clarifies that individuals who volunteer to assist a local political subdivision during an emergency or disaster and register with the local political subdivision shall be considered employees of the subdivision only for the purposes of workers’ compensation and tort claim defense and indemnification. Adds that individuals who volunteer and register to assist the state during an emergency or disaster be considered employees of the state for the purposes of workers’ compensation and tort claim defense and indemnification.
- 4 Other law preserved.** Amends § 12.22 by adding subd. 4. States that nothing in chapter 12 shall be construed to remove any immunity from, defense to, or limitation on liability provided by the Minnesota Tort Claims Act, the Municipal Tort Claims Act, or other law.

- 5 **Declaration of national security emergency.** Amends § 12.31, subd. 1. Removes the specific reference to a public health emergency, conforming with the sunset of section 5 of the Emergency Health Powers Act, which defines “public health emergency.”
- 6 **Declaration of peacetime emergency.** Removes the specific reference to a public health emergency. Eliminates the current requirement that the governor call a special legislative session when declaring a peacetime emergency. Addresses the governor’s obligation to consult with tribal authorities concerning declaration of an emergency. Requires the governor to immediately notify certain members of the house and senate when declaring a peacetime emergency. Allows the legislature to terminate a peacetime emergency extending past 30 days. States that nothing in the section limits the governor’s authority over or command of the National Guard.
- 7 **Governor’s orders and rules, effect.** Amends § 12.32. Removes the specific reference to a public health emergency, conforming with the sunset of section 5 of the Emergency Health Powers Act, which defines “public health emergency.”
- 8 **Emergency powers.** Amends § 12.34, subd. 1. Removes the specific reference to a public health emergency, conforming with the sunset of section 5 of the Emergency Health Powers Act, which defines “public health emergency.”
- 9 **Safe disposition of dead human bodies.** Amends § 12.381.

Subd. 1. Powers for safe disposition. Removes specific references to a public health emergency, national security emergency, and peacetime emergency and consolidates the application of the governor’s powers in connection with the disposition of dead bodies, to during any “declared emergency.”

Subd. 2. Identification of bodies; data classification. Removes the specific reference to a public health emergency, conforming with the sunset of section 5 of the Emergency Health Powers Act, which defines “public health emergency.”

- 10 **Individual testing or treatment; notice, refusal, consequence.** Amends § 12.39.

Subd. 1. Refusal of treatment. Removes the specific reference to a public health emergency, conforming with the sunset of section 5 of the Emergency Health Powers Act, which defines “public health emergency.”

Subd. 2. Information given. Requires that health care providers notify individuals, before performing examinations, of their right to refuse examination, testing, treatment, or vaccination and the consequences of refusal (which may include isolation or quarantine). (Current law only requires health care providers to do so “when feasible.”)

- 11 **Out-of-state license holders; powers, duties.** Amends § 12.42. Allows, during a declared emergency, persons holding licenses from the District of Columbia, or a province of Canada, to render aid using their licensed skills when the aid is requested by the governor, subject to limitations and conditions the governor may prescribe. (Current law allows this for persons holding a license from another state.)
- 12 **Hospital or medical transport capacities exceeded; responder liability limitation.** Adds § 12.61.

Subd. 1. Definitions. Defines “emergency plan” as: (1) any plan for managing an emergency threatening public health developed by the commissioner of health or local public health agency; (2) any plan for managing an emergency threatening public health developed by one or more hospitals, clinics, nursing homes, or other

health care providers and approved by the commissioner of health or local public health agency in consultation with emergency management officials; or (3) any provision for assistance by out-of-state responders under interstate or international compacts (including the Emergency Management Assistance Compact). Defines “regional hospital system” as all hospitals in one of the hospital bio-terrorism preparedness program geographic regions. Defines “responder” as any person or organization, whether paid or volunteer, that provides health care or other related services in an emergency including physicians, nurses, pharmacists, and others.

Subd. 2. Emergency executive order. Paragraph (a) allows the governor to issue an emergency executive order (during a national security emergency or peacetime emergency declared under section 12.31) that care has to be given in temporary care facilities if the governor finds that the number of seriously ill or injured persons exceeds the emergency hospital or medical transport capacity of one or more regional hospital systems.

Paragraph (b) states that responders acting during an emergency executive order period are not liable for any civil damages or administrative sanctions as a result of good-faith acts or omissions by the responder in rendering emergency care, advice, or assistance (this does not apply in cases of malfeasance in office or willful or wanton actions).

13 Death investigation data. Removes the specific reference to a public health emergency, conforming with the sunset of section 5 of the Emergency Health Powers Act, which defines “public health emergency.”

14 Sunset. Amends Laws 2002, ch. 402, § 21, as amended by Laws 2004, ch. 279, art. 11, § 7. Allows sections 1, 2, 5, 10, and 11 of the Emergency Health Powers Act to sunset and removes the sunset on sections 3, 4, 6, 7, 9, and 12 to 19.

Sections allowed to sunset. Sections 1, 2, and 5 create the act’s title and define “bio-terrorism” and “public health emergency” respectively. Section 10 provides specific provisions for declaring a peacetime or national security emergency due to a public health emergency. Section 11 provides specific provisions for terminating a peacetime or national security emergency due to a public health emergency.

Sections retained (sunset removed). Sections 3 and 4 define “facility” and “medical supplies” respectively. Section 6 modifies the authority of the governor by expanding and adding actions the governor may take (under chapter 12) including: procuring facilities; entering into mutual aid agreements with tribal authorities; controlling the conduct of persons; and transferring the direction, personnel, or functions of state agencies. Section 7 adds “public health emergency” due to enemy sabotage or other hostile action to the list of situations when the governor may declare a national security emergency. Section 9 expands the governor’s authority, during peacetime emergencies, to include all the powers and duties under chapter 12. Section 12 gives orders and rules adopted under a peacetime emergency declared due to a public health emergency the full force and effect of law. Section 13 expands the list of situations where the governor may use emergency powers to include a peacetime emergency declared due to a public health emergency. Section 14 provides provisions for the safe disposition of dead human bodies during a public health emergency along with data practice provisions. Section 15 establishes provisions relating to individuals’ rights to refuse testing and treatment and health care professionals’ responsibilities to notify individuals of their rights to refuse. Section 16 provides a cross-

reference in chapter 13 (Government Data Practices) to section 12.381, subdivision 2 (which establishes data practices regarding identifying bodies of those who have died as a result of a public health emergency). Section 17 provides a cross-reference in chapter 13 (Government Data Practices) to section 144.4195 (which governs the classification of data in isolation or quarantine directives of the commissioner of health). Section 18 establishes a new section in chapter 144 to define the terms, requirements, and termination provisions for the isolation and quarantine of individuals. Section 19 establishes a new section in chapter 144, creating a due process for the isolation or quarantine of individuals.

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Effective date. States that section 14 is effective the day following final enactment.