

SECOND REGULAR SESSION

# HOUSE BILL NO. 1698

102ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE SPARKS.

2888H.011

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

To repeal section 67.265, RSMo, and to enact in lieu thereof two new sections relating to public health.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 67.265, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 67.265 and 192.024, to read as follows:

67.265. 1. For purposes of this section, the term "order" shall mean a public health order, ordinance, rule, or regulation issued by a political subdivision, including by a health officer, local public health agency, public health authority, or the political subdivision's executive, as such term is defined in section 67.750, in response to an actual or perceived threat to public health for the purpose of preventing the spread of a contagious disease. Notwithstanding any other provision of law to the contrary:

(1) Any order issued during and related to ~~an~~ **a statewide** emergency declared pursuant to chapter 44 that directly or indirectly closes, partially closes, or places restrictions on the opening of or access to any one or more business organizations, churches, schools, or other places of public or private gathering or assembly, including any order, ordinance, rule, or regulation of general applicability or that prohibits or otherwise limits attendance at any public or private gatherings, shall not remain in effect for longer than thirty calendar days in a one hundred eighty-day-period, including the cumulative duration of similar orders issued concurrently, consecutively, or successively, and shall automatically expire at the end of the thirty days or as specified in the order, whichever is shorter, unless so authorized by a simple majority vote of the political subdivision's governing body to extend such order or approve a

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 similar order; provided that such extension or approval of similar orders shall not exceed  
18 thirty calendar days in duration and any order may be extended more than once; and

19 (2) Any order of general applicability issued at a time other than ~~an~~ a statewide  
20 emergency declared pursuant to chapter 44 that directly or indirectly closes an entire  
21 classification of business organizations, churches, schools, or other places of public or private  
22 gathering or assembly shall not remain in effect for longer than twenty-one calendar days in a  
23 one hundred eighty-day-period, including the cumulative duration of similar orders issued  
24 concurrently, consecutively, or successively, and shall automatically expire at the end of the  
25 twenty-one days or as specified in the order, whichever is shorter, unless so authorized by a  
26 two-thirds majority vote of the political subdivision's governing body to extend such order or  
27 approve a similar order; provided that such extension or approval of similar orders:

28 (a) **Shall receive explicit prior approval from the general assembly; and**

29 (b) May be extended more than once.

30 2. **If the general assembly is not in session when a political subdivision seeks**  
31 **approval from the general assembly under subdivision (2) of subsection 1 of this section,**  
32 **the governor may convene the general assembly in an extraordinary session to consider**  
33 **whether to grant such approval.**

34 3. The governing bodies of the political subdivisions issuing orders under this section  
35 shall at all times have the authority to terminate an order issued or extended under this section  
36 upon a simple majority vote of the body.

37 ~~[3-]~~ 4. In the case of local public health agencies created through an agreement by  
38 multiple counties under chapter 70, all of the participating counties' governing bodies shall be  
39 required to approve or terminate orders in accordance with the provisions of this section.

40 ~~[4-]~~ 5. Prior to or concurrent with the issuance or extension of any order under  
41 subdivisions (1) and (2) of subsection 1 of this section, the health officer, local public health  
42 agency, public health authority, or executive shall provide a report to the governing body  
43 containing information supporting the need for such order.

44 ~~[5-]~~ 6. No political subdivision of this state shall make or modify any orders that have  
45 the effect, directly or indirectly, of a prohibited order under this section.

46 ~~[6-]~~ 7. No rule or regulation issued by the department of health and senior services  
47 shall authorize a local health official, health officer, local public health agency, or public  
48 health authority to create or enforce any order, ordinance, rule, or regulation described in  
49 section 192.300 or this section that is inconsistent with the provisions of this section.

50 8. **Notwithstanding any other provision of law, a political subdivision that issues**  
51 **an order in violation of this section shall be liable to any person subject to the order for**  
52 **damages incurred by the person.**

192.024. 1. For purposes of this section, the term "individual" means any adult  
2 or minor child.

3 2. Notwithstanding any laws, rules, orders, or directives made or promulgated in  
4 response to an emergency including, but not limited to, a national security emergency,  
5 an emergency declared under chapter 44, a local emergency, a health emergency, or any  
6 peacetime emergency, and notwithstanding any laws or rules that address outbreaks or  
7 potential outbreaks or epidemics of a contagious, infectious, or communicable disease  
8 other than the provisions of subsection 5 of this section, individuals retain the right to be  
9 free and independent and maintain their inalienable and fundamental right of self-  
10 determination to make their own health decisions including, but not limited to, the right  
11 to refuse any of the following health-related countermeasures:

- 12 (1) Medical treatments or procedures;
- 13 (2) Testing;
- 14 (3) Physical or mental examination;
- 15 (4) Vaccination;
- 16 (5) Experimental procedures or protocols;
- 17 (6) Collection of specimens;
- 18 (7) Participation in tracking or tracing programs;
- 19 (8) The wearing of masks;
- 20 (9) The maintenance of a measured distance from other humans and animals  
21 that is not otherwise unlawful;
- 22 (10) The involuntary sharing of personal data or medical information; and
- 23 (11) Any other recommended or mandated health-related countermeasures.

24 3. Notwithstanding any provision of law other than the provisions of subsection 5  
25 of this section, an individual who has been directed or ordered by a government or its  
26 designees or by a public or private business or entity including, but not limited to, a  
27 commissioner or director of health, a local health officer, a sheriff, a peace officer, or any  
28 designee of such commissioner, director, sheriff, or officer to submit to a directive or  
29 order that imposes a health-related countermeasure as described in subsection 2 of this  
30 section may decline to comply with, respond to, or participate in any countermeasure  
31 described in the directive or order.

32 4. Notwithstanding any provision of law other than the provisions of subsection 5  
33 of this section, the government or its designees, employers, businesses, nonprofit  
34 organizations, institutions, churches, travel carriers, or any other public or private  
35 entities shall not infringe upon, impose conditions on, restrict, or remove an individual's  
36 ability to fully participate in necessary and important services and lifestyle choices and  
37 preferences including, but not limited to, education, day care, employment, travel,

38 religion, hobbies, entertainment, and sports based on an individual's choice to decline to  
39 comply with any countermeasure described in subsection 2 of this section.

40       **5. (1) An individual who declines to comply with a countermeasure described in**  
41 **subsection 2 of this section may be required to participate in isolation or quarantine**  
42 **under the authority of section 192.020 or any other law permitting isolation or**  
43 **quarantine requirements or regulations if:**

44       **(a) The individual is infected with or reasonably believed to be infected with a**  
45 **communicable disease, has been exposed to a toxic agent that can be transferred to**  
46 **another individual, or has been exposed to a communicable disease; and**

47       **(b) The toxic agent or communicable disease is the basis upon which an**  
48 **emergency has been declared or is the basis of a nonemergency order, law, or rule.**

49       **(2) Notwithstanding any state or local laws on isolation or quarantine**  
50 **procedures, any isolation or quarantine required of an individual as permitted under**  
51 **this subsection shall be the least restrictive means possible to prevent the spread of the**  
52 **toxic agent or disease; shall include reasonable notice and due process; shall protect the**  
53 **right of the individual to remain in his or her home and live with family members,**  
54 **friends, and significant others at all times; and shall not require any alteration or**  
55 **renovation, such as the addition of a bathroom, to any home.**

56       **(3) Any requirement for a noninfected individual to quarantine shall be based on**  
57 **sufficient credible evidence of contact with or close proximity to an infected individual**  
58 **and shall not be imposed based on third-party location data.**

59       **(4) Treatment, testing, tracking, or prevention orders shall not be imposed as a**  
60 **requirement of ending the isolation or quarantine of an individual.**

61       **(5) An individual in isolation or quarantine shall have the right to utilize the**  
62 **health care treatments of his or her choice and the right to be accompanied by a**  
63 **consenting individual of his or her choice to attend to his or her needs at all times during**  
64 **the isolation or quarantine period.**

65       **(6) An individual's quarantine or isolation shall not remove or alter the**  
66 **individual's legal or medical custody of another individual. A minor child shall not be**  
67 **forcibly removed from his or her parent or legal guardian or home in order to enforce**  
68 **an individual's quarantine or isolation.**

69       **6. (1) Before a health care provider or individual who has been directed or**  
70 **ordered by a government or its designees or a public or private business or entity**  
71 **including, but not limited to, a commissioner or director of health, a local health officer,**  
72 **a sheriff, a peace officer, or any designee of such commissioner, director, sheriff, or**  
73 **officer to enforce a public health directive or order performs a countermeasure included**  
74 **in the directive or order or requests participation in a countermeasure included in the**

75 **directive or order including, but not limited to, any countermeasure described in**  
76 **subsection 2 of this section, the health care provider or individual shall notify the**  
77 **individual to whom the directive or order is being given of his or her rights under this**  
78 **section by reading aloud to the individual subsections 2 to 4 of this section.**

79 **(2) If the individual to whom the directive or order is being given is a minor,**  
80 **subsections 2 to 4 of this section shall be read aloud to the minor's parent or legal**  
81 **guardian.**

82 **(3) A written copy of this section shall be provided to the individual to whom the**  
83 **directive or order is being given or, if the individual is a minor, to his or her parent or**  
84 **legal guardian.**

85 **(4) The health care provider or other individual giving the directive or order**  
86 **shall obtain a signature of acknowledgment of receipt of the notification from any**  
87 **individual or parent or legal guardian who declines to comply with or participate in the**  
88 **countermeasure.**

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