

**FIRST ENGROSSMENT
with House Amendments
ENGROSSED SENATE BILL NO. 2124**

Introduced by

Senators Myrdal, Burckhard, Dever, Hogue

Representatives Louser, Rohr

1 A BILL for an Act to create and enact a new section to chapter 23-12, two new subsections to
2 section 37-17.1-05, a new section to chapter 50-11, and a new section to chapter 54-03 of the
3 North Dakota Century Code, relating to prohibitions on vaccine passports, the governor's
4 authority to issue executive orders, unaccompanied undocumented children, and permitting a
5 virtual meeting of the legislative management and a virtual session of the legislative assembly
6 during a declared disaster or emergency; to amend and reenact subsection 12 of section
7 23-01-05 and subsections 3 and 6 of section 37-17.1-05 of the North Dakota Century Code and
8 section 50-25.1-11.1 of the North Dakota Century Code, as amended in section 2 of Senate Bill
9 No. 2131, as approved by the sixty-seventh legislative assembly, relating to the authority of the
10 state health officer, the gubernatorial declaration of disaster or emergency powers of the
11 department of human services, and criminal history record checks for children's advocacy
12 centers; and to declare an emergency.

13 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

14 **SECTION 1. AMENDMENT.** Subsection 12 of section 23-01-05 of the North Dakota
15 Century Code is amended and reenacted as follows:

16 12. Issue any ~~orders~~ a written order relating to a disease control ~~measures-~~
17 ~~deemed~~ measure necessary to prevent the spread of a communicable disease.
18 ~~Disease~~ A disease control ~~measures~~ measure may include a special immunization
19 ~~activities~~ activity and decontamination ~~measures~~ measure. ~~Written orders~~
20 a. The state health officer shall limit a written order issued under this section to the
21 geographical area affected by the communicable disease. The state health officer
22 may not issue a statewide order under this section unless the governor has
23 declared a statewide disaster or emergency under chapter 37-17.1 and the
24 governor consents to the order. The statewide order is limited in duration to the

1 duration of the declared disaster or emergency unless terminated earlier
2 pursuant to chapter 37-17.1.

3 b. A written order issued under this section shall ~~have~~has the same effect as a
4 physician's standing medical order.

5 c. The state health officer may~~shall~~ apply to the district court in a judicial district
6 where a communicable disease is present for an injunction ~~canceling~~if the state
7 health officer seeks to cancel a public event~~event~~ or ~~closing places~~close a place
8 of business. On application of the state health officer showing the necessity of
9 ~~such~~the cancellation or closure, the court may issue an ex parte preliminary
10 injunction, pending a full hearing.

11 **SECTION 2.** A new section to chapter 23-12 of the North Dakota Century Code is created
12 and enacted as follows:

13 **Vaccine passports - Prohibition.**

14 Except as provided under section 23-07-17.1, a state or local government may not mandate
15 that a private entity require documentation of an individual's vaccination status.

16 **SECTION 3. AMENDMENT.** Subsection 3 of section 37-17.1-05 of the North Dakota
17 Century Code is amended and reenacted as follows:

18 3. A disaster or emergency must be declared by executive order or proclamation of the
19 governor if the governor determines a disaster has occurred or a state of emergency
20 exists. The

21 a. Except as provided in subdivision b, the state of disaster or emergency shall
22 continue~~continues~~ until the governor determines ~~that~~ the threat of an emergency
23 has passed or the governor determines the disaster has been dealt with to the
24 extent ~~that~~ emergency conditions no longer exist, whichever occurs first.

25 b. If a state of disaster or emergency relating to public health is declared and in
26 effect and the legislative assembly is not in session, the legislative management
27 may meet to vote on whether the legislative management should request the
28 governor call a special session of the legislative assembly. If the governor does
29 not call a special session within seven days after the legislative management
30 sends a request to the governor, the declared state of disaster or emergency
31 relating to public health terminates thirty days after the request from the

1 legislative management was sent to the governor. If the governor calls a special
2 session within seven days after the request from the legislative management was
3 sent, the special session must be held within fifteen days of the governor's call for
4 a special session. If the legislative assembly meets to address a declared state of
5 disaster or emergency, the legislative assembly by concurrent resolution may
6 terminate, extend, or modify the state of disaster or emergency.

7 c. The legislative assembly by concurrent resolution may terminate a state of
8 disaster or emergency at any time.

9 d. All executive orders or proclamations issued under this subsection must indicate
10 the nature of the disaster or emergency, the area or areas threatened, the
11 conditions ~~which~~that have brought it about or which make possible termination of
12 the state of disaster or emergency. An executive order or proclamation must be
13 disseminated promptly by means calculated to bring its contents to the attention
14 of the general public, unless the circumstances attendant upon the disaster or
15 emergency prevent or impede such dissemination, and it must be ~~promptly~~ filed
16 promptly with the department of emergency services, the legislative council, the
17 secretary of state, and the county or city auditor of the jurisdictions affected.

18 **SECTION 4. AMENDMENT.** Subsection 6 of section 37-17.1-05 of the North Dakota
19 Century Code is amended and reenacted as follows:

- 20 6. ~~¶~~The governor may not amend or repeal the provisions of a statute, but subject to
21 prohibitions and limitations in law, and in addition to any other powers conferred upon
22 the governor by law, the governor may:
- 23 a. Suspend the provisions of any regulatory statute prescribing the procedures for
24 conduct of state business, or the orders, rules, or regulations of any state agency,
25 if strict compliance with the provisions of any statute, order, rule, or regulation
26 would in any way prevent, hinder, or delay necessary action in managing a
27 disaster or emergency.
- 28 b. Utilize all available resources of the state government as reasonably necessary
29 to manage the disaster or emergency and of each political subdivision of the
30 state.

- 1 c. Transfer the direction, personnel, or functions of state departments and agencies
2 or units thereof for the purpose of performing or facilitating emergency
3 management activities.
- 4 d. Subject to any applicable requirements for compensation under section
5 37-17.1-12, commandeer or utilize any private property if the governor finds this
6 necessary to manage the disaster or emergency.
- 7 e. Direct and compel the evacuation of all or part of the population from any stricken
8 or threatened area within the state if the governor deems this action necessary
9 for the preservation of life or other disaster or emergency mitigation, response, or
10 recovery.
- 11 f. Prescribe routes, modes of transportation, and destinations in connection with an
12 evacuation.
- 13 g. Control ingress and egress in a designated disaster or emergency area, the
14 movement of persons within the area, and the occupancy of premises therein.
- 15 h. Suspend or limit the sale, dispensing, or transportation of alcoholic beverages,
16 explosives, and combustibles, not including ammunition.
- 17 i. Make provision for the availability and use of temporary emergency housing.
- 18 j. Make provisions for the control, allocation, and the use of quotas for critical
19 shortages of fuel or other life and property sustaining commodities.
- 20 k. Designate members of the highway patrol, North Dakota national guard, or others
21 trained in law enforcement, as peace officers.

22 **SECTION 5.** A new subsection to section 37-17.1-05 of the North Dakota Century Code is
23 created and enacted as follows:

24 Notwithstanding subsection 3, if a state of disaster or emergency relating to public
25 health is declared and in effect, the governor may not issue an executive order under
26 this section unless the executive order specifically addresses the mitigation of the
27 declared state of disaster or emergency relating to public health.

28 **SECTION 6.** A new subsection to section 37-17.1-05 of the North Dakota Century Code is
29 created and enacted as follows:

30 The governor may not take any action under this section which violates a resident's
31 due process rights.

1 **SECTION 7.** A new section to chapter 50-11 of the North Dakota Century Code is created
2 and enacted as follows:

3 **Unaccompanied undocumented children.**

4 A person may not arrange for or promote care provided in a facility for unaccompanied
5 undocumented children unless the facility has a license or approval issued by the department.

6 **SECTION 8. AMENDMENT.** Section 50-25.1-11.1 of the North Dakota Century Code, as
7 amended in section 2 of Senate Bill No. 2131, as approved by the sixty-seventh legislative
8 assembly, is amended and reenacted as follows:

9 **50-25.1-11.1. Children's advocacy centers - Confidentiality of records - Criminal**
10 **history record checks.**

- 11 1. Records and digital media in the possession of a children's advocacy center relating to
12 a forensic medical examination, forensic interview, or therapy are confidential and may
13 be released only to a person other than a law enforcement agency, the department or
14 the department's authorized agent, or a medical or mental health professional when
15 the child comes before the medical or mental health professional in that person's
16 professional capacity, upon service of a subpoena signed by a judge.
- 17 2. ~~Upon receipt of a request by a children's advocacy center, the~~The department may
18 submit a request for a criminal history record check under section 12-60-24. ~~Under this~~
19 ~~subsection, a children's advocacy center may require the following individuals to~~
20 ~~submit to a criminal history record check:~~
- 21 a. ~~An~~ on an employee, final applicant for employment, contractor, multidisciplinary
22 team member, or volunteer, of a children's advocacy center who has contact with
23 a child at or through a children's advocacy center; and
- 24 b. ~~An individual a children's advocacy center determines requires a criminal history~~
25 ~~record check to participate in services at a center.~~

26 **SECTION 9.** A new section to chapter 54-03 of the North Dakota Century Code is created
27 and enacted as follows:

28 **Virtual session of the legislative management and legislative assembly during**
29 **emergency or disaster.**

- 30 1. If the legislative management meets to vote on whether the legislative management
31 should request the governor call a special session of the legislative assembly, the

1 legislative management may use any technology or electronic means available to
2 conduct meetings and transact legislative business.

3 2. If the governor calls a special session of the legislative assembly to address a state of
4 emergency or disaster or if the legislative assembly reconvenes to address a state of
5 emergency or disaster, the legislative assembly may use any technology or electronic
6 means available to conduct meetings and transact legislative business.

7 3. For purposes of section 7 of article IV of the Constitution of North Dakota, a meeting of
8 the legislative assembly which occurs under this section is deemed to have occurred
9 at the seat of the government, and all actions taken during the meeting have the same
10 legal effect as if the members of the legislative assembly were physically present at
11 the seat of government.

12 **SECTION 10. EMERGENCY.** This Act is declared to be an emergency measure.