

**Date:** May 12, 2021

**To:** Commissioner Tim Berg, Chair, Scope and Program Committee

**From:** Diane Boyer-Vine, Chair  
Professor Wendy E. Parmet, Reporter  
Study Committee on Public Health Emergency Authorities

**Re:** Final Report from Study Committee on Public Health Emergency Authorities

**Introduction:**

On April 20, 2020, the Uniform Law Commission’s Executive Committee authorized a Study Committee on Public Health Emergency Authorities (“the Study Committee”). The Study Committee was initially charged with addressing “the authority of state governments to respond to epidemics, pandemics and other health emergencies” and asked to consider:

- 1) The authority of state governments to order individual and area quarantines, isolation, social distancing, and other restrictions on travel and gatherings and the enforcement of such powers;
- 2) The authority of states to order the closure of non-essential business, and the criteria for determining which businesses are essential;
- 3) State government acquisition of critical resources through collective purchasing mechanisms (including the need to comply with federal antitrust law) or through commandeering private property; and
- 4) Rules for medical practice, including crisis standards of care, licensure reciprocity, and information sharing.

Following extensive research and several virtual meetings, on July 5, 2020, the Study Committee submitted a report to the Scope and Program Committee recommending that item 3 above (relating to the acquisition of critical resources) not be forwarded to a drafting committee, and requesting further time to study the remaining issues.

The Scope and Program Committee accepted the Study Committee’s recommendations and asked it to address also the allocation of authority between state and local governments with respect to public health emergency powers. The Study Committee was directed to submit an Interim Report to the Scope and Program Committee in December 2020, and a final report by July 1, 2021.

The December 2, 2020 Interim Report, attached as Appendix A, outlined the Study Committee’s process and the research that it conducted between July 2020 and December 2020. The Interim Report also summarized the issues that the Study Committee had discussed to date, and explained the Study Committee’s proposed process for moving forward. That process included the convening of a

subcommittee consisting of Commissioners and observers to draft and discuss a report recommending a uniform law on several issues, followed by discussion of the draft report with the full Study Committee.

The subcommittee met several times during the winter and spring of 2021. On April 5, it recommended forwarding to the full Study Committee for discussion a memorandum that recommended that the following issues be sent to a drafting committee:

- The allocation of authority between the state executive branch officials and the legislature with respect to the full array of public health interventions, as well as control over the distribution of necessary supplies (PPE, pharmaceuticals, vaccinations etc.).
- The allocation of authority between state and local governments with respect to the full array of public health interventions, as well as control over the distribution of necessary supplies (PPE, pharmaceuticals, vaccinations etc.).
- The collection of data regarding the impact of state public health emergency laws on socially vulnerable populations, and measures to ensure that states consider the impact of public health emergency orders on vulnerable populations.

In addition, based largely on feedback that the Study Committee received from the American Medical Association, which stated that it saw no need for a uniform or model law relating to the designation of essential medical services, the subcommittee recommended not to forward that issue (relating to medical practice) to a drafting committee.

#### **Recommendation of the Study Committee:**

On May 3, 2021, the full Study Committee met to consider the subcommittee's recommendations. Prior to the meeting, three commissioners submitted two memoranda opposing the subcommittee's recommendations. (See Appendices B & C) The primary arguments contained in the memoranda against the subcommittee's first two recommendations can be summarized as skepticism that uniformity can be achieved regarding emergency powers, given the partisan divisiveness over the response to the pandemic. The dissenting commissioners further shared their view that a mandate to collect data would be regulatory, which is not an area where the ULC has great success; that such a mandate would have significant fiscal impact on states; and that the issue is part of a larger set of issues relating to data collection and privacy, and should not be dealt with in a law specific to public health emergency powers.

Much of the Study Committee's discussion focused on the issues raised by the dissenting commissioners, particularly whether public health emergency powers were appropriate for a uniform or a model act. Commissioners generally agreed that achieving uniformity would be difficult.

Following a robust discussion of these issues a majority of Commissioners on the Study Committee voted 11-5 (with one commissioner absent from the meeting and therefore not voting) to recommend a **model act focused on the allocation of authority between state executive branch officials and the legislature (including with respect to preemption of local governments) and the processes that should apply to the use of such authorities.**

The Study Committee concluded that the model law could **provide greater clarity as to the type of conditions that warrant emergency measures; explicate the role of the governor and other officials (e.g. health officials); provide explicit authorization for (without requiring) a set of community mitigation measures and controls over the distribution of needed supplies and pharmaceuticals (including vaccines); require executive branch officials to rely on the best available public health evidence and explain the bases for emergency orders; include meaningful processes, such as consultation with health officials and affected communities, and the development of an administrative record that could facilitate judicial review; mandate transparency; and protect constitutional rights and judicial review.** It should also require **consultation with a range of stakeholders, including socially vulnerable communities.** In addition, the model law could **include a sunset on emergency measures while not preventing the state from responding to longer-term crises.**

In endorsing this recommendation, Commissioners emphasized the importance of the subject to the nation, and the need for a thoughtful, nonpartisan voice on the subject. Commissioners believed that the ULC could be that voice, and that a model law would provide states with statutory language that they could use to reform their public health emergency laws so as to safeguard the separation of powers, the rule of law, while also preserving the states' capacity to protect the public in future emergencies.

Although Study Committee did not recommend that the issue of the allocation of authority between state and local governments be sent to a drafting committee as a separate issue, it concluded that the question of state executive authority over local decision-making during a public health emergency should be considered as part of the larger question of the allocation of authority between the executive and legislative branches. The Study Committee further noted because of significant variance between state constitutions and legal traditions relating to local authority, the drafting committee should provide **options to accommodate variations in the underlying state law.**

Likewise, although the Study Committee did not endorse the subcommittee's separate recommendation to forward the issues of data collection and inclusive decision-making, the Commissioners believed that the drafting committee should consider including in the model law language requiring executive branch officials to consider the impact of a public health emergency, as well as emergency orders, on populations that are especially vulnerable to either. The Study Committee further concluded that consultation with members of such communities should be included within the processes that the model law sets forth for the exercise of emergency powers.

The Study Committee also agreed by consensus not to recommend forwarding that the issues of the designation of essential medical services or data collection to a drafting committee.

The memo below provides a summary of the Study Committee's research and provides a fuller discussion of the Study's Commissions reasons for its recommendation.

### **Summary of the Legal Issues Examined by the Study Committee**

At the onset of the pandemic, governors across the country issued a wide range of community-mitigation or social distancing orders. These included stay-at-home orders, closures of businesses or capacity-restrictions, restrictions on travel into the state, and mask mandates, among others. More recently, governors have utilized their emergency powers to oversee the distribution of vaccines, or to bar vaccine “passports.”

As the Study Committee explained in its July 5, 2020 report, in promulgating these orders, most governors relied on their [general emergency powers](#), which had traditionally been used for short-term and localized natural disasters, rather than on statutes specifically designed to address public health emergencies. Governors did this because [public health emergency laws](#), for the most part, do not include provisions authorizing the type of broad community mitigation measures that state and national health officials felt were critical to reducing the spread of COVID-19. Throughout the pandemic, litigants have brought numerous [statutory and constitutional challenges](#) to such orders. The discussion below provides a brief overview of this litigation.

#### A. Individual Rights Claims

Early in the pandemic, most (but not all) courts rejected constitutional challenges to public health emergency orders. Most notably, on May 29, 2020, in *South Bay Pentecostal Church v. Newsom*, 140 S. Ct. 1613 (2020)(mem.), the Supreme Court rejected an emergency petition to enjoin California Governor Newsom’s restrictions on in-person worship. Although the majority did not publish an opinion, Chief Justice Roberts authored a concurring opinion that explained that the Constitution “entrusts” health decisions primarily to politically accountable officials, and that courts should give deference during a public health emergency. On July 24, 2020, in *Calvary Chapel Dayton Valley v. Sisolak*, 140 S. Ct. 2603 (2020)(mem.), the Supreme Court once again refused to enjoin a state order restricting religious worship.

In the months that followed the Court’s decisions in *South Bay* and *Sisolak*, most (but not all) lower courts accepted the Chief Justice’s admonition to grant considerable deference to emergency public health orders, even if they implicated constitutionally protected rights. However, on November 25, 2020, after Justice Barrett replaced Justice Ginsburg, the Supreme Court in *Roman Catholic Diocese v. Cuomo*, 141 S. Ct. 63 (2020)(per curiam), signaled a new, far less deferential approach to state public health orders, at least to the extent that they restrict religious worship.

In the wake of *Roman Catholic Diocese*, the Supreme Court has enjoined several other state laws that restrict religious worship.<sup>1</sup> Most recently, in *Tandom v. Newsom*, the Court barred the application of a California order limiting prayer meetings in private homes, ruling that strict scrutiny was required even though the state had also banned secular gatherings. \_\_U.S. \_\_, 2021 WL 1328507 (April 9, 2021). Although important questions remain, the Court’s new approach shows that it is [far less willing to defer](#) to state officials in Free Exercise challenges to public health orders.

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<sup>1</sup> *E.g.*, *Gateway City Church v. Newsom*, 592 U.S. \_\_ No. 20A138 (Feb. 26, 2021); *South Bay United Pentecostal Church v. Newsom*, 141 S. Ct. 716 (2021)(mem); *High Plains Harvest Church v. Polis*, 141 S. Ct. 527 (2020)(mem).

## B. Separation of Powers

Since the start of the pandemic, several courts have reviewed state [statutory and constitutional challenges](#) relating to the scope of the executive branches' authority to issue community mitigation orders. Although the specifics of these claims have varied, often due to the particularities of the underlying state laws, they all raise the question of whether the governor or other executive branch officials exceeded the scope of their authority to impose community mitigation measures during the pandemic.

Many courts have upheld the broad use of emergency powers. For example, in December 2020, in *Desrosiers v. The Governor*, 486 Mass. 369 (2020), the Massachusetts Supreme Judicial Court held that the state's Civil Defense Act granted the Governor authority to issue emergency orders in response to the pandemic. Other courts, however, have ruled to the contrary. In May 2020, for example the Wisconsin Supreme Court concluded the Secretary-designee of the Department of Health lacked the authority to issue emergency orders relating to COVID-19 without going through rulemaking. *Wisconsin Legislature v. Palm*, 391 Wisc.2d 497 (2020). That same court ruled on March 31, 2021 in *Fabick v. Evers*, that the state's emergency law did not permit the governor to issue successive emergency declarations during the pandemic.

The Supreme Court of Michigan has also upheld a challenge to the use of emergency powers by that state's governor. On October 2, 2020, the court ruled that the governor exceeded her authority to declare and extend the state of emergency beyond April 30<sup>th</sup> under the Emergency Management Act of 1976 (EMA), and that the Emergency Powers of the Governor Act of 1945 (EPGA) was an improper delegation of legislative authority because "it purports to delegate to the executive branch the legislative powers of state government-- including its plenary police powers-- and to allow the exercise of such powers indefinitely." *Certified Questions From the United States Dist. Court v. Governor of Mich.*, No. 161492, 2020 BL 383749 at \*24 (Mich. Oct. 02, 2020).

## C. State Legislative Action

In the last several months, bills have been introduced in at least [40 state legislatures](#) relating to executive authority during a public health emergency (see Appendix D). Most of these bills seek to restrict executive authority. Broadly speaking, they address four main issues: 1) reducing the length of an emergency declaration; 2) terminating an emergency declaration, often through a joint resolution or other action taken by the legislature alone; 3) altering the creation or suspension of emergency orders; and 4) reconvening the legislative session. Several states have also considered legislation limiting a governor's power to issue orders that impact the exercise of religion. In many cases the bills that are being considered track the [American Legislative Exchange Council's Emergency Power Limitation Act](#), which would limit emergency orders to 7 or 30 days unless ratified by a joint resolution

Several courts have reviewed efforts by state legislatures to block their governor's emergency powers through a joint resolution in order to bypass the possibility of a gubernatorial veto. In *Wolf v. Scarnati*, 233 A.3d 679 (Pa. 2020), the Pennsylvania Supreme Court found a joint resolution of the Pennsylvania legislature void due to lack of presentment. State legislatures are also considering constitutional amendments to allow them to reconvene to review or veto emergency orders.

#### D. State Preemption of Local Public Health Laws

The protection of public health has traditionally been left, in large measure, to local jurisdictions, which exercise authority delegated to them by state law. However, state constitutions and legal traditions [vary significantly](#) with respect to the precise allocation of public health powers between states and localities. The differences extend not only to whether the state is a [home-rule or Dillon jurisdiction](#), but also to the nature and organization of [local public health powers](#). For example, in some states, responsibility for public health generally vests in counties; in other states, cities and towns play a larger role. In some states, health departments report to local executive officials; in others, health departments are governed by independent boards. The authority of state and local executive branch officials, as well as health officials, over public education also varies significantly by state.

Throughout the pandemic, localities have often sought to exercise their authority in ways that differ from the states. For example, many municipalities have imposed greater restrictions on businesses than their state governments. Many cities have also had mask mandates, even in the absence of state-wide mandates. Other local jurisdictions have resisted more stringent state requirements (for example, regarding mask mandates). States and local governments have also disagreed about whether there should be in-person [schooling](#).

Many states have emergency management laws that explicitly allow a governor to suspend or amend statutes, but not constitutional provisions, during an emergency. Nevertheless, even in home-rule states, governors have used their emergency powers to [preempt local officials](#) from issuing emergency orders related to the pandemic or included [preemption provisions](#) in executive orders. For example, Georgia is a home-rule jurisdiction, and Atlanta's charter includes explicit powers over public health and emergencies. Nevertheless, the Governor filed a lawsuit against Atlanta's mayor to end her mask mandate. The [lawsuit](#) was ultimately dropped and local officials were granted some authority to impose localized restrictions on high-infection rate areas and mask mandates on government owned property.

#### D. Data Collection

The current pandemic has taken a [disproportionate toll](#) on socially vulnerable communities, particularly communities of color. Likewise, community mitigation measures, including school closures and policies that restrict business and categorize essential businesses and [workers](#), have had disparate impacts based on race, immigration status, disability, and gender.

At the beginning of the pandemic, many states issued executive orders or public health department mandates to expand hospital reporting requirements, but few had specific requirements related to data disaggregation, demographics, or dissemination. [Six months](#) into the pandemic, nearly half of all states were still unable to reliably report race and ethnicity data related to cases and hospitalizations. The most comprehensive sources of disaggregated and transparent data to inform tailored mitigation efforts and track the virus were generated by [private institutions](#) and [universities](#). A [lack of localized data](#) with uniform indicators also prevented epidemiological advancements and identification of the most

effective public health measures. States also encountered HIPAA compliancy issues and healthcare institutions lacked the infrastructure and resources to collect and publish additional information.

A growing number of states have proposed legislation to improve [demographic data collection](#), increase the transparency of [reporting](#), and measure the pandemic's disparate impacts. For example, current executive orders and bills would require reporting on race, ethnicity, gender, and age, and a few states have expanded reporting requirements to highlight: (1) [gender](#) and sexual orientation; (2) [primary language](#) spoken; (3) incarcerated populations; (4) nursing home residents; and (5) homelessness. Nevertheless, [significant gaps](#) remain relating to [health equity data](#), including reporting from long-term care facilities, and disaggregated demographic data on hospitalizations and morbidity. Data relating to the impact of state public health orders on different populations is also lacking, leaving policymakers with little ability to assess the impact of the measures they are implementing on varied populations and communities across a state.

### **Reasons for a Model Law on Executive Decision-Making**

The COVID-19 pandemic has exposed a significant gap in state statutes. Existing public health laws do not, for the most part, specifically authorize the type of community mitigation measures (including business closings, mask mandates, and stay-at-home orders) that governors and health officials in both red and blue states believed were necessary to protect the public from COVID-19. As a result, governors throughout the country have relied on their [general emergency powers](#). These are exceptionally broad, were not initially designed for an emergency that lasts for more than a few weeks, and provide few “guardrails” to constrain excessive executive action.<sup>2</sup>

Throughout the pandemic, the lack of clarity in state laws helped create legal confusion and spur litigation. In addition, because state laws lacked clear processes and guardrails, individuals and businesses were often unable to understand the either the processes or criteria that were being applied and plan accordingly. While it is essential that executives have the authority to respond in different manners to different types of emergencies, greater clarity and transparency can improve public health messaging (and in turn compliance) and make it easier for businesses (including interstate businesses) to plan ahead based on clearly identified criteria and timelines. Incorporation of a model law into state statutes may also help ensure that state orders comply with the Constitution and are better able to survive judicial review, as courts will have the benefit of clearer statutory language and processes that are more transparent.

In response to the [political backlash](#) against emergency orders and concerns about executive overreach, many legislatures are now considering bills to strip their governors of their emergency powers. (See above plus Appendix D). For the most part, these proposals impose relatively blunt restrictions on executive powers (such as 7 or 30-day limits on emergency powers unless ratified by a joint resolution), without offering a nuanced or careful delineation of executive and legislative authority that would

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<sup>2</sup> Lindsay F. Wiley, *Democratizing the Law of Social Distancing*, 19 YALE J. H. PO'Y & ETHICS 50 (2020).

ensure that states can respond effectively to the next (possibly more deadly) public health emergency in a manner that is consistent with the separation of powers and the rule of law. As a result, these proposals may force states to choose between allowing governors to exercise unchecked power or lacking sufficient tools to respond to another emergency.

For these reasons, the Study Committee believes that there will be both interest in and a need for a well-drafted, [nonpartisan](#) model law that ensures that executive power is broad enough to protect the public during the next emergency, but cabined sufficiently to respect the separation of powers and the rule of law. As Jill Krueger from the Network for Public Health Law recently [wrote](#), states “may have an eye on the Uniform Law Commission’s” work on public health emergencies as they attempt to craft a thoughtful response to the issue of public health emergencies authorities. Working after the political heat of the COVID-19 pandemic has died down, a drafting committee would have the opportunity to draw from the lessons of the current pandemic in a less politically divisive atmosphere, when no one will know either the epidemiology or the politics of the next public health emergency, both of which may be quite different than was the case with COVID-19.

**Date:** Dec. 2, 2020

**To:** Commissioner Tim Berg, Chair, Scope and Program Committee

**From:** Diane Boyer-Vine, Chair  
Professor Wendy E. Parmet, Reporter  
Study Committee on Public Health Emergency Authorities

**Re:** Interim Report from Study Committee on Public Health Emergency Authorities

**Introduction:**

Last July, the Scope and Program Committee informed the Study Committee on Public Health Emergency Authorities (Study Committee) that it should continue its study of public health emergency authorities, and add to its portfolio the question whether state public health emergency laws should grant state officials the power to suspend local laws or orders during a public health emergency. The Scope and Program Committee charged the Study Committee with completing its work by July 1, and submitting an interim report in December. This is that interim report.

After receiving its charge, the Study Committee formed four subcommittees to research and identify key issues. The Study Committee's Chair, Diane Boyer-Vine, chaired subcommittees on 1) structural and constitutional issues relating to state public health emergency powers and 2) state rules for determining essential medical services during public health emergencies. The Study Committee's Reporter, Professor Wendy E. Parmet, chaired subcommittees on 1) the impact of state public health emergency laws on vulnerable populations and 2) state preemption of local laws and orders.

Each of the subcommittees met once early in the fall to discuss its agenda and identify issues to research. Following those meetings, Commissioners, observers, and law students working for Prof. Parmet and Prof. Polly Price (an observer) prepared detailed research memoranda on a variety of issues that related to the work of the subcommittees. In addition, Chair Boyer-Vine and Prof. Parmet spoke with several outside stakeholders and academic experts. All research was shared with the Commissioners.

**The Report of the Subcommittees**

Each of the subcommittees met in late October or early November to discuss the research and identify key points to be shared with the full Study Committee. The subcommittees reported on these key points, set forth below, at a meeting of the Study Committee on November 16:

Subcommittee on Structural State Law Issues:

- There are numerous cases making their way through the courts, and those dealing with delegation of authority and separation of powers are mounting. We will continue to monitor the case law as it develops.
- Some states have introduced legislation, much of it aimed at curtailing a governor's authority to extend a declaration of a state of emergency.

#### Subcommittee on Essential Medical Services:

- While there is some case law on the issue of medical services, most of the cases center around abortion services. The Committee made a decision before our July report not to focus on the abortion cases.
- Executive orders from around the country address the issue of non-emergency or emergency medical services in some fashion. Some of the executive orders follow CDC guidelines.
- Only a few states introduced legislation to address the issue of which entity has authority to determine whether medical services during a pandemic are considered emergency services.
- Although there does not appear to be a consistent approach across states for the identification of essential medical services, key stakeholders, including from the American Medical Association, did not see the need for or benefit of a uniform law on this issue.
- The issue of liability was explored in the context of the work of the subcommittee focusing on the difference between legal issues and medical issues in litigation. The Committee had made an initial determination before the July report to avoid tort issues, such as liability. The subcommittee decided that it would recommend the same continuing approach to the Committee.

#### Subcommittee on Vulnerable Populations

- Our understanding of the impact of the pandemic and of pandemic mitigation issues on vulnerable populations has been marred by inconsistent methods of collecting and reporting demographic data. In addition, different groups (including public agencies) define "vulnerable populations" differently.
- There may be some utility in a uniform or model law that addresses these issues, especially the need for more consistent data collection and reporting, but we should continue to speak to key stakeholders and further crystalize both what are the best practices and if a uniform or model law will add value.

#### Subcommittee on State/Local Issues

- There is wide variation in underlying state laws regarding home rule and local authority. Any uniform or model law in this area may need to keep these variations in mind, perhaps by offering different options to jurisdictions with different baseline laws.

- A key question may be the role of the legislature versus the Governor in the preemption of local law; in other words, should the legislature enact specific requirements relating to the Governor’s authority to preempt local public health orders.
- We need to consider not only the state’s capacity to block local public health measures, and state laws that require localities to impose or enforce public health laws. Related to this, we may want to look at the metrics some states use to determine the restrictions that apply in different regions (for example, some states are color-coding regions due to positivity rates, with “red zones” facing greater restrictions).

**Moving Forward:**

After hearing the subcommittees’ report on November 16, the Study Committee engaged in a wide-ranging discussion of how to move forward. Most of the Commissioners who spoke agreed that the Study Committee was considering critical issues. Many, however, remained uncertain whether a uniform or model law would be either useful or enactable. There was widespread sentiment that our work should be addressed to the next pandemic, rather than the current.

During the meeting, Chair Boyer-Vine recommended, and the Study Committee agreed, upon a path to move us forward. After the holidays, she and Prof. Parmet will convene a small subcommittee to draft a report laying out the strongest case they can make for recommending a uniform or model law on some or all of the issues discussed above. The report, which will be presented to the full Study Committee in late winter, will serve as a brief to focus the Committee’s discussions and final determination as to whether or not it should recommend that a drafting a committee be formed to work on any of the issues noted above. The full Study Committee will reach that decision in the spring and prepare a report to the Scope and Program Committee before July 1.

April 27, 2021

Memo to Study Committee

re Draft Final Report of Committee, distributed April 15

From: John McAvoy and Jake Rodenbiker

First, we would like to thank Chair Diane Boyer-Vine, the reporter, and members of the subcommittee on its work in preparing the draft report for our Study Committee ("the Draft Report"). While we presently disagree with the subcommittee's proposed recommendations, to be discussed later<sup>1</sup>, we appreciate the effort that has gone into their gathering of information and thought that necessarily had to be given to the matter to prepare this Draft Report. We think that the report fulfilled the assignment given the subcommittee, as reflected in this Committee's report of December 2: "...to draft a report laying out the *strongest case they can make for recommending* a uniform or model law on some or all of the issues..." (Interim report, Dec 2, 2020, p 3, emphasis added.)

For ease to the readers of this memo, below is an excerpt from the Draft Report of the proposed recommendations:

"The Study Committee recommends that the following issues be sent to a drafting committee:

- The allocation of authority between the state executive branch officials and the legislature with respect to the full array of public health interventions, as well as control over the distribution of necessary supplies (PPE, pharmaceuticals, vaccinations etc.).
- The allocation of authority between state and local governments with respect to the full array of public health interventions, as well as control over the distribution of necessary supplies (PPE, pharmaceuticals, vaccinations etc.).
- The collection of data regarding the impact of state public health emergency laws on socially vulnerable populations, and measures to ensure that states consider the impact of public health emergency orders on vulnerable populations

"The Study Committee further recommends against sending the issue of designating essential medical services to a drafting committee. " (Draft Report, p 2)

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<sup>1</sup> With respect to the subcommittee's third recommendation, there is a degree of difference between these writers. Mr. Rodenbiker would vote against a recommendation to create a drafting committee on that subject; Mr. McAvoy believes that if it were established that CDC or HHS supported the project, he would not oppose a drafting project relating to data accumulation.

## DISCUSSION

Re the first recommendation (to draft a Uniform Act (not a Model Act<sup>2</sup>) for allocation of State authority between the executive and legislative branches:

The core concern we have is whether the following argument of the Draft is accurate:

"Working after the political heat of the COVID-19 pandemic has died down, a drafting committee would have the opportunity to draw from the lessons of the current pandemic in a less politically divisive atmosphere, when no one will know either the epidemiology or the politics of the next public health emergency." (Draft Report, p 5.)

We have a strong present view that this project would be fraught with difficulty in the drafting and highly unlikely in obtaining enactment in any State. We think that we are in time FAR from the dying down of the "political heat" that occurred around Covid-19. We believe that Covid-19 was as much an instrument used in a political battle of far greater scope, deeply enmeshed in partisan politics. Those partisan politics will not abate because of the important interests in health that are at stake; rather, we believe they will rise to their full and debilitating power in almost all legislatures where any act on the subject is introduced.<sup>3</sup>

Which leads us to raise another concern regarding the Draft Report: Nowhere, with regard to any of the four possible drafting projects, does the memo directly address the ULC criteria for consideration in deciding whether to propose the drafting of an Act, as set forth in ULC Statement of Policy Establishing Criteria and Procedures for Designation and Consideration of Acts, Part I (c).

While we are all very familiar with those criteria, we submit that it has been proven over the years that any recommendation for the creating of a drafting committee on a subject will specifically and point by point discuss the four criteria identified in the Statement. We have a particular concern regarding Criteria (c)(2):

(2) Whether there is a reasonable probability that an act, when approved, either will accepted and enacted into law by a substantial number of states or, if not, will promote uniformity indirectly. In other words, the act's preparation is likely to be a practical step toward uniformity of state law or at least toward minimizing diversity of state law."

The Draft Report's discussion, on page 5, of the benefits that might be obtained by the enactment in several states of a balanced articulation of the extent and limits of executive

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<sup>2</sup> See Draft Report, p 5.

<sup>3</sup> The Draft Report speaks of an "interest in and need for a well-drafted, *nonpartisan* uniform law..." on this subject (*Ibid, emphasis added*). There is only a certain amount of powers in a State government. The contest between the legislative and executive branches, when one branch is controlled by one party and the other branch by another party, is inevitably "partisan," and the ULC can do nothing to eliminate that reality.

(Governors') powers is a strong argument for making an effort to draft something on this subject. But we anticipate--rationally, we believe--that the flames of partisan politics on this subject will not have died out sufficiently to permit the enactment into law, by passage by legislatures and signatures of governors, of an act reflecting rational compromise on this subject. Maybe there exists an example to support the argument that that possibility is worth our effort; but we think we must consider the question of enactability as one of two major issues before us. We do not believe we can claim that an act on this subject will "be accepted and enacted into law by a substantial number of states...." We find greater, but still insufficient, force in the argument that the availability of a "well drafted, nonpartisan" ULC Act on *this* subject might achieve any such goal.

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Re the second recommendation (to draft an Act to allocate authority over public health interventions generally (including control over necessary medical supplies) between state and local governments):

This recommendation is not for a "stand alone" undertaking to draft on this subject. Rather, the Draft Report treats this subject as a "subset" of the Executive v. Legislative allocation issue, and "...recommends that a drafting committee should take-up the preemption of local orders as part of its broader mandate to draft a uniform public health emergency law." (Draft Report, p 6.)

A separate drafting project on the subject of allocation of authority/responsibility between state and local levels of public health authorities we do not believe would require becoming engaged in the battle between the executive and legislative branches. That is something to be said in support of a recommendation for a separate drafting committee on this subject.

But the Draft Report's proposal on this subject, in addition to suggesting it be part of the project to address the executive-legislative branch, acknowledges the reality (described in the blue "[vary substantially](#)" link [Draft Report, p 6] to the article titled "State & Local Public Health: An Overview of Regulatory Authority" on the Public Health Law Center website), that there are *long-standing differing* approaches among the states as to the scope of responsibility and authority of county and city health officials. Our review of the subject suggests that local health officials are considered more the implementors, not the makers, of public health policy. To deal with this situation, the Draft departs even more from the basic ULC policy regarding desired *uniformity* in acts to be drafted by the ULC. The Draft Report would have our committee recommend that "...a drafting committee should develop a *uniform law that includes a menu of options* for states with different legal contexts and organizational structures..." (Draft Report, pp 6-7, emphasis added.)

Surely, if this significant departure from the normal pattern for Uniform Acts is to be recommended, we submit our committee has an obligation to explain why this is to be pursued for this subject, and how it is within the overriding policy that has guided the work of the ULC for more than a century. Bracketed language to provide for alternatives is a common practice.

As a result, many ULC Acts allow for variance. But to provide a "menu" of several "alternative" to deal with the admittedly established varying approaches that exist among the states seems beyond the ULC mission.

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Re the third recommendation (to draft an Act require or at least facilitate accumulation of data by appropriate State authorities with responsibility over public health and safety that ensures collection of information to adequately inform the public and legislatures of demographic impact when an emergency, or government responses to it, generate divergent impacts on any identifiable group):

When the critical decisions regarding our nation's response to health issues associated with a nation-wide pandemic or other (environmental?) potential disaster will have to be made at the national level, it seems inevitable, and sound policy, that the specific data on this subject should be determined by the federal government. Whether this uniformity needs the support of State law establishing the kind of data, and facilitating its collection, publication and use by State and local -- and Federal -- officials, is a matter about which there is a division of opinion between us. To state briefly this difference:

-- John McAvoy is of the view that *if the drafting of a state act were undertaken with the support and involvement of the governmental agencies, state and federal, most deeply involved in the accumulation and publication and use of the data*, such an act might make an important and needed improvement in this area. Moreover, a drafting project for a uniform state act respecting data collection and dissemination, as previously mentioned, does not appear as likely to take the ULC into a maelstrom of partisan politics. It may well be that in reality the basic framework for this kind of legislation should come, as did the 2001 Model State Emergency Health Powers Act (MSHEPA),<sup>4</sup> from the Center for Disease Control. Certainly, if the ULC were to undertake a drafting project in this area its undertaking should only be upon the approval of the CDC--and our recommendation should be explicit in this regard.

-- Jake Rodenbiker believes an act on data accumulation is fraught with the same -- likely fatal to enactment -- perils as are the first two of the subcommittee's recommendations: wide variance as a result of policy considerations, often determined by partisanship. The Draft Report acknowledges that (1) only a minority of states to have undertaken data collection for the purposes of addressing disparities, and (2) of these, the "strategies and structures of these taskforces varied widely." (Draft Report, p. 8.) Why should we aim for a "uniform law that . . . provide[s] states flexibility . . ." (*Ibid*)? Moreover, the choices about what demographic data to collect are themselves likely to fall prey to politicization as much as might any other subset of this projected data accumulation, and perhaps more so if we are trying to establish categories that are important and must be tracked. Even the identification of groups upon which to collect data,

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<sup>4</sup> "The Center for Law and the Public's Health at Georgetown and Johns Hopkins Universities drafted the Model State Emergency Health Powers Act (MSEHPA or Model Act) *at the request of the Centers for Disease Control and Prevention*. The Model Act provides state actors with the powers they need to detect and contain bioterrorism or a naturally occurring disease outbreak. Legislative bills based on the MSEHPA have been introduced in 34 states." See <https://pubmed.ncbi.nlm.nih.gov/12150674/>; (*Emphasis added*).

as well as the purposes for which the data is to be used, and identification of "equitable outcomes" remain political choices that different authorities will assess differently. As a further matter, data in this context seems to be more a matter for protocols or perhaps regulation, but not statute.

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*Re* the fourth recommendation (against trying to draft an Act relating to medical practice, etc.,)

The subcommittee recommendation is well-supported by the discussion regarding it.

### Conclusion

To put it briefly, unless discussion during our meeting or some other information or argument is presented that causes us to change our minds, we anticipate voting

-- against both of the first two proposed drafting projects, and

-- in favor of the Draft report's recommendation against creation of a committee to draft and act relating to medical practice, etc.

With respect to the subcommittee's third proposed recommendation, for a drafting committee on the subject of data accumulation, we hope the expression of our different conclusions is of use to others on the committee as it considers the subcommittee's recommendation.

Respectfully submitted,

John McAvoy

Jake Rodenbiker

## Memo to Study Committee on Public Health Emergency Authority

Subject: Draft Final Report of Committee;  
McAvoy and Rodenbiker Memo

Date: April 30, 2021

From: Patricia Fry

First, I would like to express my appreciation to Chair Diane Boyer-Vine and Reporter Wendy E. Parmet, as well as her students, for an extraordinary job of research and synthesis of the materials furnished to the Study Committee throughout our work. The Study Committee has been provided with voluminous well-researched materials, which clearly represent hours of significant work. The draft final report clearly states the “best case” for recommending a drafting committee and offers links to the fruits of the labor invested by our Reporter and her team.

Unfortunately I find myself in agreement with Commissioners McAvoy and Rodenbiker on the first two recommendations. I believe the “best case” for a drafting committee on the allocation of authority between the executive and legislative branches lies in the hope that partisan divisiveness will abate over the period of time during which a drafting committee would do its work. That hope or optimism must, to my mind, be salted liberally with skepticism that the divisiveness will abate any time soon. It also must be salted with the probable reality that, even if it does abate, the emergence of any proposed uniform act would re-ignite the embers of partisanship.

The same skepticism generally applies to the prospect of an attempt to draft a uniform act dealing with the state v. local issues concerning the authority to issue and/or control public health interventions. I am not convinced that the Commission should consume resources on projects that would interject it into either arena, which are inherently and profoundly political and at the cusp of fundamental issues of democracy, future inter-governmental relations, and the technological and social changes that are shifting relationships toward greater centralization.

As to these two issues, I would suggest that the draft report not recommend drafting committees, but rather emphasize the charge to make the “best case”, articulate that case as has been done in the draft report, but then state the countervailing reasoning and conclude that no drafting committees should be formed.

With regard to the third issue, data collection and inclusive decision-making, I concur that rational, organized data collection is a good idea, not only in this area but generally. I concur that the inclusion of diverse and affected sectors is wise. My experience with the Commission has shown that the greater the success in

persuading interested parties from a variety of perspectives to contribute, the greater the success of any study or drafting effort.

Once again, however, my skepticism rears its ugly head. Rational decision-making based on competently gathered and analyzed data has not succeeded in garnering widespread support for efforts to combat various issues, such as gun control, abortion, privacy of personal data or climate change. Rather, the data has contributed to slower shifts in public opinion which suggest we might get there, but aren't there yet.

The data collection issue is not exclusive to the public health context. As noted above, it is an inherent element of science-based decision making. The issues inherent in data collection, starting with the authority to collect the data, and moving on to the privacy of individuals, accessibility of the data, and collation and use of the data, apply regardless of the context. If a study committee were to be appointed, I believe it should have a broader scope than public health emergencies.

Unfortunately, I believe other factors militate against a study or drafting committee. Any specification about what type of data to collect is necessarily short-lived; witness the shifts in data collected during the national census. When the Commission was first formed, that data might have included the shape of individuals' heads but would not have included fingerprints. The germ theory of disease and existence of bacterial and viral disease were only beginning to be recognized. Gender attitudes might have limited data collection to males and racial attitudes might have excluded or limited collection amongst marginalized groups. As societies and science evolve and learn, the relevant data shifts. And of course the appropriate data to collect would differ depending upon the issue being addressed. Thus legislatively mandating any specific type of data to collect would be futile and would, over time, potentially become harmful or irrelevant.

A mandate to collect data is necessarily regulatory, not an area where the ULC has great success. What are the consequences of failing to collect, or fund, data? What are the consequences of failing to comply with requests for data? Etc.

There is significant fiscal impact of any mandate to collect data. Someone must bear the cost of collecting the data and someone must bear the cost of analyzing the data. Legislating that data be collected does not insure that later budgets will include or cover those costs. Nor does it insure competent analysis and synthesis of the data.

In urgent or critical situations, mandating that decisions await data may be impossible.

There are social costs inherent in data collection mandates. Today's evidence lies in the emerging problems of fear of vaccinations.

Finally, the question of inclusive decision-making should be addressed. Again, this is not a subject exclusive to public health emergencies. Possibly the policy should be addressed by the Commission as a basic policy applicable to all or most of its products. The subject does not strike me as one for an independent project.

Respectfully, Pat Fry

## Appendix D

### Proposed Legislation Limiting Executive Authority During Emergencies and Amendments to Public Health Emergency Laws

v. April 5, 2021

Almost all state legislatures have introduced bills that shorten the duration of a state of emergency or disaster; some legislatures are divided between the House and Senate as to the number of days. Almost all of the bills also require a legislative joint resolution or two-third majority of the legislature to extend an emergency declaration, and grant the legislature the power to terminate an emergency at any time. 15 states have proposed legislative or constitutional amendments that would allow the legislature to convene a special session in the event of an emergency, and at least three additional states would require Governors to call special legislative sessions if they required a vote on an emergency declaration extension or renewal.

Most legislatures have proposed amendments to their general emergency management laws that modify or limit executive emergency powers. Six states have also amended either their public health emergency law or general emergency management law to incorporate “pandemic” or further define public health emergency. At least three states have explicitly excluded “pandemic” or “epidemic” from the definition of an emergency covered by a civil defense or general emergency management statute. A few states have also proposed task forces or advisory bodies (non-COVID specific) to advise the Governor and Legislature, and to study the long-term impacts of public health restrictions.

A few states have proposed bills that explicitly protect individual Constitutional rights from infringement by executive orders and regulations, including specific bills that protect religious services, sale of firearms, and sale of alcohol, as well as states that have limited the usage of essential and non-essential business designations. At least seven states have incorporated “narrowly tailored” language into proposed limitations on executive orders. Some states have clarified authority over the closing of schools during a public health emergency, and limited a health department’s power to vaccinate or quarantine individuals against their will.

\*\*includes legislation introduced between December 2020-March 31, 2021

<b>State</b>	<b>Proposed Public Health Law Amendments</b>  <i>Includes: Changes to authority of public health officer powers, amendments to definition of emergency to include public health emergency/pandemic). Does not include bills mandating Health</i>	<b>Proposed Structural/Constitutional Amendments</b>  <i>Includes: Reducing the length of and terminating emergency declarations, altering the creation or suspension of rule/orders, limiting executive authority during emergency.</i>	<b>Reconvening Legislative Sessions During Emergency</b>
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	<i>Departments to collect or public COVID-related data.</i>		
<b>Alabama</b>	<p><u>Alabama Senate Bill 184</u> – would prohibit a county health officer from issuing an order or directive relating to the control of an epidemic or disease if State Health Officer has issued a state-wide order [Intro: 2.3.21]</p>	<p><u>Alabama Senate Bill 97</u> (&amp; H.B. 241)– shorten the allowable duration of a state of emergency from 60 days to 14 days, while granting authority to the legislature to extend the emergency by joint proclamation; rules related to State Public Health Commissioner [Intro: 2.2.21, Engrossed in Senate: 4.1/21]</p> <p><u>Alabama House Bill 103</u> – amends Emergency Management Act of 1955 to allow houses of worship and any business to remain open during a pandemic/epidemic if they comply with emergency orders/regulations [Delivered to Gov: 4.1.21]</p>	<p><u>Alabama House Bill 21</u> – authorizing the House Speaker and President Pro Tempore to call the Legislature into session [Introduced: 2.2.21, referred to House Cmte]</p> <p><u>Alabama Senate Bill 259</u> – constitutional amendment authorizing Legislature to call a special session under certain circumstances [Intro: 2.23.2021, 3<sup>rd</sup> reading in Cmte: 3.2.21]</p>
<b>Alaska</b>			
<b>Arizona</b>		<p><u>Arizona House Bill 2389</u> – limits state of emergency to 21-days, new or extended declaration requires concurrent resolution [Intro: 1.19.2021, Referred to House Cmte on Rules: 1.27.2021]</p> <p><u>Arizona House Bill 2145</u> – grants Governor authority to impose curfews and order business closures during state of emergency [Intro: 1.25.2021, House 2<sup>nd</sup> Read: 1.26.2021]</p> <p><u>Arizona Senate Bill 1084</u> – prohibits Governor from reissuing an emergency declaration based on same conditions/circumstances without a concurrent resolution, allows citizens to apply for writ of mandamus to compel Governor to comply;</p>	<p><u>Arizona Senate Concurrent Resolution 1010</u> – requiring Governor to call for a Special Session when the Governor declares a disaster [Intro: 1.31.2021, PASSED Senate: 2.22.2021, pending House: 3.8.21]</p> <p><u>Arizona Senate Concurrent Resolution 1003</u> – constitutional amendment requiring Governor to call special legislature session and granting extension and</p>

		<p>emergency terminates after 21 days without a concurrent resolution [Intro: 1.25.21, PASSED House: 3.31.21]</p> <p><u>Arizona Senate Bill 1719</u> – requires Governor to convene the State Emergency Council within 14 days of declaring an emergency, otherwise emergency terminates automatically [Intro: 2.3.21, 2<sup>nd</sup> House Rdg: 3.4.21]</p>	<p>termination powers to legislature [Intro: 1.11.2021, PASSED Senate: 2.22.2021, pending House: 3.24.21]</p> <p><u>Arizona HCR 2037</u> – Constitutional Amendment allowing legislature to call a Special Session, allows Governor to contest modification or termination of an executive order, allows Governor to authorize quarantine without executive order; preempts any local action on state of emergencies [Intro: 2.8.2021, PASSED House Rules Cmte: 2.23.2021, Engrossed: 3.5.21, Passed Senate Caucus votes: 4.1.21]</p>
<p><b>Arkansas</b></p>		<p><u>Arkansas Senate Bill 15</u> – amendment to Emergency Services Act, limits the suspension of a regulatory statute, order, or rule to 30 days after disaster, unless extended [Intro: 1.11.2021, in Senate Cmte]</p> <p><u>Arkansas Senate Bill 379</u> [now Act 403]– Amends AR Code on declaration of disaster emergencies, limits state of emergency to 60-days, legislature may terminate. If disaster is related to public health, declaration must specify the nature of emergency and meet criteria of # of counties and #</p>	<p><u>Arkansas House Joint Resolution 1001</u> (&amp; <u>S.J.R. 10</u>) – Amending the Constitution to authorize itself to convene upon joint proclamation by House Speaker and Senate Pro Tempore [Intro: 1.12.2021, in House Cmte]</p> <p><u>Arkansas Senate Joint Resolution 15</u> -</p>

		<p>of people impacted [Intro: 2.23.2021, PASSED, Delivered to Govt: 3.16.21]]</p> <p><u>Arkansas HB 1211</u> – Protects religious organizations during an emergency [ENACTED 2.10.2021]</p>	<p>Constitutional Amendment Requiring The Governor To Convene An Extraordinary Session Of The General Assembly When An Emergency Declaration Exceeds Thirty (30) Days [Pending Sente Cmte: 2.23.21]</p>
<b>California</b>	<p><u>California Senate Bill 448</u> – Emergency Power Limitation Act. Requires an emergency order, as defined, to be narrowly tailored to serve a compelling public health or safety purpose and limited in duration, applicability, and scope. Authorizes any person to bring an action to invalidate or enjoin enforcement of an emergency order that is allegedly unlawful [Intro: 2.16.2021, pending in Senate Cmte: 2.25.2021]</p>	<p><u>California Assembly Bill 108 &amp; 69</u> – requiring concurrent resolution for rules and orders of Governor after 60 days into emergency, prohibits extension of more than 60 days [Intro: 12.16.2020, 12.7.2020, pending in Assembly Cmte: 1.11.2021]</p> <p><u>California Senate Bill 209</u> - a state of emergency terminates 7 days after the Governor's proclamation unless Legislature extends it by a concurrent resolution [Intro: 1.12.2021, pending in Senate Cmte: 3.4.2021]</p> <p><u>California Assembly Bill 1123</u> – requires Governor to report regularly on state of emergency to legislature leadership [Intro: 2.18.2021, Referred to Cmte: 3.4.21]</p> <p><u>California Senate Bill 397</u> – “Religion is Essential” Act requiring religious services to be deemed essential services during emergency, forbids any orders or declarations that impose substantial burden on religious practice [Intro: 2.11.21, pending in Senate Cmte: 3.15.21]</p>	

<p><b>Colorado</b></p>		<p><u>Colorado House Bill 1081</u> – extends state of emergency from 30 to 60 days, but prohibits renewal or extension without General Assembly authorization [Intro: 2.16.2021, FAILED: 3.18.21]</p> <p><u>Colorado House Bill 1032</u> – grants local government powers to abrogate orders issued by Governor if state of emergency lasts more than 30-days [Intro: 2.16.2021, FAILED: 3.5.21]</p> <p><u>Colorado Senate Bill 5</u> – Limited state of disaster emergency to 60 days unless extended by GA [Failed]</p>	
<p><b>Connecticut</b></p>	<p><u>Connecticut House Bill 5653</u> – amends the Civil Preparedness and Public Health Emergency Statutes, excludes “pandemics” from definition of disaster, limits civil preparedness emergency to 30-days and extension for 30 days via resolution, requires specific reasons for modifying or suspending laws [Public Hearing: 3.24.21]</p> <p><u>Connecticut Senate Bill 705</u> – establishes an Office of Pandemic Preparedness</p>	<p><u>Connecticut Senate Bill 74</u> – allows G.A. Standing Committee to disprove executive orders issued under public health or emergency preparedness laws [Intro: 1.12.2021, pending in Joint Cmte]</p> <p>Other Senate Bills requiring bipartisan legislative review of all emergency declarations and orders (S.B. 301 [Public Hearing: 3.19.21], 750, 751)</p> <p><u>Connecticut House Bill 5022</u> – limits declaration of a public health emergency or civil preparedness emergency to 1 month [Intro: 1.8.2021] [See also <u>H.B. 5103</u> limiting declaration to 60 days and requiring authorization for renewal]</p> <p><u>Connecticut House Bill 5759</u>- requires Governor to provide 10-days notice of any declaration or modification of an executive order that would impact a business’s ability to operate or its</p>	

		capacity [Intro 1.28.21, Referred to Office of Leg. Research: 4.6.21]	
<b>Delaware</b>		<p><u>Delaware Senate Bill 58</u> – removes state’s authority to isolate, quarantine, vaccinate, or treat individuals against their will for COVID-19 [Intro: 2.12.2021, pending in Senate Cmte]</p> <p><u>Delaware House Bill 49</u> – emergency declarations longer than 30 days require GA approval. New non-weather related emergency order issued within 6 months of termination of prior order that’s based on similar circumstances is invalid unless approved by the General Assembly, and must specifically delineate any business/industries/activities that are to be closed/regulated as result of order [Intro: 1.7.2021]</p> <p><u>Delaware House Bill 340</u> – amends state constitution to require Governor to inform G.A. in advance of issuing extensions of state of emergency [Failed]</p>	
<b>Florida</b>	<p><u>Florida Senate Bill 2006</u> – Revising the definition of the term "natural emergency" to include public health emergencies; requiring the Division of Emergency Management's comprehensive emergency plan to include specified provisions regarding public health emergency preparedness [Intro: 3.1.2021, pending in Senate Rules and Appropriations: 4.1.2021]</p>	<p>S.B. 2006 – limits duration of state of emergency to 30 days, can only be reissued with justifications, limits delegation of authority during public health emergency to 30 days. Limits Governor ability to close businesses and schools. Legislature may terminate at any time via concurrent resolution</p> <p><u>Florida Senate Bill 1924</u> – emergency orders/declarations issued by political subdivisions must be narrowly tailored to avoid curtailing/infringing on individual rights, must be limited in scope and duration, allows for Governor</p>	

	<p><u>Florida House Bill 6003</u> – removes authority of State Health Officer to order vaccinations upon declaration of a public health emergency [First rdg: 3.2.2021]</p>	<p>or Legislature to invalidate a local order [Intro: 3.1.2021, pending in Cmte: 4.1.2021]</p>	
<b>Georgia</b>		<p><u>Georgia House Bill 358</u> – limits length of emergency declaration, requires legislature approval for extension, executive orders subject to limitations prescribed by G.A. [Intro: 2.8.2021, 2<sup>nd</sup> House Read: 2.10.2021, Favorable Report House Cmte: 3.5.2021]]</p> <p><u>Georgia House Bill 536</u> – limits Governor’s power to limit practice of religion during state of emergency [Intro 2.18.2021, 2<sup>nd</sup> House Read: 2.23.2021, Favorable Cmte report: 2.26.2021]</p> <p><u>Georgia Senate Bill 214</u> – restricts the use of emergency powers as they relate to firearms [Intro: 2.19.2021, 2<sup>nd</sup> Senate Read: 3.1.2021, Senate tabled: 3.8.2021]</p> <p><u>Georgia Senate Bill 200 (&amp; H.B. 468)</u> – allows businesses and religious institutions to continue operating during emergency if complying with safety procedures [Intro: 2.17.2021, Engrossed 50%, pending in House Cmte: 3.18.2021]</p>	
<b>Hawaii</b>	<p><u>Hawaii House Bill 851</u> – adds definition of “public health emergency,” requires termination or consent to extend emergency after</p>	<p><u>Hawaii House Bill 103 (&amp; Senate Bill 1267)</u>– clarifies that emergency powers can’t be used inconsistently with state constitution, requires legislative approval to extend state of emergency (after 60 days) [See also House Bill 851 requiring</p>	

	<p>30 days [Intro: 1.25.2021, Pending in House Cmtes: 1.29.2021]</p> <p><u>Hawaii House Bill 1301</u> (&amp; S.B. 1362)  – Requires the Department of Health to perform a community assessment for public health emergency response for each county and on a statewide level to determine emergency preparedness facets that would help articulate key vulnerabilities to aid county and state response and recovery planning [Intro 1.27.2021, Pending in House Cmte: 2.1.2021]</p>	<p>legislature approval after +30 days of state of emergency] [Intro: 1.20.2021, PASSED 3 House Cmtes, passed 2nd Senate Rdg: 3.24.2021, holding public decision making on 4.6.2021]</p> <p>H.B. 851 – requires legislative approval to renew or extend a state of emergency beyond 30 days.</p> <p><u>Hawaii House Bill 721</u> – limits executive authority to issue quarantines or shutdowns, limits duration and extension of state of emergency [Intro: 1.25.2021, Pending House Cmte: 1.27.2021]</p> <p><u>Hawaii Senate Bill 1330</u> [see also H.B. 1128]– provides legislative oversight for emergency declarations and extensions, requires all executive emergency actions to be “rationally related to expedited emergency response.” [Intro 1.27.2021, Pending in Senate Cmte: 2.8.2021]</p> <p><u>Hawaii Senate Bill 134</u> - prohibits Governor or mayors from suspending public records requests or vital statistics during state of emergency [Engrossed 50%: PASSED Senate 3.5.2021, House recommends passage: 3.31.2021]</p> <p><u>Hawaii House Bill 825</u> - specifies the Governor's emergency powers to include the authority to assume control, use, or operation of any state facility at no cost or requirement of compensation [Engrossed 50%: 3.5.2021, pending in Senate]</p>	
<b>Idaho</b>	<u>Idaho Senate Bill 1136</u> – amends Idaho Code relating to martial law	<u>Idaho House Bill 1</u> (similar to <u>Idaho Senate Bill 1003 &amp; House Bill 16</u> ) – 1) removing the ability of the	<u>Idaho House Joint Resolution 1</u> – Amendment allowing

	<p>and declaration of emergency, removes “epidemic” from qualifying events, limits governor’s authority to alter, adjust or suspend Code provisions. [Engrossed 50%: 3.12.2021, pending in House Cmte: 3.17.2021]</p> <p><u>Idaho Senate Bill 1139</u> – clarifies authority of Director of Department of Health and Welfare, redefines “isolation” and “quarantine,” granted authority to conduct public health education/guidelines [Engrossed 50%: 3.4.2021, pending in House Cmte: 3.17.2021]</p> <p><u>Idaho House Bill 33</u> – limits duration of isolation or quarantine orders without approval from board of county commissioners, specifies review of district board of health decisions [Intro: 1.25.2021]</p>	<p>Governor to suspend statutes; 2) limits the ability to renew emergency past 30 days without the Legislature, and 3) gives Legislature more power to limit, amend, or extend emergency [Intro: 1.13.2021, pending in House Cmte]</p> <p><u>Idaho House Bill 98</u> (&amp; <u>H.B. 135</u>)– rules and regulations issued during state of disaster emergency cannot infringe on right to work, provide for families, or contribute to economy, and must be narrowly tailored to purposes and not restrict certain job types/classifications, limits state of emergency to 60 days [H.B. 135 Engrossed 50%: 2.16.2021, Reported out of Senate Cmte: 3.16.2021]</p>	<p>President Pro tem and House Speaker to convene special session with 60% petition [Intro: 1.13.2021, Engross 50% PASSED House, 2<sup>nd</sup> Senate Rdg: 2.29.2021, pending in Senate State Affairs: 3.4.2021]</p>
<p><b>Illinois</b></p>	<p><u>Illinois Senate Bill 309</u> (&amp; H.B. 2789) – Amends the Department of Public Health Powers: if the Governor declares public health state of emergency, DPH has power to establish metrics for school districts/higher education to determine if in-person learning is safe [Intro 2.19.2021, 309 sent to Exec-Gov Operations: 3.24.2021, 2789 pending in Cmte: 3.24.2021]</p>	<p><u>Illinois House Bill 210</u> (&amp; <u>S.B 103</u>)– Amending Emergency Management Act: Governor can only issue one disaster proclamation in a 12-month period, further proclamations require 2/3<sup>rd</sup> vote of GA to approve a joint resolution. [Intro: 1.20.2021, pending in House Rules Cmte: 3.27.2021; Intro: 2.3.2021, pending in Senate Cmte: 2.17.2021]</p> <p><u>Illinois House Bill 3009</u> – prohibits Governor from ordering business closures or prohibiting people</p>	

	<p><u>Illinois House Bill 2879</u> – amends EMAA to exclude combatting any or every new disease, limits to bioweapons or destruction of local health departments, any action taken by executive to combat general disease will be presumed invalid [Intro: 2.18.2021, pending in House Cmte: 3.27.2021]</p>	<p>from traveling to businesses [Intro: 2.19.2021, pending in Rules Cmte: 3.27.2021]</p> <p><u>Illinois House Bill 1881</u> (&amp; S.B. 2218 &amp; <u>S.B. 103</u>) – amends Illinois Emergency Management Agency Act, after initial disaster declaration, can only extend if GA passes resolution within 5 days of extension [Intro: 2.16.2021, pending in House Cmte: 3.27.2021]</p> <p><u>Illinois House Bill 2915</u> - amends Illinois Emergency Management Agency Act, Governor can only issue 1 proclamation/disaster, additional orders must be approved with 2/3<sup>rd</sup> vote. [Intro: 2.18.2021, pending in House Cmte: 3.27.2021]</p> <p><u>Illinois House Bill 341</u> – limits usage of essential and non-essential business classifications in future disaster declarations, authorizes EMA to issue guidelines for fair business treatment [Intro: 1.27.2021, pending in House Cmte: 3.27.2021]</p> <p>Additional EMA amendments proposed in H.B 5776/S.B. 3987 [Intro: 2.16.2021]</p>	
<p><b>Indiana</b></p>	<p><u>Indiana House Bill 1354</u> – limits orders, rules, and regulations promulgated under a Governor’s emergency power to be “narrowly tailored to serve a compelling public health or safety issue.” [Intro: 1.11.2021, pending in House Cmte]</p>	<p><u>Indiana House Bill 1123</u> – Legislature convenes after Governor issues emergency order; limits emergency order and extension to 60 days; includes preemption guidance on local health orders. [Intro: 1.4.2021, PASSED House, Passed Senate 3<sup>rd</sup> Rdg: 3.29.2021, Enrolled 4.4.2021]</p> <p><u>Indiana Senate Bill 263</u> – makes religious activities essential services, prohibits imposing restrictions</p>	<p><u>Indiana House Bill 1049</u> (&amp; S.B. 181)– allowing the Legislature to call itself into special session and limiting duration of state of emergency ordered by Governor [Intro: 1.4.2021, pending in House Cmte]</p>

	<p><u>Indiana House Bill 1272</u> – removes authority of State Department of Public Health Officers to close schools and churches during an epidemic [Intro: 1.14.2021, pending in House Cmte]</p> <p><u>Indiana Senate Bill 5</u> – creates appeals process for local health enforcement actions [Intro: 1.6.2021, Engrossed 50% PASSED Senate, Adopted in House Cmte: 4.1.2021]</p>	<p>on religious services that are different than restrictions imposed on other services [PASSED Senate: 2.3.2021, Adopted by House Cmte: 4.1.2021]</p> <p><u>Indiana House Bill 1121</u> – Limits disaster emergency to 14 days, or 28 days after legislative extension [<u>H.B. 1250</u> limits emergencies to 30 days] [Intro: 1.5.2021, pending in House Cmte; Intro: 1.8.2021, pending in House Cmte]</p> <p><u>Indiana Senate Bill 181</u> – Limits state of disaster emergency to 30 days, requires GA approval for extension [Intro: 1.6.2021, pending in Senate Cmte]</p> <p><u>Indiana Senate Bill 256</u> – state of emergency in public health emergency limited to 7 days unless extended by legislature [Intro 1.8.2021, pending in Senate Cmte]</p> <p><u>Indiana Senate Bill 379</u> – eliminates the ability of the Governor to issue emergency rules barring certain exceptions, addresses separation of powers [Intro: 1.13.2021, pending in Senate Cmte]</p> <p><u>Indiana House Bill 1184</u> – requires uniform treatment of entities during state of emergency, specifying findings would be required to justify disparate treatment [Intro: 1.7.2021, pending in House Cmte]</p>	<p><u>Indiana Senate Bill 407</u> - creates legislative state of disaster advisory board, limits duration of widespread declaration of emergency, allows general assembly to call a special session [Intro: 1.14.2021, PASSED Senate, House 1<sup>st</sup> Rdg: 3.4.2021]</p> <p><u>Indiana Senate Joint Resolution 15</u> – Constitutional Amendment allowing the Legislature to convene [Intro: 1.11.2021, pending in Senate Cmte]</p> <p><u>Indiana House Bill 1294</u> – allows the Legislative leaders or majority of Legislature to convene a special session [Intro: 1.14.2021, pending in House Cmte]</p>
<b>Iowa</b>			
<b>Kansas</b>		<p><u>Kansas House Bill 2016 (2020)</u> – amends Kansas Emergency Management Act; includes local</p>	<p><u>Kansas Senate Concurrent Resolution 1604</u> –</p>

		<p>preemption guidelines, removes executive power to regulate firearms or alter election laws, countries can opt out of mask orders [PASSED]</p> <p><u>Senate Bill 14</u> [PASSED 1.2021] and <b>House Bill 2048</b> [In committee] (extensions of KS HB 2016)</p> <p><u>Kansas Senate Bill 284</u> – limits state of emergency to 21 days unless ratified by concurrent resolution, extensions are limited to 30-day periods [Intro: 3.3.2021]</p> <p><u>Kansas Senate Bill 273 &amp; H.B. 2416</u> – Emergency Management Act amendments to executive authority, restrictions on state of emergency etc. [Intro: 2.26.2021; Engrossed 50%: 3.1.2021, House PASSED substitute, Pending in conference cmte: 3.30.2021]</p> <p><u>Kansas Senate Concurrent Resolution 1609</u> – legislature can revoke, suspend, or amend any order, rule, or regulation issued by executive that has force of law [Intro: 2.24.2021]</p>	<p>Constitutional amendment allowing for voter petition process to call special session of the legislature during state of disaster emergency [Intro: 1.28.2021, pending in Senate Cmte]</p>
<p><b>Kentucky</b></p>		<p><u>Kentucky Senate Bill 1</u> – limits emergency executive actions to 30 days; Legislature can terminate declaration at any time [PASSED both Chambers, Vetoed by Governor, Veto Overridden] [ENACTED]</p> <p><u>Kentucky House Bill 171</u> (&amp; <u>Kentucky House Bill 217</u>) – 15 day limit on emergency declarations, but Legislature can extend, Governor can't suspend statutes or regulations unless authorized by the</p>	<p><u>Kentucky House Bill 20</u> – Governor must call a special session of the G.A. if declaring an emergency or exercising other emergency powers, and declaration is limited to 15 days [Intro: 1.5.2021, died in chamber]</p>

		<p>statute [Intro: 1.5.2021, pending in House cmte/sine die; Engrossed 50%: 3.11.2021, Senate 2<sup>nd</sup> Rdg: 3.15.2021]]</p> <p><u>Kentucky House Bill 215</u> – required narrowly tailored emergency orders, limited to 14-days [Intro 1.5.2021, died in cmte]</p> <p><u>Kentucky House Bill 218</u> – limits executive authority to close/regulate religious services during an emergency, requires compelling government interest, prohibits discriminatory action against religious organizations [Intro: 1.7.2021, died in Cmte][see also <u>S.B. 260</u> limiting power to substantially burden a person’s freedom of religion, died in cmte: 2.26.2021]</p>	
<b>Louisiana</b>	<p><u>Louisiana Senate Bill 136</u> - emergency rulemaking allowing for emergency rule promulgated without normal procedures in order to prevent imminent peril to public health, safety or welfare etc., emergency rule may last up to 120 days, may not be promulgated more than 2 consecutive times unless agency is operating under a state or federal public health disaster [Prefiled: 3.31.2021]</p>	<p><u>Louisiana House Bill 149</u> – allows either house of the Legislature to terminate an emergency declaration with a majority vote, petition terminating the declaration can also establish a period of time where no other emergency related to same disaster may be declared. Specific section on public health emergency: legislature must consult with a public health specialist before voting to terminate [Intro: 3.19.2021]</p> <p>Previously, <u>5 bills proposed</u> to limit executive authority to issue public health emergency declarations, all failed on adjournment, failed, or vetoed by Governor.</p>	
<b>Maine</b>		<p><u>Maine House Bill 608</u> (&amp; <u>Senate Bill 14</u>) – limits emergency orders to 30 days, requires 2/3<sup>rd</sup></p>	

		<p>majority vote to extend, legislature may terminate state of emergency at any time [Intro: 1.12.2021, pending in Joint Cmte: 2.25.21]</p> <p><u>Maine House Bill 131</u> – requires 2/3<sup>rd</sup> majority vote to approve any act/order that would temporarily or permanently close business, civic org, or religious org [Intro: 1.21.2021]</p> <p><u>Maine House Bill 1220</u> – to extend an emergency beyond 30 days, requires 2/3 legislature vote approval every 14 days after initial 30-day period, legislature may terminate at any time [Intro: 3.22.21]</p> <p><u>Maine House Bill 1019</u> – emergency orders expire after 30 days, or after termination by legislature, or after issuance of a different emergency proclamation [Intro 3.10.21] [See also <u>Maine House Bill 1137</u>– allowed Governor to renew emergency after 30 days, but requires Legislative approval for renewals after 90 days, Intro: 3.22.21]</p> <p><u>Maine Senate Bill 1039</u> – requires legislative majority vote to extend an emergency beyond 30 days, creates procedures for Govt. to request legislative vote, prevents Gov. from issuing the same or similar order after termination. Allows Legislature to vote remotely/electronically [Intro: 3.10.21]</p> <p><u>Maine House Bill 980</u> - After 7 days have elapsed from the issuance of an emergency proclamation by the Governor, all emergency powers revert to</p>	
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		<p>the Legislature. Requires “narrowly tailored” orders serving a compelling health or safety purpose to curtail or infringe on rights, requires courts to expedite hearing challenges to orders issued under emergency powers [Intro: 3.10.21]</p> <p>Request for bills:  Maine LR 1912 - Prohibits the designation of private businesses as anything other than essential during a civil state of emergency.</p> <p>Maine LR 329 - Proposing an Amendment to the Constitution of Maine To Require Legislative Approval of Any State of Emergency Lasting Longer Than 60 Days</p>	
<p><b>Maryland</b></p>		<p><u>Maryland Senate Bill 929</u> (&amp; <u>H.B. 835</u> “Catastrophic Health Emergencies”) – Prohibits Governor from renewing state of emergency/catastrophic health emergency for more than two 30-day periods without approval from a majority of the Legislative Policy Committee [Intro: 2.10.2021, pending in Senate Cmte; Intro: 1.29.2021, Hearing scheduled: 3.10.2021]</p> <p><u>Maryland House Bill 17</u> – limits state of emergency to 14 days, joint resolution from GA extends emergency for no more than 14 days; orders may not prohibit or limit in-person religious activities or treat them in a disparate manner [Intro: 1.13.2021, pending in House Cmte]</p> <p><u>Maryland Senate Bill 658</u> (&amp; <u>H.B. 990</u>) – renames MD Emergency Management Agency, establishes it</p>	

		as department within executive branch [Intro: 1.29.2021, Engrossed 50%: 3.19.2021, Passed 2 <sup>nd</sup> House Rdg: 4.2.2021]	
<b>Massachusetts</b>	<p><u>Massachusetts House Docket 3270</u> – amendments general public health emergency law: imposes 90-day limit on powers of Public Health Commissioner, all orders require approval from Governor and public health council, requires joint resolution to extend the emergency, and can be terminated by joint resolution at anytime [Filed: 2.19.2021]</p> <p><u>Massachusetts House Docket 1967</u> – amendment to curfew law, allows local government to impose curfews, business limitations, and other restrictions if the Governor has declared a state of emergency; previously limited to curfews imposed in response to riots or civil disorder.</p>	<p><u>Massachusetts House Docket 2064</u> – limits executive emergency powers, allows only Governor to issue emergency orders that infringe on Constitutional rights in a non-trivial manner, and all orders expire in 30 days. Orders can be terminated by the legislature or can be extended through a bill or law [Filed: 2.16.2021]</p> <p><u>Massachusetts Senate Docket 992</u> – grants Governor sole discretion over learning form and school closures during a declared emergency [Intro: 2.9.2021]</p>	
<b>Michigan</b>	<u>Michigan House Bill 4049</u> – Amends public health code, local health officials do not have the authority during any epidemic to close schools or prohibit certain sporting events unless the epidemic has reached a certain threshold of confirmed cases	<u>Michigan Senate Bill 1</u> – Amends public health code, limits states of emergency to 28 days, requires director of department of health and human services to request extension through legislative joint resolution [Enrolled 3.10.2021, vetoed by Gov. 3.24 2021] [See also <u>House Bill 4267</u> ]	

	<p>within a 14-day period [Enrolled by House and Senate]</p> <p><u>Michigan House Bill 4268</u> – Amends public health code, limits authority of local health officials to order gathering limitations on religious services, and allows businesses to continue operating if following health and safety guidelines [Intro: 2.18.2021, pending in House Cmte, referred for second rdg. 3.24.2021]</p>	<p><u>Michigan Senate Bill 250</u> – Amends public health code to specify the test positivity rates required for local health officials to issue dining, gathering, and venue restrictions during a pandemic [Passed Senate 3.25.2021]</p>	
<b>Minnesota</b>	<p><u>Minnesota House Bill 1515</u> (&amp; S.B. 1528) – defines “public health emergency, includes “pandemic or other public health emergency” in the category of peacetime emergency, requires Governor to report all orders or rules related to peacetime emergency issued after 30 days; rules issued after 30 days cannot extend beyond 7 days without majority vote of legislature [Intro: 2.18.2021, pending in House Cmte: 2.25.2021]</p>	<p><u>Minnesota House Bill 124</u> (&amp; <u>Minnesota Senate Bill 4</u>) – limits emergency declaration to 30 days, but Legislature can extend it [Intro: 1.14.2021, pending in House Cmte; Intro: 1.7.2021, Engrossed 50%: 3.15.2021, pending in House Cmte]</p> <p><u>Minnesota Senate Bill 6</u> (&amp; H.B.371) – after 30 days of emergency declaration, Legislature could terminate emergency OR terminate subsequent orders or rules promulgated [Intro: 1.7.2021, pending in Senate Cmte]</p> <p><u>Minnesota House Bill 1346</u> – limits peacetime emergencies to 14 days unless extended by legislature [Intro: 2.18.2021, pending in House Cmte]</p> <p><u>Minnesota Senate Bill 2</u> – eliminates Governor’s authority to place restrictions on schools during peacetime emergency [Intro: 1.7.2021, Engrossed 50%: 2.25.2021, pending in House Cmte]</p>	<p><u>Minnesota Senate Bill 121</u> – Constitutional amendment limiting emergencies to seven days unless legislature authorizes extension; if legislature not in session, Governor must immediately call special session [Intro: 1.13.2021, pending in Senate Cmte] [see also <u>H.B. 101</u>: pending in Cmte. 2.3.2021]</p>

		<p><u>Minnesota House Bill 2204</u> – Unilateral Emergency Powers Repeal Act, limits Governor’s power to declare emergency and replaces with legislative authority to declare emergency, establishes extension process for emergency, provides protections for individual rights [Intro: 3.15.2021]</p> <p><u>Minnesota Senate Bill 4629</u> (2020) – limit the Governor's emergency declaration to seven days prior to legislative approval [Dead]</p>	
<b>Mississippi</b>	<p><u>Mississippi House Bill 1327</u> - revises the definitions of state of emergency, local emergency and natural emergency in the Mississippi Emergency Management Law to include an epidemic and a pandemic, provides a maximum time period for any state of emergency or declaration of emergency impact area, prohibits continuations of such emergencies except by legislative enactment [Intro: 1.18.2021, PASSED House: 2.3.2021, died in Cmte: 3.2.2021]</p> <p>[<u>Senate 2190</u> equivalent failed in committee 2.2.2021]</p>		
<b>Missouri</b>	<p><u>Missouri House Bill 696</u> – prohibits public health orders that close businesses that account for less than 5% of contagious cases. Requires Department of Health and Senior</p>	<p><u>Missouri Senate Bill 12</u> – provides explicit protection of religious activities/organizations during a public health emergency, and limits state of emergency to 30 days within 60 day period;</p>	

	<p>Services to classify businesses and determine percentages based on available state/local data and update monthly [Intro: 1.6.2021, pending in House Cmte: 1.28.2021]</p> <p><u>Missouri House Bill 566</u> – limits executive authority over vaccinations, quarantine, contact tracing, testing, face coverings, and ability to enforce regulations on business or churches [Intro: 1.6.2021]</p> <p><u>Missouri House Bill 288</u> – all orders/ordinances/regulations promulgated in response to emergency by a county health board must be approved by county commission. [1<sup>st</sup> Read: 1.6.2021, 25% progressed: 3.3.2021, pending in Cmte]</p> <p><u>Missouri House Bill 1144</u> – preserves individual right to self-determination to make own health decisions during an emergency, defines limits of isolation/quarantine powers over individuals [Intro: 2.18.2021]</p>	<p>requires 2/3<sup>rd</sup> vote to extend [Intro: 1.6.2021, defeated on perfection vote: 3.24.2021]</p> <p><u>Missouri House Bill 602</u> – subjects all emergency orders issued by state or local officials to be narrowly tailored and limited in duration, applicability and scope to reduce infringement on individual liberties. Only state executives can issue orders that infringe on constitutional rights in non-trivial manner. All orders expire after 7 days unless extended by GA, GA has 15 days to vote, limits state and local health officials to non-binding recommendations/guidelines [Intro: 1.6.2021, passed House Cmte: 3.9.2021]</p> <p><u>Missouri Senate Bill 67</u> – prohibits Governor (or others exercising emergency powers) from issuing limitations on gatherings on private residential property during a state of emergency [Combined with SB 20, 21, 31, 56, 68: 2.3.2021]</p> <p><u>Missouri Senate Bill 502</u> – defined designated “disaster areas” where states of emergencies apply, requires state of emergency to be imposed on least restrictive geographic area per the definition of disaster area; limits Governor proclamation of an emergency to 10 days unless extended by GA resolution, or 30 days if issued by 2/3<sup>rd</sup> majority of GA [Intro: 2.11.2021, 2<sup>nd</sup> Read: 3.4.2021]</p> <p><u>Missouri House Bill 75</u> – defines government entity and public health/safety closure, limits duration of closures and restrictions, limits duration of</p>	
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		restrictions issued by a government entity to 45-days, only if they are voted on by full governing body. [Engrossed 50%: 3.11.2021, Public Senate Hearing: 3.29.2021]	
<b>Montana</b>	<p><u>Montana House Bill 121</u> – allows elected officials to change or reverse public health orders during state of emergency [H.B. 145 attempted to remove all authority to issue rules from public health boards] [Intro: 1.6.2021, PASSED House: 3.1.2021, Senate 3<sup>rd</sup> Rdg: 3.25.2021, Signed by House speaker: 4.1.2021]</p>	<p><u>Montana House Bill 316</u> – shortens state of disaster from 45-days to 30-days, allows legislative termination, requires joint resolution to extend; amends “disaster” definition to include epidemic and public health condition, allows appeals of county public health orders [Tabled in committee: 2.26.2021, missed deadline for bill transmittal: 3.2.2021]</p> <p><u>Montana House Bill 230</u> – specifies that Governor’s emergency powers to do include interfering with the right to attend or operate a place of worship [Engrossed: 3.1.2021]</p> <p><u>Montana Senate Bill 173</u> – extends duration of state of disaster to 60 days [Intro: 2.1.2021, Engrossed 50%: 2.20.2021, House Hearing: 3.10.2021]</p> <p><u>Montana Senate Bill 185</u> – “Governor may not suspend a statute that affects the exercise of an individual's Constitutional rights, even if the statute is otherwise considered a regulatory statute prescribing the procedures for conduct of state business.” [Intro: 2.5.2021, Engrossed 50% 2.20.2021 House Hearing: 3.10.2021]</p> <p><u>Montana Senate Bill 370</u> – limits executive authority during an emergency to protect specific</p>	<p><u>Montana House Bill 122</u> [See also Montana House Bill 230]– provides process for calling a special session in the event of a declared emergency via polling process, provides legislative termination and modification authority [Intro: 1.6.2021, Tabled: 2.25.2021]</p>

		<p>Constitutional rights [Intro: 2.24.2021, Engrossed 50%: 3.17.2021, House Amendments pending: 3.25.2021]</p> <p><u>Montana Senate Bill 172</u> – ensures that religious services are designated as “essential” during state of disaster [Intro: 2.1.2021, Engrossed 50%: 2.18.2021, House Hearing: 3.10.2021]</p> <p><u>Montana House Bill 429</u> – governor can’t suspend provisions governing elections or change access to polling places without consent from legislature [Intro: 2.16.2021, Engrossed 50%: 2.25.2021]</p>	
<b>Nebraska</b>		<p><u>Nebraska Legislature Resolution 27</u> – Constitutional amendment to include emergencies “resulting from a pandemic” or in the “event of a pandemic” [Intro: 1.9.2021, Hearing: 2.16.2021]</p>	L.R. 27 also allows for convening of legislature without Governor approval
<b>Nevada</b>	<p><u>Nevada Assembly Bill 373</u> – authorizes board of county commissioners to issue emergency orders that are less restrictive/stringent than those imposed by Governor, limits disaster declaration to 15 days if Governor exercised emergency powers in way that burdens business operations (unless Legislature approves continuance) [Intro: 3.22.2021]</p> <p><u>Nevada Senate Bill 275</u> – authorizes county/city board of health to require people to get tested for communicable disease, provides for</p>	<p><u>Nevada Assembly Bill 93</u> – terminates a disaster declaration after 15 days unless legislature grants continuance or if extending due to same emergency, requires express approval from legislature [Intro: 2.4.2021, pending in Assembly Cmte]</p> <p><u>Nevada Senate Bill 88</u> – terminates state of emergency after 30 days, allows legislature to extend [Intro: 2.3.2021, pending in Senate Cmte]</p> <p>Nevada BDR 916 (filed, no text) – authorizes counties to take certain actions in response to state of emergency/declaration</p>	

	<p>quarantine and isolation powers, emphasizes that criminalization of infected persons should be minimized (seems to be targeted at HIV transmission) [Intro: 3.19.2021]</p>		
<b>New Hampshire</b>	<p><u>New Hampshire House Bill 187</u> – amends emergency powers of Commissioner of Health and Human Services, executive orders subject to review by joint legislative oversight committee on health and human services, order can be rescinded by 2/3<sup>rd</sup> majority vote of committee. [Intro: 1.6.2021, Public Hearing: 3.15.2021, Favorable House Cmte. Report: 4.1.2021]</p> <p>Creates an Ethics Oversight Advisory Committee, responsible for reviewing rights of disabled people who are unable to comply with certain orders and require safe workplace, and considerations for protecting vulnerable members of population</p>	<p><u>New Hampshire House Bill 275</u> – emergency declaration only lasts for 21 day unless Legislature approves longer time. Additionally, Governor can't suspend laws or create rules. [Intro: 1.9.2021, Hearing: 2.17.2021, retained in Cmte: 3.23.2021] [See also <u>H.B. 559</u> 21-day limit on emergency]</p> <p><u>New Hampshire House Bill 389</u> – creates a Joint Legislative Emergency Executive Order Oversight Committee to approve or deny emergency orders [Public hearing: 3.1.2021m retained in Cmte: 3.30.2021]</p> <p><u>New Hampshire House Bill 417</u> – emergency declaration lasts for only 30 days, but can be renewed by approval of House of Representatives [Intro: 1.9.2021, Hearing: 3.1.2021, House Majority Cmte Favorable, Minority Cmte Report inexpedient to legislate: 3.31.2021]</p> <p><u>New Hampshire House Bill 277</u> – would allow either chamber of legislature to terminate a state of emergency via petition [Intro: 1.9.2021, Hearing: 3.1.2021, Cmte Report inexpedient to legislate: 3.31.2021]</p> <p><u>New Hampshire House Bill 280</u> – allows legislature to terminate emergency order by concurrent resolution adopted by majority of both chamber</p>	

		[H.B. 433 allows Governor to renew state of emergency one time prior to concurrent resolution] [Intro: 1.9.2021, Hearing: 3.1.2021, retained in Cmte: 3.30.2021] [see also <a href="#">H.B. 325</a> which calls for simple resolution to terminate emergency rather than concurrent resolution]	
<b>New Jersey</b>		<a href="#">New Jersey Senate Bill 2482/Assembly Bill 4147</a> – limits emergency orders, rules, and regulations to 14 days [Tabled]  <a href="#">New Jersey Senate Concurrent Resolution 117</a> – constitutional amendment to limit duration of emergency orders, rules and regulations issued by Governor to 14 days [Tabled: 3.25.2021]	
<b>New Mexico</b>	<a href="#">New Mexico Senate Bill 74</a> – amends Public Health Emergency Response Act [Intro: 1.19.2021, pending in Senate Cmte: 2.17.2021]  <a href="#">New Mexico Senate Bill 238</a> – eliminates Secretary of Health powers to quarantine and isolate individuals during an emergency [Intro: 2.1.2021, pending in Senate Cmte]	S.B. 74 – requires notice to legislature for public health emergencies longer than 14 days that close public places/limits gatherings (or 30 days if emergency doesn't impact public places/gatherings). Emergencies automatically terminate after 14 or 30 days unless renewed by Governor in consultation with Secretary of Health.  <a href="#">New Mexico Senate Bill 4</a> – amends Emergency Powers Code to automatically terminate a public health emergency order after 45 days, requires joint resolution to renew or extend [Intro: 3.30.2021].	<a href="#">New Mexico House Bill 139</a> – emergency automatically terminates after 90 days unless Governor calls special session of the legislature (under either general emergency act or public health emergency response act) [Intro: 1.25.2021, pending in House Cmte: 2.4.2021] [see also <a href="#">House Joint Resolution 6</a> ]
<b>New York</b>		<a href="#">New York Senate Bill 5357</a> - legislature can terminate state disaster emergency by concurrent resolution [Delivered to Governor: 3.5.2021, ENACTED Ch. 17: 3.7.2021]	A.B. 1172 – Governor must call special session of the legislature to request extension

		<p><u>Assembly Bill 4907 (&amp; Senate Bill 1749)</u> – restores legislative checks and balances, limits executive authority to suspend laws during emergency, requires specification of which municipalities are subject to suspensions/regulations. A.B. 4907 specifies legislative checks for declarations lasting +45 days [Intro: 2.8.2021, pending in Assembly Cmte; Intro: 1.14.2021, Amended in Senate: 3.3.2021]</p> <p><u>New York Assembly Bill 1172 (&amp; S.B. 3878)</u>– limits state of emergency to 30 days, can be extended for 30 days with legislative approval (unlimited number of renewals). Requires weekly reports from Governor to legislature and requires consultation with parties impacted by suspended laws/regulations [Intro: 1.7.2021/2.1.2021, pending in Cmtes]</p> <p><u>New York Senate Bill 2246</u> – rescinds Governor’s power to issue “any directive necessary” to respond to state of disaster [Intro: 1.20.2021, pending in Senate Cmte]</p> <p><u>New York Assembly Bill 4720</u> – limits power of the Governor to issue executive order or direct agency to take action that contradicts state law [Intro: 2.5.2021, pending in Assembly Cmte]</p>	
<b>North Carolina</b>		<p><u>North Carolina House Bill 264</u> - requires the governor to obtain formal support from other elected leaders to enforce long-term statewide emergency orders. Requires state-wide emergency to expire after 7 days if no approval from Council</p>	

		<p>of State, extension limited to 30-days [Intro: 3.11.21, Engrossed 50%: 4.1.2021]</p> <p><u>North Carolina Senate Bill 312</u> – clarifies expiration of state of emergency, if statewide, expires 7 days after issuance unless legislature concurs [Intro: 3.16.2021, pending in Cmte: 3.25.2021] [see also <u>S.B. 346</u> which limits state of emergency to 10 days without legislative concurrence]</p> <p><u>North Carolina Senate Bill 481</u> – regardless of how severe or widespread emergency is, any emergency declaration lasting longer than 6 months must be addressed by legislature [Intro: 4.1.2021]</p>	
<b>North Dakota</b>	<p><u>North Dakota House Bill 1495</u> - grants state health officers emergency authority to issue disease control measures for 30 days with consent of Governor, can apply for injunction in district court to restrict or cancel public events/close businesses [Intro: 1.18.2021, Engrossed 50%: 2.24.2021, pending Senate Cmte: 3.25.2021]</p>	<p><u>North Dakota House Bill 1118</u> – limits emergency declaration to 60 days, but Legislature can extend [Intro: 1.6.2021, Engrossed 50%: 2.5.2021, pending in Senate Cmte: 3.30.2021]</p> <p>H.B. 1495 – specifies that emergencies related to epidemic/pandemic are limited to 30 days, with 30 day extension granted by legislature. After 60 days, Governor must request legislature to take action. Imposes limitations on Governor’s authority to suspend regulatory statutes and orders.</p>	<p><u>North Dakota House Concurrent Resolution 3005</u> – Constitutional Amendment allowing the Legislature to convene itself [Intro: 1.11.2021, Engrossed 50%: 3.3.2021, Senate Cmte: 4.1.2021]</p> <p><u>North Dakota Senate Bill 2124</u> – Governor can call a special session requirements within the first 30 days of an emergency to extend the declaration to 60 days [Intro: 1.5.2021, Engrossed 50%: 2.4.2021, Pending in House Cmte: 3.22.2021]</p>

			H.B. 1495 –legislature management can approve a special session to approve an extension of emergency
<b>Ohio</b>	<p>Ohio S.B. 22 (&amp; H.B. 90)- establishes Ohio Health Oversight and Advisory Committee, defines “public health emergency” [H.B. 90 Intro: 2.9.2021, pending in Cmte: 2.10.2021]</p> <p><u>Ohio Senate Bill 311</u> [vetoed by Governor] – attempted to restrict powers and rulemaking authority of Director of Department of Health</p>	<p><u>Ohio Senate Bill 22</u> – after 11 days of a state of emergency, GA can rescind subsequent executive orders, invalidate emergency rules adopted/amended, invalidate emergency rules adopted by agencies. May rescind action taken by Department of Public Health after 11 days via concurrent resolution. Allows public health emergency to exist for 90 days unless extended by GA [Intro: 1.26.2021, Engrossed 50%: 3.10.2021, ENACTED notwithstanding Governor objections: 3.24.2021]</p>	
<b>Oklahoma</b>		<p><u>Oklahoma Senate Joint Resolution 24</u> – legislative referendum on Constitutional amendment to limit Governor’s power during state of emergency, specifies that emergency orders cannot use essential/non-essential categories to effect businesses [Intro: 2.1.2021, pending in Senate Cmte]</p> <p><u>Oklahoma Senate Bill 541</u> – includes “man-made” or natural disasters in state of emergency definition. Invokes “Inherent Rights Clause” of state constitution to limit executive authority to infringe on rights without documented scientific evidence and require due process to businesses deemed non-essential [Intro: 2.1.2021, pending in Senate Cmte: 2.23.2021, measure failed: 3.11.2021]</p>	

		<p><u>Oklahoma Senate Bill 1670 (&amp; H.B. 2192)</u> – limits state of emergency to 30 days or legislative termination. Legislature may extend an emergency proclamation by concurrent resolution. Intro: 2.1.2021, pending in House Cmte]</p> <p><u>Oklahoma House Bill 2337</u> – limits state of emergency to 30 days or legislative termination. Legislature may extend an emergency proclamation by concurrent resolution Intro: 2.1.2021, Engrossed 50%: 3.15.2021, Senate 2<sup>nd</sup> Rdg: 3.17.2021]</p>	
<b>Oregon</b>	<p><u>Oregon House Bill 3153</u> – amends powers granted to Public Health Director and Oregon Health Authority, powers expire after 14 days of declaration. Can extend by 14 days with Governor’s approval [Intro: 2.9.2021, pending in House Cmte]</p> <p><u>Oregon House Bill 2927</u> – reorganizes and renames Oregon Department of Emergency Management, clarifies powers of department director [Pending in House: 4.8.2021]</p>	<p><u>Oregon House Bill 2243 (&amp; Oregon House Bill 2713)</u> – 60 day emergency declaration (with 30 or 60 day extension) and requires written justification of extensions [Intro: 1.19.2021, pending in House Cmte]</p> <p><u>Oregon House Bill 2020</u> – state of emergency terminates after 14 days, Governor can extend once and legislative assembly by extend by any amount of time [Intro: 1.19.2021, pending in House Cmte]</p> <p><u>Oregon Senate Bill 532</u> - emergency statutes do not authorize Governor to limit right of individuals to assembly for purpose of practicing religion [Intro: 1.19.2021, pending in Senate Cmte]</p> <p><u>Oregon Senate Bill 533</u> - Provides that emergency statutes do not authorize Governor to take actions</p>	<p><u>Oregon Senate Joint Resolution 15</u> – Constitutional amendment to require 2/3<sup>rd</sup> majority in each chamber to pass bills declaring an emergency [Intro: 1.19.2021, pending in Senate Cmte]</p>

		<p>that prevent individuals from remaining gainfully employed or operating businesses [Intro: 1.19.2021, pending in Senate Cmte]</p> <p><u>Oregon House Bill 3177</u> – clarifies Governor’s authority to impose certain restrictions on businesses [Intro: 2.9.2021, Hearing: 2.25.2021, work session pending in House: 4.13.2021]</p> <p><u>Oregon Senate Bill 789</u> – state of emergency terminates automatically after 30 days, Governor may extend up to 30 days in writing, additional extensions permitted via joint resolution [Intro: 3.3.2021]</p>	
<p><b>Pennsylvania</b></p>		<p><u>Pennsylvania General Assembly Joint Resolution/Senate Bill 2 (&amp; H.B. 55)</u> – Constitutional Amendments limiting executive authority and duration of disaster emergency declarations [PASSED both House and Senate, Resolution ENACTED]</p> <p><u>Pennsylvania House Bill 747</u> – limits Governor’s ability to fully close retail stores during a state of emergency, provided that establishment follows certain criteria [In Cmte 3.3.2021, laid on table: 3.23.2021]</p> <p><u>Pennsylvania Senate Bill 231</u> – disaster declaration limited to 30-days (reduced from 90), renewal requires majority approval from General Assembly and a declaration may be terminated by Legislature at any time. Also creates the Disaster Task Force, to be convened by Governor within 5 days of an</p>	

		emergency declaration, composed of legislative and judicial officials and advisors from agencies [Intro: 2.16.2021]	
<b>Rhode Island</b>		<p><u>Rhode Island House Bill 5940</u> – establishes Joint Committee on Disaster Oversight to review impact of all executive orders, rules, regulations, or actions issued during state of disaster [Intro: 2.25.2021, recommendation to hold fo further study: 3.24.2021]</p> <p><u>Rhode Island Senate Bill 255</u> - Limits the governor to one 30 day renewal of a declaration of emergency without a joint resolution of the general assembly [Intro: 2.10.2021]</p> <p><u>Rhode Island House Bill 5941</u> - allows governor to renew an initial 30 day executive order or proclamation of a state of disaster emergency for 2 additional 30 day extensions [Intro: 2.25.2021, held for further study: 3.24.2021]</p>	<p><u>Rhode Island House Bill 5863</u> - requires the general assembly to convene in person or remotely after the extension of an emergency declaration by the governor [Intro: 2.24.2021, held for further study: 3.24.2021]</p>
<b>South Carolina</b>		<p><u>South Carolina Senate Bill 103</u> – amends procedures and circumstances where Governor can issue state of emergency [Intro: 1.12.2021, pending in Senate Cmte]</p> <p><u>South Carolina Senate Bill 382 (&amp; H.B. 3526 &amp; H.B. 3387)</u> - state of emergency can't last more than 15 days unless the GA adopts a concurrent resolution to extend the emergency; inaction by the General Assembly does not constitute consent [Intro: 1.12.2021, pending in Senate Cmte]</p>	<p><u>South Carolina House Bill 3443</u> – Legislative Session convenes after 30 days of emergency declaration [Intro: 1.12.2021, Reported favorably out of Cmte: 2.25.2021, Engrossed 50%: 3.2.2021]</p> <p><u>South Carolina House Bill 3853</u> – amendment to Constitution requiring the</p>

		<p><u>South Carolina House Bill 3556</u> – state of emergency for a public health emergency is limited to 30 days, unless Governor submits report to legislature and GA passes joint resolution [Intro: 1.12.2021, pending in House Cmte]</p>	<p>President of the Senate and the Speaker of the House of Representatives to convene the General Assembly in special session upon receipt of a joint written request signed by at least sixty percent of the membership of each body [Intro: 2.9.2021, pending in House Cmte]</p>
<b>South Dakota</b>			
<b>Tennessee</b>	<p><u>Tennessee Senate Bill 221</u> (&amp; H.B. 370) - Creates a committee to determine when and how quarantine and disease communication tracking procedures should be implemented, removes quarantine authority from health commissioner and county health officer, requires county health departments to publish data regarding epidemic testing [Intro: 1.19.2021, pending in Senate Cmte: 2.10.2021]</p> <p><u>Tennessee Senate Bill 858</u> (&amp; H.B. 575) – requires commissioner of health to report information regarding certain quarantines to the joint government operations committee, the health committee of the house of representatives, and</p>	<p><u>Tennessee House Bill 247</u> - requires the Governor to notify the speakers of the senate and house of representatives at least five days prior to the renewal of a declaration of a state of emergency [Intro: 1.20.2021, pending in House Cmte: 2.10.2021, withdrawn]</p> <p><u>Tennessee Senate Bill 474</u> (&amp; H.B.855) -enacts the "Business Fairness Act," allowing businesses that comply with safety precautions and guidelines issued by the government or authorized agency during declared states of emergency to continue or resume business [Intro: 2.10.2021, Enrolled 75%, passed both chambers: 3.31.2021]</p> <p><u>Tennessee Senate Joint Resolution 144</u> – constitutional amendment declaring that no emergency declaration should be construed to abridge or lessen constitutional rights or privileges and immunities [Intro: 2.11.2021, pending in Cmte: 2.22.2021]</p>	

	<p>the Health and Welfare Committee of the senate, limits the county health officer's quarantine power [Intro: 2.10.2021, pending in Senate Cmte: 3.30.2021]</p>		
<b>Texas</b>	<p><u>Texas House Bill 3</u> – Adds “Pandemic Emergency Management” to Government Code, specifies purpose to reduce vulnerability of residents and communities, parameters of Governor’s power during emergency, defines “pandemic disaster.” Defines powers of other officials, civil liability etc. Explicitly excludes “pandemic” from general emergency management statute [Intro: 2.24.2021, left in Cmte: 3.11.2021]</p>	<p><u>Texas House Joint Resolution 42</u> (&amp; HJR 47) – Governor must call Legislative session when renewing emergency order [Intro: 1.12.2021, pending in House Cmte: 3.1.2021]</p> <p><u>Texas House Bill 525</u> – designates all religious institutions as essential businesses during state of disaster, and all services as essential activities [Intro: 1.29.2021, reported favorably out of House Cmte: 4.1.2021]</p> <p><u>Texas House Bill 311</u> – limits duration of public health emergency to 30 days, legislature may terminate at any time [Intro 1.12.2021, pending in House Cmte: 2.25.2021]</p> <p><u>Texas House Bill 422</u> – establishes an Emergency Powers Board activated during disaster and public health emergency [Intro: 1.25.2021, Senate 1<sup>st</sup> Read: 3.9.2021] [see also H.B. 4482]</p> <p><u>Texas House Bill 26</u> – removes Governor’s authority to regulate the sale of firearms and weapons during an emergency, but retains authority over alcohol [Intro 1.12.2021, pending in House Cmte: 2.25.2021]</p>	<p><u>Texas House Joint Resolution 60</u> (&amp; HJR 65, SJR 20) – 2/3 petition to bring Legislature into session in the event of emergency [Intro: 1.12.2021, House 1<sup>st</sup> Read: 3.11.2021]</p> <p><u>Texas Senate Joint Resolution 45</u> – requires Governor to call special session when renewing state-wide disaster declaration [Intro: 3.4.2021, public hearing: 3.31.2021]</p> <p><u>Texas Senate Joint Resolution 20</u> – Constitutional amendment requiring the lieutenant Governor and speaker of the house of representatives to call the legislature into special session on petition of at least two-thirds of the members of each house of the legislature in response to a fiscal crisis, war, natural</p>

		<p><u>Texas Senate Bill 1025</u> – reserves certain emergency suspension powers solely for legislature, including restricting our impairing business operations and religious services, only legislature can suspend provisions of criminal code, election code, or penal code during emergency [Intro: 3.4.2021, public hearing: 3.31.2021]</p>	<p>disaster, or emergency [Intro: 1.12.2021]</p> <p><u>Texas House Bill 1557</u> – Governor can convene legislature in special session if a state of disaster requires renewal [Intro: 2.3.2021, House 1<sup>st</sup> Read: 3.8.2021]</p> <p><u>Texas Senate Joint Resolution 29</u> – Constitutional amendment requiring Governor to convene special session due to state of emergency (&amp; <u>H.B. 1557</u> legislative amendment) [Intro: 1.25.2021, House 1<sup>st</sup>. Read: 3.9.2021]</p>
<p><b>Utah</b></p>	<p>S.B. 195 – grants Public Health Department authority to investigate and control epidemic infections and communicable disease, grants legislature power to terminate any order from the department by concurrent resolution. Redefines “exigent circumstances” that would justify extension, termination, n or modification of public health state of emergency, defines “stay at home order” as an order of constraint used to control pandemics. Limits DPH</p>	<p><u>Utah Senate Bill 195</u> – amends provisions related to emergency powers and public health emergencies. Limits public health emergencies to 30 days [intro: 2.12.2021, PASSED Senate: 2.23.2021, pending in House Cmte: 2.25.2021 ENACTED: 3.24.2021]</p> <p><u>Utah Senate Joint Resolution 6</u> – modifies legislative rulemaking, reduces Governor’s power to override concurrent resolution, and grants legislature ability to turn a concurrent resolution into a joint resolution [ENACTED: 2.10.2021]</p>	

	authority to impose orders of constraint on religious gatherings	<u>Utah House Bill 96</u> – establishes local emergency management act for political subdivisions, including for management of public health emergency [ENACTED: 3.16.2021]	
<b>Vermont</b>			
<b>Virginia</b>	<u>Virginia House Bill 5070</u> – eliminates Board of Health and Commissioner of Public Health authority to require individuals to be vaccinated during an epidemic [died in cmte]	<u>Virginia House Joint Resolution 514</u> – limits time of emergency declaration and mandating special session be called [died in cmte]  <u>Virginia Senate Bill 1131</u> – limits emergency declaration to 45 days [died in cmte]  Other bills limiting length of state of emergency all failed or died in committee [H.B. 2149, H.B. 2087, S.B. 1378]	<u>Virginia House Joint Resolution 513</u> – amendment to the constitution that special session is called when emergency declaration is declared [died in cmte]
<b>Washington</b>	<u>H.B. 1442</u> – requires secretary of health to conduct impact assessments on emergency response plans, outlines ongoing pandemic/public health duties of secretary, defines responsibilities of local health jurisdictions [Intro: 1.29.2021]  <u>Washington House Bill 1340</u> – establishes statewide pandemic preparation and response task force [Intro: 1.21.2021, Hearing: 2.2.2021, pending in House Cmte: 2.12.2021]	<u>Washington Senate Bill 5100</u> – all gubernatorial emergency rules must first be approved by the Legislature [Intro: 1.11.2021]  <u>Washington House Bill 1029</u> – concerning orders and rules during a state of emergency to last no more than 14 days, allowing legislative leaders to extend [Intro: 1.11.2021, Hearing: 2.8.2021]  <u>Washington House Bill 1013</u> – if an emergency rule is adopted by an agency in response a state of emergency, leadership of the senate and the house of representatives can petition the agency to limit its duration. If 3 out of 4 leaders sign, rule cannot remain in effect for longer than 30 days after the petition [Intro: 1.11.2021]  <u>Washington House Bill 1020</u> – imposed 30 day limited on all orders during state of emergency	<u>Washington Senate Bill 5196 (&amp;H.B. 1381)</u> – Legislature able to convene special session by 2/3 vote to extend state of emergency [Engrossed 50%: 2.24.2021, pending in House Cmte: 2.26.2021]  <u>Washington Senate Joint Resolution 8201</u> – Constitutional amendment for Legislature to convene through petition [Intro: 1.11.2021]

		<p>(not just orders concerning waiver or suspension of statutory obligations/limitations) [Intro: 1.11.2021]</p> <p><u>Washington House Bill 1381</u> – limits duration of state of emergency, requires that all orders/suspensions protect Constitutional rights guarantees and use least restrictive and intrusive means possible [Intro: 1.26.2021]</p> <p><u>Washington House Bill 1442 (&amp; S.B. 5294)</u> – adds new section on meaning of pandemic, emergency preparedness, limits liability of businesses during a pandemic. Requires that secretary prepare emergency preparedness plans to assess impact on functioning of society [Intro: 1.20.2021, Hearing: 1.25.2021, Pending in Senate Cmte: 2.15.2021]</p>	
<b>West Virginia</b>	<p><u>West Virginia House Bill 2015</u> - Requires approval by the county commission or appointing entity of local board of health rules, except in certain cases of emergency. During state of emergency, the local boards come under authority of the State public health officer [Intro: 2.10.2021, 2<sup>nd</sup> House Rdg: 4.5.2021]</p>	<p><u>West Virginia Senate Bill 355</u> – legislature may terminate state of emergency by concurrent resolution, state of emergency terminates automatically after 60 days [Intro: 2.18.2021]</p> <p><u>West Virginia House Bill 2003</u> – distinguishes between state of emergency and state of preparedness, state of emergency limited to 60 days, preparedness limited to 30 days. Outlines specific executive emergency powers, requires every emergency proclamation to specific nature and area of emergency [Intro: 2.10.2021, Engrossed 50%: 2.19.2021, pending in conference cmte: 4.2.2021]</p>	
<b>Wisconsin</b>	<p>Wisconsin Senate Bill 7 [See also House Bill 24]– forbids local health officials from closing places of worship or banning religious</p>		

	gatherings (specific to COVID-19 but may extend) [Engrossed 2.16.2021 and 3.24.2021]		
<b>Wyoming</b>	<p><u>Wyoming House Bill 127</u> – limits any order issued by county or municipal health official that limits individual movements or activities to 10 days; extensions must be approved by vote of local governing body. State health officer now appointed by Governor instead of Director of Public Health; limits restrictions to 10 days and then must be extended by Governor [Intro: 2.16.2021, Passed 3<sup>rd</sup> Rdg: 4.2.2021]</p> <p>H.B. 113- further clarifies duties and authority of department of public health</p>	<u>Wyoming House Bill 113</u> – limits duration of any public health order imposed on an area or individual to 30 days, can be extended another 30 days if order has been ratified by Governor and declared under a public health emergency [Intro: 2.5.2021, referred to Cmte: 3.3.2021]	