

1 **PANDEMIC RESPONSE AND CONSULTATION ACT**

2 2020 THIRD SPECIAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Francis D. Gibson**

5 Senate Sponsor: Evan J. Vickers

7 **LONG TITLE**

8 **General Description:**

9 This bill requires the governor to consult with certain legislative branch members in
10 response to an epidemic or pandemic disease emergency.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ defines terms;
- 14 ▶ makes legislative findings;
- 15 ▶ requires the governor to provide notice and consult with certain legislative branch
16 officers before issuing a declaration of a state of emergency or making other
17 executive orders or actions in response to an epidemic or pandemic disease;
- 18 ▶ provides an exemption to the notice and consultation requirements if there is an
19 imminent threat of loss of life;
- 20 ▶ prohibits the governor from suspending the enforcement or application of certain
21 provisions; and
- 22 ▶ allows the Legislature to terminate by joint resolution certain executive actions
23 during a state of emergency.

24 **Money Appropriated in this Bill:**

25 None

26 **Other Special Clauses:**

27 This bill provides a special effective date.



28 **Utah Code Sections Affected:**

29 ENACTS:

30 [53-2a-215](#), Utah Code Annotated 1953

31 [53-2a-216](#), Utah Code Annotated 1953

33 *Be it enacted by the Legislature of the state of Utah:*

34 Section 1. Section **53-2a-215** is enacted to read:

35 **53-2a-215. Requirements for an epidemic or pandemic disease emergency**
36 **response -- Notice -- Consultation.**

37 (1) As used in this section:

38 (a) "Epidemic or pandemic disease" means the same as that term is defined in Section
39 [26-23b-102](#).

40 (b) "Executive action" means an action in response to an epidemic or pandemic
41 disease, including:

42 (i) a declaration of a state of emergency as described in Section [53-2a-206](#);

43 (ii) an order, a rule, or a regulation made by the governor as described in Section
44 [53-2a-209](#);

45 (iii) a directive, recommendation, or another action by the governor encouraging
46 statewide compliance;

47 (iv) an action by the governor to suspend or modify a statute as described in Subsection
48 [53-2a-204\(1\)\(j\)](#); or

49 (v) an action by the governor to suspend the enforcement of a statute as described in
50 Subsection [53-2a-209\(4\)](#).

51 (c) "Legislative pandemic response team" means:

52 (i) the speaker of the House of Representatives;

53 (ii) the president of the Senate;

54 (iii) the minority leader of the House of Representatives; and

55 (iv) the minority leader of the Senate.

56 (2) The Legislature finds and acknowledges that existing and increasing threats of the
57 occurrence of an epidemic or pandemic disease emergency could greatly affect the health,
58 safety, and welfare of the people of this state, and subject to provisions of this section, the

59 Legislature recognizes the important role of the governor to respond to an epidemic or
60 pandemic disease emergency through executive action.

61 (3) (a) Except as provided in Subsection (4), and in accordance with Subsection (3)(b),
62 the governor may not take an executive action in response to an epidemic or pandemic disease
63 until the governor has:

64 (i) provided notice of the proposed action to the legislative pandemic response team no
65 later than 48 hours before the day on which the governor issues the executive action; and

66 (ii) consulted in good faith with the legislative pandemic response team regarding the
67 substance and effect of the proposed executive action to respond to an epidemic or pandemic
68 disease.

69 (b) Except for any conflicting provision in this section, the governor shall comply with
70 the requirements of this chapter to take an executive action.

71 (c) If the governor takes executive action in response to an epidemic or pandemic
72 disease as described in this Subsection (3), the governor is not required to provide:

73 (i) the notice described in Subsection [53-2a-209\(4\)\(a\)\(v\)](#); or

74 (ii) the report described in Section [53-2a-210](#).

75 (4) (a) The governor may take executive action in response to an epidemic or pandemic
76 disease without complying with Subsection (3) only if the governor finds that:

77 (i) there is an imminent threat of loss of life; and

78 (ii) compliance with Subsection (3) would increase the threat of loss of life.

79 (b) If the governor takes executive action in response to an epidemic or pandemic
80 emergency without complying with the requirements of Subsection (3)(a), the governor shall
81 provide in the executive action an explanation why the requirements of Subsection (3)(a) were
82 not met.

83 (5) This section supersedes any conflicting provisions of Utah law.

84 (6) Notwithstanding any other provision of law, the governor may not suspend the
85 application or enforcement of this section.

86 Section 2. Section **53-2a-216** is enacted to read:

87 **53-2a-216. Termination of an executive action or directive.**

88 (1) The Legislature may at any time terminate by joint resolution:

89 (a) an order, a rule, or a regulation made by the governor as described in Section

90 [53-2a-209](#);

91 (b) a directive, recommendation, or another action by the governor during a state of
92 emergency encouraging statewide compliance;

93 (c) an action by the governor to suspend or modify a statute as described in Subsection
94 53-2a-204(1)(j);

95 (d) an action by the governor to suspend the enforcement of a statute as described in
96 Subsection 53-2a-209(4); or

97 (e) an executive action as described in Section 53-2a-215.

98 (2) Notwithstanding any other provision of law, the governor may not suspend the
99 application or enforcement of this section.

100 Section 3. **Effective date.**

101 If approved by two-thirds of all the members elected to each house, this bill takes effect
102 upon approval by the governor, or the day following the constitutional time limit of Utah
103 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
104 the date of veto override.