**South Carolina General Assembly**

123rd Session, 2019-2020

**H. 5485**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Hill, Jones and Magnuson

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Introduced in the House on May 12, 2020

Currently residing in the House Committee on **Judiciary**

Summary: State of emergency; Governor's powers

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

5/12/2020 House Introduced and read first time

5/12/2020 House Referred to Committee on **Judiciary**

View the latest [legislative information](http://www.scstatehouse.gov/billsearch.php?billnumbers=5485&session=123&summary=B) at the website

**VERSIONS OF THIS BILL**

[5/12/2020](file:///p:\pprever\2019-20\5485_20200512.docx)

**A** **BILL**

TO AMEND SECTION 1‑3‑420, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE GOVERNOR’S AUTHORITY TO ISSUE PROCLAMATIONS OF EMERGENCY, SO AS TO TRANSFER THIS AUTHORITY TO THE GENERAL ASSEMBLY AND TO ESTABLISH CONDITIONS AND PROCEDURES FOR THE GENERAL ASSEMBLY TO DECLARE A STATE OF EMERGENCY; TO AMEND SECTION 16‑7‑20, RELATING TO POWERS OF LAW ENFORCEMENT OFFICERS DURING A STATE OF EMERGENCY, SO AS TO REMOVE PROVISIONS CONCERNING PROCLAMATIONS OF A STATE OF EMERGENCY BY THE GOVERNOR; TO AMEND SECTION 25‑1‑1860, RELATING TO THE GOVERNOR’S PROCLAMATION TO DISPERSE, SO AS TO DECLARE THAT THE PROVISIONS OF THIS SECTION MUST NOT BE USED OR IMPLEMENTED IN ANY MANNER THAT VIOLATES, ABRIDGES, OR INFRINGES UPON A PERSON’S RIGHT TO EXERCISE FREE SPEECH UNDER THE FIRST AMENDMENT OF THE UNITED STATES CONSTITUTION OR SECTION 2, ARTICLE I OF THE STATE CONSTITUTION; TO AMEND SECTION 44‑4‑510, RELATING TO QUARANTINES IMPOSED BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL DURING PUBLIC HEALTH EMERGENCIES, SO AS TO PROVIDE SUCH A QUARANTINE MAY NOT BE IMPOSED UNLESS THE PERSON IS ADJUDICATED TO POSE AN IMMINENT DANGER TO PUBLIC HEALTH AND TO PROVIDE THE DURATION OF SUCH A QUARANTINE MAY NOT BE GREATER THAN THE DURATION OF THE PUBLIC HEALTH EMERGENCY; TO AMEND SECTION 44‑4‑520, RELATING TO EMERGENCY POWERS OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL DURING PUBLIC HEALTH EMERGENCIES, SO AS TO PROVIDE THE DURATION OF A QUARANTINE IMPOSED PURSUANT TO SUCH POWERS MAY NOT BE GREATER THAN THE DURATION OF THE PUBLIC HEALTH EMERGENCY; TO AMEND SECTION 44‑4‑530, RELATING TO AN ISOLATION OR QUARANTINE IMPOSED BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL DURING A PUBLIC HEALTH EMERGENCY, SO AS TO PROVIDE THE DURATION OF SUCH AN ISOLATION OR QUARANTINE MAY NOT BE GREATER THAN THE DURATION OF THE PUBLIC HEALTH EMERGENCY; AND TO REPEAL SECTION 16‑7‑10 RELATING TO ACTS CONSIDERED ILLEGAL DURING A STATE OF EMERGENCY AND SECTION 25‑1‑445 RELATING TO ENTRY INTO AREAS UNDER CURFEW.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 1‑3‑420 of the 1976 Code is amended to read:

“Section 1‑3‑420. (A) The Governor, when in his opinion the facts warrant a proclamation of emergency, shall, pursuant to Section 18, Article IV of the State Constitution, provide the General Assembly information on the condition of the State and recommend for its consideration that the General Assembly, by ~~proclamation~~ joint resolution, declare that, because of ~~unlawful assemblage, violence or threats of violence,~~ enemy attack as described in Section 12, Article XVII of the State Constitution ~~or a public health emergency, as defined in Section 44‑4‑130~~, a danger exists to the person or property of any citizen and that the peace and tranquility of the State, or any political subdivision thereof, or any particular area of the State designated by ~~him~~ it, is threatened, and because thereof an emergency, with reference to such threats and danger, exists.

(B) The ~~Governor~~ General Assembly, upon the ~~issuance~~ enactment of a ~~proclamation~~ joint resolution as provided for in this section, must immediately file the ~~proclamation~~ joint resolution in the Office of the Secretary of State, which ~~proclamation~~ is effective upon ~~issuance~~ enactment and shall remain in full force and effect until revoked by the ~~Governor~~ General Assembly.

(C) The provisions of this section shall apply regardless of whether the General Assembly has adjourned, recessed, receded, or is in annual session. If the Governor believes a proclamation of emergency is necessary at a time when the General Assembly is adjourned, recessed, or receded he shall convene the General Assembly in extra session pursuant to Section 19, Article IV of the State Constitution.

(D) Notwithstanding another provision of law, after the effective date of this subsection, the State or a local government may impose a curfew only when the General Assembly has declared a state of emergency due to enemy attack pursuant to subsection (A).”

SECTION 2. Section 16‑7‑20 of the 1976 Code is amended to read:

“Section 16‑7‑20. All law enforcement officers of the State or any of its subdivisions who may be called to duty in ~~the area designated by the Governor in his proclamation~~ an area due to a declared state of emergency, when engaged in the performance of duties in such area, shall have the full powers of constable at all places within such area and may pursue and arrest offenders against the laws of this State ~~or the provisions of the proclamation~~.”

SECTION 3. Section 25‑1‑1860 of the 1976 Code is amended to read:

“Section 25‑1‑1860. Whenever in the judgment of the Governor it may be necessary to use the military force under the provisions of Section 25‑1‑1850 the Governor shall forthwith, by proclamation, command such insurgents to disperse and retire peaceably to their respective abodes within a limited time. In no event, however, may the provisions of this section be used or implemented in any manner that violates, abridges, or infringes upon a person’s right to exercise free speech under the First Amendment of the United States Constitution or Section 2, Article I of the State Constitution.”

SECTION 4. Section 44‑4‑510(A)(2) of the 1976 Code is amended to read:

“(2) DHEC may isolate or quarantine, pursuant to the sections of this act and its existing powers under Section 44‑1‑140, any person whose refusal of physical examination or testing results in uncertainty regarding whether he or she has been exposed to or is infected with a contagious or possibly contagious disease or otherwise poses a danger to public health; provided, however, that:

(a) the department may not impose such a quarantine unless the person has been adjudicated to pose an imminent danger to public health by the probate court; and

(b) the duration of such a quarantine may not be greater than the duration of the public health emergency and must terminate when the public health emergency terminates.”

SECTION 5. Section 44‑4‑520(A)(3) of the 1976 Code is amended to read:

“(3) to prevent the spread of contagious or possibly contagious disease, DHEC may isolate or quarantine, pursuant to the applicable sections of this act, persons who are unable or unwilling for any reason (including, but not limited to, health, religion, or conscience) to undergo vaccination or treatment pursuant to this section; provided, however, the duration of such an isolation or quarantine may not be greater than the duration of the public health emergency and must terminate when the public health emergency terminates.”

SECTION 6. Section 44‑4‑530(C) and (D) of the 1976 Code is amended to read:

“(C) A person subject to isolation or quarantine must comply with DHEC’s rules and orders, and must not go beyond the isolation or quarantine premises. Failure to comply with these rules and orders constitutes a ~~felony~~ misdemeanor and, upon conviction, a person must be fined not more than one thousand dollars or imprisoned not more than thirty days, or both.

(D)(1) DHEC may authorize physicians, health care workers, or others access to individuals in isolation or quarantine as necessary to meet the needs of isolated or quarantined individuals.

(2) No person, other than a person authorized by DHEC, shall enter isolation or quarantine premises. Failure to comply with this provision constitutes a ~~felony~~ misdemeanor and, upon conviction, a person must be fined not more than one thousand dollars or imprisoned not more than thirty days, or both.

(3) A person entering an isolation or quarantine premises with or without authorization of DHEC may be isolated or quarantined as provided for in this chapter.

(4) The public safety authority and other law enforcement officers may arrest, isolate, or quarantine an individual who is acting in violation of an isolation or quarantine order after the order is given to the individual pursuant to Section 44‑4‑540(B)(3) or after the individual is provided notice of the order. In a case where an individual is not the subject of an isolation or quarantine order under Section 44‑4‑540, law enforcement officers may provide written or verbal notice of the order. Law enforcement officers may arrest, isolate, or quarantine an individual who is acting in violation of isolation or quarantine rules after the rules are established and the individual is given written or verbal notice of the rules. An arrest warrant or an additional isolation or quarantine order is not required for arrest, isolation, or quarantine under Section 44‑4‑530(D)(4).”

SECTION 7. Sections 16‑7‑10 and 25‑1‑445 of the 1976 Code are repealed.

SECTION 8. This act takes effect upon approval by the Governor.

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