



# Emergency Response Amendments

## A Summary of S.B. 195

February 13, 2021

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### Foundational Principles

- Create checks on executive emergency powers without hindering rapid emergency response
- Apply state policies to local level in relation to health departments, chief executives, and legislative bodies

### Checks on Broad, Restrictive Orders

- Places checks on broad, restrictive orders issued by public health officials through the defined term "order of constraint," which are emergency actions taken by the state or local health departments that:
  - Apply broadly to groups or places; and
  - Enforce isolations, quarantines or stay at home orders, exercise control over public gatherings or property, or closes schools, theaters, or other gathering places (lines 446-458, 260, 655-666).
- Legislature may terminate:
  - an order of constraint or restriction issued by the state or local health departments (lines 314-315, 370-371, 627-628, 826-827, 892-893)
  - a local emergency declaration or emergency action of a city or county chief executive (lines 1469-1470).  
*Note: The Legislature already has this power in relation to an order issued by the governor.*
- County governing body may terminate:
  - an order of constraint issued by a local health department (lines 316-317, 629-631, 828-830, 834-836, 894-896, 900-902)
  - an order of constraint or an order of restriction issued by a local health department (lines 316-317, 372-373, 536-537)
- Requires a local health department to provide notice to a county legislative body before declaring a public health emergency or issuing an order of constraint (lines 784-772)
- Prohibits a local health department from issuing an order of constraint without approval of the relevant county chief executive (lines 824-825, 831-833 890-891, 897-899)
- Prohibits UDOH from issuing an order of constraint without notifying legislative leadership in the same way the governor is currently required (lines 493-496).

### Nullification of Executive Powers

In an emergency that lasts longer than 30 days, allows the Legislature to identify and nullify individual emergency powers of the governor, the Division of Emergency Management, or the chief executive of a political subdivision (lines 1264-1280)

### Expiration of Emergencies

- Prohibits the governor, state or local health departments, or local chief executive from continuing an emergency after it has expired (lines 519-522, 529-531, 808-811, 818-821, 1240-1242, 1249-1252, 1346-1348, 1355-1358).
  - Specifies that a public health emergency, state emergency, and local emergency expires the earliest of the following:
    - When the person that issued the emergency determines the need has passed;
    - When terminated by the Legislature for a public health emergency/state emergency, by a local legislative body for a local emergency or public health emergency, or by the local chief executive for a public health emergency;
    - 30 days after it is issued; or
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- The date designated by the Legislature for a state/public health emergency, or local legislative body for a local emergency.  
(lines 506-514, 793-801, 1229-1235, 1330-1340)

## Unilateral Extension of Emergencies

- After an emergency has expired, allows the relevant state or a local health department, governor, or a local chief executive to re-declare the emergency without legislative body approval in "exigent circumstances" (lines 523-528, 812-817, 1243-1246, 1349-1354). Exigent circumstances occur when there are increased and imminent threats to public health or safety that were not known and could not have been known when the original emergency expired (lines 435-441, 1079-1085).
- Requires the state and local departments of health to notify the Legislature or county legislative body respectively before unilaterally re-declaring an emergency (lines 524, 813-814)

## Legislative Review of Continuing Emergencies

- If the governor or the state or local departments of health needs to extend an emergency, they must notify the speaker/president no fewer than 10 days before the expiration of the emergency (lines 538-544, 919-924, 1526-1531).
- Speaker/president poll the Legislature regarding whether to extend the emergency (lines 549-550, 928-929, 1537-1538).
- Newly created Legislative Emergency Response Committee may convene to review the first 30-day extension but is required to convene to before a second or subsequent 30-day extension (lines 551-556, 930-932, 1539-1543).
- To get a broad cross-section of the Legislature, the Legislative Emergency Response Committee is composed of the current makeup of the Executive Appropriations Committee, with 4-6 additional appointments by the speaker and president each. Additional members appointed with respect to minority/majority and House/Senate balances (lines 1498-1523).
- Committee convenes to receive public comment, receive expert testimony, and recommend whether to extend the emergency (lines 557-566, 931-940, 1544-1552)

## Religious Protections

Prohibits the governor, the state or local departments of health, or a local chief executive from placing a more restrictive order of constraint on a religious gathering than on other public gatherings (lines 568-583, 837-853, 903-918, 1554-1571).

## Limitations on Penalties

With regards to an existing \$10,000 maximum fine that may be levied by the Utah Department of Health for a violation of a health order, clarifies the fine is applicable only to businesses, creates a similar \$150 maximum fine for individuals, and allows for the penalties to be waived (lines 385-404)

## Administrative Rules Review

Provides a review process for the Administrative Rules Review Committee to review and provide recommendations on administrative rules and other executive actions made under emergency procedures (1657-1659, 1678-1675, 1740-1742).

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## Timeline for S.B. 195

February 13, 2021

The following timeline applies the provisions S.B. 195, Emergency Response Amendments, to the process of renewing or terminating a state of emergency. Most provisions of the bill and this timeline apply on both the state and local level and apply similarly to emergencies declared by a chief executive or a health department. However, some provisions apply only on a certain level of government or to a specific type of person. For clarification on differences, consult the fuller summary of the legislation.

