SECRETARY OF SENATE
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GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
OFFICE OF THE GOVERNOR
LANSING

GARLIN GILCHRIST II
LT. GOVERNOR

EXECUTIVE ORDER

No. 2020-45

Enhanced authorization of remote means for carrying out state administrative procedures

Rescission of Executive Order 2020-23

The novel coronavirus (COVID-19) is a respiratory disease that can result in serious illness or death. It is caused by a new strain of coronavirus not previously identified in humans and easily spread from person to person. There is currently no approved vaccine or antiviral treatment for this disease.

On March 10, 2020, the Michigan Department of Health and Human Services identified the first two presumptive-positive cases of COVID-19 in Michigan. On that same day, I issued Executive Order 2020-4. This order declared a state of emergency across the state of Michigan under section 1 of article 5 of the Michigan Constitution of 1963, the Emergency Management Act, 1976 PA 390, as amended, MCL 30.401 et seq., and the Emergency Powers of the Governor Act of 1945, 1945 PA 302, as amended, MCL 10.31 et seq.

In the three weeks that followed, the virus spread across Michigan, bringing deaths in the hundreds, confirmed cases in the thousands, and deep disruption to this state's economy, homes, and educational, civic, social, and religious institutions. On April 1, 2020, in response to the widespread and severe health, economic, and social harms posed by the COVID-19 pandemic, I issued Executive Order 2020-33. This order expanded on Executive Order 2020-4 and declared both a state of emergency and a state of disaster across the State of Michigan under section 1 of article 5 of the Michigan Constitution of 1963, the Emergency Management Act, and the Emergency Powers of the Governor Act of 1945.

The Emergency Management Act vests the governor with broad powers and duties to "cop[e] with dangers to this state or the people of this state presented by a disaster or emergency," which the governor may implement through "executive orders, proclamations, and directives having the force and effect of law." MCL 30.403(1)-(2). Similarly, the Emergency Powers of the Governor Act of 1945 provides that, after declaring a state of emergency, "the governor may promulgate reasonable orders, rules, and regulations as he or she considers necessary to protect life and property or to bring the emergency situation within the affected area under control." MCL 10.31(1).

To mitigate the spread of COVID-19, protect the public health, limit the number of people interacting at public gatherings, encourage social distancing, and provide essential protections to vulnerable Michiganders, it is reasonable and necessary to temporarily suspend rules and procedures relating to service of process and provision of notice as to certain administrative proceedings and the use of electronic signatures. State administrative entities must be able to continue to conduct public business during this emergency, including actions to respond to the COVID-19 pandemic, without unduly compromising public health, safety, and welfare.

Executive Order 2020-23 provided this limited and temporary relief from certain rules and procedures. This order extends the duration of that relief, because it remains reasonable and necessary to suppress the spread of COVID-19 and protect the public health and safety of this state and its residents. With this order, Executive Order 2020-23 is rescinded.

Acting under the Michigan Constitution of 1963 and Michigan law, I order the following:

1. Hearing officers or arbitrators may conduct Michigan Employment Relations Commission ("MERC") hearings by electronic means, including video conferencing. To the extent necessary, strict compliance with the procedural requirements of 1939 PA 176, as amended, MCL 423.1 et seq. (employment relations commission), 1947 PA 336, as amended, MCL 423.201 et seq. (public employment relations), and 1969 PA 312, as amended, MCL 423.231 et seq. (compulsory arbitration of labor disputes in police and fire departments), is temporarily suspended.

2. Notice to MERC, as well as personal service of notice, service of process, or written notice of a dispute relating to an impending strike or an impending lockout, may be provided by mail or by electronic means, including email. To the extent necessary, strict compliance with rules and procedures under sections 9, 9a, 9d(3), 11, 23(2), and 27 of 1939 PA 176, as amended, MCL 423.9, 423.9a, 423.9d(3), 423.11, 423.23(2), and 423.27, and any other procedural statutes governing MERC, is temporarily suspended.

3. The Unemployment Insurance Agency may permit hearings to be held by telephone or electronic means, including video conferencing. To the extent necessary, strict compliance with rules and procedures under the Michigan Employment Security Act, 1936 (Ex Sess) PA 1, as amended, MCL 421.1 et seq., is temporarily suspended.

4. Notice to the Unemployment Insurance Agency and written notice by the Unemployment Insurance Agency may be provided by mail or by electronic means, including email. To the extent necessary, strict compliance with rules and procedures under the Michigan Employment Security Act, 1936 (Ex Sess) PA 1, as amended, MCL 421.1 et seq., is temporarily suspended.

5. Hearings held under the Administrative Procedures Act of 1969, 1969 PA 306, as amended, MCL 24.201 et seq., as well as under the MAHS Administrative Hearing Rules, R 792.10101 et seq., and any informal hearings required by statute, rule, or regulation, may proceed by telephone or by electronic means, including video conferencing. To the extent necessary, strict compliance with the rules and procedures of the Administrative Procedures Act of 1969, 1969 PA 306, as amended,

MCL 24.201 et seq., and the MAHS Administrative Hearing Rules, R 792.10101 et seq., is temporarily suspended. This does not apply to hearings by the Joint Committee on Administrative Rules.

6. Notice and service of process required by the Administrative Procedures Act of 1969, 1969 PA 306, as amended, MCL 24.201 et seq., and the MAHS Administrative Hearing Rules, R 792.10101 et seq., may be provided by mail or by electronic means, including email. To the extent necessary, strict compliance with rules and procedures under the Administrative Procedures Act of 1969, 1969 PA 306, as amended, MCL 24.201 et seq., and the MAHS Administrative Hearing Rules, R 792.10101 et seq., is temporarily suspended.

7. Administrative rules or emergency rules may be filed with the secretary of state electronically, including by email. To the extent necessary, strict compliance with rules and procedures under the Administrative Procedures Act of 1969, 1969 PA 306, as amended, MCL 24.201 et seq., is temporarily suspended.

8. Pursuant to section 18 of the Uniform Electronic Transactions Act, 2000 PA 305, as amended, MCL 450.848, the Department of Technology, Management and Budget is directed to authorize the acceptance, use, and reliance upon electronic signatures for a signature required by sections 11(b)(4), 32b(3), and 54f of the Michigan Employment Security Act, 1936 (Ex Sess) PA 1, as amended, MCL 421.11(b)(4), 421.32b(3), and 421.54f. Pursuant to section 7 of the Uniform Electronic Transactions Act, 2000 PA 305, as amended, MCL 450.837, a signature must not be denied legal effect or enforceability solely because it is in electronic form, and if a law requires a signature, an electronic signature satisfies the law.

9. Pursuant to section 18 of the Uniform Electronic Transactions Act, 2000 PA 305, as amended, MCL 450.848, the Department of Technology, Management and Budget is directed to authorize the acceptance, use, and reliance upon electronic signatures for a signature required under the Administrative Procedures Act of 1969, 1969 PA 306, as amended, MCL 24.201 et seq., including any requirement of a signature for filing administrative rules or emergency rules with the secretary of state. Pursuant to section 7 of the Uniform Electronic Transactions Act, 2000 PA 305, as amended, MCL 450.837, a signature must not be denied legal effect or enforceability solely because it is in electronic form, and if a law requires a signature, an electronic signature satisfies the law.

10. This order is effective immediately and remains in effect through May 11, 2020 at 11:59 pm.

11. Executive Order 2020-23 is rescinded.

12. Consistent with MCL 10.33 and MCL 30.405(3), a willful violation of this order is a misdemeanor.

Given under my hand and the Great Seal of the State of Michigan.

Date: April 13, 2020

Time: 8:13 pm

GRETCHEN WHITMER
GOVERNOR

By the Governor:

SECRETARY OF STATE