OFFICE OF THE GOVERNOR
STATE OF MONTANA

STEVE BULLOCK
GOVERNOR

MIKE COONEY
LT. GOVERNOR

TO: Montanans; all officers and agencies of the State of Montana
FROM: Governor Steve Bullock
DATE: April 7, 2020
RE: Directive implementing Executive Orders 2-2020 and 3-2020 and extending certain Directives through April 24, 2020

Executive Orders 2-2020 and 3-2020 declare that a state of emergency exists in Montana due to the global outbreak of COVID-19 Novel Coronavirus.

For the duration of the emergency, § 10-3-104(2)(a), MCA, provides authority to the Governor to "suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business or orders or rules of any state agency if the strict compliance with the provisions of any statute, order, or rule would in any way prevent, hinder, or delay necessary action in coping with the emergency or disaster." Further, the statute authorizes the Governor to "control ingress and egress to and from an incident or emergency or disaster area, the movement of persons within the area, and the occupancy of premises within the area." Section 10-3-104(2)(c), MCA.

In addition, Montana's public health laws authorize the Department of Public Health and Human Services (DPHHS or Department), acting under the Governor's direction, to "issue written orders for correction" of "conditions of public health importance," to "prevent and mitigate conditions of public health importance" through measures including "isolation and quarantine" and "abatement of public health nuisances." Section 50-1-202, MCA. The Department, under the Governor's direction, may take action to correct public health deficiencies in "buildings or facilities where persons assemble." Section 50-1-203, MCA. The Department, under the Governor's direction, is also authorized to impose quarantine and isolation measures to protect public health. Section 50-1-204, MCA. Montana law provides that these authorities will be utilized to respond to an "outbreak of disease," § 10-3-103(4), MCA, and to "limit the transmission of the communicable disease." *See, e.g.*, § 50-1-101(6), MCA.

On March 15, 2020, I issued a Directive closing non-residential public schools in Montana through March 27. On March 24, I extended non-residential public school closures through April 10 by Directive. The March 24 Directive also closed certain on-premises dining and beverage businesses while expanding and encouraging delivery, takeout, and drive-up options through April 10. On March 26, 2020, I issued a Directive providing that, to the maximum extent possible, all individuals stay at home or at their place of residence unless engaging in certain essential activities or functions through April 10. This Directive also required the temporary closure of non-essential businesses, provided social distancing requirements, and limited non-essential travel, all through April 10. On March 30, I issued a Directive limiting evictions, foreclosures, and disconnections for the duration of the Stay at Home Directive, again through April 10. On March 30, I also issued a Directive requiring a 14-day self-quarantine for individuals arriving in Montana for non-work-related travel, in effect through April 10. I have also issued other Directives that, unlike these, are effective for the duration of the state of emergency.

COVID-19 is easily transmissible through contact with contaminated surfaces and close contact with contagious individuals. As provided in the above Directives, combatting the spread of COVID-19 requires Montanans to practice social distancing and limit their in-person contacts with others to the greatest extent possible.

Montana's response to COVID-19 has been necessary to slow the spread of new infections. But our fight against the virus is far from over. New cases continue to grow, both in Montana and worldwide. If these Directives were to expire on April 10, they would undo the important progress Montana has made in controlling the outbreak of communicable disease, and laying the groundwork to get Montanans safely back to work. Ending these Directives could cause the number of COVID-19 infections to grow, overwhelm our healthcare resources, and immediately threaten public health and human safety. In consultation with public health professionals, healthcare providers, business leaders, and emergency management professionals, I have determined that these measures in effect through April 10 continue to remain necessary in coping with and responding to the emergency.

Therefore, in accordance with the authority vested in me under the Constitution, Article VI, Sections 4 and 13, and the laws of the State of Montana, Title 10, Chapter 3 and Title 50, Chapter 1, MCA, and other applicable provisions of the Constitution and Montana law, I hereby direct the following measures be in place in the State of Montana effective immediately:

Extension of Certain Directives Through April 24, 2020

- The March 26 Stay at Home Directive and all of its terms are extended through April 24, 2020.
- The March 30 Directive providing measures to limit foreclosures, evictions, and disconnections from service and all of its terms are extended through April 24, 2020.
- The March 30 Directive providing mandatory quarantine for certain travelers arriving in Montana from another state or country and all of its terms are extended through April 24, 2020.
- The restrictions for on-premises food and beverage businesses, and the accompanying expansions for delivery and takeout services, both provided in the March 24 Directive are extended through April 24, 2020, but only to the extent they are not superseded by the terms of the March 26, 2020 Directive.
- All non-residential public schools in Montana are closed through April 24, 2020.
    - School districts should continue to follow the planning guidance provided in the March 19, 2020 and March 24, 2020 Directives.
    - Pursuant to that process, districts need not reschedule in-person pupil instruction time lost because of the closure if the board of trustees for the district approves the district's plan to make up the lost pupil-instruction time through remote learning, provide for meals for students, provide for services to students with disabilities, and provide other services customarily provided to students in school.
        - Districts whose plans have been approved by the board of trustees for the district (school board) and the Governor must submit any changes to the district's plan for approval and may be asked to provide periodic updates on plan implementation.
        - Districts whose plans/reports are approved will continue to receive all state funding.
    - If a district's plan/report is not approved, then it must reschedule the pupil instruction time lost. State funding associated with additional necessary time will be financed

through federal stimulus funds, if available, or through a supplemental appropriation in House Bill 3 during the 2021 legislative session, subject to legislative approval.
    - In addition, the deadlines provided for new contractual obligations for contracts related to technological services procured by school districts are tolled and held in abeyance for the duration of the emergency. I have determined that this is necessary to cope with and respond to the emergency because this will allow each school district to determine and negotiate contracts locally over the course of the coming months rather than immediately, which could interfere in and prohibit immediate student access to remote learning platforms needed to ensure high quality instruction. Accordingly, strict compliance with § 20-7-1326, MCA, is suspended for the limited purpose of responding to the emergency as provided in this section.
- Except as provided above, all other Directives retain their effective dates and terms as provided.

Directive Is Public Health Order and Enforceable By County Attorney

- This Directive, along with any prior Directive that implements and references the public health authorities of the Department of Public Health and Human Services (DPHHS) provided in Title 50, constitutes a "public health . . . order[]" within the meaning of § 50-1-103(2), MCA, and is enforceable by the Attorney General, DPHHS, a county attorney, or other local authorities under the direction of a county attorney.

Local Public Health Agencies to Assist in Administration of this Public Health Order

- Local public health agencies are directed to assist in the administration of this Directive, consistent with § 50-1-202(2)(a), MCA.

Less-Restrictive Local Ordinances Preempted

- This Directive is in effect statewide in Montana. In the interest of uniformity of laws and to prevent the spread of disease, all inconsistent emergency county health ordinances are preempted by this Directive, but only to the extent they are less restrictive.

Authorities: Sections 10-3-103, -104, -302, and -305, MCA; §§ 50-1-202, -203, and -204, MCA; 37 A.G. Op. 132 (1978); Executive Orders 2-2020 and 3-2020; Montana Constitution, Art. VI, Sections 4 and 13; and all other applicable provisions of state and federal law.

Limitations

- This Directive is effective immediately and expires April 24, 2020.
- This Directive shall be implemented consistent with applicable law and subject to the availability of appropriations.
- Nothing in this Directive shall be construed to limit, modify, or otherwise affect the authority granted by law to the Governor, the Department, any department, agency, political subdivision, officer, agent, or employee of the State of Montana, or any local or municipal government except as expressly provided in this Directive or other Directives now in effect implementing Executive Orders 2-2020 and 3-2020.
- This Directive is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the State of Montana, its departments, agencies, or entities, its officers, employees, or agents, or any other person.