STATE OF MICHIGAN
OFFICE OF THE GOVERNOR
LANSING

GRETCHEN WHITMER
GOVERNOR

GARLIN GILCHRIST II
LT. GOVERNOR

SECRETARY OF SENATE
2020 JUN 12 PM12:30

EXECUTIVE ORDER

No. 2020-120

Returning overnight camps to operation

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 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 (EMA), MCL 30.401 et seq., and the Emergency Powers of the Governor Act of 1945, 1945 PA 302, as amended (EPGA), MCL 10.31 et seq.

Since then, the virus spread across Michigan, bringing deaths in the thousands, confirmed cases in the tens of 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. And on April 30, 2020, finding that COVID-19 had created emergency and disaster conditions across the State of Michigan, I issued Executive Order 2020-67 to continue the emergency declaration under the Emergency Powers of the Governor Act, as well as Executive Order 2020-68 to issue new emergency and disaster declarations under the Emergency Management Act.

Those executive orders have been challenged in *Michigan House of Representatives and Michigan Senate v Whitmer*. On May 21, 2020, the Court of Claims ruled that Executive Order 2020-67 is a valid exercise of authority under the Emergency Powers of the Governor Act but that Executive Order 2020-68 is not a valid exercise of authority under the Emergency Management Act. Both of those rulings are being challenged on appeal.

On May 22, 2020, I issued Executive Order 2020-99, again finding that the COVID-19 pandemic constitutes a disaster and emergency throughout the State of Michigan. That

order constituted a state of emergency declaration under the Emergency Powers of the Governor Act of 1945. And, to the extent the governor may declare a state of emergency and a state of disaster under the Emergency Management Act when emergency and disaster conditions exist yet the legislature has declined to grant an extension request, that order also constituted a state of emergency and state of disaster declaration under that act.

The Emergency Powers of the Governor Act provides a sufficient legal basis for issuing this executive order. In relevant part, it 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).

Nevertheless, subject to the ongoing litigation and the possibility that current rulings may be overturned or otherwise altered on appeal, I also invoke the Emergency Management Act as a basis for executive action to combat the spread of COVID-19 and mitigate the effects of this emergency on the people of Michigan, with the intent to preserve the rights and protections provided by the EMA. The EMA 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). This executive order falls within the scope of those powers and duties, and to the extent the governor may declare a state of emergency and a state of disaster under the Emergency Management Act when emergency and disaster conditions exist yet the legislature has not granted an extension request, they too provide a sufficient legal basis for this order.

To suppress the spread of COVID-19, to prevent the state's health care system from being overwhelmed, to allow time for the production of critical test kits, ventilators, and personal protective equipment, to establish the public health infrastructure necessary to contain the spread of infection, and to avoid needless deaths, it was reasonable and necessary to direct residents to remain at home or in their place of residence to the maximum extent feasible. To that end, on March 23, 2020, I issued Executive Order 2020-21, ordering all people in Michigan to stay home and stay safe. In Executive Orders 2020-42, 2020-59, 2020-70, 2020-77, 2020-92, 2020-96, 2020-110, and 2020-115, I extended that initial order, modifying its scope as needed and appropriate to match the ever-changing circumstances presented by this pandemic.

The measures put in place by these executive orders have been effective: the number of new confirmed cases each day continues to drop. Although the virus remains aggressive and persistent—on June 11, 2020, Michigan reported 59,496 confirmed cases and 5,737 deaths—the strain on our health care system has begun to relent, even as our testing capacity has increased. We are now in the process of gradually resuming in-person work and activities. In so doing, however, we must move with care, patience, and vigilance, recognizing the grave harm that this virus continues to inflict on our state and how quickly our progress in suppressing it can be undone.

After considering the public health data, I find it reasonable and necessary at this point to allow overnight camps to resume operations as of June 15, 2020, subject to guidance from the Department of Licensing and Regulatory Affairs. I likewise find it reasonable and necessary to lift its suspension of school sports activities and other in-person

extracurricular school activities, subject to rules on social distancing and the closure of indoor exercise facilities.

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

1. Notwithstanding any other executive order, residential, travel, and troop camps within the meaning of Rule 400.11101(n), (p), or (q) of the Michigan Administrative Code may open as of 12:01 am on June 15, 2020, subject to guidance issued by the Department of Licensing and Regulatory Affairs.

2. Section I(1) of Executive Order 2020-65 is amended by striking the second sentence and replacing it with: "Consistent with the rules described in Executive Order 2020-110 (including any rules on social distancing and the closure of indoor exercise facilities) and Executive Order 2020-115, whichever order applies to the region in which the school is located, and any orders that follow from them, K-12 school sports activities and other in-person extracurricular school activities may resume."

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

Date: June 12, 2020

Time: 12:18 pm

GRETCHEN WHITMER
GOVERNOR

By the Governor:

SECRETARY OF STATE