STATE OF ILLINOIS

EXECUTIVE DEPARTMENT

SPRINGFIELD, ILLINOIS

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INDEX DEPARTMENT
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IN THE OFFICE OF
SECRETARY OF STATE

April 10, 2020

EXECUTIVE ORDER 2020-24

EXECUTIVE ORDER IN RESPONSE TO COVID-19
(COVID-19 EXECUTIVE ORDER NO. 22)

WHEREAS, I, JB Pritzker, Governor of Illinois, declared all counties in the State of Illinois as a disaster area on March 9, 2020 (First Gubernatorial Disaster Proclamation) in response to the outbreak of Coronavirus Disease 2019 (COVID-19); and,

WHEREAS, I again declared all counties in the State of Illinois as a disaster area on April 1, 2020 (Second Gubernatorial Disaster Proclamation, and, together with the First Gubernatorial Disaster Proclamation, the Gubernatorial Disaster Proclamations) in response to the exponential spread of COVID-19; and,

WHEREAS, in a short period of time, COVID-19 has spread rapidly throughout Illinois, necessitating updated and more stringent guidance from federal, state, and local public health officials; and,

WHEREAS, for the preservation of public health and safety throughout the entire State of Illinois, and to ensure that our healthcare delivery system is capable of serving those who are sick, I find it necessary to take additional, significant measures consistent with public health guidance to slow and stop the spread of COVID-19; and,

WHEREAS, social distancing, which consists of maintaining at least a six-foot distance between people, is the paramount strategy for minimizing the spread of COVID-19 in our communities; and,

WHEREAS, certain populations are at a higher risk of experiencing more severe illness as a result of COVID-19, including older adults and people who have serious chronic health conditions such as heart disease, diabetes, lung disease, or other mental or physical conditions; and,

WHEREAS, the Illinois Department of Human Services ("DHS") currently houses defendants referred to its State-Operated Forensic Treatment Programs (DHS Forensic Treatment Programs) for mental health services, the vast majority of whom, because of their close proximity and contact with each other in housing units and dining halls, are especially vulnerable to contracting and spreading COVID-19; and,

WHEREAS, a number of courts continue to hear these matters and to order individuals adjudicated unfit to stand trial or not guilty by reason of insanity to be transferred to DHS Forensic Treatment Programs and, conversely, in an effort to slow the spread of COVID-19, some county jails are closed to re-admissions from DHS Forensic Treatment Programs after completion of restoration services; and

WHEREAS, as a result, DHS currently has limited housing capacity to further house additional persons, as well as isolate and quarantine its mental health population, who may present as symptomatic of, or test positive for, COVID-19; and,

WHEREAS, because of their close proximity to and contact with numerous individuals, persons in county jails who have been adjudicated unfit to stand trial or not guilty by reason of insanity and are awaiting transfer to DHS Forensic Treatment Programs, may be or may become symptomatic of COVID-19; and,

WHEREAS, to ensure that the Secretary of DHS may take all necessary steps, consistent with public health guidance, to prevent the spread of COVID-19 in DHS Forensic Treatment Programs, it is critical to temporarily limit any increases in the number of persons admitted to such programs whenever possible and appropriate by allowing the Secretary to work closely with county Sheriffs and other partners to control the pace of transfers; and,

WHEREAS, DHS employees have already, and may in the future, become symptomatic of COVID-19 or test positive for COVID-19, thereby interrupting their ability to perform their essential functions; and,

WHEREAS, it is essential that DHS maintain an adequate workforce both in its State-Operated Developmental Centers and its State-Operated Psychiatric Hospitals both for the safety of the general public and to ensure that persons who are mental health patients or residents with intellectual or developmental disabilities are provided with necessary services throughout the COVID-19 crisis; and,

WHEREAS, the DHS Office of Inspector General investigates allegations of abuse, neglect, and financial exploitation in State-Operated Psychiatric Hospitals and Developmental Centers and during the course of its investigations may make preliminary findings as to whether the allegations are substantiated, unsubstantiated, or unfounded, prior to the issuance of its final investigative report; and,

WHEREAS, 405 ILCS 5/3-210 provides that "[w]hen an investigation of a report of suspected abuse of a recipient of services indicates, based upon credible evidence, that an employee of a mental health or developmental disability facility is the perpetrator of the abuse, that employee shall immediately be barred from any further from any further contact with recipients of services of the facility, pending the outcome of any further investigation, prosecution or disciplinary action against the employee"; and,

WHEREAS, 20 ILCS 1305/1-17(s) provides that "[t]he Inspector General shall report to the Department of Public Health's Health Care Worker Registry, a public registry, the identity and finding of each employee of a facility or agency against whom there is a final investigative report containing a substantiated allegation of physical or sexual abuse, financial exploitation, or egregious neglect of an individual"; and

WHEREAS, pursuant to 405 ILCS 5/3-210, after being barred from contact with recipients of services while the allegations are thoroughly and independently investigated, the law allows State employees to return to work in their direct care positions if the DHS Office of Inspector General has issued a final investigative report concluding that either: (i) the allegations are unsubstantiated or unfounded; or (ii) the allegations are substantiated but do not rise to the level of conduct that must be reported to the Illinois Department of Public Health's Health Care Worker Registry (HCWR); and,

WHEREAS, in many instances, there is a delay between the DHS Office of Inspector General reaching a conclusion that an allegation is unsubstantiated, unfounded, or substantiated but not reportable to the HCWR, and the issuance of the final investigative report; and,

WHEREAS, suspending the statutory requirement that such a return to work must be delayed until the DHS Office of Inspector General has issued its final investigative report will allow for employees, who will be returning to a direct care position pursuant to the determination of the DHS Office of Inspector General, to return to that direct care position more quickly in order to be able to provide adequate staffing for and necessary services to mental health patients or residents with intellectual or developmental disabilities throughout the COVID-19 crisis;

THEREFORE, by the powers vested in me as the Governor of the State of Illinois, and pursuant to Sections 7(1), 7(2), 7(8), and 7(12) of the Illinois Emergency Management Agency Act, 20 ILCS 3305, and consistent with the powers set forth in the State's public health laws, I hereby order the following, effective April 10, 2020 and for the remainder of the duration of the Gubernatorial Disaster Proclamations:

Section 1. During the duration of and for no more than thirty days following the termination of the Gubernatorial Disaster Proclamations, the following statutory provisions are suspended: Sections 104-17(b), 104-23(b)(3), 104-25(b), and 104-26(c)(2) of the Illinois Code of Criminal Procedure of 1963, as well as Sections 5-2-4(a) of the Illinois Unified Code of Corrections. Accordingly, all admissions to Illinois Department of Human Services Forensic Treatment Programs from all Illinois county jails are suspended, with exceptions at the sole discretion of the Secretary of the Illinois Department of Human Services for limited essential admissions. The Secretary is directed to work closely with county Sheriffs and other partners to ensure the safety of the persons who would be transferred to the DHS Forensic Treatment Programs, as well as the county jails and the DHS facilities.

Section 2. During the duration of and for no more than thirty days following the termination of the Gubernatorial Disaster Proclamations, certain provisions of 405 ILCS 5/3-210 are hereby suspended, as they apply to the Illinois Department of Human Services employees, as determined by the independent DHS Office of Inspector General, in any of the following categories: (1) employees that are being investigated for conduct that, if substantiated, would not result in their termination or placement on the HCWR (including allegations for which, if substantiated, the DHS Inspector General: (a) would not be statutorily required to report to the HCWR; or (b) would stipulate do not warrant the employee's placement on the HCWR, based on the nature of the conduct alleged); or (2) employees who are the subject of an OIG investigation that is either complete or materially complete, and where the DHS Office of Inspector General has reached an independent conclusion that the allegations against the employee will be unsubstantiated or unfounded in the OIG Final Investigative Report.

Section 3. If any provision of this Executive Order or its application to any person or circumstance is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order, which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

JB Pritzker

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