STATE OF MINNESOTA
Executive Department

Governor Tim Walz

Emergency Executive Order 20-39

Providing Administrative Flexibility to the Department of Human Rights

I, Tim Walz, Governor of the State of Minnesota, by the authority vested in me by the Constitution and applicable statutes, issue the following Executive Order:

The COVID-19 pandemic presents an unprecedented challenge to our State. Minnesota has taken proactive steps to ensure that we are ahead of the curve on COVID-19 prevention and response. On March 13, 2020, I issued Executive Order 20-01 and declared a peacetime emergency because this pandemic, an act of nature, threatens the lives of Minnesotans, and local resources are inadequate to address the threat. In Executive Order 20-01, I directed all state agencies to submit proposed orders and rules to protect and preserve public health and safety. On April 13, 2020, after notifying the Legislature, I issued Executive Order 20-35, extending the peacetime emergency declared in Executive Order 20-01.

In Minnesota Statutes 2019, section 12.02, subdivision 1, the Minnesota Legislature recognized the "existing and increasing possibility of the occurrence of natural and other disasters of major size and destructiveness" and conferred upon the Governor the emergency and disaster powers provided in Chapter 12 to "ensure the preparations of this state will be adequate to deal with disasters," to "generally protect the public peace, health, and safety," and to "preserve the lives and property of the people of the state." Pursuant to Minnesota Statutes 2019, section 12.21, subdivision 1, the Governor has general authority to control the State's emergency management as well as carry out the provisions of Minnesota's Emergency Management Act. Pursuant to subdivision 3 of that same section, the Governor may "make, amend, and rescind the necessary orders and rules to carry out the provisions" of Minnesota Statutes 2019, Chapter 12. When approved by the Executive Council and filed in the Office of the Secretary of State, such orders and rules have the force and effect of law during the pendency of a peacetime emergency. Any inconsistent rules or ordinances of any agency or political subdivision of the State are suspended during the pendency of the emergency.

Minnesota Statutes 2019, Chapter 363A and Minnesota Rules 2019, Chapter 5000 define the scope of the State of Minnesota's prohibitions on discrimination in a variety of areas, direct the Department of Human Rights ("the Department") to investigate and eliminate discrimination, and outline the procedures by which Minnesotans can bring claims of discrimination. During the

COVID-19 pandemic, compliance with these administrative mandates is increasingly difficult and at odds with recommendations regarding public health, particularly when many employers, businesses, public accommodations, state and local governments, and other covered entities are closed, performing limited services, operating remotely, or are unable to access relevant evidence, records, witnesses, and legal advice. Several states that have similar administrative requirements have already suspended them due to the COVID-19 pandemic.

Despite the ongoing pandemic, the importance of Minnesotans' ability to bring claims of discrimination has not diminished. Minnesota's Asian-American community is facing a wave of hostility and increased risks of discrimination as a result of the COVID-19 pandemic. In recognition of the limitations that the current pandemic has on the ability of individuals to preserve their legal rights and file civil lawsuits, on April 15, 2020, I signed into law HF 4556, suspending all civil court filing deadlines, statutes of limitations, and other time periods prescribed by state law. The same concerns that justified suspending the deadline to file civil lawsuits also justify temporarily suspending the deadline to file charges of discrimination with the Department of Human Rights.

The risks of leaving home and difficulties of doing business during the COVID-19 pandemic may impede the ability of some parties accused of unlawful discrimination to provide a full and complete answer to allegations within 20 days or request reconsideration of determinations within 10 days, as required by the Minnesota Human Rights Act. In some cases, it is not possible for the Department to satisfy certain administrative requirements, such as the in-person notarization of charges of discrimination.

To ensure that the Department of Human Rights can meet the ongoing needs of individuals, businesses, landlords, state and local governments, and the entire community, and to protect the health, safety, and wellbeing of Minnesotans who have experienced discrimination, we must take steps to reduce unnecessary administrative burdens at the Department of Human Rights where possible. I have concluded that justice requires tolling the deadlines to file a verified charge of discrimination and modification of filing requirements during this peacetime emergency.

For these reasons I order as follows:

1. In any instance where the one-year limitation period prescribed in Minnesota Statutes 2019, section 363A.28, subdivision 3(a), to file a verified charge with the Commissioner of Human Rights otherwise would have ended during the peacetime emergency declared in Executive Order 20-01 (including any extensions of that peacetime emergency) the charge will be considered timely if it is filed with the Commissioner of Human Rights within 60 calendar days after the termination of the peacetime emergency, or February 15, 2021, whichever is earlier.

2. To ensure the effective, efficient, and continuous operation of the Minnesota Department of Human Rights, I authorize and direct the Commissioner of Human Rights to take the following actions starting from March 13, 2020 and continuing during the peacetime emergency declared in Executive Order 20-01(including any extensions of that peacetime emergency):

a. Accept as a "verified charge," as referenced in Minnesota Statutes 2019, section 363A.28, subdivision 1, and as defined in Minnesota Rules 2019, 5000.0050, subpart 12, a charge of discrimination that is a signed, by hand or electronically, with an unsworn declaration under penalty of perjury.

b. Notwithstanding requirements in Minnesota Statutes 2019, Chapter 363A or Minnesota Rules 2019, Chapter 5000, the Department may serve charges, determinations, and dismissal orders electronically, rather than by first class or certified mail, if the receiving party agrees to receive such information electronically and provides the Department with an email address for receipt.

c. Extend from 20 days to 60 days the requirement for respondents to submit an answer to a verified charge of discrimination, except when an immediate inquiry is required under Minnesota Statutes 2019, section 363A.28, subdivision 6(a) and (b), as imposed by sections 363A.28, subdivision 1, and Minnesota Rules 2019, 5000.0500, subpart 1.

d. Extend from 10 days to 30 days the time for parties to submit a request for reconsideration of a determination from the date it is received as imposed by Minnesota Statutes 2019, section 363A.28, subdivision 6(c) and Minnesota Rules 2019, 5000.0700, subpart 1.

3. The waivers and modifications in paragraphs 1 and 2 of this Executive Order must be posted on the Department's website by the close of business on April 23, 2020 and must include plain language explanations and instructions.

Pursuant to Minnesota Statutes 2019, section 4.035, subdivision 2, and section 12.32, this Executive Order is effective immediately upon approval by the Executive Council. It remains in effect until the peacetime emergency declared in Executive Order 20-01 is terminated or until it is rescinded by proper authority.

A determination that any provision of this Executive Order is invalid will not affect the enforceability of any other provision of this Executive Order. Rather, the invalid provision will be modified to the extent necessary so that it is enforceable.

Signed on April 22, 2020.

Tim Walz
Governor

Filed According to Law:

Steve Simon
Secretary of State

Approved by the Executive Council on April 22, 2020:

Alice Roberts-Davis
Secretary, Executive Council

Filed on April 22, 2020
Office of the Minnesota
Secretary of State,
Steve Simon