# STATE OF WEST VIRGINIA

# EXECUTIVE DEPARTMENT

## At Charleston

# EXECUTIVE ORDER NO. 37-20

## By the Governor

**WHEREAS,** a State of Emergency was declared on the Sixteenth Day of March, Two Thousand Twenty for all counties in West Virginia (the "State of Emergency Declaration"), to allow agencies to coordinate and create necessary measures to prepare for and respond to the outbreak of respiratory disease caused by a novel coronavirus now known as COVID-19; and

**WHEREAS**, Chapter 15, Article 5, Section 6 of the Code of West Virginia authorizes the Governor to, among other things, control ingress and egress to and from a disaster area or an area where large-scale threat exists, the movement of persons within the area, and the occupancy of premises therein, and to perform and exercise other functions, powers, and duties that are necessary to promote and secure the safety and protection of the civilian population; and

**WHEREAS**, Executive Order 9-20 required all businesses and operations in West Virginia, except Essential Businesses and Operations as defined therein, to cease all activities within the state except for such minimum basic operations as are necessary to maintain the value of the business's inventory, preserve the condition of the business's physical plant and equipment, ensure security, process payroll and employee benefits, or related functions, and the minimum necessary activities to facilitate employees of the business being able to continue to work remotely from their residences, and provided exceptions for businesses such as home-based businesses and small businesses that do not invite in the general public and which have five or less employees in the office while requiring proper social distancing and hygiene practices be maintained at such businesses; and

**WHEREAS**, Executive Order 3-20 specifically closed all fitness centers, gymnasiums, recreation centers, and similar businesses or entities where the public tends to congregate for recreation, sport, or similar leisure activities throughout the 55 counties of this state; and

**WHEREAS**, since the issuance of Executive Order 3-20, Executive Order 9-20, and other executive orders ordering closed or otherwise limiting occupancy of certain establishments and facilities in this state, implementation of successful public health measures has resulted in revised projections of rates of infection and COVID-19 related deaths in West Virginia, as well as ever-strengthening supply chains for personal protective equipment and other medical equipment and supplies, resulting in greater preparedness and response capacity throughout the state; and

**WHEREAS**, on April 27, 2020, I, Governor Jim Justice, announced the state's re-opening plan, West Virginia Strong: *The Comeback* (the "Comeback Plan"), to phase in the re-opening of businesses in the state of West Virginia on a week by week basis to most effectively monitor and respond to the public health effects of this phased re-opening, to be based upon certain metrics and conditions to safely re-open segments of West Virginia's economy and get our citizens back to work, while ensuring the health and protection of all West Virginians, and especially the state's significant elder and vulnerable population who are at most risk from the COVID-19 virus; and

**WHEREAS**, under the Comeback Plan, Executive Order 28-20 and Executive Order 30-20 allowed for the resumption of all medical procedures throughout the state while requiring that hospitals and ambulatory surgical centers around the state limit procedures to only more urgent procedures to ensure adequate response capacity and preserve necessary personal protective equipment and other resources at such facilities in the event of any surge of COVID-19; and

**WHEREAS**, under the Comeback Plan, Executive Order 32-20 and Executive Order 36-20 have been issued to transition the State to a safer-at-home policy and to allow certain types of businesses to begin to re-open or expand their operations, provided that certain safety measures are in place; and

**WHEREAS**, re-opening additional segments of the state's economy in accordance with the Comeback Plan, utilizing a phased approach to re-open sectors of the economy week by week, while continuing to prioritize and provide for the health and protection of all West Virginians, and especially the state's significant elder and vulnerable population, is in the public interest; and

**WHEREAS**, West Virginia's public health experts have advised that allowing for the reopening of fitness centers, gymnasiums, recreation centers, and similar facilities, in addition to the wellness centers allowed to resume operations under Executive Order 36-20, is appropriate at this time; and

**NOW, THEREFORE, I, JIM JUSTICE**, pursuant to the authority vested in me pursuant to the provisions of Chapter 15, Article 5, Section 6 and Chapter 15, Article 5, Section 1 of the Code of West Virginia, hereby **DECLARE** and **ORDER**, effective as of 12:01 AM, Eastern Standard Time, on the Eighteenth day of May, Two Thousand Twenty, unless rescinded, amended, or otherwise postponed by subsequent executive order prior to the effective date of this Order, as follows:

1. Executive Order 3-20, as amended by Section 1 of Executive Order 36-20, as it relates to the closure of fitness centers, gymnasiums, recreation centers, and similar businesses or entities where the public tends to congregate for recreation, sport, or similar leisure activities, is hereby terminated and without further effect; provided that wellness center facilities, fitness centers, gymnasiums, recreation centers, and similar businesses or entities where the public tends to congregate for recreation, sport, or similar leisure activities must operate in accordance with any requirements, limitations, or restrictions relating to such facilities that have been or may be issued or imposed from time to time.
2. Section 3 of Executive Order 9-20, as previously amended and supplemented by Executive Order 32-20 and Executive Order 36-20, is hereby further amended and supplemented as follows to allow fitness centers, gymnasiums, recreation centers, and similar businesses or entities that meet the criteria provided below to resume operation by the addition of the following subsection:

    "bb. **Fitness centers, gymnasiums, recreation centers, and similar businesses or entities**. Fitness centers, gymnasiums, recreation centers, and similar

businesses or entities where the public tends to congregate for recreation, sport, or similar leisure activities may resume operation, but must ensure that proper social distancing and hygiene practices are maintained. Additional guidance for such fitness centers, gymnasiums, recreation centers, and similar businesses or entities, *Guidance for Fitness Centers, Gymnasiums, and Recreation Centers*, is available at governor.wv.gov."

**IN WITNESS WHEREOF,** I have hereunto set my hand and caused the Great Seal of the State of West Virginia to be affixed.

**DONE** at the Capitol in the City of Charleston, State of West Virginia, this Fifteenth day of May, in the year of our Lord, Two Thousand Twenty in the One Hundred Fifty-seventh year of the State.

**GOVERNOR**

**By the Governor**

**SECRETARY OF STATE**