

PUBLICATION

Coronavirus: Georgia Governor Declares Public Health Emergency to Combat COVID-19

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On March 13, with uncertainty as to the impact of coronavirus (COVID-19) on the United States, President Trump declared a national emergency citing the need to open access to as much as \$50 billion in aid and lower legal barriers in an attempt to respond to the pandemic. The move comes as the U.S. Surgeon General and American College of Surgeons issued guidelines as a further means of insulating hospitals against an expected surge in COVID-19 cases nationwide.

On the heels of this announcement, Georgia Governor Brian Kemp declared a Public Health Emergency in response to the pandemic. Though Governor Kemp has previously declared a State of Emergency for other isolated incidents, a statewide response of this magnitude – in response to an infectious disease – is unprecedented.

Under O.C.G.A § 38-3-51, the Governor is conferred certain powers in case of an "actual or impending emergency or disaster of natural or human origin or pandemic influenza emergency. . . or a public health emergency, within or affecting this state or against the United States." Invoking this power requires concurrence by the General Assembly, which convened a Special Emergency Session on March 16– just days after suspension of its regular session due to the COVID-19 outbreak.

These invoked powers include, but are not limited to:

Enforcement of all laws, rules and regulations relating to emergency management and to assume direct operational control of all civil forces and helpers in the state

Performance of any functions, powers and duties as may be deemed necessary to promote and secure the safety and protection of the civilian population

Suspension of any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules or regulations of any state agency, if compliance with such regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency or disaster

Utilization of all available resources of the state government and of each political subdivision of the state as reasonably necessary to cope with the emergency or disaster

Compelling a health care facility to provide services or the use of its facility if such services or use are reasonable and necessary for emergency response. The use of such a health care facility may include transferring the management and supervision of the health care facility to the Department of Public Health for a limited or unlimited period of time not extending beyond the termination of the public health emergency

In his March 14 press conference, Governor Kemp stated that his initial usage of the authority conveyed by the statute will be used to help nurses from other states get temporary Georgia licenses and lift restrictions on commercial truck drivers.

Additionally, the declaration of a Public Health Emergency allows the Governor to direct the Department of Public Health to coordinate all matters pertaining to the response of the state to a public health emergency, such as COVID-19, including:

Planning and executing public health emergency assessments, mitigation, preparedness response and recovery for the state

Coordinating public health emergency responses between state and local authorities

Collaborating with appropriate federal government authorities, elected officials of other states, private organizations or private sector companies

Coordinating recovery operations and mitigation initiatives subsequent to public health emergencies

Organizing public information activities regarding state public health emergency response operations

Providing for special identification for public health personnel involved in a public health emergency

Further, the Georgia Department of Public Health has regulations in place which authorize it to undertake certain actions during the granting of this emergency authority, which includes:

Isolation of persons infected with communicable diseases or conditions likely to endanger the health of others, until they are found to be free of the infectious agent or disease

Quarantining those exposed to, or reasonably suspected of having been exposed to, a communicable disease until they are found to be free of the infectious agent or disease

Requiring surveillance, including the active and direct active monitoring of carriers of disease and persons exposed to, or reasonably suspected of having been exposed to, a communicable disease until it is determined that they no longer pose a threat of spreading disease

Requiring persons to be vaccinated or immunized, examined and treated

Restricting travel into or within the state

Limiting or canceling public gatherings

Closing, evacuating or decontaminating any facility, or destroying or decontaminating any contaminated materials, that the Department reasonably suspects may pose a danger to public health

Ga Comp. R. & Regs. 511-9-1-.03

As of March 20, Georgia's Department of Public Health has confirmed 420 cases of COVID-19 and reported 13 deaths from the disease. Almost 40% of confirmed cases are spread between Fulton, Gwinnett, Cobb, and DeKalb counties, representing several of the most densely populated areas within the state. Reacting to the highly contagious virus, many Georgia schools and colleges have closed for the semester, numerous businesses have implemented teleworking for their employees and major retailers have closed.

The Supreme Court of Georgia has issued its own preemptive measures to protect the citizens of Georgia. On March 14, Chief Justice Harold Melton issued an Order Declaring Statewide Judicial Emergency until and

through April 13. This Order, invoking O.C.G.A. § 38-3-62, has "suspended, tolled, extended, and otherwise granted relief from any (1) statute of limitation; (2) time within which to issue a warrant; (3) time within which to try a case for which a demand for speedy trial has been filed; (4) time within which to hold a commitment hearing; (5) deadline or other schedule regarding the detention of a juvenile; (6) time within which to return a bill of indictment or an accusation or to bring a matter before a grand jury; (7) time within which to file a writ of habeas corpus; (8) time within which discovery or any aspect thereof is to be completed; (9) time within which to serve a party; (10) time within which to appeal or to seek the right to appeal any order, ruling, or other determination; and (11) such other legal proceedings as determined to be necessary by the authorized judicial official." With this Order, judicial proceedings in civil matters have all but come to a halt as the State of Georgia and the United States attempts to mitigate the effects of COVID-19.

Likewise, on March 16, Atlanta Mayor Keisha Lance Bottoms heeded recommendations by issuing an Executive Order declaring a State of Emergency within the City of Atlanta. This State of Emergency comes after the signing of an Administrative Order for development of a financial framework and the identification of funds to implement the activities of the city's Coronavirus Pandemic Coordination Team, which was assembled to develop internal COVID-19 planning efforts and collaborate with external partners regarding COVID-19 response planning in the city. Mayor Bottoms' State of Emergency Executive Order prohibits large public gatherings of more than 250 people within the city and continues through the end of the month. Additionally, Mayor Bottoms issued an Administrative Order directing the Commissioner of Watershed Management to refrain from taking any action which would result in termination of water services for any customer due to non-payment within the next 60 days. As concerns continue to grow within the city, state, and nation, Mayor Bottoms (@KeishaBottoms) posted a series of photographs on Twitter indicating the signature of additional Executive and Administrative Orders on March 19. The March 19 Executive Order, effective at midnight, limits restaurants to take out service, and orders the closure of all bars, nightclubs, private social clubs, fitness centers, gyms, movie theaters, bowling alleys and arcades within the city limits. Mayor Bottoms' Twitter posts also indicate that parking enforcement will suspend the enforcement of regulations through the towing and/or immobilization of vehicles.

To stay updated on the impact of COVID-19 in the State of Georgia, visit <https://dph.georgia.gov/novelcoronavirus>.

If you have any questions regarding these issues, or any other health care regulatory or transactional matters, please contact any other member of [Baker Donelson's Health Law Team](#).