

Emergency Powers – As introduced, amends the Tennessee Emergency Powers Act to allow the General Assembly to have certain powers in the state of an emergency, and requires the state to be in a state of emergency in order for the judiciary to extend certain deadlines.

HOUSE BILL \_\_\_\_

By \_\_\_\_\_

AN ACT to amend Tennessee Code Annotated, Title 58, Chapter 2, relative to the emergency powers of the governor, and Tennessee Code Annotated, Title 28, Chapter 1, relative to the judiciary's deadline extensions in the event of a disaster.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 58-2-101(7) is amended by deleting "provided, that natural threats may include disease outbreaks and epidemics;"

SECTION 2. Tennessee Code Annotated, Section 58-2-101(19) is amended by deleting "or" and adding ", or an epidemic or disease outbreak, provided that the epidemic or disease outbreak results in substantial loss of life or permanent injury to a substantial portion of the state's population" before the final semicolon.

SECTION 3. Tennessee Code Annotated, Section 58-2-102(b) is amended by inserting ", while holding as paramount and giving preeminence to the rights and liberties of the people as guaranteed by the constitution of the state of Tennessee against the arbitrary powers of government" after "private sector".

SECTION 4. Tennessee Code Annotated, Section 58-2-106(b) is amended by deleting subsection (17) in its entirety and redesignating the remaining subsections accordingly.

SECTION 5. Tennessee Code Annotated, Section 58-2-107(a)(1) is amended by deleting the language, "The governor is authorized to delegate such powers as the governor may deem prudent."

SECTION 6. Tennessee Code Annotated, Section 58-2-107(a)(2) is amended by deleting all language in the subsection and substituting instead the following:

(2) Pursuant to the authority vested in the governor under subdivision (a) (1), the governor may issue executive orders and proclamations and may amend or rescind them to the extent allowed by the powers of the executive branch defined in Article III of the Constitution of the State of Tennessee. The power to make, amend, or rescind law is reserved to the General Assembly per constitutionally delegated powers in Article II of the Constitution of the State of Tennessee.

SECTION 7. Tennessee Code Annotated, Section 58-2-107(b)(2) is amended by deleting all language in the subsection and substituting instead the following:

(2) These two (2) types of threats may be declared by the governor if the governor finds an emergency has occurred or the occurrence of threat thereof is imminent. The state of emergency shall continue until the governor or General Assembly finds that the emergency conditions no longer exist, and the governor terminates the state of emergency by executive order or proclamation, or the General Assembly terminates the state of emergency by adoption of a resolution

by a majority vote. No state of emergency may continue for a time period longer than sixty (60) days unless periodically renewed by the General Assembly by a two-thirds (2/3) vote. If not in session at the time of the emergency declaration, the governor must simultaneously call the General Assembly into special session for the purposes of dealing with the emergency. The General Assembly must stay in session for the duration of the emergency declaration and all subsequent renewals. All executive orders or proclamations issued under this section shall indicate: the nature of the emergency, the area or areas threatened, the conditions which have brought the emergency about, and those conditions which make possible its termination. An executive order or proclamation shall be promptly disseminated by means calculated to bring its contents to the attention of the general public; and, unless the circumstances attendant upon the emergency prevent or impede such filing, the order or proclamation shall be filed promptly with the department of state and in the office of the chief executive officer in each county to which the order or proclamation applies.

SECTION 8. Tennessee Code Annotated, Sections 58-2-107(c)(2) and (3) are amended by deleting “and” at the end of § 58-2-107(c)(2) and substituting “; and” for the final period in § 58-2-107(c)(3).

SECTION 9. Tennessee Code Annotated, Section 58-2-107(c) is amended by adding the following as a new, appropriately designated subdivision at the end of subsection 107(c):

( ) Call into special session the General Assembly to enter into legislative business related to the emergency.

SECTION 10. Tennessee Code Annotated, Section 58-2-107(e) is amended by deleting subsections (4) and (8) in their entirety and redesignating the remaining subsections accordingly.

SECTION 11. Tennessee Code Annotated, Section 58-2-107(e)(11) is amended by deleting “the conduct of civilians,”.

SECTION 12. Tennessee Code Annotated, Section 58-2-107(l)(3) is amended by deleting “governor by executive order” and substituting “General Assembly by a two-thirds (2/3) vote”.

SECTION 13. Tennessee Code Annotated, Section 58-2-107 is amended by adding the following as a new, appropriately designated subdivision at the end of the Section 107:

( ) No section of this chapter shall be construed to infringe on the people’s right to assemble, worship, petition the government, or earn a living.

SECTION 14. Tennessee Code Annotated, Section 58-2-110(3)(A)(i) is amended by deleting “, including” and substituting “by providing”.

SECTION 15. Tennessee Code Annotated, Section 58-2-110(3)(A)(v)(g) is amended by adding “, as long as those supplies, materials, and facilities do not include firearms, ammunition, or firearm or ammunition components” before “; and”.

SECTION 16. Tennessee Code Annotated, Section 58-2-110(3) is amended by adding the following as a new, appropriately designated subdivision at the end:

( ) In carrying out this chapter, each political subdivision is limited by the stipulations in § 58-2-107(m) and (n).

where § 58-2-107(n) refers to the new subsection created under Section 10 of this Act.

SECTION 17. Tennessee Code Annotated, Section 58-2-120 is amended by adding: “executive” before “order”, and; “signed or” before “promulgated”, and; “by the governor” before “pursuant”.

SECTION 18. Tennessee Code Annotated, Section 28-1-116 is amended by adding “the governor declares a state of emergency pursuant to § 58-2-107,” after “In the event that”.

SECTION 19. Tennessee Code Annotated, Section 28-1-116 is amended by deleting “enters” and substituting “may enter”.

SECTION 20. Tennessee Code Annotated, Section 28-1-116 is amended by deleting “, or the Tennessee rules of civil or appellate procedure” and substituting “that”.

SECTION 21. Tennessee Code Annotated, Section 28-1-116 is amended by adding at the end the following: “Every effort must be made by the judicial system to efficiently mitigate the impositions of the emergency so that this order is in effect for the minimal amount of time necessary.”

SECTION 22. If any provision of this act or the application of any provision of this act to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end, the provisions of this act are declared to be severable.

SECTION 23. This act takes effect upon becoming a law, the public welfare requiring it.