



DPS AND DPH EXPLAIN LEGAL AUTHORITIES UNDER DISASTER EMERGENCY PROCLAMATION

March 17, 2020

To support the Governor's Proclamation of Disaster Emergency pursuant to Iowa Code sections 29C.6, 135.140, and 135.144, the Iowa Department of Public Safety and Iowa Department of Public Health are providing the following guidance in the enforcement of this order.

The Proclamation contains a number of orders issued by the Governor in conjunction with the Department of Public Health, including orders related to the closure of:

- All restaurants and bars. Food or beverages may continue to be sold if delivered to customers off the premises or if such food or beverages are promptly taken from the premises, such as by carry-out or drive-through services.
- All fitness centers, health clubs, health spas, gyms, and aquatic centers.
- All theaters or other performance venues at which live performances or motion pictures are shown.
- All casinos or other facilities conducting pari-mutuel wagering or gaming operations.
- All facilities that conduct adult day services or other senior citizen centers.

It further prohibits social, community, spiritual, religious, recreational, leisure, and sporting gatherings and events of more than 10 people. This includes parades, festivals, conventions, and fundraisers.

Under Iowa Code chapters 29C and 135, these orders are enforceable by peace officers and a violation of such orders is a crime: "A peace officer, when in full and distinctive uniform or displaying a badge or other insignia of authority, may arrest without warrant any person violating or attempting to violate in such officer's presence any order or rule, made pursuant to chapter 29C. This authority shall be limited to those rules which affect the public generally." Iowa Code section 29C.18(2). In addition, officers of homeland security and emergency management "shall execute and enforce the orders or rules made by the governor or under the governor's authority." Iowa Code section 29C.18(1).

In addition, peace officers have a duty to enforce lawful public health orders within their respective jurisdictions and a violation of an order included in a public health disaster proclamation is a misdemeanor.

These locations were ordered closed by Proclamation of Disaster Emergency on March 17, 2020. Governor Reynolds closed those sites and locations pursuant to Iowa Code section 135.144(3), in conjunction with the Department of Public Health. Under Iowa Code section 135.35, "all peace officers of the state when called upon by the department shall enforce its rules and execute the lawful orders of the department within their respective jurisdictions." Any person who knowingly

violates these provisions of the disaster proclamation or a lawful order of an officer is guilty of a simple misdemeanor. Iowa Code section 135.38

"As this public health event rapidly unfolds, we will continue to partner with law enforcement agencies across the state to uphold and respond to Governor Reynolds' health and safety directives," says Department of Public Safety Commissioner Stephan Bayens. "Our law enforcement officers will continue to be a beacon in the communities they serve and provide enforcement of this declaration with compassion, confidence and dedication. Together, we will all see this through."