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EMAIL TO: All Sheriffs

FROM: Eddie Caldwell
Executive Vice President and General Counsel
North Carolina Sheriffs' Association

SENT: March 14, 2020

SUBJECT: Coronavirus - Governor's Executive Order No. 117 - Prohibition of Mass Gatherings and School Closures -And Impact on Churches and Funerals

Attached is a letter to law enforcement from DPS Secretary Erik Hooks as well as the Governor's Executive Order No. 117 regarding Prohibition of Mass Gatherings and School Closures.

You may wish to consult with your local District Attorney regarding subsections c. and d. of Section 1, which create a Class 2 misdemeanor and say that it "**shall** be enforced by state and local law enforcement officers" (emphasis added.)

Two questions about the Executive Order have arisen:

1 --- Whether the Prohibitions of Mass Gatherings provisions in the Governor's Executive Order No. 117 **DO** apply to churches and other places of worship or **DO NOT** apply to churches and other places of worship of more than 100 persons, since they are not specifically mentioned in the Executive Order?

2 --- Section 1. a. of the Executive Order defines a "mass gathering" and then subsection b. states: "A mass gathering does not include normal operations at...other spaces where more than one hundred (100) persons are gathered." Does subsection b. exempt all places originally covered by subsection a?

The following clarification has been provided by Jane Ammons Gilchrist, General Counsel, NC Department of Public Safety:

*The Executive Order in section 1a. defines mass gathering "as any **event or convening** that brings together one hundred (100) or more persons in a single room or single space at the same time, such as an auditorium, stadium, arena, large conference room, meeting hall, theater, or any other confined indoor or outdoor space." Paragraph a is directed at organized events or gatherings.*



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*Paragraph b states "mass gathering does not include **normal operations** at airports, bus and train stations, medical facilities, libraries, shopping malls and centers, or other spaces where 100 or more persons may be gathered. It also does not include office environments, schools, restaurants, factories, grocery stores or other retail establishments." Paragraph b is aimed at situations where under normal operating conditions 100 or more people may be in the same location but not at a coordinated event or convening.*

If a church gathering [or a funeral, whether at a church or elsewhere] has a coordinated event or convening of more than 100 persons, that would be prohibited under 1a. If a church has more than 100 employees and they come to work, the employees coming to work would fall within the exemption of paragraph b. However, if a church gathering [or a funeral, whether at a church or elsewhere] has a coordinated event or convening for more than 100 persons, that would be prohibited under 1a even if the church has more than 100 employees who come to work.

I will also note section 3 which urges everyone to maintain social distancing recommendations of approximately 6 feet from other people whenever possible and to continue to wash hands, utilize hand sanitizers and practice proper respiratory etiquette as that is the best way to limit the spread of COVID-19.

As always, if I can help further, please call me on my mobile telephone at 919-810-6333.

Thanks...Eddie C.



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North Carolina Sheriffs' Association
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North Carolina Department of Public Safety
Prevent. Protect. Prepare.

Roy Cooper, Governor

Erik A. Hooks, Secretary

March 14, 2020

Fred Baggett
Legislative Counsel
NC Association of Chiefs of Police

Eddie Caldwell
Executive Vice President and General Counsel
NC Sheriffs Association

Dear Sirs:

As State Coordinating Official during this State of Emergency and Secretary of the North Carolina Department of Public Safety, I wanted to personally inform you of Executive Order 117 issued today by Governor Roy Cooper which among other things prohibits mass gatherings. As you are aware on March 10, 2020 the Governor declared a State of Emergency to coordinate the State's response and protective actions to address the Coronavirus Disease 2019 (COVID-19).

The Executive Order's two primary provisions include: 1) a prohibition against mass gatherings in the State of North Carolina, and 2) directs all public schools to close from March 16, 2020 until March 30, 2020, unless extended beyond that date. The Executive Order is attached for your review and awareness.

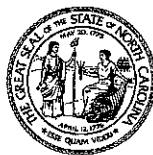
The Order includes a definition of what a mass gathering does and does not include. In addition, the Order provides that violations of the mass gathering provision may be subject to prosecution pursuant to N.C. Gen. Stat. Section 166A-19.30(d) and is punishable as a Class 2 misdemeanor in accordance with N.C. Gen Stat. Section 14-288.20A.

Our hope is that North Carolina citizens will voluntarily comply with the requirements of this Order. The Governor's primary objective is to protect the health and safety of all North Carolinians. Thank you for your service.

Sincerely,

Erik A. Hooks
Secretary

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State of North Carolina

ROY COOPER

GOVERNOR

March 14, 2020

EXECUTIVE ORDER NO. 117

**PROHIBITING MASS GATHERINGS AND DIRECTING THE STATEWIDE
CLOSURE OF K-12 PUBLIC SCHOOLS TO LIMIT THE SPREAD OF COVID-19**

WHEREAS, the undersigned issued Executive Order No. 116 on March 10, 2020, which declares a State of Emergency to coordinate the State's response and protective actions to address the Coronavirus Disease 2019 ("COVID-19") public health emergency and to provide for the health, safety, and welfare of residents and visitors located in North Carolina ("Declaration of a State of Emergency"); and

WHEREAS, the undersigned established the Novel Coronavirus Task Force on COVID-19 to work with state, local, and federal partners in responding to challenges posed by COVID-19; and

WHEREAS, the World Health Organization declared COVID-19 a global pandemic on March 11, 2020; and

WHEREAS, on March 11, 2020, the President of the United States took executive action to restrict travel from Europe into the United States of America; and

WHEREAS, on March 13, 2020, the President of the United States declared the ongoing COVID-19 a pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia pursuant to Section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121-5207 (the "Stafford Act"); and

WHEREAS, on March 13, 2020, the President of the United States pursuant to Sections 201 and 301 of the National Emergencies Act, 50 U.S.C. § 1601, *et seq.* and consistent with Section 1135 of the Social Security Act, as amended (42 U.S.C. § 1320b-5), declared a national emergency that the COVID-19 outbreak in the United States constitutes a national emergency beginning March 1, 2020; and

WHEREAS, the North Carolina Department of Health and Human Services ("NCDHHS") confirmed the number of cases of COVID-19 in North Carolina continues to rise; and

WHEREAS, Executive Order No. 116 invoked the Emergency Management Act, and authorizes the Governor to exercise the powers and duties set forth therein to direct and aid in the response to, recovery from, and mitigation against emergencies; and

WHEREAS, NCDHHS has organized a Public Health Incident Management Team to manage the public health impacts of COVID-19 in this state; and

WHEREAS, first responders and health care professionals remain integral to ensuring the state is best situated to respond to and mitigate the threat posed by COVID-19 and such first responders and health care professionals should have the availability of all necessary personal protective equipment and continue to follow all necessary response protocols; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(b)(3), the undersigned, with the concurrence of the Council of State, has the power to regulate and control the congregation of persons in public places or buildings; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(b)(4), the undersigned, with the concurrence of the Council of State, may waive a provision of any regulation or ordinance of a state agency which restricts the immediate relief of human suffering; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(b)(5), the undersigned, with the concurrence of the Council of State, may perform and exercise other such functions, powers and duties as are necessary to promote and secure the safety and protection of the civilian population; and

WHEREAS, further action is necessary to protect the health and safety of the residents of North Carolina, slow the spread of the COVID-19 outbreak, reduce the number of people infected, and avoid strain on our health care system; and

WHEREAS, the undersigned has sought and obtained concurrence from the Council of State consistent with the Governor's emergency powers authority in N.C. Gen. Stat. § 166A-19.30.

NOW, THEREFORE, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED**:

Section 1. Prohibition of Mass Gatherings

Pursuant to N.C. Gen. Stat. § 166A-19.30(b)(3), which allows for the undersigned to regulate and control the congregation of persons in public places or buildings and with the concurrence of the Council of State, to help protect the health and well-being of North Carolinians, I hereby prohibit mass gatherings in the State of North Carolina.

- a. A mass gathering is defined as any event or convening that brings together more than one hundred (100) persons in a single room or single space at the same time, such as an auditorium, stadium, arena, large conference room, meeting hall, theater, or any other confined indoor or outdoor space. This includes parades, fairs and festivals.
- b. A mass gathering does not include normal operations at airports, bus and train stations, medical facilities, libraries, shopping malls and centers, or other spaces where more than one hundred (100) persons are gathered. It also does not include office environments, restaurants, factories, grocery stores or other retail establishments.
- c. Pursuant to N.C. Gen. Stat. § 166A-19.30(a)(2), the provision of this section shall be enforced by state and local law enforcement officers.
- d. Violations of this section or orders issued pursuant to N.C. Gen. Stat. § 166A-19.30 may be subject to prosecution pursuant to N.C. Gen. Stat. § 166A-19.30(d) and is punishable as a Class 2 misdemeanor in accordance with N.C. Gen. Stat. § 14-288.20A.

Section 2. School Closures

- a. Pursuant to N.C. Gen. Stat. § 166A-19.30(b)(5) which allows the undersigned to perform and exercise such other functions, powers and duties as are necessary to promote and secure the safety and protection of the civilian population, and with the concurrence of the Council of State, I hereby direct that all public schools close for students effective Monday, March 16, 2020 until March 30, 2020, unless extended beyond that date.
- b. Pursuant to N.C. Gen. Stat. § 166A-19.30(a)(1), I hereby direct NCDHHS, the North Carolina Department of Public Instruction, and the North Carolina State Board of Education to immediately work together to implement measures to provide for the health, nutrition, safety, educational needs and well-being of children during the school closure period.

Section 3. Social Distancing

In coordination with the State Health Director and alignment with guidance from the Centers for Disease Control and Prevention, all persons are urged to maintain social distancing (approximately six feet away from other people) whenever possible and to continue to wash hands, utilize hand sanitizer and practice proper respiratory etiquette (including coughing into elbow).

Section 4. Distribution

I hereby order that this Executive Order be: (1) distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (2) promptly filed with the Secretary of the North Carolina Department of Public Safety, the Secretary of State, and the superior court clerks in the counties to which it applies, unless the circumstances of the State of Emergency would prevent or impede such filing; and (3) distributed to others as necessary to ensure proper implementation of this Executive Order.

Section 5. Effective Date

With the exception of section 2, this Executive Order is effective immediately and shall remain in effect for thirty (30) days or until rescinded or superseded by another applicable Executive Order. An Executive Order rescinding the Declaration of a State of Emergency will automatically rescind this Executive Order.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 14th day of March in the year of our Lord two thousand and twenty.



Roy Cooper
Governor

ATTEST:



Elaine F. Marshall
Secretary of State

