

May 9, 2020

Senate Joint Resolution

Proposed by Senator Lora Reinbold requesting special Legislative consideration, during these unprecedented times, regarding the Public Health Disaster Emergency Declaration issued on March 11, 2020 and actions taken under that Declaration by the Executive branch.

Urging the Executive Branch of the State of Alaska to revise the Public Health Disaster Emergency Declaration issued on March 11, 2020 and immediately repeal all Executive Branch Health Mandates that are in violation of the Constitution of the State of Alaska, the Constitution of the United States of America, inclusive of the Bill of Rights, and the Declaration of Independence as it pertains to the COVID-19 (Coronavirus) pandemic.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

WHEREAS, the 1st amendment in the Constitution of the United States clearly states the following, *“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”* It is clear, many of the recent Executive branch health mandates violate the people’s inherent rights in the Constitution of the State of Alaska, outlined in Article 1, and the people’s rights guaranteed in the United States Constitution’s Bill of Rights. The Declaration of Independence declares, *“that all men are created equal, that they are endowed by their Creator with certain Unalienable Rights that amongst these are Life, Liberty and the Pursuit of Happiness.”* Many of the health mandates issued by the Executive branch are in direct violation of the Declaration of Independence, Constitution of the United States of America, and the Constitution of the State of Alaska; and

WHEREAS, the Constitution of the State of Alaska, and the Constitution of the United States of America, inclusive in the Bill of Rights, and the Declaration of Independence are the Supreme Law of the land for all Alaskans. All elected officials take an oath to *“support and defend the Constitution of the United States and the Constitution of the State of Alaska”* and every elected official must be held accountable to their oath; and

WHEREAS, under Article 7, Sections 1, 4, and 5, the Constitution of the State of Alaska, Section 1 states *“The Legislature shall by general law establish and maintain a system of public schools open to all children of the State...”* and Section 4 states *“The Legislature shall provide for the promotion and protection of public health.”* Section 5 states, *“The Legislature shall*

provide for public welfare.” The Legislative branch has constitutional responsibilities and must be involved critical decisions regarding Public Education, Public Health and Public Welfare, including health mandates that affect these institution; and

WHEREAS, under Article 2, Section 13 in the Constitution of Alaska *“Every bill shall be confined to one subject unless it is an appropriation bill or one codifying, revising, or rearranging existing laws. Bills for appropriations shall be confined to appropriations. The subject of each bill shall be expressed in the title. The enacting clause shall: “Be it enacted by the Legislature of the State of Alaska.”* The Legislature is the appropriating body of government and therefore must be involved in the appropriation of emergency funds to meet their constitutional responsibilities referenced in but not limited to Article 7, Sections 1, 4, and 5; and

WHEREAS, even in the case where the Executive branch has declared a Public Health Emergency, it is imperative that the Unalienable Rights and Inherent Rights of Alaskans must not be infringed upon. Government must balance the best interests of Public Health, General Welfare and the Economy to avoid undue infringement on Alaskan’s constitutional rights; and

WHEREAS, the 4th amendment in the Constitution of the United States, clearly states the following, *“The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.”* Many Alaskans do not support the surveillance, including but not limited to, personal phone devices that the Department of Health and Social Services is wrongly monitoring without the consent of the governed. The Constitution of the State of Alaska states *“the people’s privacy is recognized and shall not be infringed”* Article 1, Section 22; and

WHEREAS, the 5th amendment in the Constitution of the United States clearly states the following, *“No person shall... be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.”* And the Constitution of the State of Alaska Article 1, Section 18 *“Private property shall not be taken or damaged for public use without just compensation.”* Many Alaskans are being deprived of these guaranteed rights, without due process, by the Executive branch health mandates and corrective action must be taken immediately; and

WHEREAS, the 9th amendment in the Constitution of the United States says the following, *“The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.”* and The Constitution of the State of Alaska Article 1 Section 21, *“The enumeration of the rights in this constitution shall not impair or deny others retained by the people.”* Several of the health mandates are denying inherent rights while violating civil liberties. For example, government requiring citizens to wear cloth or universal “face coverings” violates citizens inherent rights guaranteed in the State of Alaska Constitution under Article 1, Section 2 and is a violation of the citizens guaranteed inherent civil rights found in Article 1 Section 3; and

WHEREAS, the 14th amendment Section 1 in the Constitution of the United States, states the following “...nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.” The Constitution of the United States and the Constitution of the State of Alaska guarantee equal protections under the law. There are many violations of equal protections under the mandates. One notable example is Executive branch Health Mandate 3, has been arbitrarily and capriciously applied; and

WHEREAS, it is imperative that the government balance the health and welfare of Alaskans, including the importance of jobs and a strong economy, by performing an economic cost benefit analysis, and use of peer reviewed scientific studies including reviewing opposing findings and only perform actions that do not violate Constitutional Unalienable Rights; and

WHEREAS, in addition to Constitutional violations with many of the health mandates, the Governor is in direct violation with A.S.18.15.385 9 (d) pertaining to isolation and quarantine; and

WHEREAS, the Legislature finds the Governor in violation of Alaskan’s constitutionally guaranteed enumerated and non-enumerated inherent rights of the people referenced in the State of Alaska Constitution Article 1, and in the Constitution of the United States. The Executive branch is subverting the constitutional authority of the Legislature throughout many of the issued health mandates, and in some cases subverting the Judicial branch, while governing the State in a quasi- Martial law like manner. The Governor has failed to declare Martial law, provided for in the Constitution of the State of Alaska, Article 3, Section 20, which states “*The Governor may proclaim Martial law when the public safety requires it in case of rebellion or actual or imminent invasion. Martial law shall not continue for longer than twenty days without the approval of a 2/3 majority of the members of the legislature in joint session.*” Even if the Governor had declared Martial law, these health mandates have gone far longer than the allowed 20 days, and he has done this without Legislative approval in joint session; and

WHEREAS, the Executive branch health mandates 3, 5, 6, 10, 12, 13, 15 and 16 violate at minimum the following: The Constitution of the State of Alaska, Article 1, Sections 1, 7, 15 and 18; The Constitution of the United States of America, Article 1, Section 10, and Amendment 1, 5 and 14. In addition, the mandates undermine local control and the expertise of highly trained Boards and Commissions that oversee these professions; and

WHEREAS, Executive branch health mandate 11 violates the following: Constitution of the State of Alaska, Article 1 Sections 1, 4, 7, 15 and 18; The Constitution of the United States of America, Article 1, Section 10, and Amendment 1, 5 and 14; and

WHEREAS, Executive branch health mandates 4, 7, and 9 violate at minimum the following: The Constitution of the State of Alaska, Article 1 Sections 1, 7, 15, 18, and 22; The Constitution of the United States of America, Article 1, Section 10, and Amendment 1, 5 and 14; and

THEREFORE BE IT RESOLVED, that the Alaska State Legislature and the citizens of Alaska, respectfully request the Executive branch of the State of Alaska revise the Public Health Disaster Emergency Declaration issued on March 11, 2020, and immediately repeal all Executive branch health mandates that are in violation of the Constitution of the State of Alaska, the Constitution of the United States of America inclusive of the Bill of Rights, and the Declaration of Independence. In addition, we ask the Executive branch to honor the distinct responsibilities outlined in the Constitution of the State of Alaska for the Legislative & Judicial branches and

insist the Executive branch not violate any inherent rights of our citizens, nor intrude on any rights reserved for the people of this Great State.

As the violations are too numerous to be listed in their entirety, one egregious example is the people's inability to traditionally assemble and celebrate religious holidays and services without the threat of actions being taken against them. Religious freedoms are guaranteed in the State of Alaska Constitution Article 1, Section 4 "*Freedom of Religion- no law shall be made respecting an establishment of religion or prohibiting the free exercise thereof*" are clearly being violated with tight restriction in many of the health mandates. Be it resolved, that any of the unconstitutional mandates set out by the Governor of the State of Alaska and his Administration, shall not be used as precedence in the future, for they clearly violate the Supreme Law of the land and undermine the purpose of our Constitution that our Great State was founded upon, set out in the Preamble: "*We the people of Alaska, grateful to God and to those who founded our nation and pioneered this great land, in order to secure and transmit to succeeding generations our heritage of political, civil, and religious liberty within the Union of States, do ordain and establish this constitution for the State of Alaska.*" The Constitution of the United States preamble states "*We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for common defense, promote the general Welfare and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution of the United States of America.*" Many Alaskans are deeply concerned with the highly restrictive health mandates, issued by the Executive branch under a "perceived" disaster, that are unconstitutional, must be repealed, and will not help secure tranquility and political, civil and religious liberties for future generations.

COPIES of this proposed resolution will be sent to the Honorable Legislature, the Honorable Michael J. Dunleavy, Governor of the State of Alaska; The Honorable Supreme Court Justices