



STATE OF MICHIGAN

DEPARTMENT OF HEALTH AND HUMAN SERVICES

LANSING

GRETCHEN WHITMER  
GOVERNOR

ROBERT GORDON  
DIRECTOR

**Emergency Order Under MCL 333.2253  
Temporary Restrictions for Entry into  
Congregate Care and Juvenile Justice Facilities**

The novel coronavirus (COVID-19) is a respiratory disease that can result in serious illness or death. It is caused by a new strain of coronavirus not previously identified in humans and easily spreads from person to person. There is currently no approved vaccine for this disease. COVID-19 spreads through close human contact, even from individuals who may be asymptomatic. On March 10, 2020, the Michigan Department of Health and Human Services (“MDHHS”) identified the first two presumptive-positive cases of COVID-19 in Michigan. Throughout the pandemic, Michigan has used a range of public health tools and guidance to contain the spread of COVID-19 and protect the public health, including via the Governor’s authority under the Emergency Management Act and the Emergency Powers of Governor Act. On Friday, October 2, 2020, the Michigan Supreme Court concluded that the Governor was not authorized to issue executive orders addressing COVID-19 after April 30, 2020.

COVID-19 can spread quickly in crowded settings, especially congregate living settings and indoor settings without social distancing, such as hospitals. COVID-19 outbreaks in hospitals not only create severe risks for patients and staff, but also create a significant risk of COVID-19 spread among the broader community.

Michigan was one of the states most heavily impacted by COVID-19 early in the pandemic, with new cases peaking at nearly 2,000 per day in late March. Strict preventative measures and the cooperation of Michiganders drove those numbers down dramatically, greatly reducing the loss of life. Although fewer than 100 new cases per day were reported in mid-June, cases have increased since that time, and recently nearly 3,000 new cases have been reported per day. To ensure continuation of essential public health services, we must not permit the spread of COVID-19 to increase. In order to reduce the spread of the virus, certain precautions must be put to ensure any gatherings, where two or more persons from more than one household are present in a shared space, do not promote additional spread. Based on the authority of MDHHS, it is necessary to issue orders under the Public Health Code to control the COVID-19 Epidemic.

Michigan law imposes on MDHHS a duty to continually and diligently endeavor to “prevent disease, prolong life, and promote public health,” and gives the Department “general supervision of the interests of health and life of people of this state.” MCL 333.2221. MDHHS may “[e]xercise authority and promulgate rules to safeguard properly the public health; to prevent the spread of diseases and the existence of sources of contamination; and to implement and carry out the powers and duties vested by law in the department.” MCL 333.2226(d).

In recognition of the severe, widespread harm caused by epidemics, the Legislature has granted MDHHS specific authority, dating back a century, to address threats to the public health like that posed by COVID-19. MCL 333.2253(1) provides that “[i]f the director determines that control of an epidemic is necessary to protect the public health, the director by emergency order may prohibit the gathering of people for any purpose and may establish procedures to be followed during the epidemic to ensure continuation of essential public health services and enforcement of health laws. Emergency procedures shall not be limited to this code.” See also *In re Certified Questions*, Docket No. 161492 (Viviano, J.,

concurring in part and dissenting in part, at 20) (“[T]he 1919 law passed in the wake of the influenza epidemic and Governor Sleeper’s actions is still the law, albeit in slightly modified form.”); see also *id.* (McCormack, C.J., dissenting, at 12). Enforcing Michigan’s health laws, including preventing disease, prolonging life, and promoting public health, requires limitations on gatherings and the establishment of procedures to control the spread of COVID-19. This includes limiting the number, location, size, and type of gatherings, and instituting mitigating measures like Face Masks, to prevent ill or infected persons from infecting others.

Considering the above, and upon the advice of scientific and medical experts employed by MDHHS, I have concluded pursuant to MCL 333.2253 that the COVID-19 pandemic continues to constitute an epidemic in Michigan. I further conclude that control of the epidemic is necessary to protect the public health and that it is necessary to establish procedures to be followed during the epidemic to ensure the continuation of essential public health services and enforcement of health laws. As provided in MCL 333.2253, these emergency procedures are not limited to the Public Health Code.

I therefore order that:

1. **Definitions.** The following terms have the following meaning in this Emergency Order:
  - (a) “Congregate Care Facility” and “Juvenile Justice Facility” means Child Caring Institutions as defined MCL 722.111(c), county or court -operated facilities and juvenile detention facilities as defined by MCL 400.117a(1)(g).
  - (b) “Face Mask” means a tightly woven cloth or other multi-layer absorbent material that closely covers an individual’s mouth and nose. A face shield does not constitute a Face Mask.
  - (c) “Visitors” means any person entering the Congregate Care Facility or Juvenile Justice Facility for the purpose of visiting a resident. Medical services providers, caseworkers, social workers, behavioral health providers, speech pathologists, occupational therapists, physical therapists, and other health care providers entering a Congregate Care Facility or Juvenile Justice Facility to provide professional services to a Youth are not subject to the visitation restrictions in this order.
  - (d) “Youth” means a resident under the age of 21 that resides in a Congregate Care Facility or Juvenile Justice Facility.
2. A Congregate Care Facility or a Juvenile Justice Facility must limit the gathering of non-residents consistent with the provisions of this order.
3. A Congregate Care Facility or a Juvenile Justice Facility may permit entry of visitors if the facility complies with all of the following:
  - (a) Provides information to all visitors on the following topics:
    - (1) Recognition of the signs and symptoms of COVID-19.
    - (2) Who to notify if they develop signs or symptoms of COVID-19 at the facility or within 14 days of visiting the facility.
    - (3) Appropriate handwashing and sanitization techniques.
    - (4) Appropriate methods for donning and doffing Face Masks.
    - (5) Appropriate methods for containing coughs and sneezes.

- (6) Social distancing recommendations.
  - (7) Updated information regarding conditions that increase the risk of severe complications from COVID-19 infection. Specifically, the following information must be provided: “While children have been less affected by COVID-19 compared to adults, children with certain conditions may be at increased risk for severe illness. Children who are medically complex, who have serious genetic, neurologic, metabolic disorders, and with congenital (since birth) heart disease may be at increased risk for severe illness from COVID-19. Similar to adults, children with obesity, diabetes, asthma, and chronic lung disease or immunosuppression may be at increased risk for severe illness from COVID-19.”
- (b) Limits all visitor entry only through designed entrances that allow proper screening.
  - (c) Posts signage at any visitor entrance instructing visitors to be assessed for symptoms of COVID-19 before entry.
  - (d) Posts signage instructing persons who have symptoms of a COVID-19 infection, including, but not limited to, fever, cough, difficulty breathing or shortness of breath, sore throat, muscle pain, chills, new loss of taste or smell, nausea or vomiting, and/or diarrhea, to not enter the facility.
  - (e) Performs a health evaluation of visitors each time a visitor seeks to enter the facility and denies entry to those visitors who do not meet the evaluation criteria. The evaluation criteria must include assessment of signs and symptoms related to a COVID-19 infection: fever  $\geq 100.4^{\circ}\text{F}$ , cough, difficulty breathing or shortness of breath, sore throat, muscle pain, chills, new loss of taste or smell, nausea, vomiting, and/or diarrhea;
  - (f) Provides supplies for respiratory hygiene and cough etiquette, including the safe use of alcohol-based hand rub with 60-95% alcohol, tissues, and no-touch receptacles for disposal available within the facility, including intake areas, visitor entries and exits, visitation rooms, common areas, restrooms, and dining areas;
  - (g) Restricts all visitation to a designated visitation room or other designated location.
  - (h) Permits visitation only as scheduled in advance during select hours and limits the number of visitors per Youth to no more than two visitors at one time per Youth. As a condition of visitation, facilities must log visitor arrival and departure times, contact information, and require that visitors attest, in writing, that they will notify the facility if they develop symptoms consistent with COVID-19 with 14 days after visiting.
  - (i) Requires visitors to wear a Face Mask in all shared spaces, both indoors and outdoors. If the visitor is unable medically to tolerate a Face Mask, visitation may be conducted outdoors or by video.
  - (j) Prohibits visits to Youth who are in isolation or are otherwise under observation for symptoms of COVID-19 except for limited visitation with a, parent, foster parent, prospective adoptive parent, or guardian of an individual who is 21 years of age or under. The following requirements also apply to visitation of Youth in isolation, quarantine or otherwise under observation:
    - (1) Any visitor who is a parent, foster parent, prospective adoptive parent, or guardian to the COVID-19 positive Youth who remains under active isolation or quarantine, must wear all recommended personal protective equipment (PPE) appropriate for the level of contact with the resident and the nature of the tasks being performed.

- (2) All other visits may resume when the Youth is advised by a healthcare provider or public health professional that they have completed their period of isolation, quarantine or they meet CDC criteria for discontinuation of isolation or quarantine
  - (k) Requires all visitors to practice social distancing, staying at least six (6) feet away from others except the Youth they are visiting.
  - (l) Excludes visitors from Youth rooms during aerosol-generating procedures or collection of respiratory specimens unless deemed necessary by facility staff for the care and well-being of the Youth.
  - (m) Requires Youth returning from an off-campus visit to enter through the visitor entrance or another designated entrance, and submit to the same health evaluation as visitors. Off-campus visits will be permitted only in the following circumstances:
    - (1) Off-campus visits to a parent, foster parent, or prospective adoptive parent will be permitted if the person or persons being visited have agreed in writing to abide by safety measure as recommended by the CDC to reduce exposure to COVID-19 for at least two weeks prior to the scheduled visit, and the parent, foster parent, or prospective adoptive parent does not have a known exposure to COVID-19 or symptoms of COVID-19 or has received a negative test result since their last known exposure.
    - (2) Other off-campus visits in the community must be in the same MI Safe Start reopening region where the congregate care or juvenile justice facility is located.
  - (n) Requires Youth with known exposure to COVID-19, but presenting no signs or symptoms, to be quarantined in a private room for 14 days.
  - (o) Isolates Youth with signs or symptoms of COVID-19 and tests them for COVID-19.
  - (p) Ensures staff are familiar with basic methods of infection control, including the proper wearing of Face Masks, hand hygiene, and surface sanitization procedures.
  - (q) Designates at least one individual who is responsible for overseeing compliance with the provisions in this order.
  - (r) Considers additional precautions for minimizing transmission during the visits if a Youth or any visitor to that Youth have a high-risk condition.
4. Placement into Congregate Care Facilities and Juvenile Justice Facilities should be limited to reduce exposure of COVID-19 to current residents. This may be accomplished by implementing the following measures:
- (a) Eliminating any form of juvenile detention or Congregate Care Facility placement except for juveniles who are determined to be a substantial and immediate safety risk to themselves or others.
  - (b) Unless otherwise directed by court order, for juveniles on court-ordered probation, temporarily suspending the use of out-of-home confinement for technical violations of probation.
5. All Youth residing in a facility must be provided written and verbal communications regarding COVID-19, and the ability to access to medical care and community-based support during the epidemic;

6. Access to family, education, and legal counsel through electronic means (such as telephone calls or video conferencing) should be encouraged and facilitated at no cost rather than through in-person meetings.
7. **Implementation:**
- (a) If any provision of this order is found invalid by a court of competent jurisdiction, whether in whole or in part, such decision will not affect the validity of the remaining part of this order.
  - (b) The June 29, 2020, order entitled “Visitation at Congregate Care/Juvenile Justice Facilities” is rescinded as of the effective date of this order.
  - (c) Nothing in this order shall be construed to affect any prosecution or civil citation based on conduct that occurred before the effective date of this order.
  - (d) Nothing in this order should be taken to modify, limit, or abridge protections provided by state or federal law for a person with a disability.
  - (e) Under MCL 333.2235(1), local health departments are authorized to carry out and enforce the terms of this order.
  - (f) Law enforcement officers, as defined in the Michigan Commission on Law Enforcement Standards Act, 1965 Public Act 203, MCL 28.602(f), are deemed to be “department representatives” for purposes of enforcing this order, and are specifically authorized to investigate potential violations of this order. They may coordinate as necessary with the appropriate regulatory entity and enforce this order within their jurisdiction.
  - (g) Consistent with MCL 333.2261, violation of this order is a misdemeanor punishable by imprisonment for not more than six months, or a fine of not more than \$200, or both.
  - (h) Consistent with any rule or emergency rule promulgated and adopted in a schedule of monetary civil penalties under MCL 333.2262(1) and applicable to this order, violations of this order are punishable by a civil fine of up to \$1,000 for each violation or day that a violation continues.

This order is effective immediately and remains in effect until rescinded. Persons with suggestions and concerns are invited to submit their comments via email to [COVID19@michigan.gov](mailto:COVID19@michigan.gov).

Date: October 29, 2020



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Robert Gordon, Director  
Michigan Department of Health and Human Services