

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2020

RESOLUTION 2020

XXX CHESSEY RESOLUTION XXX

A RESOLUTION REAFFIRMING OATHS AND OBLIGATIONS TO UPHOLD AND DEFEND THE CONSTITUTION OF THE UNITED STATES, THE NORTH CAROLINA STATE CONSTITUTION AND THE RIGHTS OF THE CITIZENS OF NORTH CAROLINA FROM UNILATERAL GOVERNMENT OVERREACHES.

WHEREAS, On March 27th, 2020 Governor Roy Cooper issued Executive Order No. 121 enacting a “Stay at Home Order” in response to increasing COVID-19 cases; and

WHEREAS, Governor Cooper assumed the authority to issue the above Executive Order pursuant to various sub-sections of N.C. Gen. Statute 166A-19.30(c); and

WHEREAS, the Executive Order states that sub-sections of N.C. Gen. Stat. 166A-19.30(c) in conjunction with sub-sections of N.C. Gen. Stat. 166A-19.31(b) grants the authority to restrict activities at private businesses and other establishments at which people may congregate; and

WHEREAS, in Section 2 of the Executive Order, Governor Cooper decrees what businesses and operations are to be considered “Essential”, which is an authority not granted to any branch of government by the North Carolina State Constitution nor General Statute; and

WHEREAS, the Executive Order conflicts with Article 1 Section 1 of the North Carolina State Constitution states “*We hold it to be self-evident that all persons are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, **the enjoyment of the fruits of their own labor**, and the pursuit of happiness.*” by closing private businesses; and

WHEREAS, the Executive Order conflicts with Article 1 Section 3 of the North Carolina State Constitution which states: “*every such right shall be exercised in pursuance of law and consistently with the Constitution of the United States.*”; and

WHEREAS, the Executive Order conflicts with Article 1 Section 12 of the North Carolina State Constitution which states: “*The people have a right to assemble together to consult for their common good, to instruct their representatives, and to apply to the General Assembly for redress of grievances; but secret political societies are dangerous to the liberties of a free people and shall not be tolerated.*”; and

WHEREAS, the Executive Order conflicts with Article 1 Section 32 of the North Carolina State Constitution prevents the Governor from assigning the title of “essential” and “non-essential” by stating: “*No person or set of persons is entitled to exclusive or separate emoluments or privileges from the community but in consideration of public services.*”; and

WHEREAS, the Executive Order conflicts with Article 1 Section 7 of the North Carolina State Constitution which states: *“All power of suspending laws or the execution of laws by any authority, without the consent of the representatives of the people, is injurious to their rights and shall not be exercised.”*; and

WHEREAS, the Constitution of the United States is the supreme law of the land and Article 1 Section 5 of the North Carolina State Constitution states *“Every citizen of this State owes paramount allegiance to the Constitution and government of the United States, and no law or ordinance of the State in contravention or subversion thereof can have any binding force.”*; and

WHEREAS, the United States Supreme Court in its decision Marbury v. Madison held that the rights protected by, and the limits placed upon government within, a constitution are designed to be permanent; stating *“To what purpose are powers limited, and to what purpose is that limitation committed to writing, if these limits may at any time be passed by those intended to be restrained?”*; and

WHEREAS, the United States Supreme Court in its decision Marbury v. Madison clarified that the Constitution is unchangeable by ordinary means or a simple legislative act and declared that an act of the Legislature repugnant to the Constitution is void; and

WHEREAS, The Executive Order issued on March 27th, 2020, and subsequent orders after, are in direct conflict with individual rights protected by, and government limitations prescribed in, the Constitutions of the United States and the State of North Carolina.

NOW THEREFORE BE IT RESOLVED, that the North Carolina General Assembly affirm their opposition to any and all General Statutes, and/or Executive Orders that infringe upon the Constitutional rights of the people as set forth in the Constitution of the United States and the Constitution of the State of North Carolina, ***AND***, move to nullify or make void any government action intended for the purpose of, or resulting in the violating those rights; and

NOW, THEREFORE BE IT FURTHER RESOLVED, that the North Carolina General Assembly will enact legislation, in accordance to Article 1 Section 7 The Constitution of the State of North Carolina, that will automatically call and emergency/special session of the General Assembly within 3 business days of any action drawing it’s authority from Gen. Stat. 166A-19 or any of its subsections;

NOW, THEREFORE BE IT FURTHER RESOLVED, that the North Carolina General Assembly does hereby reaffirm our solemn oaths and obligations to uphold and defend the Constitutions of the United States and the State of North Carolina so help us God.

SECTION 4. This resolution is effective upon ratification. In the General Assembly read three times and ratified this the XXth day of May,2020.