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1

SENATE RESOLUTION

2 WHEREAS, Section 11 of Article V of the Illinois
3 Constitution authorizes the Governor, by Executive Order, to
4 reassign functions among or reorganize executive agencies that
5 are directly responsible to the Governor; and

6 WHEREAS, Section 4 of the Executive Reorganization
7 Implementation Act sets forth procedures and requirements
8 regarding Executive Orders issued under Section 11 of Article V
9 of the Illinois Constitution; and

10 WHEREAS, Section 3.2 of the Executive Reorganization
11 Implementation Act provides that reorganization occurs when an
12 Executive Order: (1) transfers the whole or any part of any
13 agency, or the whole or any part of the functions thereof, to
14 the jurisdiction and control of any other agency; (2)
15 consolidates or coordinates the whole or any part of any
16 agency, or the whole or any part of the functions thereof, with
17 the whole or any part of any other agency or the functions
18 thereof; (3) consolidates or coordinates any part of any agency
19 or the functions thereof with any other part of the same agency
20 or the functions thereof; (4) abolishes the whole or any part
21 of any agency which does not have, or upon the taking effect of
22 reorganization will not have, any functions; or (5) establishes
23 a new agency to perform all or any part of the functions of an

1 existing agency or agencies; and

2 WHEREAS, Section 3.1 of the Executive Reorganization
3 Implementation Act specifies that the term "agency directly
4 responsible to the Governor" includes, subject to limited
5 exceptions, any office, officer, division, or part thereof, and
6 any other office, nonelective officer, department, division,
7 bureau, board, or commission in the executive branch of State
8 government; and

9 WHEREAS, The Governor issued Executive Order 14-04, which
10 purports to consolidate the Division of Mental Health with the
11 Division of Alcoholism and Substance Abuse into a new entity
12 called the Division of Mental Health and Addiction Recovery
13 Services within the Department of Human Services; and

14 WHEREAS, The two divisions within the Department of Human
15 Services are agencies directly responsible to the Governor; and

16 WHEREAS, Because Executive Order 14-04 consolidates two
17 agencies into one agency, Executive Order 14-04 is an executive
18 reorganization order; and

19 WHEREAS, Because Executive Order 14-04 contravenes various
20 statutes enumerated in the Order, Executive Order 14-04 is
21 hereby deemed a reorganization order that is subject to Section

1 11 of Article V of the Illinois Constitution and the Executive
2 Reorganization Implementation Act; and

3 WHEREAS, Executive Order 14-04 in its entirety was
4 delivered to the Secretary of the Senate and the Clerk of the
5 House of Representatives on April 1, 2014; and

6 WHEREAS, The 60-day period for the General Assembly to
7 disapprove Executive Order 14-04 expires on May 31, 2014; and

8 WHEREAS, Executive Order 14-04 expressly cites the
9 Governor's reorganization authority, to consolidate or
10 coordinate the whole or any part of an agency, or the whole or
11 any part of the functions thereof, with the whole or any part
12 of any other agency or the functions thereof (subsection (2) of
13 Section 3.2 of the Executive Reorganization Implementation
14 Act); and

15 WHEREAS, Executive Order 14-04 fails to acknowledge that it
16 also abolishes two agencies, the Division and Mental Health and
17 the Division of Alcoholism and Substance Abuse, that will not
18 have any functions upon the taking effect of reorganization
19 (subsection (5) of Section 3.2 of the Executive Reorganization
20 Implementation Act), and while the Governor has the authority
21 to abolish agencies, Executive Order 14-04 does not refer to
22 the basis of that authority; and

1 WHEREAS, Subsection (f) of Section 4 of the Executive
2 Reorganization Implementation Act requires an Executive Order
3 to terminate the affairs of any agency abolished; and

4 WHEREAS, Executive Order 14-04 states that the Division of
5 Mental Health and the Division of Alcoholism and Substance
6 Abuse are currently managed by a single Director within the
7 Department of Human Services; and

8 WHEREAS, Executive Order 14-04 also generally provides
9 that personnel and positions of the Division of Mental Health
10 and the Division of Alcoholism and Substance Abuse programs
11 affected by Executive Order 14-04 shall be consolidated and
12 continue their service within the new Division of Mental Health
13 and Addiction Recovery Services; and

14 WHEREAS, Executive Order 14-04 implicitly appoints the
15 current Director of the existing Divisions as the head of the
16 new Division of Mental Health and Addiction Recovery Services,
17 but that appointment is not subject to confirmation by the
18 Senate, in violation of subsection (b) of Section 4 of the
19 Executive Reorganization Act; and

20 WHEREAS, Executive Order 14-04 consolidates the functions
21 of the Division of Mental Health and the Division of Alcoholism

1 and Substance Abuse so that upon the effect of the
2 reorganization, those agencies will be abolished, but fails to
3 provide for terminating the affairs of the abolished agencies,
4 in violation of subsection (f) of Section 4 of the Executive
5 Reorganization Implementation Act; and

6 WHEREAS, Executive Order 14-04 states that the powers,
7 duties, rights, and responsibilities of the Division of Mental
8 Health and the Division of Alcoholism and Substance Abuse shall
9 be consolidated into a single entity, effective upon filing
10 with the Secretary of State or as soon thereafter as
11 practicable; and

12 WHEREAS, The Governor issued Executive Order 14-05, which
13 purports to transfer the Illinois Commission on Volunteerism
14 and Community Service (which the Order appears to rename as
15 "Serve Illinois") from the Department of Human Services to the
16 Department of Public Health; and

17 WHEREAS, The Department of Public Health and the Department
18 of Human Services are agencies directly responsible to the
19 Governor; and

20 WHEREAS, Because Executive Order 14-05 transfers an agency
21 to the jurisdiction and control of another agency, Executive
22 Order 14-05 is an executive reorganization order; and

1 WHEREAS, Because Executive Order 14-05 contravenes the
2 Illinois Commission on Volunteerism and Community Service Act,
3 Executive Order 14-05 is hereby deemed a reorganization order
4 that is subject to Section 11 of Article V of the Illinois
5 Constitution and the Executive Reorganization Implementation
6 Act; and

7 WHEREAS, Executive Order 14-05 in its entirety was
8 delivered to the Secretary of the Senate and the Clerk of the
9 House of Representatives on April 1, 2014; and

10 WHEREAS, The 60-day period for the General Assembly to
11 disapprove Executive Order 14-05 expires on May 31, 2014; and

12 WHEREAS, Executive Order 14-05 specifically cites the
13 Governor's reorganization authority, "in pertinent part", to:
14 (1) transfer the whole or any part of an agency, or the whole
15 or any part of the functions thereof, to the jurisdiction and
16 control of any other agency (subsection (1) of Section 3.2 of
17 the Executive Reorganization Implementation Act); and (2)
18 abolish the whole or any part of any agency which does not
19 have, or upon the taking effect of reorganization will not
20 have, any functions (subsection (4) of Section 3.2 of the
21 Executive Reorganization Implementation Act); and

1 WHEREAS, While Executive Order 14-05 transfers the
2 Illinois Commission on Volunteerism and Community Service from
3 one agency to another, Executive Order 14-05 does not abolish
4 an agency or completely remove any agency's functions, in
5 conformity with the authority it cites; and

6 WHEREAS, Subsection (c) of Section 4 of the Executive
7 Reorganization Implementation Act requires every Executive
8 Order reorganizing executive agencies to transfer employees
9 serving under the Personnel Code who are engaged in the
10 performance of a function transferred to another agency; and

11 WHEREAS, Executive Order 14-05 provides that the staff of
12 the Department of Human Services engaged in the performance of
13 the transferred functions may be transferred to the Department
14 of Public Health; therefore, Executive Order 14-05 contains a
15 permissive transfer of employees, rather than a mandatory
16 transfer, in violation of subsection (c) of Section 4 of the
17 Executive Reorganization Implementation Act; and

18 WHEREAS, The Governor issued Executive Order 14-06, which
19 purports to (1) create within the Illinois Criminal Justice
20 Information Authority the Illinois Data Exchange Coordinating
21 Council, (2) create a board of directors for the Illinois Data
22 Exchange Coordinating Council, and (3) create the Advisory
23 Committee to advise the board of directors of the Illinois Data

1 Exchange Coordinating Council; and

2 WHEREAS, Executive Order 14-06 gives the Illinois Data
3 Exchange Coordinating Council the authority to establish
4 policy, standards, and strategies for designing, developing,
5 funding, implementing, and operating an integrated criminal
6 justice information sharing environment; and

7 WHEREAS, Currently, the Illinois Criminal Justice
8 Information Act gives the Illinois Criminal Justice
9 Information Authority the powers and duties to coordinate the
10 use of criminal justice information, develop and operate
11 information systems, coordinate State and local criminal
12 justice projects, establish policies concerning criminal
13 justice information systems, and advise the Governor and
14 General Assembly on policies relating to criminal justice
15 information systems; and

16 WHEREAS, The Illinois Criminal Justice Information
17 Authority currently has the authority to evaluate and
18 coordinate policies related to criminal justice information;
19 and

20 WHEREAS, Because Executive Order 14-06 transfers
21 policy-making and management functions from the Illinois
22 Criminal Justice Information Authority to the newly-created

1 Illinois Data Exchange Coordinating Council in contravention
2 of the Illinois Criminal Justice Information Act, the Order is
3 a reorganization order that is subject to Section 11 of Article
4 V of the Illinois Constitution and the Executive Reorganization
5 Implementation Act; and

6 WHEREAS, Section 11 of Article V of the Illinois
7 Constitution provides that (i) if an Executive Order proposes a
8 reassignment or reorganization that contravenes a statute,
9 then the Executive Order must be delivered to the General
10 Assembly, and (ii) either house of the General Assembly, by
11 record vote of a majority of the members elected, may
12 disapprove the Executive Order; and

13 WHEREAS, Executive Order 14-06 was delivered to the
14 Secretary of the Senate and the Clerk of the House of
15 Representatives on April 28, 2014; and

16 WHEREAS, Because the Governor delivered Executive Order
17 14-06 to the General Assembly after April 1, the 60-day period
18 for the General Assembly to disapprove Executive Order 14-06
19 will expire 60 days after the day after the first day of the
20 next annual session; and

21 WHEREAS, Executive Order 14-06 appoints members to a
22 newly-created board of directors to govern the Illinois Data

1 Exchange Coordinating Council, but the appointment of board
2 members is not subject to confirmation by the Senate, in
3 violation of subsection (b) of Section 4 of the Executive
4 Reorganization Implementation Act; and

5 WHEREAS, Executive Order 14-06 fails to provide for the
6 transfer of employees serving under the Personnel Code who are
7 engaged in the performance of a function transferred to a new
8 entity, in violation of subsection (c) of Section 4 of the
9 Executive Reorganization Implementation Act; and

10 WHEREAS, Executive Order 14-06 fails to provide for the
11 transfer or other disposition of personnel records, documents,
12 books, correspondence, and other property, both real and
13 personal, affected by the reorganization in violation of
14 subsection (d) of Section 4 of the Executive Reorganization
15 Implementation Act; and

16 WHEREAS, Executive Order 14-06 fails to provide for the
17 transfer of unexpended balances of appropriations and other
18 funds available for use in connection with any function or
19 agency affected by the reorganization, as the Governor deems
20 necessary, for use of the agency which has such functions after
21 the reorganization takes effect, in violation of subsection (e)
22 of Section 4 of the Executive Reorganization Implementation
23 Act; and

1 WHEREAS, Executive Order 14-06 fails to provide by a
2 savings clause for the transfer and continuation of the rules,
3 regulations, and other agency actions affected by
4 reorganization, in violation of subsection (g) of Section 4 of
5 the Executive Reorganization Implementation Act; and

6 WHEREAS, Executive Order 14-06 fails to enumerate all Acts
7 of the General Assembly which establish the functions affected
8 by the proposed reorganization, in violation of subsection (h)
9 of Section 4 of the Executive Reorganization Implementation
10 Act; and

11 WHEREAS, Executive Order 14-06 creates a board of directors
12 for the Illinois Data Exchange Coordinating Council and
13 provides for the employees of certain private organizations to
14 serve as members of the board of directors, delegating public
15 authority to private persons in violation of Section 2 of
16 Article I of the Illinois Constitution and the Illinois Supreme
17 Court's holding in Lasher v. People, 183 Ill. 226 (1899); and

18 WHEREAS, Section 11 of Article V of the Illinois
19 Constitution provides that an Executive Order reorganizing
20 executive agencies cannot become effective less than 60
21 calendar days after its delivery to the General Assembly; and

1 WHEREAS, Executive Orders 14-04 and 14-05 contain
2 effective date provisions which state that each Order is
3 "effective upon filing with the Secretary of State"; and

4 WHEREAS, Executive Order 14-06 contains an effective date
5 provision that states that the Order "shall take effect
6 immediately upon its filing with the Secretary of State and
7 shall remain in effect until terminated or modified"; and

8 WHEREAS, Executive Orders 14-04, 14-05, and 14-06 purport
9 to become effective upon filing with the Secretary of State, in
10 violation of Section 11 of Article V of the Illinois
11 Constitution; and

12 WHEREAS, Executive Orders 14-04 and 14-05 contain several
13 structural and procedural defects; and

14 WHEREAS, Executive Order 14-06 proposes to improperly
15 reorganize and reassign certain policy-making and management
16 functions from the Illinois Criminal Justice Information
17 Authority to the Illinois Data Exchange Coordinating Council,
18 and several statutory requirements were not met in Executive
19 Order 14-06, thus rendering it defective; and

20 WHEREAS, Similar to Executive Order 14-06, Executive Order
21 12-03 was an executive order that did not expressly invoke the

1 Governor's constitutional reorganization authority, but had
2 the effect of reorganizing executive agencies directly
3 responsible to the Governor in contravention of several
4 statutes, and accordingly, the Senate deemed Executive Order
5 12-03 an executive reorganization order subject to the
6 requirements and limitations of the Governor's constitutional
7 authority pursuant to Section 11 of Article IV of the
8 Constitution and the Executive Reorganization Implementation
9 Act; and

10 WHEREAS, Senate Resolution 146 disapproved Executive Order
11 12-03 because it exceeded the Governor's constitutional and
12 statutory authority to reorganize executive agencies;
13 therefore, be it

14 RESOLVED, BY THE SENATE OF THE NINETY-EIGHTH GENERAL
15 ASSEMBLY OF THE STATE OF ILLINOIS, that pursuant to Section 11
16 of Article V of the Illinois Constitution, the Senate hereby
17 disapproves Executive Orders 14-04, 14-05, and 14-06 in their
18 entirety; and be it further

19 RESOLVED, That Executive Orders 14-04, 14-05, and 14-06
20 shall not become effective; and be it further

21 RESOLVED, That copies of this resolution be delivered to
22 the Governor and the Speaker of the House of Representatives.