

Executive Orders--Authority

- Few Vermont Supreme Court decisions specifically address the lawfulness of Executive Orders, including an order issued under 3 V.S.A. § 2002.
 - Executive order issued under 3 V.S.A. 2002 was “lawful executive order.” In *Re Hood*, 592 A.2d 907 (Vt. 1991)
- Unlike other states, the Vermont Constitution does not explicitly provide the Governor with Executive Order authority.
- Similarly, the Vermont Statutes do not grant the Governor broad executive order authority, instead providing authority for specific actions.
- Because of a lack of express, broad constitutional or statutory authority, the Vermont Attorney General has issued multiple opinions relating to their validity.
 - Attorney General Opinion 720 from 1971 addressed the scope of the Governor's authority to issue executive orders.
 - Governor "has no “prerogative powers,” but only such powers as may be granted expressly or by clear implication by the constitution or statute.
- The authority for and ultimate enforceability of an executive order in Vermont, therefore depends, on the subject matter being within the scope of powers granted to the governor.
- Vt. Const. Ch. I, Art. 15. [Legislature only may suspend laws]
 - The power of suspending laws, or the execution of laws, ought never to be exercised but by the Legislature, or by authority derived from it, to be exercised in such particular cases, as this constitution, or the Legislature shall provide for.
- Vt. Const. Ch. II, Art. 2 and 3 [Legislative; Executive Power]
 - Art. 2. [Supreme Legislative Power]
The Supreme Legislative power shall be exercised by a Senate and a House of Representatives.
 - Art. 3. [Supreme Executive Power]
The Supreme Executive power shall be exercised by a Governor, or in the Governor's absence, a Lieutenant-Governor.
- Vt. Const. Ch. II, Art. 5 [Separation of Powers]
 - Art. 5. [Departments To Be Distinct]
The Legislative, Executive, and Judiciary departments, shall be separate and distinct, so that neither exercise the powers properly belonging to the others.
- 3 V.S.A. ch. 41 [Reorganization by Governor]
 - 3 V.S.A. § 2001. Power of Governor. The Governor may make such changes in the organization of the Executive Branch or in the assignment of functions among its units as he or she considers necessary for efficient administration.
 - 3 V.S.A. § 2002. Executive Orders. The Governor may propose by Executive Order changes in the organization of the Executive Branch of government which are not consistent with or will supersede existing organization provided for by law.