

FREEDOM FROM RELIGION *foundation*

P.O. BOX 750 · MADISON, WI 53701 · (608) 256-8900 · WWW.FFRF.ORG

July 8, 2020

**SENT VIA FAX & U.S. MAIL:
(512) 463-5571**

The Honorable Greg Abbott
Governor of Texas
State Capitol
PO Box 12428
Austin, TX 78711

Re: Protective measures for gatherings must apply to all public places

Dear Governor Abbott:

We write on behalf of the Freedom From Religion Foundation (FFRF) to raise concerns with the exceptions to mask-wearing under Executive Order GA-29. FFRF is a nationwide nonprofit organization with more than 32,000 members across the country, including more than 1,300 members in Texas. FFRF's purposes are to protect the constitutional separation between state and church and to educate the public on matters related to nontheism.

We understand that recently issued Executive Order GA-29 admirably requires Texans to wear facemasks in most public places, but unfortunately makes an exception for churches (and polling places).

We request that you revise GA-29's mask wearing-requirement¹ to require citizens who are medically able to do so to wear a mask in all public places, without exceptions for churches or polling places. The continued health of the citizenry demands closing these loopholes. As a group that works to keep religion and government separate, we will address the exception for churches specifically in this letter.

The Supreme Court has long held that the Establishment Clause "mandates government neutrality between religion and religion, and between religion and nonreligion." *McCreary Cty., Ky. v. Am. Civil Liberties Union of Ky.*, 545 U.S. 844, 860 (2005); *Wallace v. Jaffree*, 472 U.S. 38, 53 (1985); *Epperson v. Ark.*, 393 U.S. 97, 104 (1968); *Everson v. Bd. of Educ. of Ewing*, 330 U.S. 1, 15-16 (1947). Exempting religious facilities from the state's mask order violates this basic stricture.

¹ *Executive Order GA-29*, <https://tdem.texas.gov/ga29/>.

Since the beginning of this pandemic, houses of worship have repeatedly been shown to be hotbeds for spreading COVID-19. One-third of all COVID-19 cases in a California county's first coronavirus outbreak were traceable to a single church congregation. The numbers were even bigger elsewhere. As Reuters reported: "South Korea announced thousands of coronavirus cases in the space of only a few days in late February. The surge in cases centered mostly around one main cluster from a church in Daegu city."² That article documents the harrowing story of *one infected person attending two church services and spreading COVID to another 1,200 people* and that a single "church cluster accounts for at least 60 percent of all cases in South Korea."³

Many religious facilities are uniquely susceptible to spreading the disease and consequently should be held to at least the same mask wearing standards as similar secular facilities. Worship services usually require people to sit together in an enclosed space for an extended period of time to share a communal experience. Church choirs and singing by participants have and can spread the virus. The greetings, socializing, potlucks and indoor events are all huge risk factors during a pandemic. Even when conducted under social distancing measures, this type of gathering creates a high risk of coronavirus transmission.

Governments *already* regularly place limits on worship gatherings that jeopardize public health. For instance, the government prohibits churches from cramming too many people into a building in violation of fire codes and also requires that church buildings comply with necessary building codes. The congregants' right to gather and worship is limited by the government's need to protect those congregants from being trampled to death and the community from a fire. Requiring masking due to a pandemic is even more crucial.

To protect the health and safety of all Texas residents, we ask that you apply Executive Order GA-29's mask-wearing requirements to all public spaces, including churches and voting booths. The coronavirus unfortunately does not relent based on the type of building one enters. To be effective, neither must Texas's response to the virus. Thank you for your time and attention to this matter, and we hope this letter finds you in good health.

Very truly,



Annie Laurie Gaylor and Dan Barker
Co-Presidents
Freedom From Religion Foundation

² <https://graphics.reuters.com/CHINA-HEALTH-SOUTHKOREA-CLUSTERS/0100B5G33SB/index.html>.

³ *Id.*