July 29, 2021

Mr. Joe A. Esparza  
Deputy Secretary of State  
State Capitol Room 1E.8  
Austin, Texas  78701

Dear Deputy Secretary Esparza:

Pursuant to his powers as Governor of the State of Texas, Greg Abbott has issued the following:

Executive Order No. GA-38 relating to the continued response to the COVID-19 disaster.

The original executive order is attached to this letter of transmittal.

Respectfully submitted,

[Signature]

Gregory S. Davidson  
Executive Clerk to the Governor  
GSD/gsd

Attachment
Executive Order

BY THE
GOVERNOR OF THE STATE OF TEXAS

Executive Department
Austin, Texas
July 29, 2021

EXECUTIVE ORDER
GA 38

Relating to the continued response to the COVID-19 disaster.

WHEREAS, I, Greg Abbott, Governor of Texas, issued a disaster proclamation on March 13, 2020, certifying under Section 418.014 of the Texas Government Code that the novel coronavirus (COVID-19) poses an imminent threat of disaster for all Texas counties; and

WHEREAS, in each subsequent month effective through today, I have renewed the COVID-19 disaster declaration for all Texas counties; and

WHEREAS, from March 2020 through May 2021, I issued a series of executive orders aimed at protecting the health and safety of Texans, ensuring uniformity throughout Texas, and achieving the least restrictive means of combatting the evolving threat to public health by adjusting social-distancing and other mitigation strategies; and

WHEREAS, combining into one executive order the requirements of several existing COVID-19 executive orders will further promote statewide uniformity and certainty; and

WHEREAS, as the COVID-19 pandemic continues, Texans are strongly encouraged as a matter of personal responsibility to consistently follow good hygiene, social-distancing, and other mitigation practices; and

WHEREAS, receiving a COVID-19 vaccine under an emergency use authorization is always voluntary in Texas and will never be mandated by the government, but it is strongly encouraged for those eligible to receive one; and

WHEREAS, state and local officials should continue to use every reasonable means to make the COVID-19 vaccine available for any eligible person who chooses to receive one; and

WHEREAS, in the Texas Disaster Act of 1975, the legislature charged the governor with the responsibility “for meeting ... the dangers to the state and people presented by disasters” under Section 418.011 of the Texas Government Code, and expressly granted
and from a disaster area and the movement of persons and the occupancy of premises in
the area;" and

WHEREAS, under Section 418.173, the legislature authorized as "an offense,"
punishable by a fine up to $1,000, any "failure to comply with the [state emergency
management plan] or with a rule, order, or ordinance adopted under the plan;"

NOW, THEREFORE, I, Greg Abbott, Governor of Texas, by virtue of the power and
authority vested in me by the Constitution and laws of the State of Texas, do hereby order
the following on a statewide basis effective immediately:

1. To ensure the continued availability of timely information about COVID-19 testing
and hospital bed capacity that is crucial to efforts to cope with the COVID-19
disaster, the following requirements apply:

   a. All hospitals licensed under Chapter 241 of the Texas Health and
      Safety Code, and all Texas state-run hospitals, except for psychiatric
      hospitals, shall submit to the Texas Department of State Health
      Services (DHS) daily reports of hospital bed capacity, in the manner
      prescribed by DHS. DHS shall promptly share this information
      with the Centers for Disease Control and Prevention (CDC).

   b. Every public or private entity that is utilizing an FDA-approved test,
      including an emergency use authorization test, for human diagnostic
      purposes of COVID-19, shall submit to DHS, as well as to the local
      health department, daily reports of all test results, both positive and
      negative. DHS shall promptly share this information with the CDC.

2. To ensure that vaccines continue to be voluntary for all Texans and that Texans’
private COVID-19-related health information continues to enjoy protection against
compelled disclosure, in addition to new laws enacted by the legislature against so-
called "vaccine passports," the following requirements apply:

   a. No governmental entity can compel any individual to receive a
      COVID-19 vaccine administered under an emergency use
      authorization. I hereby suspend Section 81.082(f)(1) of the Texas
      Health and Safety Code to the extent necessary to ensure that no
      governmental entity can compel any individual to receive a COVID-19
      vaccine administered under an emergency use authorization.

   b. State agencies and political subdivisions shall not adopt or enforce any
      order, ordinance, policy, regulation, rule, or similar measure that
      requires an individual to provide, as a condition of receiving any
      service or entering any place, documentation regarding the
      individual’s vaccination status for any COVID-19 vaccine
      administered under an emergency use authorization. I hereby suspend
      Section 81.085(1) of the Texas Health and Safety Code to the extent
in whole or in part by public funds for failure to provide
documentation regarding the consumer's vaccination status for any
COVID-19 vaccine administered under an emergency use
authorization.
d. Nothing in this executive order shall be construed to limit the ability of
a nursing home, state supported living center, assisted living facility,
or long-term care facility to require documentation of a resident's
vaccination status for any COVID-19 vaccine.
e. This paragraph number 2 shall supersede any conflicting order issued
by local officials in response to the COVID-19 disaster. I hereby
suspend Sections 418.1015(b) and 418.108 of the Texas Government
Code, Chapter 81, Subchapter E of the Texas Health and Safety Code,
and any other relevant statutes, to the extent necessary to ensure that
local officials do not impose restrictions in response to the COVID-19
disaster that are inconsistent with this executive order.

3. To ensure the ability of Texans to preserve livelihoods while protecting lives, the
following requirements apply:

a. There are no COVID-19-related operating limits for any business or
other establishment.
b. In areas where the COVID-19 transmission rate is high, individuals are
couraged to follow the safe practices they have already mastered,
such as wearing face coverings over the nose and mouth wherever it is
not feasible to maintain six feet of social distancing from another
person not in the same household, but no person may be required by
any jurisdiction to wear or to mandate the wearing of a face covering.
c. In providing or obtaining services, every person (including individuals,
businesses, and other legal entities) is strongly encouraged to use
good-faith efforts and available resources to follow the Texas
Department of State Health Services (DSHS) health recommendations,
found at www.dshs.texas.gov/coronavirus.
d. Nursing homes, state supported living centers, assisted living facilities,
and long-term care facilities should follow guidance from the Texas
Health and Human Services Commission (HHSC) regarding
visitations, and should follow infection control policies and practices
set forth by HHSC, including minimizing the movement of staff
between facilities whenever possible.
e. Public schools may operate as provided by, and under the minimum
standard health protocols found in, guidance issued by the Texas
Education Agency. Private schools and institutions of higher
education are encouraged to establish similar standards.
f. County and municipal jails should follow guidance from the Texas
Commission on Jail Standards regarding visitations.
  As stated above, business activities and local proceedings are free to
4. To further ensure that no governmental entity can mandate masks, the following requirements shall continue to apply:

a. No governmental entity, including a county, city, school district, and public health authority, and no governmental official may require any person to wear a face covering or to mandate that another person wear a face covering; provided, however, that:
   i. state supported living centers, government-owned hospitals, and government-operated hospitals may continue to use appropriate policies regarding the wearing of face coverings; and
   ii. the Texas Department of Criminal Justice, the Texas Juvenile Justice Department, and any county and municipal jails acting consistent with guidance by the Texas Commission on Jail Standards may continue to use appropriate policies regarding the wearing of face coverings.

b. This paragraph number 4 shall supersede any face covering requirement imposed by any local governmental entity or official, except as explicitly provided in subparagraph number 4.a. To the extent necessary to ensure that local governmental entities or officials do not impose any such face-covering requirements, I hereby suspend the following:
   i. Sections 418.1015(b) and 418.108 of the Texas Government Code;
   ii. Chapter 81, Subchapter E of the Texas Health and Safety Code;
   iii. Chapters 121, 122, and 341 of the Texas Health and Safety Code;
   iv. Chapter 54 of the Texas Local Government Code; and
   v. Any other statute invoked by any local governmental entity or official in support of a face-covering requirement.

Pursuant to the legislature’s command in Section 418.173 of the Texas Government Code and the State’s emergency management plan, the imposition of any such face-covering requirement by a local governmental entity or official constitutes a “failure to comply with” this executive order that is subject to a fine up to $1,000.

c. Even though face coverings cannot be mandated by any governmental entity, that does not prevent individuals from wearing one if they choose.
COVID-19 disaster that are inconsistent with this executive order, provided that local officials may enforce this executive order as well as local restrictions that are consistent with this executive order.

b. Confinement in jail is not an available penalty for violating this executive order. To the extent any order issued by local officials in response to the COVID-19 disaster would allow confinement in jail as an available penalty for violating a COVID-19-related order, that order allowing confinement in jail is superseded, and I hereby suspend all relevant laws to the extent necessary to ensure that local officials do not confine people in jail for violating any executive order or local order issued in response to the COVID-19 disaster.

This executive order supersedes all pre-existing COVID-19-related executive orders and rescinds them in their entirety, except that it does not supersede or rescind Executive Orders GA-13 or GA-37. This executive order shall remain in effect and in full force unless it is modified, amended, rescinded, or superseded by the governor. This executive order may also be amended by proclamation of the governor.

Given under my hand this the 29th day of July, 2021.

GREG ABBOTT
Governor

ATTESTED BY:

JOE A. ESPARZA
Deputy Secretary of State