



Guidance for Houses of Worship During the COVID-19 Crisis

During these challenging times, government and faith communities throughout Texas need to work together to stop the spread of Coronavirus. To facilitate this collaboration, State and local governments must clearly articulate their directives aimed at mitigating spread of the virus. This joint guidance from the Office of the Attorney General and the Office of the Governor responds to frequently asked questions by members of the faith community and is the official guidance regarding the effect of Executive Order GA 14 on religious services conducted in churches, congregations, and houses of worship.

The government must give special consideration to houses of worship when issuing orders related to the COVID-19 crisis.

The First Amendment to the United States Constitution and Article I of the Texas Constitution protect the right of Texans to freely exercise their religion. In addition, the Texas Religious Freedom Restoration Act ("RFRA") provides even stronger protections to faith communities, and government must ensure that it complies with RFRA when it acts. Thus, when state or local governments issue orders prohibiting people from providing or obtaining certain services, they must ensure that these orders do not violate these constitutional and statutory rights.

Houses of worship provide "essential services."

On March 31, 2020, Governor Abbott issued Executive Order GA 14, which defines essential services to include "religious services conducted in churches, congregations, and houses of worship."¹ Institutions providing these essential services can provide them under certain conditions described in Executive Order GA 14 and local orders by counties or municipalities that are consistent with GA 14. To the extent there is conflict between the Governor's Executive Order GA 14 and local orders, GA 14 controls.

Houses of worship must, whenever possible, conduct their activities from home or through remote audio or video services.

Houses of worship often gather as large groups of people in one building during a religious service or activity. But during this public health crisis, in accordance with guidance from the White House, Centers for Disease Control and Prevention ("CDC"), and Texas Department of State Health Services ("Texas DSHS"), providers of essential services must follow certain mitigation strategies to slow the spread of the

¹ Exec. Order No. GA 14 at 2 (Mar. 31, 2020).

virus.² Thus, under the Governor's Executive Order GA 14, houses of worship should conduct remote audio, video, or teleconference activities whenever possible.

If a house of worship cannot conduct its activities remotely, then the White House and CDC guidelines still control in order to stop the spread of Coronavirus.

If a house of worship cannot conduct its service remotely due to a lack of capability (technological or financial), then it should follow the Governor's Executive Order GA 14, that houses of worship are to conduct their activities in accordance with the White House Guidelines.³ For example:

- Instruct sick employees, volunteers, and guests to stay home;
- Practice social distancing by maintaining appropriate distance between people;
- Maintain good hygiene by washing your hands frequently, using hand sanitizer, using your elbow to cover coughs, and not touching your face; and
- Clean and disinfect work areas frequently.

Houses of worship, like providers of other essential services, are to follow additional guidance from the White House and CDC whenever possible.⁴

Some houses of worship must avoid large gatherings.

Texas is a big state and the transmission rate of COVID-19 varies in different communities. Given this, houses of worship should work with counties and municipalities to evaluate the rate of local community spread and determine the appropriate level of mitigation strategies to implement. For example, more detailed guidance from the CDC currently recommends that if a community is experiencing substantial community spread of COVID-19, then the houses of worship in that community should cancel all in-person gatherings of any size. But if a community is experiencing moderate to substantial spread, then the CDC recommends a reduction of activities in coordination with local health officials, possible smaller gatherings incorporating social-distancing measures, cancelation of activities with 10 or more people when high-risk populations attend in person (including those over 65 and those with underlying medical conditions),⁵ and use of creative means to deliver other

² Ctr. for Disease Control, Interim Guidance for Businesses and Employers to Plan and Respond to Coronavirus Disease 2019 (COVID-19) (Mar. 21, 2020), <https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html>; Tex. Dep't of State Health Servs., Prevention of COVID-19 (Mar. 31, 2020), <https://www.dshs.texas.gov/coronavirus/#prevent>.

³ The President's Coronavirus Guidelines for America, 30 Days to Slow the Spread (Mar. 31, 2020), https://www.whitehouse.gov/wp-content/uploads/2020/03/03.16.20_coronavirus-guidance_8.5x11_315PM.pdf.

⁴ CDC: <https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html>. Texas DSHS: <https://www.dshs.texas.gov/coronavirus/#prevent>.

⁵ CDC: <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-higher-risk.html>.

faith-based services. For more information, houses of worship should consult CDC guidance.⁶

For example, a church may hold Easter services in its parking lot, with attendees remaining in their cars (windows down), parked in every other parking spot, with the minister using amplification to preach. Or because Executive Order GA 14 permits drive-thrus to operate, then a house of worship may, according to their faith practices, provide communion or a blessing through a similar drive-up service. Or pastors with smaller congregations may consider conducting multiple services of 10 people or fewer in their sanctuaries, so long as they maintain appropriate social distancing, properly sanitize the building between each service, and provide hand sanitizer.

These restrictions do not violate the religious liberty of houses of worship.

Under the extraordinary circumstances in which we temporarily live, these restrictions do not violate the religious liberty of houses of worship because the government has a compelling interest for implementing the rules (stopping contagion) and the rules are the least restrictive means of burdening religious practice (they allow houses of worship to stay open for ministry, but suggest ways that help stop the spread of COVID-19).

⁶ CDC, Interim Guidance for Administrators and Leaders of Community- and Faith-Based Organizations to Plan, Prepare, and Respond to Coronavirus Disease 2019 (COVID-19) (Mar. 23, 2020), <https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/guidance-community-faith-organizations.html>.

- Order No. 1 In accordance with the Guidelines from the President and the CDC, every person in Texas shall avoid social gatherings in groups of more than 10 people.
- Order No. 2 In accordance with the Guidelines from the President and the CDC, people shall avoid eating or drinking at bars, restaurants, and food courts, or visiting gyms or massage parlors; provided, however, that the use of drive-thru, pickup, or delivery options is allowed and highly encouraged throughout the limited duration of this executive order.
- Order No. 3 In accordance with the Guidelines from the President and the CDC, people shall not visit nursing homes or retirement or long-term care facilities unless to provide critical assistance.
- Order No. 4 In accordance with the Guidelines from the President and the CDC, schools shall temporarily close.

This executive order does not prohibit people from visiting a variety of places, including grocery stores, gas stations, parks, and banks, so long as the necessary precautions are maintained to reduce the transmission of COVID-19. This executive order does not mandate sheltering in place. All critical infrastructure will remain operational, domestic travel will remain unrestricted, and government entities and businesses will continue providing essential services. For offices and workplaces that remain open, employees should practice good hygiene and, where feasible, work from home in order to achieve optimum isolation from COVID-19. The more that people reduce their public contact, the sooner COVID-19 will be contained and the sooner this executive order will expire.

This executive order supersedes all previous orders on this matter that are in conflict or inconsistent with its terms, and this order shall remain in effect and in full force until 11:59 p.m. on April 3, 2020, subject to being extended, modified, amended, rescinded, or superseded by me or by a succeeding governor.



Given under my hand this the
19th day of March, 2020.

Handwritten signature of Greg Abbott in cursive script.

GREG ABBOTT
Governor

ATTESTED BY:

Handwritten signature of Ruth R. Hughes in cursive script.

RUTH R. HUGHES
Secretary of State

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
11:59 AM O'CLOCK

MAR 19 2020

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