



Written by [Raven Clabough](#) on May 19, 2020

## Stay-at-home Orders Remain in Effect in Oregon While Court Hears Governor's Appeal

An Oregon circuit court judge struck down coronavirus restrictions set by Democratic Governor Kate Brown on the grounds she did not request approval from the Oregon legislature before extending her orders for more than 28 days, but the Oregon Supreme Court has since stayed the judge's decision, allowing Brown's orders to remain in effect until the court hears and decides the state's appeal.



The circuit court's ruling came in response to a lawsuit filed by 10 churches who claimed Brown "exceeded her constitutional authority." The lawsuit argues that the public-health crisis provided Brown emergency powers for 30 days, but any extension beyond those 30 days requires approval from three-fifths of both houses of the legislature before the expiration of the 30-day period. As the original executive order was issued on March 8, the public-health emergency declaration expired on April 7 without extension.

Attorney Ray D. Hacke, who filed a motion for a [temporary restraining order against Brown's order](#), said, "If we're risking our lives to go to church, if we survive, great. If we die, then we're going to heaven. If we want to take that risk, then it's on us," [Oregon Live](#) reported.

Governor Brown recently modified her stay-at-home order to restrict social gatherings of more than 25 people with social distancing for counties with state-approved reopening plans, [Oregon Live](#) reports, but the churches contend the orders are no longer justified.

"If a congregation has 250 members, what are they going to do? Hold 10 services? That's just not realistic," Hacke said. "It's an infringement on religious liberty."

Hacke contends the churches are no longer going to tolerate losing their rights "with no end in sight."

Governor Brown cites "science" as her justification for her power overreach.

"The science behind these executive orders hasn't changed one bit," she said. "Ongoing physical distancing, staying home as much as possible, and wearing face coverings will save lives across Oregon."

But the "science" behind that rationale is not settled. Sweden has made headlines for its decision to avoid strict lockdown measures, opting instead to aim for herd immunity. Sweden's former chief epidemiologist, an internationally recognized expert who advises the World Health Organization, says herd immunity is the "best" strategy, claiming lockdowns merely delay the inevitable and push "deaths into the future" rather than prevent them.

Spain's [AS.com reports](#),

While populations in other European countries begin to move about again as lockdown restrictions are eased, which will likely lead to a rise in covid-19 cases and deaths once again, Stockholm will



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reach herd immunity (the 40-60% rate of infection needed to prevent spread of the coronavirus), by June, according to Dr. Giesecke. The assumption is that when countries count the death toll a year from now, their figures will be similar, regardless of the measures taken, although the economic damage in Sweden will be far less.

Americans are increasingly growing opposed to the strict lockdown orders in states and counties across the country, claiming they are examples of government overreach and are an overreaction to the coronavirus crisis, a sentiment shared by Judge Shirtcliff, who wrote in his seven-page decision that the damage posed to Oregonians by Brown's orders is "greater than the dangers presented by the coronavirus."

Shirtcliff wrote, "The governor's orders are not required for public safety when plaintiffs can continue to utilize social distancing and safety protocols at larger gatherings involving spiritual worship."

Brown sought an emergency review of the decision by the Oregon Supreme Court, which granted a stay on Judge Shirtcliff's injunction on Monday evening.

"Following swift action by the Oregon Supreme Court, my emergency orders to protect the health and safety of Oregonians will remain in effect statewide while the court hears arguments in this lawsuit," Brown said in a statement.

KGW8 reports the fate of Brown's orders now rests with the seven justices on the Oregon Supreme Court, which has no deadline to reach a decision.

Whether the Oregon Supreme Court will side with Governor Brown remains to be seen. A similar case in California ended with a federal judge ruling that the state and local stay-at-home orders were justified and a valid exercise of emergency powers and did not violate constitutional rights. Judge John Mendez cited a U.S. Supreme Court ruling from more than 100 years ago that upheld a government's right to use police powers during a public health crisis, the *Los Angeles Times* reported.

"During public health crises, new considerations come to bear, and government officials must ask whether even fundamental rights must give way to a deeper need to control the spread of infectious disease and protect the lives of society's most vulnerable," Mendez wrote in his May 5 ruling.



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Raven Clabough acquired her bachelor's and master's degrees in English at the University of Albany in upstate New York. She currently lives in Pennsylvania and has been a writer for The New American since 2010.



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