



COVID-19

HEALTH CARE

Missouri judge strikes down local health officials' power to impose COVID-19 orders

Orders issued by health officials bypassed the authority of elected legislative bodies, the judge wrote

BY: **JASON HANCOCK** - NOVEMBER 23, 2021 3:00 PM



📷 The Cole County Courthouse in Jefferson City. (Photo by Tessa Weinberg/Missouri Independent)

Cole County Circuit Court Judge Daniel Green on Tuesday ruled that health orders designed to stop the spread of COVID-19 that were issued by local health departments violated the Missouri Constitution.

At issue in the case were regulations issued by the Department of Health and Senior Services allowing directors of local health agencies to issue orders, such as closure of businesses.

In an 18-page order, Green wrote that DHSS unconstitutionally granted too much power to individual local health officials and directors. The state in effect bypassed the only entities under Missouri law granted the authority to issue these types of health orders, Green wrote, which includes county commissions, county councils and certain county health boards.

“Missouri law also provides for criminal punishment for violation of a public health law adopted by a county council or county commission,” Green wrote.

The case, Green wrote, was about whether DHSS regulations can “abolish representative government in the creation of public health laws, and whether it can authorize closure of a school or assembly based on the unfettered opinion of an unelected official.

“This court finds it cannot.”

Green said all existing health orders issued unilaterally by local health authorities are “null and void.”

A spokesman for Missouri Attorney General Eric Schmitt, whose office defended DHSS in the lawsuit, said in an email to The Independent that “we’re aware of the court’s ruling and are prepared to enforce compliance with the court’s order across the state.”

Ben Brown, owner of a St. Louis County restaurant and candidate for state Senate, was involved in the lawsuit, which was filed last year. He issued a statement saying the it was time to “make masks optional, end needless quarantines of Missouri’s children and go back to living productive lives while allowing individuals the freedom to choose how and when they interact with others based on each person’s or family’s personal decisions.”

Mask requirements currently remain in place in St. Louis and St. Louis County. The Jackson County Legislature voted to end its requirement earlier this month, and the mandate in Kansas City ended Nov. 5 except for schools and school buses.

Green’s ruling comes at a time when [COVID-19 cases in Missouri are beginning to tick upwards again](#) after weeks of decline.

The state [reported 1,900 COVID-19 cases Tuesday morning](#), with a seven-day average of 1,588 a day. That's 12.6% higher than the previous week and 63% higher than one month ago. Missouri health officials have deemed 24 counties in Missouri as COVID-19 hot spots because of increasing numbers of people infected with the disease.

More than 15,000 Missourians have died of COVID-19 since the pandemic began.



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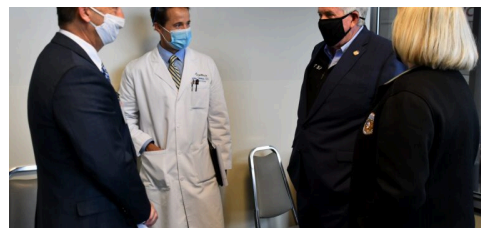
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