

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF JEFFERSON

OREGON FRATERNAL ORDER OF POLICE,
an Oregon corporation, TODD BURKE, an
individual, DAN CHICHESTER, an individual,
RYAN MARTIN, an individual, an individual,
CORY SWEET, an individual, JERED COATES,
an individual, MICHAEL HANSEN, an
individual, DARIN LADICK, an individual,
MIKE BERLAND, an individual, and BRIAN
GLASER, an individual, and KINGSLEY
FIREFIGHTERS ASSOCIATION, INC, an
Oregon Corporation

Plaintiff,

vs.

KATHERINE BROWN, Governor of the State
of Oregon, and the STATE OF OREGON,

Defendants.

Case No. 21CV35125

**PLAINTIFF’S COMPLAINT FOR
DECLARATORY JUDGMENT**

**THIS CASE IS NOT SUBJECT TO
MANDATORY ARBITRATION UNDER
ORS 36.400 to 36.425**

**Amount of Prayer: Equitable Relief
Filing fee: \$281
Per ORS 21.135(1), (2)(a)**

Plaintiff the Oregon Fraternal Order of Police (“Oregon FOP”), Todd Burke, Ryan Martin,
Dan Chichester, Cory Sweet, Jered Coates, Michael Hansen, Darin LaDick, Mike Berland, Brian
Glaser and Kingsley Firefighters Association, Inc. (“KFFA”) (collectively “Plaintiffs”), by and
through its counsel Thenell Law Group, P.C., brings this action for declaratory relief and alleges
as follows:

1 1.

2 Plaintiff Oregon FOP and KFFA are domestic non-profit corporations, registered with the
3 Oregon Secretary of State and organized as mutual benefit organizations in the State of Oregon.
4 Over 100 State Police Employees are members of the Oregon FOP. The KFFA represents all
5 firefighters at Kingsley Field in Klamath County, Oregon. All individual Plaintiffs and KFFA
6 members are Executive Branch Employees.

7 2.

8 Plaintiff Todd Burke (“Burke”) is, and at all times herein, was employed by the Oregon
9 State Police. Burke has been with the Oregon State Police for fourteen and a half years and is
10 stationed in the Fish and Game Division in the City of Madras, in the County of Jefferson. Burke
11 has not claimed any exemptions.

12 3.

13 Plaintiff Ryan Martin (“Martin”) is, and at all times herein, was employed by the Oregon
14 State Police as a Captain. Martin has been with the Oregon State Police for eight years and is
15 stationed in the City of Salem, in the County of Marion. Martin has not claimed any
16 exemptions.

17 4.

18 Plaintiff Dan Chichester (“Chichester”) is, and at all times herein, was employed by the
19 Oregon State Police. Chichester has been with the Oregon State Police for twenty-three and a half
20 years and is stationed in the City of Pendleton, in the County of Umatilla. Chichester has not
21 claimed any exemptions.

22 5.

23 Plaintiff Cory Sweet (“Sweet”) is, and at all times herein, was employed by the Oregon
24 State Police. Sweet has been with the Oregon State Police for eight years and is stationed in the
25 City of Medford, in the County of Jackson. Sweet has filed an exemptions.

26 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

6.

Plaintiff Jered Coates (“Coates”) is, and at all times herein, was employed by the Oregon State Police. Coates has been with the Oregon State Police for two years and is stationed in the City of Portland, in the County of Multnomah. Coates has not claimed any exemptions.

7.

Plaintiff Michael Hansen (“Hansen”) is, and at all times herein, was employed by the Oregon State Police. Hansen has been with the Oregon State Police for twelve years and is stationed in the City of Prineville, in the County of Crook. Hansen has not claimed any exemptions.

8.

Plaintiff Darin LaDick (“LaDick”) is, and at all times herein, was employed by the Oregon State Police as a Major Crimes Sergeant. LaDick has been with the Oregon State Police for seven years and is stationed in the City of Bend, in the County of Deschutes. LaDick has not claimed any exemptions.

9.

Plaintiff Mike Berland (“Berland”) is, and at all times herein, was employed by the Oregon State Police. Berland has been with the Oregon State Police for twelve years and is stationed in the City of Bend, in the County of Deschutes. Berland has not claimed any exemptions.

10.

Plaintiff Brian Glaser (“Glaser”) is, and at all times herein, was employed by the Oregon State Police. Glaser has been with the Oregon State Police for twelve years and is stationed in the City of Prineville, in the County of Crook. Glaser has not claimed any exemptions.

11.

Defendant Katherine Brown is the Governor of the State of Oregon (“Governor”), and with the State of Oregon are collectively referred to as “Defendants”.

///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

12.

“To lead thriving lives, Oregonians must have the ability to control our own bodies and make informed decisions about our health.” Governor Katherine Brown (@oregongovernor), Facebook, June 29, 2020¹. **Exhibit B.**

13.

Plaintiffs brings this action seeking a declaratory judgment regarding their rights and responsibilities to make medical decisions for themselves under Oregon common law, the Oregon Revised Statute, the Constitution of the State of Oregon, and the Constitution of the United States. Plaintiffs will be seeking a temporary restraining order and preliminary injunction to enjoin enforcement of the Governor’s order (below) after providing the Defendants with the notice as required by ORCP 79.

14.

On August 13, 2021, Governor Brown issued Executive Order Number 21-29 (“EO No. 21-29”), attached as **Exhibit A**, which purported to impose a mandatory vaccine requirement on all Executive Branch employees. EO No. 21-29 mandates any Executive Branch employee who declines to submit to a vaccine will be terminated from their employment on or about October 18, 2021. The individual plaintiffs are Executive Branch employees as defined in EO No. 21-29 who want to exercise control over their own medical treatment and are being forced to choose between their rights privileges and liberties as citizens on the one hand and their employment, careers, and financial futures on the other. Oregon FOP and KFFA are mutual benefit organizations with members subject to EO No. 21-29.

15.

Plaintiffs seek an order declaring EO No. 21-29 is unenforceable because it conflicts with Oregon statutes, would result in a common law wrongful discharge of the Plaintiffs, conflicts with

¹ https://www.facebook.com/pg/oregongovernor/posts/?ref=page_internal

1 the Oregon Constitution’s guarantee of free expression, and conflicts with the United States
2 Constitution guarantee of equal protection, free exercise, and due process.

3 16.

4 ORS 433.416 prohibits a “worker” from being required as a condition of work to be
5 immunized” unless authorized federal or state law, rule or regulation. The Oregon Legislature has
6 enacted no law authorizing vaccinations of workers. ORS 433.407 defines “worker” to include a
7 firefighter and law enforcement officer as defined in ORS 414.805.” ORS 414.805 defines “law
8 enforcement officer” to include “[a]n officer who is commissioned and employed by a public
9 agency as a peace officer to enforce the criminal laws of this state or laws or ordinances of a public
10 agency.” The individual plaintiffs are all workers as defined by statute.

11 17.

12 EO No. 21-29 Section 8 Legal Effect states:

13 Pursuant to ORS 401.192(1), the directives set forth in this Executive Order shall
14 have the full force and effect of law, and any existing laws, ordinances, rules and
15 orders shall be inoperative to the extent they are inconsistent with the directives set
16 forth in this Order.

17 ORS 401.192(1) states in relevant part:

18 All existing laws, ordinances, rules and orders inconsistent with ORS 401.165
19 (Declaration of state of emergency) to 401.236 (Rules) shall be inoperative during
20 the period of time and to the extent such inconsistencies exist.

21 There is no statute in ORS 401.165 to 401.236 which is inconsistent with ORS 433.416, therefore
22 a plain reading of the statutes requires ORS 433.416 to be given its full effect, including its
23 prohibition of conditioning employment on vaccination.

24 18.

25 Oregon’s common law recognizes the tort of wrongful discharge in cases where (a) an
26 employee was discharged for performing an important public duty; or (b) an employee was
discharged for exercising an employment-related right of important public interest. *Nees v. Hocks*,
272 Or 210 (1975); *Babick v. Oregon Arena Corp.*, 333 Or 401, 407 (2002). Plaintiff’s exercise of

1 their statutory rights under ORS 433.416, and their constitutional rights, *infra*, are employment-
2 related rights of important public interest. By threatening to deprive Plaintiffs of employment
3 under the circumstances described herein the Plaintiffs will have been wrongfully discharged
4 pursuant to Oregon common law.

5 19.

6 Article I, Section 8 of the Oregon Constitution states: “No law shall be passed restraining
7 the free expression of opinion, or restricting the right to speak, write, or print freely on any subject
8 whatever; but every person shall be responsible for the abuse of this right.” Oregon’s constitutional
9 provision is uniquely protective of expression of all kinds. With very few exceptions, none of
10 which apply here, all speech and expressive conduct are constitutionally protected. Plaintiffs’ right
11 to control their own medical destinies is both expressive speech in the form of opposition to the
12 COVID-19 vaccine, and expressive conduct in opposition to the vaccine mandate.

13 20.

14 EO No. 21-29 is written in terms directed to the substance of an opinion or subject of
15 communication. Plaintiffs’ words and conduct express a clear and unequivocal opinion as to the
16 COVID-19 vaccine mandate by the Governor. Because EO 21-29 is directed as the substance of
17 that opinion and the subject of Plaintiffs’ communications it is constitutionally impermissible. EO
18 21-29 is not “wholly confined within some historical exception that was well established when the
19 first Amendment guarantees of freedom of expression were adopted and that the guarantees then
20 or in 1859 demonstrably were not intended to reach.” *State v. Robertson*, 293 Or 402, 412 (1982).
21 Examples of such historical exceptions are limited to perjury, solicitation or verbal assistance in
22 crime, some forms of theft forgery and fraud and their contemporary variants. *Id.*

23 21.

24 To the extent EO 21-29 is focused on the harms or effects of COVID-19 but by its terms it
25 expressly prohibits the expression of the Plaintiffs, and others, to achieve its ends. EO 21-29
26 purports to prohibit or regulate the constitutionally protected expression of the Plaintiffs and is

1 therefore overbroad and constitutionally impermissible. *See Robertson*, 293 Or at 410 (1982).

2 22.

3 Whether EO 21-29 is determined to be directed at the substance of an opinion or
4 communication, or at the harms or effects of COVID-19, or the Governor’s mandate it is
5 unconstitutional under Article I, Section 8 of the Oregon constitution. The Governor has placed
6 Plaintiff’s and all Executive Branch employees in an untenable situation; forcing them to decide
7 between their livelihoods and vindicating their statutory and constitutional rights is unconscionable
8 and wrong.

9 23.

10 The First Amendment of the United States Constitution states:

11 Congress shall make no law respecting an establishment of religion, or prohibiting
12 the free exercise thereof; or abridging the freedom of speech, or of the press; or the
13 right of the people to peaceably to assemble, and to petition the Government for a
redress of grievances.

14 By compelling the Petitioners to receive the COVID-19 vaccine, or be fired, the Governor is
15 violating the Petitioner’s First Amendment right of free speech to express a message with which
16 the Petitioner disagrees with. *See Masterpiece Cakeshop, Ltd. v. Colorado Civil Rights Com’n*,
17 138 S.Ct. 1719, 1729 (2018) (cake design can be expressive speech); *Citizens United v. Federal*
18 *Election Com’n*, 558 U.S. 310, 339 (2010) (holding money is equivalent to speech).

19 24.

20 Article I Section 20 of the Oregon Constitution states, “No law shall be passed granting
21 to any citizen or class of citizens privileges, or immunities, which, upon the same terms, shall not
22 equally belong to all citizens.” The current executive order grants some employees of the State of
23 Oregon the ability to be employed, which is a privilege, which does not equally belong to all
24 employees of the State of Oregon. The EO on its face only applies to some Executive Branch
25 Employees. The EO fails to explain why it applies to only certain employees and not others.

26 ///

1 25.

2 Article XIV Section 1 of the United States Constitution states:

3 “No state shall make or enforce any law which shall abridge the privileges or immunities
4 of citizens of the United States; nor shall any state deprive any person of life, liberty, or
5 property, without due process of law; nor deny to any person within its jurisdiction the
6 equal protection of the laws.”

7 The Executive Order states that Oregon State Police employees are prohibited from engaging in
8 work if they are not fully vaccinated. **Exhibit A.** Executive Order 21-29 will deprive Plaintiffs of
9 their property interest in their job at the Oregon State Police or Kingsley Field without due
10 process. To the extent Plaintiffs are treated differently from other similarly situated employees
11 the Executive Order is also a violation of the Plaintiffs’ right to equal protection under the law.

12 26.

13 The Public Readiness and Emergency Preparedness (PREP) Act Declaration was issued in
14 March 2020 which covers COVID-19 tests, drugs, and vaccines providing liability protections to
15 manufacturers, distributors, state, local, territorial, and tribal health agencies, licensed healthcare
16 professionals and other qualified persons who administer COVID-19 countermeasures.² The effect
17 of the PREP Act is that all of the manufacturers and others immunity from liability (except willful
18 misconduct) for claims of loss caused by, arising out of, relating to, or resulting from the
19 administration or use of covered countermeasures to diseases, threats and conditions identified in
20 the declaration.³ Governor Brown’s COVID-19 vaccine mandate, coupled with nearly complete
21 immunity of the PREP Act deprives Petitioners any recourse legal recourse. The PREP Act liability
22 protections end on October 1, 2024.⁴

23 27.

24 Article I, Section 22 of the Oregon Constitution prohibits the Governor from suspending

25 ² <https://www.phe.gov/emergency/events/COVID19/Documents/covid19-vaccination-wrkfr-factsheet-508.pdf>

26 ³ <https://www.phe.gov/emergency/events/COVID19/COVIDvaccinators/Pages/PREP-Act-Immunity-from-Liability-for-COVID-19-Vaccinators.aspx>

⁴ <https://www.federalregister.gov/documents/2021/08/04/2021-16681/eighth-amendment-to-declaration-under-the-public-readiness-and-emergency-preparedness-act-for>

1 laws or waiving legal rights. Article I, Section 22 states: “[t]he operation of laws shall never be
2 suspended, except by the Authority of the Legislative Assembly.” While the legislature can
3 delegate certain authorities, “the legislature cannot delegate the power to determine what the law
4 shall be.” *Foeller v. Housing Auth. Of Portland*, 198 Or 205, 265 (1953); *Van Winkle v. Fred*
5 *Meyer, Inc.*, 151 Or 455, 461-62 (1935). The Legislative Assembly must take direct action if the
6 rights afforded by ORS 433.416(3) are to be suspended or waived. The Governor lacks the
7 authority.

8 28.

9 Article III, Section 1 divides the government of the State of Oregon into three coequal
10 branches: the legislative, the executive (including administrative agencies), and the judicial. Each
11 of the three branches is vested with certain authority and all are forbidden from intruding into the
12 unique prerogatives of the others. Article IV, Section 1 expressly reserves the power to make laws
13 to the Legislative Assembly. The Executive Order 21-29 is unconstitutional in that it intrudes on
14 the legislative power by mandating vaccines for certain citizens where the legislature has expressly
15 forbidden such a mandate.

16
17 WHEREFORE, Plaintiffs pray for a judgment declaring Governor Brown’s Executive
18 Order 21-29 unlawful and enjoining its enforcement, because:

- 19 (a) The order violates Plaintiffs’ statutory rights under ORS 433.416.
20 (b) The order violates Plaintiffs’ rights to free expression under the Oregon
21 Constitution Article I Section 8.
22 (c) The order violates Plaintiffs’ rights to free speech under the United States
23 Constitution.
24 (d) The order violates the privileges and immunity clause of the Oregon
25 Constitution.
26 (e) The order violates the grant of equal protection under the law in the United

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

States Constitution.

(f) The order deprives Plaintiffs of their employment without due process of law in violation of the United States Constitution.

(g) The order violates the Oregon Constitution Article I Section 22.

(h) The order violates the separation of powers in the Oregon Constitution Article III Section 1 and Article IV Section 1.

(i) The order would result in the wrongful termination of the Plaintiffs if enforced.

DATED: September 3, 2021

THENELL LAW GROUP, P.C.

By: /s/ Daniel E. Thenell
Daniel E. Thenell, OSB No. 971655
E-mail: dan@thenelllawgroup.com
Thenell Law Group, P.C.
12909 SW 68th Parkway, Suite 290
Portland, Oregon 97223
Phone: (503) 372-6450
Fax: (503) 372-6496
Of Attorneys for Plaintiffs



EXECUTIVE ORDER NO. 21-29

COVID-19 VACCINATION REQUIREMENT FOR STATE EXECUTIVE BRANCH

Since early 2020, the COVID-19 pandemic has upended life for Oregonians. More than 2,900 Oregonians have lost their lives to this deadly disease since March 2020, and more than 12,000 Oregonians have been hospitalized. Oregon's frontline workers, children, parents, families, and businesses have all navigated immense challenges as we have worked together to protect the health and lives of Oregonians.

The arrival of safe and effective vaccines in late 2020 marked a new, hopeful phase in our state's collective efforts to fight the pandemic. Together, we worked our way through the early days of a painfully limited supply of vaccine from the federal government, and have now vaccinated more than two and a half million Oregonians. Lifesaving vaccines are now readily available and free of cost to any Oregonian over the age of 12.

Unfortunately, a new variant of COVID-19, known as the Delta variant, has exploded in Oregon and across the country. This variant has shown itself to be dramatically more contagious and possibly more severe. It is spreading most quickly among the unvaccinated; in Oregon, the vast majority of the reported COVID-19 cases in July were among people who were unvaccinated. However, there is emerging evidence that, while vaccinated people are less likely to contract COVID-19 than unvaccinated people, when cases do occur, people infected with the Delta variant can pass it to others. As a result of the Delta variant, COVID-19 hospitalizations and COVID-19 patients in Oregon's intensive care units are higher than they have ever been during this pandemic.

Fortunately, vaccines continue to be effective against severe disease. The vast majority of patients hospitalized with COVID-19 are unvaccinated. But with so many Oregonians still unvaccinated, the spread of the Delta variant has caused a dangerous surge in COVID-19 cases and hospitalizations. This surge is imperiling the state health system's ability to manage not just COVID-19 patients, but also those who require specialized medical care after car accidents, heart attacks, and other medical emergencies. The current struggle with the Delta variant shows that, in order for us to protect ourselves and our community—from this variant and variants that will continue to evolve so long as COVID-19 is circulating widely—it is vital that as many Oregonians as possible get vaccinated, as quickly as possible.





EXECUTIVE ORDER NO. 21-29 PAGE TWO

Employers have a significant role to play in encouraging the uptake of vaccinations. Providing education, paid time off for vaccinations, facilitating access to vaccination through on-site clinics, and providing financial incentives are all strategies that employers can use to increase uptake and protect their workforces. Oregon companies like Nike and Intel have offered onsite vaccination clinics. Countless large and small businesses in Oregon have offered time off to their employees to get vaccinated. Walmart, a large employer of Oregonians, has offered \$150 incentives to employees who get vaccinated. The State of Oregon has worked hard to facilitate vaccine uptake by its workforce, including providing education, onsite vaccine clinics in some locations, and financial incentives for employees who choose to be vaccinated voluntarily before August 31, 2021. This has resulted in approximately seventy percent of the state's executive branch employees getting vaccinated to date.

Given the seriousness of the COVID-19 pandemic, employer vaccination requirements have become an important tool as well. According to polling from the Kaiser Family Foundation, some adults report they will only get vaccinated if required to do so for their employment. Public and private employers across the United States are beginning to move to vaccine mandates. Washington, California, New York, and Virginia have all recently announced some form of vaccine mandate for public employees, as have New York City, Honolulu, Washington, D.C., Denver, Los Angeles, San Jose, San Diego, Richmond, and New Orleans. Private companies like Walmart, Facebook, Cisco, Frontier Airlines, United Airlines, Google, Walgreens, Walt Disney Company, Washington Post, and Tyson Foods have also moved to implement employer vaccination mandates.

We all understand the urgency of moving past this pandemic. But in order to do that, we have to get vaccinated. As the leader of the executive branch of state government, one of the Oregon's largest employers, I have a responsibility to do everything I can to protect state workers, their coworkers, and the public that relies on state services. With the Delta variant raging in Oregon, with the state's ability to fully return to in-person work continuing to be hampered by the risks from COVID-19, having implemented a series of incentives aimed at achieving voluntary compliance, and with full FDA approval of the COVID-19 vaccine expected within weeks, the time has come for any remaining state employees and those who work alongside them in state government to get vaccinated.





EXECUTIVE ORDER NO. 21-29
PAGE THREE

NOW, THEREFORE, IT IS ORDERED AND DIRECTED:

Pursuant to my authorities under Article V, section 1, of the Oregon Constitution, the emergency invoked in Executive Order 20-03, and ORS 401.168, I hereby order:

1. Definitions.

- a. “*Executive Branch*” has the meaning given to the term Executive Department in ORS 174.112.
- b. “*COVID-19*” means a disease caused by the severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2).
- c. “*Fully Vaccinated*” means having received both doses of a two-dose COVID-19 vaccine or one dose of a single-dose COVID-19 vaccine and at least 14 days have passed since the individual’s final dose of COVID-19 vaccine.
- d. “*Proof of Vaccination*” means documentation provided by a tribal, federal, state or local government, or a health care provider, that includes an individual’s name, date of birth, type of COVID-19 vaccination given, date or dates given, depending on whether it is a one-dose or two-dose vaccine, and the name/location of the health care provider or site where the vaccine was administered. Documentation may include but is not limited to a COVID-19 vaccination record card, a copy or digital picture of the vaccination record card, or a print-out from the Oregon Health Authority’s immunization registry.
- e. “*Employee*” means any person employed by the Executive Branch, but does not include individuals whose only work for the Executive Branch is as a volunteer board, commission, or council member, and whose compensation is limited to a stipend or per diem; does not include elected or appointed District Attorneys; and does not include Workers.
- f. “*Worker*” means an individual who is not an Employee, and is engaged to provide goods or services to the Executive Branch through any formal or informal agreement, whether compensated or uncompensated, including Oregon Corrections Enterprises, but does not include a visitor,





EXECUTIVE ORDER NO. 21-29 PAGE FOUR

patron, adult in custody, or board, commission, or council member. Individuals are exempt from the definition of Worker unless any provision of the agreement to provide goods or services requires work to be performed in person and on site at an Executive Branch worksite, regardless of frequency, whether other persons are present, or any contingent nature of that requirement.

2. Prohibitions. This order prohibits the following:
 - a. Any Employee or Worker from engaging in work for the Executive Branch after October 18, 2021, or six weeks after the date that the United States Food and Drug Administration approves a vaccination against COVID-19, whichever is later, if the Employee or Worker has not been Fully Vaccinated against COVID-19.
 - b. The Executive Branch from permitting any Employee or Worker to engage in work for the Executive Branch after October 18, 2021, or six weeks after the date that the United States Food and Drug Administration approves a vaccination against COVID-19, whichever is later, if the Employee or Worker has not been fully vaccinated against COVID-19 and provided proof or documentation thereof, as required under this Executive Order.
3. Documentation of Vaccination for Employees. On or before October 18, 2021, or six weeks after the date that the United States Food and Drug Administration approves a vaccination against COVID-19, whichever is later, Employees must provide their employer with either:
 - a. Proof of Vaccination showing they are fully vaccinated; or
 - b. A written request for an exception if available under paragraph 5 of this Executive Order.
4. Documentation of Vaccination for Workers. On or before October 18, 2021, or six weeks after the date that the United States Food and Drug Administration approves a vaccination against COVID-19, whichever is later, the Executive Branch contracting agency must have documentation that all Workers subject to this Executive Order are in compliance with paragraph



EXECUTIVE ORDER NO. 21-29
PAGE FIVE

2 of this Executive Order, or that an exception applies under paragraph 6 of this Executive Order.

5. Compliance with State and Federal Law. The Executive Branch is expected to make reasonable accommodations in order to comply with the Americans with Disabilities Act and Title VII of the Civil Rights Act, and state law equivalents, for individuals unable to be vaccinated due to disability, qualifying medical condition, or a sincerely held religious belief.
6. Exceptions to Prohibition. The prohibitions described in paragraph 2 of this Executive Order do not apply if:
 - a. An exception available under paragraph 5 of this Executive Order has been requested in writing by the Employee or Worker, and the request is pending or has been approved.
 - b. The director of a contracting agency has determined in writing that there is a critical business need for a Worker to perform work without first coming into compliance with paragraph 2 of this Executive Order.
7. Enforcement. Employees who fail to comply with this directive will face personnel consequences up to and including separation from employment. Contracting agencies may take any action in contract, at law, or in equity for any noncompliance of Workers and entities for which a Worker is an employee, contractor, or volunteer. Timelines in this Executive Order may be extended at the Governor's discretion.
8. Executive Branch May Exceed These Requirements. Nothing in this order prohibits entities within the Executive Branch from implementing requirements that exceed the requirements of this Executive Order, provided that compliance with paragraph 5 of this Executive Order is maintained.
9. Legal Effect. Pursuant to ORS 401.192(1), the directives set forth in this Executive Order shall have the full force and effect of law, and any existing laws, ordinances, rules and orders shall be inoperative to the extent they are inconsistent with the directives set forth in this Order.
10. Discretion; No Right of Action. Any decision made by the Governor pursuant to this Executive Order is made at her sole discretion. This Executive Order is not intended to create, and does not create, any individual





EXECUTIVE ORDER NO. 21-29
PAGE SIX

right, privilege, or benefit, whether substantive or procedural, enforceable at law or in equity by any party against the State of Oregon, its agencies, departments, or any officers, employees, or agents thereof.

11. Severability. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this Executive Order is for any reason held to be invalid, such holding shall not affect the validity of the remaining portions of this Order.
12. Effective date. This Executive Order is effective August 13, 2021, and remains in effect until terminated by the Governor.

Done at Salem, Oregon, this 13th day of August, 2021.



Kate Brown

Kate Brown
GOVERNOR

ATTEST:

Shemia Fagan

Shemia Fagan
SECRETARY OF STATE





Kate Brown ✓
@KateBrownforOR

- Home
- About
- Posts**
- Events
- Videos
- Photos
- Community

Create a Page

Like Share Block Page ...

Sign Up

Send Message



Governor Kate Brown ✓

June 29, 2020

To lead thriving lives, Oregonians must have the ability to control our own bodies and make informed decisions about our health. Today, the U.S. Supreme Court's...

See More



NPR.ORG

Supreme Court Hands Abortion-Rights Advocates A Victory In Louisiana Case

1K

1.3K Comments 45 Shares

Like Comment Share

Search for posts on this Page

English (US) · Español · Português (Brasil) · Français (France) · Deutsch

Privacy · Terms · Advertising · Ad Choices · Cookies · More
Facebook © 2021