



Written by [Bob Adelman](#) on May 24, 2020

Justice Department Supports Lawsuit Against Illinois Governor's Overreach

The U.S. Justice Department [announced on Friday](#) that it was officially supporting a lawsuit meant to rein in Illinois Governor J.B. Pritzker's "stay at home" orders issued in response to the COVID-19 virus threat.

The suit was brought by Illinois State Representative Darren Bailey, who claimed that Pritzker exceeded his authority by extending the orders beyond the 30-day period granted by the state's legislative body.



Bailey won the first round when Clay County Judge Michael McHaney ruled that Bailey himself was not bound by Pritzker's order, leaving every other citizen in the state still under the governor's orders. When Bailey refiled to broaden McHaney's ruling to include every citizen, Pritzker had his attorney general refile the case in federal court, no doubt to slow things down.

That's when Assistant Attorney General Eric Dreiband issued the "statement of interest" in the case.

Dreiband was following the lead of Attorney General William Barr, who, on April 27, "direct[ed] each of our United States Attorneys to ... be on the lookout for state and local directives that could be violating the constitutional rights and civil liberties of individual citizens."

Barr wrote: "Many policies that would be unthinkable in regular times have become commonplace in recent weeks, and we do not want to unduly interfere with the important efforts of state and local officials to protect the public. But the Constitution is not suspended in times of crisis. We must therefore be vigilant to ensure its protections are preserved, at the same time that the public is protected."

Said Dreiband, "According to the lawsuit, the Governor's actions are not authorized by state law, as they extend beyond the 30-day time period imposed by the Illinois legislature for the Governor's exercise of emergency powers."

Dreiband also criticized Pritzker's attempt to move the case from state to federal jurisdiction:

The Governor of Illinois owes it to the people of Illinois to allow his state's courts to adjudicate the question of whether Illinois law authorizes orders he issued to respond to COVID-19.

The United States Constitution and state constitutions established a system of divided and limited governmental power, and they did so to secure the blessings of liberty to all people in our country. Under our system, all public officials, including governors, must comply with the law, especially during times of crisis....

Even in the face of a pandemic, states must comply with their own laws in making these sensitive policy choices in a manner responsive to the people and, in doing so, both respect and serve the



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goals of our broader federal structure, including the guarantee of due process in the U.S. Constitution.

Upon learning that the governor asked the case to be moved to federal court, Bailey's attorney, Thomas DeVore, accused Pritzker of "forum shopping," likely hoping to delay the ruling that would ultimately rein him in.



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