

Pastors/Church Leaders:

How to Legally and Safely Reopen Your Church

Brad Dacus, President of Pacific Justice Institute, discusses churches' rights and roles during the COVID-19 pandemic. Brad Dacus sheds light on the religious right of churches in this time of extraordinary shutdowns and executive orders sweeping across the country.

With PJI Staff Attorney, Matthew McReynolds and PJI Pastor Liaison, Peter Mordh, Brad Dacus addresses how the prohibitions on gatherings may affect churches and how pastors can be equipped to know their legal options amid emergency declarations and shutdown orders due to COVID-19.

Thursday, March 19, 2020
2 p.m. Pacific / 5 p.m. Eastern

Don's Notes:

Government intersect with churches has never been more powerful than now.

Attorney Emily Mimnaugh

1. Current State and Local Restrictions

42 states have "shelter in place" directives, with varying restrictions on churches. Georgia, Texas, Alaska—possible reopenings
Estimated trend: churches will be able to reopen with precautions.

2. Compromises reached between churches and local authorities

Drive-in services with cooperation (CA). Charges against a church in Bay area, for offering an Easter service with social distancing, sanitizer, etc. Some in congregation are homeless or otherwise without on-line access.
Governor's order was not clear about drive-in's. Clarification: order does not apply to drive-in's.

(WA) Church told it could not have drive-in service in light of executive order. PJI got involved to no avail at this point. Attorney Ramos references the Kentucky decision and wrote a letter promising to represent the church. Another letter to the governor that the church was going forward with drive-in services. So far no adverse action against the church.

3. Lawsuits and rulings

Drive-in/Parking Lot worship services:

- Louisville KY – temporary restraining order against local government granted
- Greenville MI – fines by local government dropped

In-Church worship services:

- S. Cal. – temporary restraining order asking state not to enforce order (denied).
- New Mexico – temporary restraining order (denied). Court said 1st Amendment rights were not violated since the restriction was of general applicability.
- Kansas – TRO granted. Order prohibited “mass gatherings”. Originally churches were exempt so long as they practiced cautions. What has changes since churches “used to be essential”? A long list of requirement were made.

Assembly uses must be treated evenly. Churches can’t be subjected to stricter rules. Right now: indoor services are very difficult. But as restaurants, etc. reopen, the government must be even more open to churches because of First Amendment.

4. Federal guidelines

Guidelines exist for all phases.

5. Practical guidance

Administrative considerations:

Know state guidelines

Know local guidelines

Reach out for legal advise (PJI)

Review relevant insurance policies and communicate with provider

Discuss local considerations with other churches to collaborate and share ideas.

Before the church service:

Cleaning and disinfecting (“Deep cleaning”)

Send direct invitations with pre-attendance guidance. Estimate likely turnout and layout church accordingly.

Give general advice in invitation (take temp before arriving, don’t drink beverages right before church, use bathroom prior to service, wash clothes before attending)

Attendees should bring PPE (masks, gloves, no handshaking or other physical contact, explain social distancing protocols in advance to family)

Post all advice outside the building (highly-visible signs)

Interior Space for Service:

Reduce total seating to less than 20% normal capacity.

Tape out spacing inside and out, indicating 6' separation.

One-way traffic (clearly marked), prop doors open; enter and exit opposite sides of building, increase ventilation as much as possible.

Restrooms: clean after uses, limit stalls available.

Be able to end service if necessary.

Be exemplary beyond what others (Walmart, etc.) are doing, to make lawsuit more solid if it comes to that.

Numeric limit refers to the building, not to a room. Video of praise team: show individuals; don't show the whole group together.

After the Service:

Leave the facility at once and socialize outside. Go quickly to vehicles.

Wash clothes

Contact church immediately if any symptoms occur.

Consult OSHA guidelines

To Do List for Churches:

All staff should follow same guidelines

Clean facility per cleaning protocols

Vacation Bible School:

This will depend on what "phase" a state is in (phase 1 would be very problematic).

Don't put children in situations where they likely won't keep the rules.

Physical gathering will be very difficult.

Peaceful Protest (street preaching):

No word of anyone cited or arrested