

GOVERNOR DOUGLAS A. DUCEY

STATE OF ARIZONA

---

★

EXECUTIVE ORDER

**Executive Order 2021-18**

**Returning to our Principles of Governance**

**WHEREAS**, Article V, Section 4 of the Arizona Constitution, directs that the Governor shall transact all business of the executive branch and ensure that the laws of the state are faithfully executed; and

**WHEREAS**, Arizona Revised Statute (A.R.S.) § 36-787 gives primary jurisdiction to the state during a public health emergency; and

**WHEREAS**, A.R.S. § 36-787 provides specific guidelines on when vaccination mandates may be pursued during a public health emergency; and

**WHEREAS**, A.R.S. § 36-787 does not provide any authority to a city, town or county to implement vaccination mandates; and

**WHEREAS**, in addition to those laws applicable during a public health emergency, A.R.S. §§ 36-114 and 36-184 limit the imposition of a specific treatment by the government on a person and mandates that violation of such is a class 3 misdemeanor; and

**WHEREAS**, it is well established law in Arizona that cities, towns and counties have authority granted to them by the constitution and laws of the state, however such cannot be in conflict with state law; and

**WHEREAS**, unlike the state, cities, towns and counties do not have inherent police power to implement vaccine mandates; and

**WHEREAS**, even under declarations of emergency, cities, towns and counties have limited authority for the actions they can take; and

**WHEREAS**, consistent with state law, vaccination passports and mandates have previously been prohibited by executive order; and

**WHEREAS**, to further clarify the law on this matter, on June 23, 2021 the Arizona State Senate and on June 25, 2021, the Arizona House of Representatives passed Senate Bill 1824, titled: Health; Budget Reconciliation; 2021-2022; and

**WHEREAS**, Senate Bill 1824 was signed into law on June 30, 2021; and

**WHEREAS**, Senate Bill 1824 was filed by the Secretary of State under Chapter 409 of Laws, 2021; and

**WHEREAS**, Section 12 of the bill included an amendment to A.R.S. § 36-672 which unambiguously limits the government from requiring vaccinations for school attendance if the immunization only has an emergency use authorization and requires that any vaccinations required to attend school must be prescribed by the Arizona Department of Health Services through rule; and

**WHEREAS**, Section 13 of the bill also included a new statute A.R.S. § 36-681 which prohibits the state and any city, town or county from requiring a person to be vaccinated against COVID-19; and

**WHEREAS**, the Arizona State Legislature, who are duly elected by the people have spoken on this issue; and

**WHEREAS**, A.R.S. § 23-373, enacted under the Fair Wages and Healthy Families Act known as Proposition 206, provides that earned paid sick time shall be provided for employees when a public health official has determined that the person is a risk to the community's public health whether or not the person has a communicable disease; and

**WHEREAS**, some local jurisdictions seek to circumvent duly enacted laws in our state and implement their will on that of the people of our state; and

**WHEREAS**, Article II, Section 2, of the Arizona Constitution declares "governments derive[] their powers from the consent of the governed" and that governments "are established to protect and maintain individual rights."

**NOW, THEREFORE**, I, Douglas A. Ducey, Governor of the State of Arizona, by virtue of the authority vested in me by the Constitution and laws of the State, do hereby order as follows:

1. Any county, city, town or political subdivision official that implements a vaccine mandate contrary to the authorities outlined in this order, is in violation of A.R.S. §§ 36-114 and 36-184 and such actions are punishable by a class 3 misdemeanor and subject to legal action by individuals for violation of their rights under Arizona law.
2. Any county, city, town or political subdivision official that fails to provide earned paid sick time to an employee if it is recommended that the employee stay home due to exposure to COVID-19, is in violation of A.R.S. § 23-373 and action may be taken by individuals pursuant to A.R.S. § 23-374 in the courts or through the Industrial Commission of Arizona.
3. As this Executive Order is based on law that has been in effect prior to the enactment of Senate Bill 1824, the rights derived by law under these statutes apply to any action taken

by a county, city, town or political subdivision whether or not the action was taken prior to this Executive Order.

4. If any provision of this Executive Order or others associated with it and their application to any person or circumstance is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order, which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona.



**GOVERNOR**

**DONE** at the Capitol in Phoenix on this sixteenth day of August in the year Two Thousand and Twenty-one and of the Independence of the United States of America the Two Hundred and Forty-Sixth.

**ATTEST:**



**Secretary of State**

