



# FAQs: Temporary Limits on Religious Gatherings

To contain the spread of COVID-19 and save lives, governors across the country have issued public health orders that place restrictions on in-person gatherings. These orders have restricted gatherings at houses of worship as well as secular entities because COVID-19 doesn't discriminate between religious and secular gatherings—it spreads equally at both. As the number of COVID-19 cases has risen and fallen, state and local public health restrictions have changed as well, and we expect these adjustments to continue.

Government officials may determine that it is necessary to restrict in-person religious gatherings for the public good. The Supreme Court has made clear that the government may issue orders that do so as long as they don't target houses of worship for less favorable treatment.

Below are some answers to commonly asked questions about these public-health orders.

## What do the public health orders do?

In March of 2020, governors across the country began to issue public health executive orders in response to the global pandemic. Typically, the orders have included variations on three main types of restrictions: (1) bars on or limits of in-person gatherings, often including temporary restrictions on in-person religious gatherings; (2) requirements that non-essential businesses close to the public or limit their operation; and (3) requirements that people stay home unless they are engaged in essential activities or, in some cases, follow various other limits. Governors have updated the orders throughout the past year to respond to changing public health conditions, imposing restrictions that are [“necessary to...slow community transmission of the virus.”](#)

Despite these orders being critical in curbing the spread of COVID-19, houses of worship and individuals have filed more than 100 lawsuits to challenge the public health orders. In addition, state legislators have introduced bills that would hinder or prevent governors and other state and local officials from issuing public health orders that would limit in-person worship.

## Have governors across the country closed houses of worship?

No. Many governors have placed temporary restrictions on gatherings, including temporarily restricting *in-person* religious services. In these states, houses of worship have remained open to stream worship services online or over the phone, hold outdoor services, hold drive-in services in parking lots, and conduct smaller services that adhere to their state's gathering limit.

## Why have governors temporarily limited religious gatherings?

[According to the CDC](#), “[t]he more people an individual interacts with at a gathering and the longer that interaction lasts, the higher the potential risk of becoming infected with COVID-19.” An article in [Scientific American](#) similarly noted that “preventing superspreader events could go a long way toward stopping COVID-19.” Governors across the country, therefore, have temporarily limited secular and religious gatherings, including community events, sporting events, concerts, and religious services.

## **Why have some governors imposed less stringent restrictions on grocery stores, pharmacies, and even liquor stores than on indoor religious services?**

Attending religious services is very different from shopping at a store, and the risk of contagion is different. Religious services are a communal experience, where large groups of people come together, at the same time and place, for an extended period to talk, sing, and interact with each other. Such prolonged contact puts people at [greater risk](#) of exposing others or being exposed to COVID-19. Shopping is a very different activity, where people enter the store at different times, move around individually, interact with others only when making a purchase, and leave when finished. There is a much smaller chance of infection under these circumstances.

Furthermore, essential businesses such as grocery stores and pharmacies must remain open because people cannot physically survive without access to food and medicine. And often people overlook the public-health risks of closing all liquor stores: Keeping liquor stores open [can help people](#) with alcohol-use disorder avoid withdrawal symptoms and prevent yet another health crisis from emerging.

## **Have governors considered houses of worship “essential”?**

Most states have defined houses of worship as “essential businesses,” which allowed them to stay open and hold services that comply with their state’s gathering limits. Some states have more limited definitions of essential businesses that include only those businesses that could not be conducted remotely, such as healthcare, food and grocery stores, emergency services, and infrastructure. The term “essential” was not chosen to denote the social value of a business or activity. For example, visiting an elderly relative at a nursing home might have great value for the entire family, but might also be dangerous and, therefore, not deemed an essential activity. Regardless of how houses of worship were classified, no state has prohibited virtual worship services, and all states now allow indoor in-person religious services of at least some size.

## **Are there any actual examples of COVID-19 being connected to events at houses of worship?**

Unfortunately, religious gatherings have been tied to numerous outbreaks and deaths. For example, an October 2020 [event at a church in Charlotte, North Carolina](#) led to at least 213 cases of COVID-19 and the deaths of twelve people. In early November 2020, more than 200 cases of COVID-19 were also linked to [services at a church in Fitchburg, Massachusetts](#). And in [Grand Ledge, Michigan, a November 2020 church service](#) has led to at least 74 cases of COVID-19 and one death. These are just a few of the recent examples. There have been many thousands of cases of COVID-19 linked to gatherings at houses of worship across the country since the start of the pandemic. Temporarily applying appropriate limits to religious gatherings, in addition to secular gatherings, therefore is critical to stopping the spread of the virus.

## **What has the Supreme Court said on this issue?**

The Supreme Court’s decisions make clear that states can place some limits on in-person religious gatherings. In [Roman Catholic Diocese of Brooklyn v. Cuomo](#), decided in November 2020, the Supreme Court recognized that governors can impose limitations on worship that are neutral and generally applicable—meaning that the law doesn’t target religious institutions, but

treats religious and comparable secular activities the same. If the laws do treat religious institutions differently, the restrictions can only stand if they are supported by a compelling governmental interest (the *Cuomo* Court recognized that “stemming the spread of COVID-19 is unquestionably a compelling interest”) and the restrictions are “narrowly tailored” (meaning proposed alternatives will not be as effective in achieving the government’s goal).

In *Cuomo*, the Court did issue an injunction against New York public health restrictions that limited in-person worship to no more than ten people in areas with the worst outbreaks and to no more than 25 people in the second-worst areas. According to the Court, the New York order was “far more restrictive than any COVID-related regulations that have previously come before the Court, much tighter than those adopted by many other jurisdictions hard-hit by the pandemic, and far more severe than has been shown to be required to prevent the spread of the virus at the applicants’ services.” In a 5-4 ruling, the Court struck down these limits, finding that they “single out houses of worship for especially harsh treatment” as compared to other entities. The Court said it is “troubling” that in-person worship is limited to ten people in some zones while essential businesses “such as acupuncture facilities, camp grounds, garages” and other entities are not.

Since then, the Court has issued two additional decisions with detailed opinions. In February 2021, the Court decided [South Bay United Pentecostal Church v. Newsom](#) (“*South Bay II*”). There, the Court used similar reasoning in striking down California’s complete prohibition on indoor worship services in areas of the state with the worst outbreaks but refused to block restrictions that limited indoor services to 25 and 50 percent capacity in other parts of the state and that prohibited singing and chanting during indoor services. In April 2021, the Court decided [Tandon v. Newsom](#), which addressed a California prohibition of all gatherings of more than three households at people’s homes. The Court struck down the limit insofar as it applied to religious gatherings, holding that the regulation was not neutral because businesses such as retail stores were allowed to bring together more than three households.

We think the Justices have been wrong in comparing apples (gatherings) to oranges (activities such as shopping). As explained above, the risk of contagion is different when people gather because people are more likely to interact with each other for prolonged periods of time.

### **Should state legislatures limit the ability of governors and public health officials to restrict houses of worship in an emergency?**

No. A number of state legislatures have unfortunately introduced bills that would hinder or prevent governors and other state and local officials from issuing emergency orders that would affect houses of worship. But if these bills pass, the results could be dangerous—or even deadly. Governors would have a harder time controlling the spread of COVID-19 because they might be unable to limit attendance at superspreader events. And these bills would limit government’s ability to respond to all emergencies, not just COVID-19. For example, a governor might not be able to require a mandatory evacuation in preparation for a hurricane if it would close houses of worship. Or in the event of an explosion at a chemical plant, local officials would not be able to stop worshippers from entering an area that is potentially hazardous. People could get sick, be injured, or worse.

### **Does the public support temporary limits?**

Yes. [Polling](#) shows that 90% of people think religious services should be restricted amid the pandemic. That includes 48% of people who think worship services should not be allowed *at all* during the pandemic. Even among Americans who identify with a religion, 45% say in-person services shouldn't be allowed at all. Only 9% believe in-person religious services should be permitted without restrictions.

### **Do houses of worship and religious groups support temporary limits?**

Yes. Many religions, denominations, and faith groups, including the [United Church of Christ](#), the [National Council of Churches](#), and the [Union for Reform Judaism](#), have said that houses of worship should resume in-person gatherings only when it is safe to do so. Many congregations across the country closed voluntarily in March 2020 and have remained closed even as governors have allowed in-person services to resume. In the meantime, they continue to worship, including by streaming services online and holding drive-in services. We applaud the faith leaders who are protecting public health and safety by temporarily halting in-person religious services and finding creative ways to worship remotely instead.