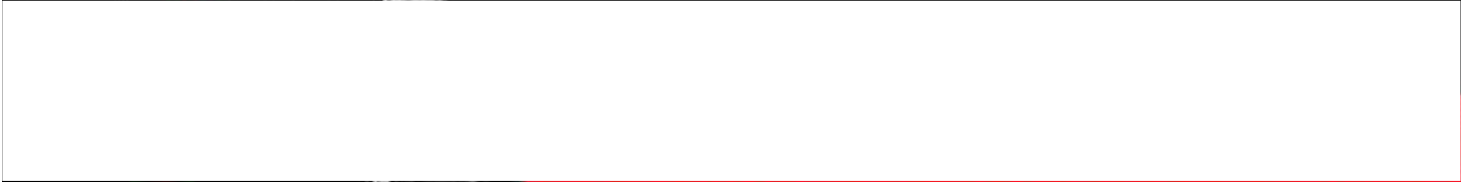

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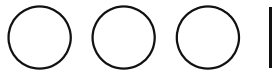
LOCAL // ERICA GRIEDER

Grieder: Gov. Abbott needs to listen to local leaders and put children first



Erica Grieder

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Harris County Attorney Christian Menefee speaks during a press conference Wednesday, June 23, 2021 in Houston. He and Harris County Judge Lina Hidalgo spoke about the federal pause of I-45 projects.
Melissa Phillip, Houston Chronicle / Staff photographer

Many Texans really don't like how Gov. Greg Abbott is dealing with the fourth wave of the COVID-19 pandemic – or failing to deal with it, to be blunt.

Harris County Attorney Christian Menefee believes that the governor overstepped his authority under the Texas Disaster Act with his most recent executive order on the subject, issued July 29.

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Many of the executive orders Abbott has issued in response to the pandemic have been controversial. GA-38, the one issued in July, was baffling as well. The highly transmissible delta variant had already been identified in Texas and was circulating at an alarming rate. Even so, Abbott doubled down on and beefed up his May executive order barring local government officials – including school districts – from reimposing mask mandates.

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“Reading the Disaster Act as a whole, the act places on the governor a duty to, quote, ‘meet the dangers to the state and people presented by disasters,’” Menefee told a state district judge in Travis County during a Friday hearing on a lawsuit he had filed the day before. After getting a green light from Harris County commissioners, Menefee was seeking a temporary restraining order against the executive order.

“Not only can the governor issue executive orders, but there’s a duty placed on him,” Menefee continued. “Reading those together, it’s clear that the governor cannot use

executive orders in a way that demonstrably makes the disaster worse.”

This was a legal argument on Menefee’s part, not a moral one. But if it were a moral one, it would similarly resonate.

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Abbott has insisted, for over a year now, that Texans have figured out how to beat the pandemic via diligent displays of personal responsibility and that we therefore have no need for the heavy hand of government.

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“We have demonstrated that we can corral the coronavirus,” he proclaimed in April 2020, announcing plans to reopen the state for business – a hubristic claim at the time and a damning one to revisit, as cases and hospitalization numbers are surging again. As of Friday, more than 11,000 Texans were hospitalized with COVID; 3,482 of them were in the Houston area; the Texas Medical Center reported 320 hospitalizations per day this week, compared with 58 per day a month ago.

Abbott may have the political calendar in mind; he faces a GOP primary next spring against two challengers from his right. But Texans don't have the luxury of hoping the pandemic will simply peter out, now that vaccines have entered the chat. Parents, in particular, have been put in a frightening position. Students around the state return to school this month, and Abbott's July executive order bars school officials from requiring them to wear masks.

Is it surprising, then, that we're seeing an outpouring of overt protests from local leaders over Abbott's bid to tie their hands? Over the past week, a number of judges, cities, counties and school boards have moved to reintroduce mask mandates despite threats from Abbott and Attorney General Ken Paxton that the former's order will be enforced.

On Thursday, Harris County Judge Lina Hidalgo, a Democrat, announced a new mask mandate for the county's schools and day care centers. That evening, Houston ISD – the largest school district in the county – voted unanimously to adopt a mask mandate for the school year. And Menefee, as noted, sued Abbott and Paxton outright over the July 29 executive order.

“Gov. Abbott has repeatedly misused his authority under Texas disaster laws,” Menefee said in a statement. He noted that Abbott himself has acknowledged that the delta variant is ravaging the state: “The governor's executive order acknowledges this crisis, and then bans any meaningful action to address it.”

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These moves, in Harris County and elsewhere, have met with some backlash. Dozens of parents and students testified, often heatedly, against mask mandates at a recent HISD board meeting. Humble ISD responded to Hidalgo's mask mandate by

announcing that it will continue to follow the governor's orders, not the county judge's.

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On balance, however, it seems that Texans support the local officials who are leading the charge to protect public health – and the state's schoolchildren – due to their concerns over the delta variant, their enduring support for local control or both. And although the legal wrangling will continue, proponents of mask measures have met with some success. After Friday afternoon's hearing, for example, District Judge Jan Soifer of Travis County granted the temporary restraining order that Menefee had requested.

The greater question now is why Menefee and others have to go to court in the first place, to battle for the right to pursue common-sense precautions against a deadly pandemic.

Dr. Anthony Fauci, the nation's top infectious diseases expert, said Thursday that if he were a parent of school-aged children, he would push back against leaders barring masks in the schools.

"I would try as best as I can to really change that and to get the CDC recommendations to be implemented," Fauci told NPR. "There is no reason not to do that. We're dealing with the safety of the children, not any theoretical, libertarian thought about telling people what they can do or not to do. The safety of the children comes first."

Harris County leaders would agree with that, clearly. Abbott hasn't worked collaboratively with them – or other local leaders across Texas – since the start of the