



# COVID-19

## CapCon's Essential Lockdown Coverage

COVID-19 is neither the first nor the most deadly epidemic to strike Michigan since the territory became a state in 1837. This outbreak is not unprecedented.

The government-imposed lockdown of society and the state economy is unprecedented, however, and has been the primary focus of our coverage during the emergency. CapCon has

delivered a steady stream of relevant and important information, much of which has not been reported by any other state news outlet. One outcome has been an large increase in traffic to the CapCon web and Facebook pages.

This edition of the Michigan Capitol Confidential "hard copy" edition includes some of the more noteworthy items from this growing body of coverage.

## Whitmer Called Lockdown 'Temporary' On March 23, Now Extended to 81 Days

BY STAFF

When Gov. Gretchen Whitmer first issued her stay-at-home executive order on March 23, she explained it was to "flatten the curve" and not overburden the state's hospitals.

"We must work together to bend the curve. We must do more to curtail community spread, so our health system has a fighting chance," Whitmer said in March. "This will be temporary. This intervention is it important to buy time so we can create surge capacity in our hospitals, so we can ramp up testing, and develop therapeutic drugs that may lower hospitalization and fatality rates. ... The only tool that we have to fight it at the moment and to support our healthcare

system to respond is to give them the opportunity by buying some time."

On May 22, Whitmer extended the stay-at-home order to June 12, making 81 days residents will have been under a government stay-at-home order.

Whitmer's extension comes when 22 of the 45 hospitals surveyed had a bed occupancy of 35% or less as of May 21. The statewide bed occupancy average was 68%. Detroit Medical Center had the highest bed occupancy rate, at 89%.

There are 2,863 intensive care unit beds in the state and 1,958 of them were occupied as of May 22, a 68% occupancy rate.

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Locked-Down Gym Owner To Governor:  
'We Are Not Just Businesses, We Are People'



# NEWS BITES

## MEET THE STAFF



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In a recent column, Detroit Free Press columnist Mitch Albom asked, "Ask yourself this question: If America could return to normal life tomorrow, but one of your family members had to die, would you say OK?"

"But siren calls are luring us from our safe zones. Money to be made. Work to be accomplished. Beaches to be visited. Nails and hair to be cut and beautified," Albom wrote.

He then referenced "parents who have lost an otherwise healthy child to COVID-19 ..."

The average age of someone who dies of COVID-19 in Michigan is 75.3 years, according to the state of Michigan.

In the United States there have been five children ages 0 to 4 who have died from COVID-19 from Feb. 1 through May 16, according to the Centers for Disease Control and Prevention. There are nearly 20 million children aged 0-4 in the U.S. as of 2018.

The nationwide child fatalities rise to 12 if the age range is extended to 0-14. There's nearly 61 million children ages 0-14 in the U.S.

The Columbia Township Board in Jackson county unanimously passed a resolution rejecting the rationale behind Gov. Gretchen Whitmer's COVID-19 stay-at-home executive order that allows large businesses deemed essential to stay open while shuttering many small businesses.

The resolution read:

"Now therefore be it resolved this 18th Day of May, 2020 That the Board of Columbia Township, Jackson County, Michigan does reject the premise that the Governor of the State of Michigan holds that it is unsafe and unlawful to allow small businesses to operate, when at the same time, large corporate businesses continue trade and commerce with only minor restrictions, and therefore opposes and rejects that premise and believe that businesses following legal business practices and using suggested safe business practices and attempting to provide the highest safety for their employees and clients should be allowed to operate in Columbia Township, Jackson County, Michigan."

The township has about 7,365 residents.

Massachusetts is lifting its statewide COVID-19 stay-at-home order today (May 18, 2020), the sixth state to do so in the past four days, according to Ballotpedia.

It brings the number of states that have lifted or let lockdowns expire to 24 as of May 18. There were 43 states that issued stay-at-home orders.

On May 12, the New York Times reported a week-to-week analysis of cell phone data showed that Michigan

experienced the largest percentage increase in the country in the number people travelling despite an epidemic stay-at-home order.

If correct, the finding could suggest that public support is eroding for Gov. Gretchen Whitmer's stay-at-home order, which had been in effect 55 days as of May 17.

As they traveled this weekend, Michigan residents may have seen another stay-at-home reminder from the Governor in the form of a video on gas station pump ad screens.

Michigan Attorney General Dana Nessel gave an interview about 77-year-old Owosso barber Karl Manke who has refused to shut down his business during the COVID-19 lockdown.

A judge ruled against the state in its attempt to shut down Manke. And the county sheriff has refused to enforce the state's executive orders. The state has suspended his barber license.

"We are not looking to throw people in jail. That to me is a very, very last resort," Nessel said in an interview with Sinclair Broadcast Group Michigan. "He's not a hero, to me. He's not a patriot. A patriot is a person that fights all enemies to our country foreign and domestic and does everything possible to protect his fellow countrymen and countrywomen. To me, Mr. Manke is doing the exactly opposite of that. He's being selfish."

Nessel said Manke is helping spread the virus and she has been watching the Owosso barber.

"Is he using a fresh cape for every single individual? Is everybody who comes in there have face masks? I see his customers don't have face masks. He's wearing one. But is he wearing the same one all day long? ... How can you be safe when we know it's impossible to socially distance when you are cutting somebody's hair?"

Nessel wonders how much the virus has spread because of the barber.

"I hope we don't see an uptick in Owosso and his community just based on his behavior," she said.

Shiawassee County has had 222 cases of COVID-19 and 19 deaths linked to the coronavirus as of May 15.

The Walker Music & Textiles Co musical instrument store in Hastings announced it is closing due to the COVID-19 executive order that shuttered nonessential businesses.

May 15 will be its last day of sales.

"This is my dream. Shutting it down. Closing out this phase of my life," owner Steve Walker told WXMI. "It won't be a retail shop anymore, and it won't be an inviting environment for kids to come and be loved and to learn music."

The musical instrument store is located in Barry County, which has a population of 61,550. As of May 14, Barry County has had 58 cases and one death linked to the coronavirus. ■

# Whitmer Warns Protestors They Risk Lockdown Extension

*Do politics play a role in governor's response to lockdown scofflaws?*

BY TOM GANTERT

Michigan Gov. Gretchen Whitmer made remarks recently that could be interpreted as a threat to extend her stay-at-home order if people show up at the state Capitol on Thursday to protest her COVID-19 related executive orders.

"I do think the fact of the matter is these protesters in a perverse way make it likelier we're going to have to stay in a stay-at-home posture," she said in a May 13 interview on the ABC program "The View." She said, "The whole point of them presumably is that they don't want to do that."

The Detroit Free Press headline on a story about her appearance on the TV show was: "Gov. Whitmer: Protesters 'make it likelier' Michigan will continue stay home order."

The newspaper also said that "Whitmer said she will continue to let science guide her views on how best to protect Michiganders."

In her televised interview, Whitmer said, "We can't make decisions based on politics. We can't make decisions based on feeling. We have to listen to the science and the data and the epidemiology."

After the first lockdown protest on April 15 in Lansing, Whitmer said her stay-at-home executive order may have to be extended.

"The sad irony is that they protested the stay home stay safe order and they might have

created the need to lengthen it," Whitmer said at that time, according to WJBK.

Whitmer's stance and tone in responding to protests against her policies contrasts with her seeming lack of response to some other social-distancing violations by large groups that were reported in the media.

The Detroit News reported on April 8 that Detroit police responded to nearly 2,000 reports over a three-week period of people congregating at basketball games, parties and barbecues in Detroit.

WDIV reported that Detroit police wrote 272 tickets and gave 768 warnings to people in Detroit for violating social distancing orders from May 1 to May 3.

Those violations had no apparent political motive.

But Whitmer does not appear to have said she would extend the stay-at-home order if residents of Detroit continued to ignore social distance orders. The governor did say in early May that she would consider ordering more controls on state parks after large crowds reportedly gathered at Belle Isle in Detroit, according to the Detroit Free Press.

In one instance, Whitmer has taken a jovial approach to the city. For example, a Detroit rapper published a tribute song to her.

A May 1 Detroit Free Press story carried the headline, "Gov. Gretchen Whitmer earns



her 'Buffs' — and the respect of Detroiters as 'Big Gretch.'"

Rather than issue an ominous warning about social distancing during cookouts, the governor indicated she would be attending one after the lockdown is lifted in the city.

"This is too much," Whitmer tweeted May 3. "Love the nickname. Love the song. See ya at the cookout, @GmacCash. Until then, Big Gretch say stay home and stay safe."

There have been 9,973 confirmed cases of COVID-19 in the city of Detroit as of May 13, accounting for 21% of all cases in Michigan.

Whitmer's office didn't respond to an email asking for the science behind the belief that protesters are spreading COVID-19 within their communities. ■

*The original version of this story was posted online on May 14, 2020 and is available at [MichCapCon.com/27494](http://MichCapCon.com/27494).*

## Epidemic Report Gives Governors High Marks For Good Faith, Whitmer 'D' For Performance

BY TOM GANTERT

A report card released May 4 by a coalition of libertarian and limited-government individuals and groups gave Gov. Gretchen Whitmer a D grade for her handling of the COVID-19 pandemic.

The report was published by the Committee To Unleash Prosperity and Freedom Works.

Receiving an F were the governors of New Jersey, Pennsylvania, Virginia and Wisconsin, and the Washington D.C. mayor.

Whitmer was grouped with 14 other governors given a D.

Of the 19 governors and Washington, DC. mayor that were given a D or an F, two were Republicans.

"The reality is that there are very negative health consequences to economic

lockdowns and 'stay-at-home' orders," the report stated.

"We believe that every governor is making a good faith effort to weigh the risks of the health of their citizens versus the economic well being of their state," the report stated. "No governor wants to impoverish their citizens. No governor wants to see any of their citizens get ill or even die. In this study, we don't get into the motives of governors — we assume their motives are pure. But these decisions they are making today will have long-lasting consequences for the economic opportunities and the prosperity of their citizens for many years to come."

The report says it takes into account the severity of the virus in each state and the need to protect the safety of residents.

As of 5 p.m. on May 4, Michigan had 43,754 confirmed cases of COVID-19. That was seventh-highest in the country. Michigan had 4,049 deaths linked to the coronavirus. That was fourth-highest in the country.

The report stated that it examined lockdown orders, business closures, hospital and outdoor activity orders, "and the degree of punitive actions on enforcing these measures."

The most important measurement was the start date for reopening in each state.

"The evidence is very strong that states with late start dates will have much more severe recessions than states that open earlier," the report stated.

Whitmer has repeatedly stated that her decisions were based on science and to protect Michigan's residents.

"Although we are beginning to see the curve flatten, we are not out of the woods yet. We must all continue to be diligent, observe social distancing and limit in-person interactions and services to slow the spread of COVID-19," Whitmer said in a recent press release. "Michigan now has more than 40,000 cases of COVID-19. The virus has killed more Michiganders than we lost during the Vietnam war. Extending this order is vital to the health and safety of every Michigander. If we work together and do our part, we can help reduce the spread of COVID-19 and save lives." ■

*The original version of this story was posted online on May 5, 2020 and is available at [MichCapCon.com/27453](http://MichCapCon.com/27453).*

# Whitmer Insists Travel Restriction Is Science-Based, Gives Rationale That Isn't

*USA Today said 'no evidence' virus spreads from gas pump handles*

BY TOM GANTERT

In defending her COVID-19 epidemic lockdown orders Michigan Gov. Gretchen Whitmer's has frequently said they are based on facts and science. But one rationale the governor has given for orders restricting travel — that the virus can be transmitted from touching gas pump handles — has generated questions.

Whitmer said in a May 3 interview on CNN, "We are going to listen to facts and science."

In an April 14 interview with National Public Radio, she said, "We're going to have to make decisions based on the best science, the best medical advice and what's in the best public health of the people of our individual states."

And Whitmer followed with an April 21 op-ed in The New York Times, writing, "Each action has been informed by the best science and epidemiology counsel there is."

Yet one rationale given by Whitmer to defend the order restricting travel does not appear to have met the "best science" standard.

Whitmer has said more than once that gas pump handles play a part in the spread of COVID-19. Those comments resembled some social media posts that national media fact-checkers have branded as partly false.

In one instance, Whitmer was speaking of a Michigan man who contracted COVID-19 reported that he believed he got the coronavirus by touching a gas pump handle.

"Think about how many people touch a gas pump handle in the span of three days and that's why we don't want anyone on the road who doesn't have to be there," Whitmer said.

Whitmer also talked about the dangers of pumping gas and transmitting the coronavirus while being interviewed on The Today Show.

"The fact that we're cracking down on people traveling between homes or planting or landscaping or golfing, really, for a couple

more weeks is not going to meaningfully impact people's ability to do so, because the snow will do that itself," Whitmer said on April 15, according to the transcript. "But, the more people that are traveling, the more people that are touching that gas pump is — we know that COVID-19 can last 72 hours on stainless steel — so think about the people that have to touch that gas pump, the nurses and the police and the paramedics and the pharmacist and the food clerks that are the true superheroes right now. If we're all traveling and touching the same, that means we're spreading COVID-19 and might actually take people off the front line who we desperately need."

In an article published on March 28 (and updated on April 6), USA Today reported that claims that the novel coronavirus was quickly spreading via gas pumps was "partly false."

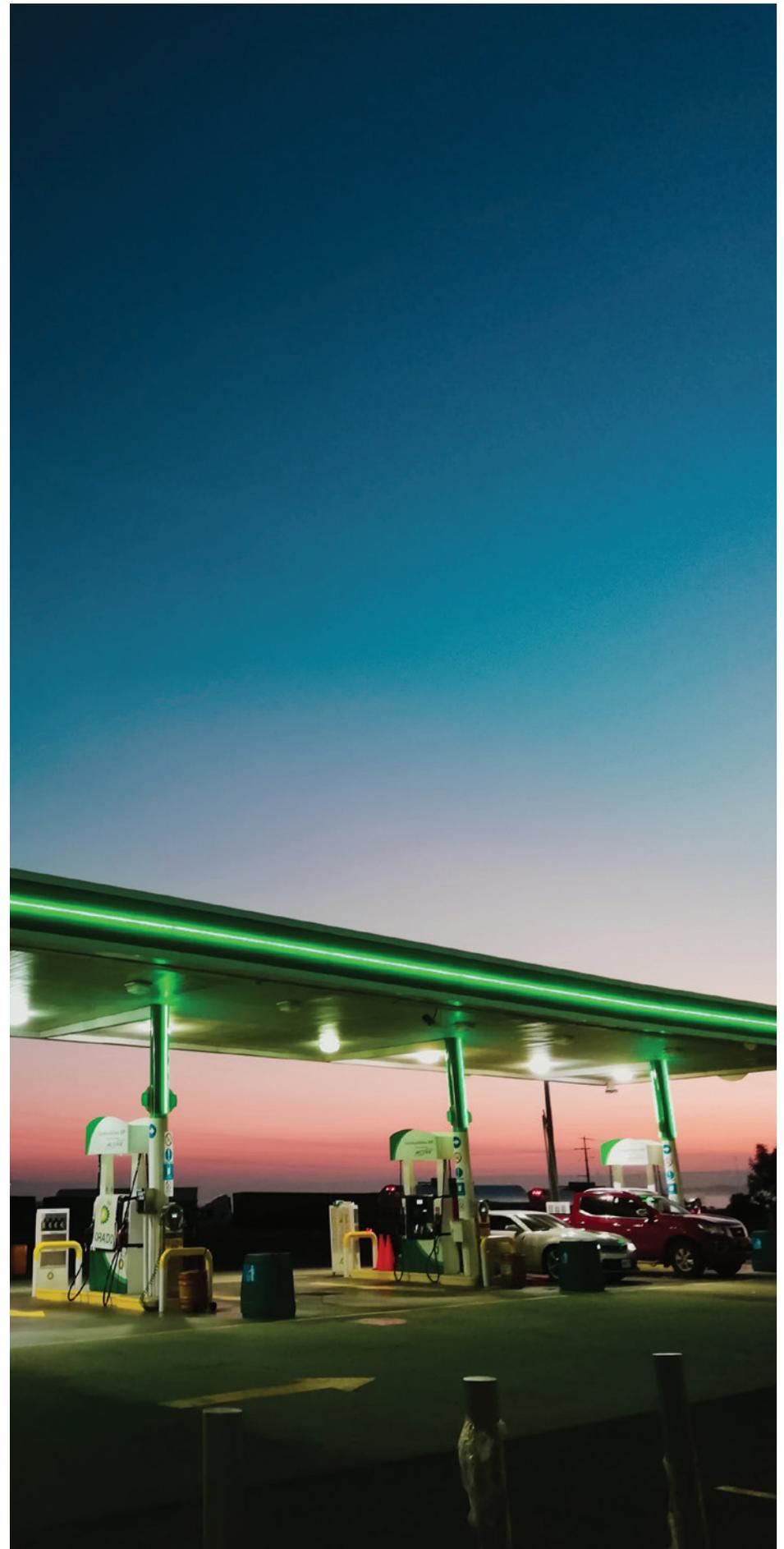
"Although the virus can spread from contact with droplets on surfaces, there is no evidence to suggest it spreads quickly via gas pumps or hard surfaces in general," the publication reported. "According to the CDC, person-to-person contact is the main method of transmission."

The fact-checking site Snopes called the claim that COVID-19 was being spread by gas pumps a mixture of truth and falsehoods.

Snopes stated on March 22: "What's True: Gas pump handles are a potential source of surface contact transmission of the COVID-19 coronavirus. What's False: Gas pumps are only one of many commonly-handled objects that could transmit the COVID-19 coronavirus, and we have found no substantiated reports of anyone's having been infected in that fashion yet."

Whitmer's office did not respond to an email seeking comment.

*The original version of this story was posted online on May 6, 2020 and is available at [MichCapCon.com/27458](https://www.michcapcon.com/27458).*



## Lawsuit: State Can Lock Us Down, Not Lock Us In

BY MADELINE PELTZER

Some students at the University of Michigan Law School have filed a federal lawsuit, alleging that Gov. Gretchen Whitmer violated their constitutional rights when she issued Executive Order 2020-42, which banned state residents from traveling between two residences. The order was one of 75 orders Whitmer has issued in response to the COVID-19 pandemic.

According to a press release issued with the lawsuit filing, the order violates property owners' right to intrastate travel under the due process and equal protection clauses of the Michigan and U.S. constitutions. The suit seeks a declaratory judgment and nominal damages of one dollar.

The governor's executive order reached "beyond her legitimate authority" and imposed "arbitrary, unjustified restrictions" on residents' rights, said Brian Weber, one of the students involved in the lawsuit.

"In this regard, it seemed like there had to be a limit on even the governor's broad emergency powers," Weber told Michigan Capitol Confidential. "We started researching because we were interested in finding that limit. We think we found it under the Michigan and U.S. constitutions, and that's what led to the suit."



Andrew Fink, one of the three lawyers working with the students, explained that not only did the executive order fail to give due regard to people's right to travel, it arbitrarily treated similar situations differently.

"A person could travel across the state to care for a friend's pet, but not to visit a second home," he said. "And a resident from another state could drive hundreds of miles into Michigan to visit a second home, but a Michigan resident couldn't make a shorter drive for the same reason."

That's the situation plaintiff Lyn Allen faced. Despite having isolated herself

at home for more than 14 days without exhibiting symptoms of COVID-19, Allen was prevented from legally traveling from hard-hit Wayne County to a timeshare property in northern Michigan, where there have been few COVID-19 cases. But Allen's co-owners in the timeshare, who are residents of Indiana, were able to freely cross the state line and travel within Michigan to visit the property.

"I think Michiganders would be quite surprised to learn that when they travel to home or work, it's not a right, it's a privilege granted to them from the government or the

governor," said Jacob Weaver, another law student involved in the case.

According to Weaver, there is no precedent for a lawsuit of this nature because this is the first time in Michigan history that the government has imposed a blanket ban on intrastate travel.

"It's something that's just so obvious it's never had to be litigated before," he said.

While the governor has repealed this particular executive order, Weaver said he believes the suit is still important for establishing the principle in jurisprudence.

"One of the best things about this lawsuit is that unlike a lot of lawsuits, we're not asking for an injunction or to halt it en masse," he said. "We're asking the court to retrospectively say that in this situation, the governor went too far, and to set boundaries so that governors know what their limits are going forward."

Weaver said the lawsuit is about protecting individual rights, not defying the governor.

"This has nothing to do with politics and everything to do with constitutional rights and the power of the executive in a time of crisis," he said. ■

*The original version of this story was posted online on May 13, 2020 and is available at [MichCapCon.com/27484](https://michcapcon.com/27484).*

## Restaurant Association's Reopening Guidelines Look 'Totally Impractical For Many'

BY DAWSON BELL

May 29 is the earliest that Michigan's bars and restaurants can hope to reopen. The establishments have been under a COVID-19 lockdown order since March 16, which has limited their service to pickup and delivery customers.

In anticipation of reopening, a statewide trade group has created a lengthy "Roadmap to Reopening," designed to provide restaurateurs and bar owners with guidance on how to operate under post-lockdown regulations.

Many locally owned restaurants, though, may view the road map as directions for staying closed a very long time, maybe forever.

The Michigan Restaurant & Lodging Association says the document is based on recommendations from the Centers for Disease Control and Prevention, and the Food and Drug Administration, plus executive orders from Michigan Gov. Gretchen Whitmer. It addresses sanitization protocols, mandates for personal protective equipment

and requirements to notify vendors who come in contact with a COVID-19 patient, among other topics.

Parts of the document are ambiguous but can be read as requiring incoming guests to answer health-related questions that include: "Do you have ... diarrhea (excluding diarrhea due to a known medical reason other than COVID-19)?"

"If you answered YES to any of the questions," the document suggests restaurant staff say to possibly ill customers, "please call and we will prepare a takeout meal for you while you wait in your car."

Charlie Owens, state director of the National Federation of Independent Business, said the likelihood of many small, family-owned restaurants being able to comply with a panoply of new health mandates is close to zero. He said it is "clear that the people who write this stuff (by which he meant federal and state regulators) have no idea what a small business has to go through to do these things. It is totally impractical for many of them."

Tommy Brann, a Republican lawmaker from the west Michigan city of Wyoming who has worked at his family's steakhouses for nearly a half century, said Friday the new health guidelines may be temporarily workable. "The biggest thing we'll have to overcome is making customers feel safe," Brann said.

But, he said, it's a bit like "we're a patient in the ICU and they want to move us to another ward in the ICU."

"The restaurant business is the toughest business in the world. We've gone from takeout being 6-8% of the business to being 100%," he added. "We can't survive on that. No matter what happens, sadly some of my friends (in the industry) aren't going to make it."

Brann said operating with new mandates — especially those that require social distancing and thereby significantly limit restaurant occupancy and revenue — need to be temporary. "No more than a few weeks," he said.

The trade group said that 249,000 restaurant employees have been furloughed or laid off

since the pandemic-related shutdown began, and 55% of all restaurants are temporarily or permanently closed.

The group's executive director, Justin Winslow, said in a statement that the document offers "a thoughtful and thorough guidance."

"Michigan restaurants have been decimated since their forced closure. Those that remain in business stand ready to meet or exceed the challenging, but necessary, new standard procedures that will keep their guests and team members safe."

Winslow did seem to acknowledge that reopening under the guidelines was suboptimal, and urged the governor to end the shutdown May 29.

"These restaurateurs are Michiganders who need to be afforded that opportunity before it is too late," he said. ■

*The original version of this story was posted online on May 9, 2020 and is available at [MichCapCon.com/27474](https://michcapcon.com/27474).*



## Locked-Down Gym Owner To Governor: 'We Are Not Just Businesses, We Are People'

BY HOLLY MATKIN

The frustrated owner of a gym and fitness center in Owosso wrote a letter to her state representative, asking for help in the wake of Gov. Gretchen Whitmer's COVID-19 related lockdown orders.

Fitness Coliseum owner Brianna Carroll said she was supportive when Whitmer ordered businesses to shut down to slow the spread of COVID-19.

"When the executive order closed our doors on March 16th 2020, I understood," Carroll wrote in the letter to state Rep. Ben Frederick. "We needed to flatten the curve quickly to allow for healthcare to catch up and prepare to handle an influx in COVID-19 cases to save lives."

Those efforts worked, Carroll wrote.

"Then we were told to stay closed longer, until cases began to increase at a lower rate and our test abilities were improved," Carroll wrote, referring to the first lockdown extension. "I understood."

Subsequent extensions will keep Carroll's fitness center closed until May 28 at the earliest.

"I no longer understand," Carroll wrote. "We were told to stay closed longer, because....well, we honestly haven't been given a CLEAR reason."

Owosso is in Shiawassee County. That county has had 219 people with COVID-19 and 19 deaths linked to the coronavirus. There are about 68,000 people in the county, according to the U.S. Census Bureau.

Over the course of the past two months, Carroll has been delivering her fitness and exercise classes over the internet. Her message to customers had been, "We will get through this."

She wrote that the governor's message to business now is, "We'll see; like we are small children whose questions parents just don't have time to answer. We are not small children. We are business owners that have created, built and grown the businesses that are truly the backbone of our community."

"We understood. We tried. So why is our government not doing the same for us?" she asked.

Carroll questioned why the state has not established a clear plan to help small businesses stay afloat financially and help them prepare for reopening.

"Why haven't you tried to listen to us? We have been making plans to open safely, to prove that we can do so," she implored. "Why haven't you tried to see that we are all essential to SOMEONE? Just because you do not attend my gym, does not mean I am not an essential support environment to my over 200 members."

Carroll admitted that she is "on the verge of breaking." She wrote, "I do NOT want to go against government orders," but does want government transparency.

"I want a reopen date and a plan that I can prepare for," she wrote. "I want guidance on how I can operate my business in the new normal, within the law. I want my government to meet me in the middle."

"The fact that someone like me is on the edge of breaking the executive order and opening my doors, is a problem of THE GOVERNMENT," Carroll declared. "You have lost the trust and faith of someone who inherently WANTS to trust you."

On Wednesday night, Fitness Coliseum published a reopening plan slated to go into effect on June 1.

Carroll plans to offer smaller in-house classes as well as continuing the online option, and has beefed up cleaning procedures, mask recommendations, and membership limits.

"I see that reopening too early and without precautions could be hugely detrimental," Carroll told her customers on the Fitness Coliseum Facebook page. "I also see many small businesses unnecessarily going under due to lack of understanding from the government that we can find ways to open safely." ■

*The original version of this story was posted online on May 15, 2020 and is available at [MichCapCon.com/27502](https://www.michcapcon.com/27502).*

# 'Senseless' Elective Surgery Lockdown May Put Hillsdale Hospital Under *Testing, x-rays, blood draws, operating room, staff: 'We lose everything'*

BY MADELINE PELTZER

It has been more than six weeks since nonessential medical procedures were halted by an executive order issued by Michigan Gov. Gretchen Whitmer in an effort to combat the COVID-19 epidemic. Now, Hillsdale Hospital in Hillsdale County has written an open letter urging the governor to lift the ban on elective surgeries. The letter also requests emergency aid from the state, saying that without it, the loss of revenue from the suspended procedures may force the hospital to close its doors permanently.

Most of the coronavirus cases in the state have been concentrated in its most highly populated areas, but the executive order applies uniformly to every hospital in the state. That includes those in rural areas which have seen only a handful of cases. The one-size-fits-all model just doesn't make sense, says Jeremiah Hodshire, vice president and chief operating officer for the hospital.

"We heard the number of cases was going to swell, but of course that scenario didn't play out," he told Michigan Capitol Confidential. "There are some pockets of the country where it did, but if you look at Michigan, 75% of the COVID cases are in

the Detroit area. Our 22 rural counties have fewer than 10 cases in their entire county, and some have less than two. And yet we're all treated the same way."

Hospital officials say the institution is following all recommendations from the federal, state and local health officials. So far, it has had zero in-hospital transmissions of the virus. None of that makes a difference under the current rules, however.

"[Gov. Whitmer] has to hear our plea in a community like Hillsdale," Hodshire said. "We cannot be treated in a blanket executive order from the governor. Each local municipality needs to be making this decision. Let it be done at the local level because we've already been successful at preventing the transmission."

According to Hodshire, 80% of the surgeries done at Hillsdale Hospital are elective, making up 12% of the institution's gross revenue and 20% of its net income. But without this income, coupled with a projected loss of patients in the coming months and other losses, the hospital expects a \$10 million shortfall by the end of its fiscal year. Federal aid has done little to help; the reimbursement received from the government amounted to a mere 10% of its lost revenue. Already, the hospital has

laid off almost 100 members of its staff, and more layoffs may be on the horizon.

"We're losing millions of dollars a month," Hodshire said. "When we talk about eliminating surgeries, it's not just the surgery. It's all the pre-surgery work we do: the testing, the x-rays, the blood draws. Then the operating room. Then post-op. We lose everything associated with the surgery. That's where the loss of revenue is."

Like many other rural hospitals, a large proportion of Hillsdale's revenue comes from treating patients covered by social welfare programs: 70% of all its health care service reimbursements are from Medicare and Medicaid. Such programs typically pay less than private insurers do.

"We're the third-largest employer in the county," Hodshire said. "If we were to continue to be unable to do elective surgeries, there would potentially be additional losses that will happen with our staffing. As jobs begin to dissipate, it impacts the economy of our community as well as the state."

If Hillsdale Hospital closes, it will also force patients to travel to the next closest emergency room 30-45 minutes away. Hillsdale resident Laura Smith described the potential loss of the hospital as a "life and death situation."

"It's frightening to think of what would happen to so many people we love if they cannot be quickly transported to the hospital for cardiac emergencies or auto-accidents," Smith said. "Every minute matters. When you live in a rural area there is peace of mind knowing that the medical helicopters from the larger hospitals such as U of M are just a call away if our ER needs to get you more help. All of that would end. It would be an absolute tragedy for our community."

Hodshire says hospital managers have been financially prudent and have enough cash on hand to go a few more weeks. But the longer the wait, the closer the hospital comes to the edge.

"Executive orders based on science are important and we unequivocally support them," the letter states. "But those that go beyond are reckless and senseless, crippling already fragile rural economies for the sake of managing highly-populated areas. We look toward the leadership of our government in Lansing to ensure that we have access to PPE supplies while considering the welfare of the general public and their health beyond the risks of COVID-19." ■

*The original version of this story was posted online on May 4, 2020 and is available at [MichCapCon.com/27443](https://michcapcon.com/27443).*



## Lawn Mowing Double Jeopardy In Roseville? City's Order Versus State's

*Residents of Macomb community face potential Catch-22 in getting grass cut*

BY DAWSON BELL

Michigan Gov. Gretchen Whitmer's new stay-at-home order prohibits "in-person work that is not necessary to sustain or protect life."

But for residents of the city of Roseville, in Macomb County, the local government has decreed (in a Facebook post April 8) that this doesn't apply to keeping lawns trimmed.

"The City takes the position that failure to maintain lawns is unsafe and unsanitary and constitutes a nuisance under City Ordinances," according to the post. "... therefore residents are allowed to mow their lawns OR may allow lawn services to perform this task ..."

The duty to cut can be met by taking the do-it-yourself approach or by hiring a lawn service.

But commercial lawn services may not be willing to place their employees at risk of arrest for violating state work restrictions, or risk their business license. Roseville says it "will not be issuing violations for actions in compliance" of its order, but the Macomb County Sheriff and Michigan State Police may have a different position.

Also, if an elderly Roseville resident hires a teenager to mow the lawn, will the

teenager get arrested? And will the city cite residents and business owners who can't cut their own grass and can't hire someone else to do it for them?

Roseville Mayor Robert Taylor did not respond to an email seeking clarification. Nor did Whitmer's media spokesperson.

The Whitmer administration has published a webpage with frequently asked questions about the stay-at-home order. The page says that lawn care services are prohibited "except if the service is necessary to maintain and improve safety, sanitation and essential operations of a residence. ... Therefore, cosmetic and non-emergency maintenance ... to the outdoor areas of a residence and business are not permissible."

The extended and tightened shutdown order has generated political resistance from legislative leaders. On Thursday, state House Speaker Lee Chatfield issued a statement saying that instead of deciding which jobs are or are not essential, "Gov. Whitmer should be asking what jobs and activities can be done safely." ■

*The original version of this story was posted online on April 10, 2020 and is available at [MichCapCon.com/27390](https://michcapcon.com/27390).*



## New State Website Little Help In Determining COVID-19 Risk Levels

*Data on site appears to conflict with governor's reopening plan*

BY TOM GANTERT

The state of Michigan has unveiled a new website that rates regions of the state as being in one of six stages of recovery from the COVID-19 pandemic. But the data shown on the site does not appear to support the recovery phases applicable to each region under Gov. Gretchen Whitmer's reopening plan.

As prescribed by details of Whitmer's executive orders, each of the eight regions has been labeled according to its current recovery phase, as defined by the governor's MI Safe Start Plan.

The governor issued a press release announcing the new website, saying, "This dashboard will provide us with the data we need to assess risk in different regions of the state so we can re-engage our economy safely

and deliberately, while working to minimize the risk of a second wave of infections."

In many instances, however, the regions and counties included are rated in a higher risk phase than what the data suggests they should be. This analysis was as of 5 p.m. on May 26.

For example, the Upper Peninsula is labeled "medium-risk," but data provided elsewhere on the website suggests it should be "low risk." A chart shows that lower than 3% positive test results for COVID-19 (based on a seven-day average) is "low risk." There were 1.2% positive tests in the U.P. Similarly, fewer than seven daily new cases per million people is "low risk," according to another chart. The U.P. has only 1.4 daily new cases per million people.

Also according to the website, 11 of the 15 counties in the U.P. haven't have someone

test positive for the coronavirus over a seven-day period.

Another example is the Lansing region which includes five counties. Lansing is given a "medium-high" risk rating. However, the test results rate of 2.4% is "low risk" and the new cases rate of 18.5 per million people is a "medium" risk. Both results are below the "medium-high" assessment.

Similar results are found for four other regions. The website's data appears to only support the labels for two of the eight regions.

The website says the data provided is "taken into consideration, with other epidemiologic information, in assigning the overall risk level for a region. ... The State of Michigan's decisions about the MI Safe Start plan also take into consideration availability

of mitigation and economic factors, among other factors."

Michael Van Beek, director of research at the Mackinac Center for Public Policy, said the website is not transparent enough to be of assistance.

"Without further explanation, this newly touted website seems to confuse more than it clarifies," Van Beek said.

The new website was developed through a collaboration between the state of Michigan's departments of Health and Human Services and Labor and Economic Opportunity and the University of Michigan, according to a state press release. ■

*The original version of this story was posted online on May 26, 2020 and is available at [MichCapCon.com/27546](https://michcapcon.com/27546).*

# In A Michigan County, A Fever Could Land You In Jail If You Don't Self-Quarantine

*Grand Rapids assistant city attorney: 'This order is unlawful, illegal and unenforceable'*

BY TOM GANTERT

The Kent County Health Department sought an order that was approved by a circuit court judge, which gives physicians and nurse practitioners the ability to involuntarily detain anyone without due process that shows symptoms of the COVID-19 coronavirus.

The order would also allow police to involuntarily detain a person for up to 24 hours — even in a jail if no other facility is available — if that person refuses to self-quarantine.

The order was signed by Judge Mark Trusock and the petition was signed by Kent County Health Officer Adam London.

The order, however, is overly broad and violates due process, according to a memo from the Grand Rapids City Attorney Office.

"It is my legal opinion that this order is unlawful, illegal, and unenforceable," Grand Rapids Assistant Attorney Kristen Rewa wrote in an April 8 memo to the city's chief of police. "I strongly recommend that the Grand Rapids Police Department not take any action on the basis of this order."

Rewa wrote that orders such as this "quite literally, were one of the factors that led to the Declaration of Independence, the American Revolution, and surely were on the minds of the Founding Fathers when

drafting the language of what is now the Fourth Amendment. ..."

While local health officials have the power to detain people, they must present a judge a petition naming each individual person to be detained. The court provides a standard petition for doing this. Legals experts say that process can be done in a matter of hours.

David Kallman, senior legal counsel for the Great Lakes Justice Center in Lansing, called the order "outrageous."

"They don't have to do anything other than believe someone is positive for COVID virus," Kallman said. "They can take them immediately to custody. It's blatantly unconstitutional!"

Kallman said the government properly has the power to detain someone involuntarily, but due process must be followed.

"The order bypasses the requirement for the health official to file an emergency petition or to sign a sworn affidavit or requiring proof of probable cause to believe the person is a danger and there is no hearing in front of judge where the statute requires a judge to determine if he is a danger," Kallman said. "This order bypasses all of that. It allows the doctor or health official to take someone in on their own determination."

The Kent County Health Department didn't immediately return an email seeking comment. ■

*The original version of this story was posted online on April 17, 2020 and is available at [MichCapCon.com/27408](https://michcapcon.com/27408).*



# Resident Wants City Official Removed For Committing Lockdown Protest

*Subject line of local realtor's complaint: 'Dan Fox Protesting in Lansing'*

BY TOM GANTERT

After receiving some complaints, elected officials in Saugatuck are looking into the process of removing a resident from an appointed office after one appointee attended an April 15 Lansing protest against what its organizers called the governor's overreaching state-at-home order.

Kirk Harrier, the Saugatuck city manager, said the city received complaints against Daniel Fox, who is a member of the city planning commission and a city representative to the Saugatuck Township Fire District board. Fox had attended "Operation Gridlock," a protest of a recent stay-at-home order issued by Gov. Gretchen Whitmer in response to the COVID-19 pandemic.

The city manager said in an email that the City Council received legal advice from an attorney on the matter, but no action is scheduled on removing Fox from his appointed positions.

The City Council's recent meeting agenda packet lists an item, dated April 22, which explained the process of removing appointed officials from their posts.

"Proper authorization to remove an appointed City official requires a fact specific analysis. Below is an overview of the generally applicable principles and laws related to the removal of City officials," the memo read.

The memo was written by Jeff Slugggett, an attorney who deals in municipal law. It specifically mentions how to remove a member from the Planning Commission.

"Although a City has some latitude in determining what constitutes removal 'for cause,' there must be a direct connection between the misconduct and the performance of official duties," it states.

Saugatuck Mayor Ken Trester said Fox was not going to be removed from any appointed positions.



"We are not planning to remove Dan from anything," Trester said in an email. "The item on today's agenda is there to answer the question that was raised as to what is the extent of Council's authority to remove anyone from office."

Fox wrote in an April 17 letter to the City Council that he attended the protest and practiced proper social distancing there. (Most of the protest involved people sitting in several thousand cars).

"During the entire event, I maintained recommended social-distancing," Fox wrote. "I had no physical-touch contact with any person from the time I left Saugatuck until I returned home."

Fox wrote that he also adhered to proper social distancing protocols when invited to do a TV interview at the event. He added that he spoke as a concerned citizen only and did not mention either of his government positions.

Dick Waskin, a Saugatuck resident and local real estate agent, sent a letter to the Saugatuck Township Fire Chief Greg Janik and the Saugatuck Township Fire District Board via email, with the subject: "Dan Fox Protesting in Lansing".

Waskin, who included four screen shots of photos to support his arguments,

forwarded the email to Michigan Capitol Confidential. Its full text is printed below.

"As most of you are aware Board member Dan Fox attended a protest rally Last week in Lansing in violation of the Governor's emergency stay at home order. He appeared out of his car, in violation of the order and in violation to the protest organizers own rules in a Fox news interview. This has been brought to the attention of the Saugatuck City Council. Dan has since sent a letter in his defense. His letter is a gross misinterpretation of what actually happened in Lansing as was witnessed and recorded in Lansing. According to Dan all was peaceful and there were no issues. As the attached photos show it was filled with people displaying automatic weapons, Trump signs, swastikas and confederate flags on the steps of the capitol. These were protesters out of their cars, not adhering to social distancing and very few, including Dan wearing masks.

Dan goes on to say that there were no issues with emergency vehicles getting through. This is also false as you can see by the attached photo. The protest was called Operation Gridlock, the intent was

to Gridlock Lansing. It did. The Gridlock was so successful that the entrance to Sparrow Hospital was blocked and emergency vehicles were delayed access. Patients and Health care workers were subjected to the sounds of persistent honking horns and Health care workers were reported in tears as they attempted to care for their dying patients during the protest, (see the attached screen capture from one of the Health Care Workers).

What is particularly ironic about Dan attending and supporting Operation Gridlock is that traffic Gridlock was the goal. Yet Dan appeared not to long ago before the Fire Board repeatedly showing the Board a video on the South side of the Blue Star Bridge to show how congestion was slowing the progress of emergency vehicles and threatening safety.

The Mission of the Fire Board is to promote the safety of the people of their district and follow all safety rules and guidelines. Dan's actions fly in the face of this goal. Dan has the right to protest but not as a Fire District Board Member. I would hope Dan would realize this and step down from his position. If he does not I would hope the Board would condemn his actions and request that the Saugatuck City Council remove him from the Board. If Dan is allowed to stay it sends the message that people can pick and choose which laws and safety rules they should obey and which ones they can ignore. I appreciate your time to discuss and decide what would be the best course of action.

Sincerely

Dick Waskin" ■

*The original version of this story was posted online on April 23, 2020 and is available at [MichCapCon.com/27429](http://MichCapCon.com/27429).*



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## Wife Says Flint Dollar Store Security Guard Killed Over Face Mask Dispute

*'Hard working, father and husband' leaves behind eight 'amazing kids' and wife*

BY TOM GANTERT

The wife of a Flint dollar store security guard who was shot and killed May 1 said it arose from a dispute over not allowing a customer to enter the store without a face mask.

The wife of the victim wrote about the shooting on her personal Facebook page. She told Michigan Capitol Confidential in a text message that the shooting was due to a dispute over wearing a face mask. The woman asked that her name not be published for safety reasons, because the suspects were still at large. She said she was the victim's wife and had been together for 20 years and they had eight children.

Other Facebook and Twitter posts on the accounts of people who were friends of the victim are also saying the dispute was over a face mask.

On the Flint Michigan Scanners Facebook page, a woman who said she was present at

the shooting wrote: "The Girl Came To The Store The Security Guard Said You Can't Come In Without A Mask So The Girl Went Back And Told A Male Family Member What Happened The Guy Came Back To The Came [sic] In Asked Who Harassed My Daughter And The Security Guard Said She Couldn't Come In Without A Mask And The Guy Just Shot Him In The Head I Was Standing In The Back Of The Store While This Was Happening"

A GoFundMe page to raise money for the victim stated: "Duper was a hard working, father and husband who lost his life while doing his job securing the place of business and asking all customers to wear a mask for our own safety as well as others. He leaves behind 8 amazing kids, a super loving wife, & his wonderful mother."

The social media accounts say that the security guard stopped a woman from

entering the store without a face mask. The woman left and returned with another person who shot the security guard.

An executive order issued by Gov. Gretchen Whitmer requires Michigan residents to wear a face mask when in an enclosed public place, but states that no penalties will be assessed for members of the public not wearing a face mask.

Some stores and chains in Michigan are allowing customers to enter without wearing a face mask.

It's unclear how Family Dollar set its policy. The Flint store didn't answer its phone on Sunday. The Family Dollar headquarters media relations didn't respond to an email seeking comment on its policy. ■

*The original version of this story was posted online on May 3, 2020 and is available at [MichCapCon.com/27449](https://michcapcon.com/27449).*



## Business Owner Worries Closing Society Was 'Colossal Mistake'

*'A lot of small business owners will not see the other side of the shutdown'*

BY DAWSON BELL

John Newell has cycled through multiple careers: A Naval Academy graduate who spent a decade on board or attending to naval vessels. A mechanical engineer who worked for manufacturers around the globe. The owner of a multistate real estate company.

Over many decades, the 61-year-old has rarely not been working.

Until now, that is. His latest enterprise, as the solo operator of Primal Woods, a portable sawmill based in Southwest Michigan, was declared nonessential by Gov. Gretchen Whitmer. The business came to full stop by her executive orders, issued in response to the COVID-19 outbreak.

Newell, reflecting on his own circumstances and the government mandates that dictate how we currently live, said in a weekend interview, "I just don't get it."

His operation, which typically involves transporting his mill to a site where a customer has timber ready to be transformed into lumber, requires little-to-no human contact. It is, for the most part, a one-man job.

Yet, by any reasonable interpretation of Whitmer's order, which bans activity not required to protect life, he can't do it.



Earlier in the day during which he spoke to Michigan Capitol Confidential, Newell made a shopping trip to Walmart.

"I was exposed to more COVID in a half-hour there than I would be in a year's worth of operating the mill," he said. "You can go to Menards and pick up all the lumber you want. But you can't make your own."

Newell said he is not looking for, nor deserving of, any particular sympathy. Due to his lifetime of enterprise, and a spouse whose employment is, for now,

secure, the Newells are in "no danger of going hungry."

"I won't be driven into bankruptcy, I don't have to worry about feeding my kids," he said. "But a lot of small business owners will not see the other side of the shutdown. This shutdown will kill people."

Newell has an acute awareness of how government dictates can, under the guise of public welfare, deaden human initiative. One of his post-Navy assignments was as the director of a manufacturing facility in

the former East Germany, 10 years after the collapse of the Iron Curtain. Production that had formerly required 1,000 workers was getting done, more proficiently, by 113, he said.

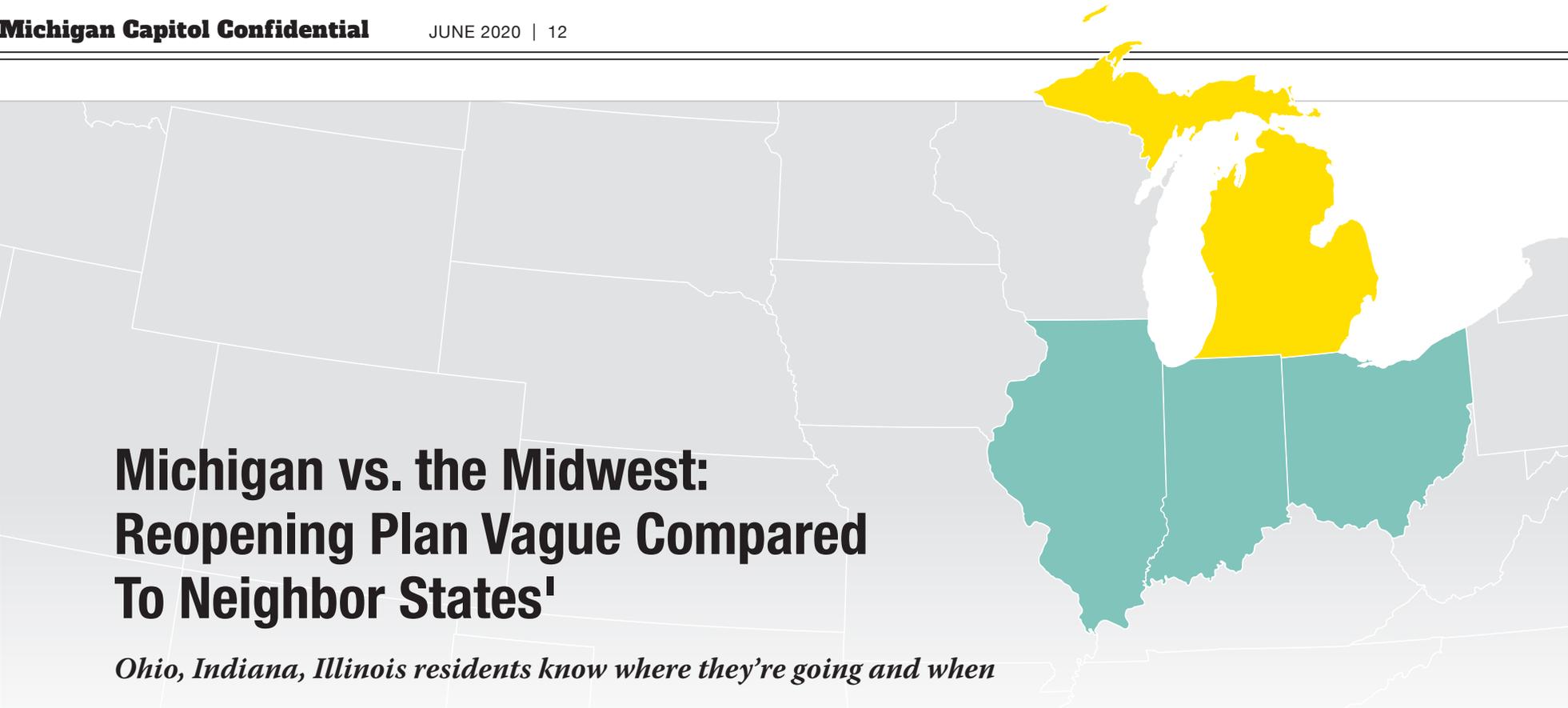
Before the communist regime collapsed, there had been no incentive to maximize productivity or allow human aspiration to flourish, Newell said.

The effect on East German prosperity, and public welfare, was profound, and almost uniformly negative.

"Nobody has ever succeeded at centrally planning an economy, and (Whitmer) is not going to be the first," Newell said. "Yet she's telling us we can't go to work. When this ends, when we turn the switch, the (economic) engine is not going to automatically turn over."

The new coronavirus is a daunting and unique challenge, but ordering the mass quarantine and idleness of mostly healthy people is, at the least, very questionable, he said. "We may look back on this in hindsight as a colossal mistake." ■

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# Michigan vs. the Midwest: Reopening Plan Vague Compared To Neighbor States<sup>1</sup>

*Ohio, Indiana, Illinois residents know where they're going and when*

BY MICHAEL VAN BEEK

Gov. Gretchen Whitmer's plan to reopen Michigan society is significantly less detailed than plans created by governors in nearby states. While mapping out public policy needs in the face of a pandemic is difficult, Michiganders can rightly wonder why they've been left mostly in the dark compared to residents in nearby states.

In Illinois, Gov. J.B. Pritzker is using a five-phase plan to reopen society, similar to Gov. Whitmer's six-phase approach. But unlike Michiganders, Illinoisans know the benchmarks and targets that will be used to determine when the state moves from one phase to the next.

For instance, to go from the "flattening" phase to the "recovery" phase, Gov. Pritzker's plan says new COVID-19 cases must be "at or under 20% positivity rate and increasing no more than 10 percentage points over 14 days." Gov. Whitmer's plan describes the same progression as occurring "when the number of new cases and deaths has fallen for a period of time, but overall case levels are still high."

Similarly, under Gov. Pritzker's plan, Illinois will be in the recovery phase when there is "no overall increase in hospital admissions for 28 days" and "at least 14% of ICU beds, surgical beds and ventilators [are available] to handle surge." Gov. Whitmer's plan defines that same phase as a time when "health system capacity can typically handle these new outbreaks."

Compared to Illinois, Gov. Whitmer's MI Safe Start plan leaves out all the important details. As a result, Michigan residents do not have the information needed to plan for when restrictions will be lifted and are left guessing when the next phase might begin.

In Indiana, Hoosiers have a detailed road map for what to expect for the next couple of months. The Back on Track plan defines five stages and even lists when they will start: Stage two lasts from May 4 to May 23, stage three runs from May 24 to June 13, and so on. While continuing social distancing, Indiana plans to be fully open by July 4, no doubt to be celebrated with patriotic flare.

Gov. Whitmer's plan makes no mention of potential dates or timelines for moving from one phase to the next.

Gov. Eric Holcomb's plan for Indiana also defines when certain activities and businesses will be allowed to reopen. For instance, beginning May 24, groups of up to 100 can gather again, retail stores and restaurants can reopen at limited capacity, and gyms, fitness centers, barbers, cosmetologists and other personal care services can open to full capacity, if proper protocol is practiced.

In Ohio, the Responsible RestartOhio plan provides operating requirements businesses must meet before reopening. These are specific to different sectors: manufacturing, restaurants and bars, offices, etc. While it does not appear Gov. Mike DeWine is using a stage-based approach, Buckeyes can still plan ahead. The governor announced this week that, if they follow state safety rules, campgrounds will open May 21, and gyms, fitness centers, public pools and sports leagues can resume activities on May 26. Even horse race facilities got a heads-up: They can start May 22, though without spectators.

Meanwhile, Gov. Whitmer gives mixed messages to Michiganders. Her plan says that small gatherings and retail shops are allowed to open in the

next phase labeled "improving." But Gov. Whitmer told MLive.com last week, "Retail will probably be in the next phase" (emphasis added). She also said that "at the end of this month we can maybe permit gatherings of 10 or less," adding it was a "very real possibility." And although her plan does not mention pet groomers, she said "this is one where maybe there is an opportunity to move forward" and it was "something that we're taking a look at for a possibility in the next phase." So, Michigan's "improving" phase may or not include retailers, may or may not include pet groomers, may or may not allow gatherings up to 10 and may or may not start at the end of this month.

While retail shop owners in Indiana are preparing to open safely on May 24; while gym owners in Ohio are readying their facilities for stricter safety protocols; while Illinoisans eagerly track their state's progress toward defined benchmarks, Michiganders are left to simply wonder what their governor will announce next.

The original version of this story was posted online on May 18, 2020 and is available at [MichCapCon.com/27507](https://michcapcon.com/27507).