

No. \_\_\_\_\_

IN THE SUPREME COURT OF ILLINOIS

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XXX, acting <i>pro se</i> , XXX, acting <i>pro se</i> , XXX, acting <i>pro se</i> , XXX, acting <i>pro se</i> , XXX, acting <i>pro se</i> ,	)	Original	Petition	for	Writ	of
	)	Mandamus				
	)					
Petitioners,	)					
	)	No.	_____			
v.	)					
	)					
J.B. PRITZKER, in his capacity as	)					
Governor of the State of Illinois	)					
	)					
	)					
Respondent.	)					
	)					

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**MOTION FOR LEAVE TO FILE PETITION FOR WRIT OF MANDAMUS**

Petitioners, filing *pro se*, seek leave to file a petition for mandamus pursuant to Supreme Court Rule 381 and article VI § 4(a) of the Illinois Constitution.

**Explanatory Suggestions**

1. Standing in the State of Illinois requires 'some injury in fact to a legally cognizable interest.'" *Knox v. Chicago Transit Authority*, 2018 IL App (1st) 162265, 20, 423 Ill. Dec. 402, 105 N.E.3d 810 (quoting *Greer v. Illinois Housing Development Authority*, 122 Ill. 2d 462, 492, 524 N.E.2d 561, 120 Ill. Dec. 531 (1988)). "The doctrine of standing ensures that issues are raised only by those parties who have a sufficient stake in the outcome of the controversy." *Matthews v. Chicago Transit Authority*, 2016 IL 117638, 39, 402 Ill. Dec. 1, 51 N.E.3d 753 (citing *Glisson v. City of Marion*, 188 Ill. 2d 211,

221, 720 N.E.2d 1034, 242 Ill. Dec. 79 (1999)). *Herbst v. City of Chi.*, 2021 IL App (1st) 200725-U, 17

## **Conclusion**

DEMAND FOR RELIEF WHEREFORE,

Plaintiff asks that the Court: A. Assume jurisdiction over this action; B. Declare as unlawful the actions of all persons named as defendants in this writ; C. Declare Defendants' failure to carry out the adjudicative functions delegated to them by the State of Illinois Constitution; D. Issue a preliminary and permanent injunction compelling the Defendants to reverse these unconstitutional actions, and whatever relief the court seems just and proper.

Respectfully submitted,

/s/(Full Name)

(Full Name)

(Address)

(City, IL Zip code)

(Phone Number)

(email@address)

Additional Plaintiffs:

/s/(Full Name First Person)

(Full Name)

(Address)

(City, IL Zip code)

(Phone Number)

/s/(Full Name Second Person)

(Full Name)

(Address)

(City, IL Zip code)

(Phone Number)

/s/(Full Name Third Person)

(Full Name)

(Address)

(City, IL Zip code)

(Phone Number)

/s/(Full Name – Fourth Person)

(Full Name)

(Address)

(City, IL Zip code)

IN THE SUPREME COURT OF ILLINOIS

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XXX, acting <i>pro se</i> , XXX, acting <i>pro se</i> , XXX, acting <i>pro se</i> , XXX, acting <i>pro se</i> , XXX, acting <i>pro se</i> ,	)	Original	Petition	for	Writ	of
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Petitioners,	)					
	)	No.	_____			
v.	)					
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J.B. PRITZKER, in his capacity as	)					
Governor of the State of Illinois	)					
	)					
	)					
Respondent.	)					
	)					

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**PETITION FOR WRIT OF MANDAMUS**

WHEREFORE, Plaintiffs request that the Court grant the following petition:

1. Plaintiffs have been directly impacted for the past 18 months by the Governor's failure to dutifully execute the laws and Constitution of the State of Illinois.
2. Plaintiffs have been denied service and admittance to numerous private and public institutions for their refusal to consent to the use of a medical device.
3. Plaintiffs have been denied service and admittance to numerous private and public institutions for their refusal to consent to having their temperature taken and/or recorded.
4. Plaintiffs have been threatened and coerced by their employers to partake in the use of a medical device as a condition of employment.

5. Plaintiffs have been threatened and coerced by their employers to subject themselves to COVID-19 vaccination as a condition of their continued employment, resulting in suffering severe emotional and psychological distress.
6. Plaintiffs have been threatened and coerced by their employers to disclose vaccination status, or provide proof of vaccination, or non-disclosure of vaccination status, or objection to vaccination as a condition of their continued employment.
7. Plaintiffs have been threatened and coerced by their employers to undergo unwanted COVID-19 testing as a condition of their continued employment.
8. Plaintiffs, as university students, have been forced to wear a medical device, undergo unwanted COVID-19 testing, or submit to the COVID-19 vaccine as a condition of enrollment.
9. Plaintiffs' minor children have been forced to use medical devices, which obstruct their primary airways, as a condition of their enrollment in both private and public education.
10. Plaintiffs' minor children have been forced to use medical devices, which obstruct their primary airways, as a condition of participation in school-related sports and recreational activities.
11. Plaintiffs and their minor children have suffered severe emotional and physical distress through instances in which they were forced to comply with using a medical device that obstructed their primary airways.

12. Plaintiffs have endured physical, emotional, and psychological harm are the direct result of the actions and inaction of the Governor to dutifully execute the laws of the State of Illinois.

13. This Court has the authority to compel the Governor, by Writ of Mandamus, to cease the mandated use of medical devices, testing, treatment or vaccination as a condition of participation, enrollment, employment, or entry to any private or public institution in the State of Illinois, as these mandates and actions by public and private actors are in direct violation of state law. *See* 745 ILCS 70/1 *et. seq.*

14. Requiring the Governor to cease the aforementioned mandates and require Illinois public and private institutions to follow the aforementioned state law, would fully remedy the Plaintiffs' stated injury.

15. Even if there were a question of Plaintiffs' standing, "[u]nder Illinois law, lack of standing is an affirmative defense that is the **defendant's burden to plead and prove**, and it may be forfeited if not raised in a timely manner in the trial court. *Knox v. Chi. Transit Auth.*, 2018 IL App (1st) 162265, 19, 423 Ill. Dec. 402, 408, 105 N.E.3d 810, 816

16. To dismiss this action for lack of standing without requiring Defendants "to plead and prove" that Plaintiffs lack standing would be contrary to established Illinois precedent. *Id.*

**The Illinois Constitution requires the Governor to swear an oath to support the Illinois Constitution and faithfully discharge the duties of the office, which includes the faithful execution of the laws of the State of Illinois.**

17. Article XIII Section 3 of the Illinois Constitution requires “each prospective holder of a State office or other State position created by this Constitution, before taking office, [to] take and subscribe to the following oath or affirmation (“Oath”) :

I do solemnly swear (affirm) that I will support the Constitution of the United States, and the Constitution of the State of Illinois, and that I will faithfully discharge the duties of the office of .... to the best of my ability.

18. As Governor of the State of Illinois, J.B. Pritzker was required to swear to this same Oath.

19. Article V Section 8 of the The Illinois Constitution states, “The Governor shall...be responsible for the faithful execution of the laws.”

20. The Governor has not only failed to faithfully execute the laws in the State of Illinois, but has made executive edicts and decrees directly in contravention of the laws of the General Assembly.

21. On August 4, 2021 Governor Pritzker signed Executive Order 2021-18 (COVID-19 Executive Order No. 85 requiring all school-age children in pre-kindergarten through 12th grade to wear masks and to implement other layered prevention strategies while at school or day care.

22. On August 26, 2021 Governor Pritzker signed Executive Order 2021-20 (COVID-19 Executive Order No. 87 requiring face coverings for all Illinois residents over age 2 in indoor settings. It also outlines vaccine and testing requirements for healthcare workers, schools personnel, higher education, and state-owned or operated congregate living facilities.

23. On September 3, 2021 Governor Pritzker signed Executive Order 2021-22 (COVID-19 Executive Order No. 88) that allows both public and private entities to force medical treatments, in the form of COVID-19 testing and vaccination as conditions of employment.
24. On May 17, 2021 the Governor signed Executive Order 2021-10 (COVID-19 Executive Order No. 79) which mandated the use of a medical device in the form of a mask as a condition to enter into any indoor establishment.
25. This same order mandated employers to require their employees to wear masks as a condition of employment in an indoor facility.
26. Relying upon his emergency powers enumerated in 20 ILCS 3305/7, for the past 18 months, the Governor has usurped the constitutionally afforded powers of the Illinois General Assembly and mandated healthcare treatments to Illinois citizens, in contravention of state law.
27. The Illinois Health Care Right of Conscience Act, 745 ILCS 70/1, *et seq.* specifically prohibits all **public and private entities** from adverse actions against anyone who declines to utilize a medical device or submit to vaccination.
28. The Illinois Health Care Right of Conscience Act, 745 ILCS 70/2 has accordingly prohibited,
- all forms of discrimination, disqualification, coercion, disability or imposition of liability upon such person or entities by reason of their refusing to act contrary to their conscience or conscientious convictions** in ... refusing to obtain, receive, accept ... health care services and medical care (emphasis added).



29. The Illinois Health Care Right of Conscience Act, 745 ILCS 70/5 defines discrimination as,

**Discrimination.** It shall be unlawful for any person, **public or private institution**, or public official to discriminate **against any person in any manner**, including but not limited to, licensing, **hiring, promotion**, transfer, staff appointment, hospital, managed care entity, **or any other privileges, because of such person's conscientious refusal to receive**, obtain, accept, perform, assist, counsel, suggest, recommend, refer or participate in **any way in any particular form of health care services contrary to his or her conscience** (emphasis added).

30. The Illinois Health Care Right of Conscience Act, 745 ILCS 70/1, et seq. has also explicitly outlawed discrimination by any employer or institution, public or private, in the State of Illinois:

**Discrimination by employers or institutions.** It shall be unlawful for any public or private employer, entity, agency, institution, official or person ... to deny admission because of, to place any reference in its application form concerning, to orally question about, **to impose any burdens in terms or conditions of employment on**, or to otherwise discriminate against, any applicant, in terms of employment, **admission to or participation in any programs for which the applicant is eligible**, or to discriminate in relation thereto, in any other manner, **on account of the applicant's refusal to receive**, obtain, accept, perform, counsel, suggest, recommend, refer, assist **or participate in any way in any forms of health care services contrary to his or her conscience.**

745 ILCS 70/7 (emphasis added).

31. Further, Section 3(a) of the Act defines "health care" broadly as:

**any phase of patient care, including but not limited to**, testing; diagnosis; prognosis; ancillary research; instructions; . . . medication; surgery or other care or treatment rendered by a physician or physicians, nurses, paraprofessionals or health care facility, intended for the physical, emotional, and mental well-being of persons ....

745 ILCS 70/3(a) (emphasis added).

32. Pursuant to the FDA classifications, masks are considered medical devices.<sup>1</sup>
33. Although the courts consider a Writ of Mandamus to be an extraordinary writ, when speaking of mandamus, the Supreme Court of Illinois has made clear that it “ most certainly [has the] authority to assure that the action of public officials does not deprive citizens of rights conferred by statute or the Constitution.” *Noyola v. Bd. of Educ.*, 179 Ill. 2d 121, 132, 227 Ill. Dec. 744, 749, 688 N.E.2d 81, 86 (1997).
34. Mandamus allows the Court to compel as a matter of right, "the performance of official duties by a public officer where no exercise of discretion on his part is involved." *Madden v. Cronson*, 114 Ill. 2d 504, 514, 103 Ill. Dec. 729, 501 N.E.2d 1267 (1986).
35. The Illinois Supreme Court stated in *Noyola*, mandamus provides the power to “compel the undoing of an act” and also affirmatively require a public official to perform his duties prescribed by law. 179 Ill. 2d at 133.
36. The Illinois Constitution is clear, the Governor is required by its very text that he must ensure that the laws are faithfully executed. Art. V, Sec. 8 Ill. Const.
37. The Governor’s actions through his emergency authority, establishing mask mandates, testing requirements, and required vaccinations, are actions that

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[https://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfpdc/classification.cfm?start\\_search=1&Submission\\_Type\\_ID=&DeviceName=mask&ProductCode=&DeviceClass=&Panel=&RegulationNumber=&Implant\\_Flag=&Life\\_Sustain\\_Support\\_Flag=&sortcolumn=DeviceNameDESC](https://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfpdc/classification.cfm?start_search=1&Submission_Type_ID=&DeviceName=mask&ProductCode=&DeviceClass=&Panel=&RegulationNumber=&Implant_Flag=&Life_Sustain_Support_Flag=&sortcolumn=DeviceNameDESC)

are directly in contravention of the Illinois Health Care Right of Conscience Act.

38. In allowing private and public “employers and institutions” to condition use, entry, participation in, employment, or enrollment at, on a person’s wearing of a mask, presenting a negative COVID-19 test, required disclosure of vaccination status, required disclosure of proof of vaccination, required disclosure of objection to vaccination, or subjecting to COVID-19 vaccination, the Governor has *failed to execute the laws* of the State of Illinois as required by the Illinois Constitution (emphasis added). 745 ILCS 70/7; Art. V, Sec. 8 Ill. Const.

39. In requiring minor students to cover their faces with a medical device (as defined by the FDA)<sup>2</sup> the Governor has acted in direct violation of the very law he is constitutionally required to enforce.

40. Restrain and enjoin Governor J.B. Pritzker, his officers, agents, employees, servants, attorneys, and all persons in active concert or participation with them, from requiring the following from any person in the State of Illinois:

- i. wearing a medical device as a condition of participation, enrollment, employment, service, or entry at any private or public institution in the State of Illinois;
- ii. subjecting to disclosing vaccination status or proof of vaccination or non-disclosure of vaccination status or objection to vaccination as a

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<sup>2</sup> *Supra* Note 1.

condition of participation, enrollment, employment, service, or entry at any private or public institution in the State of Illinois;

- iii. subjecting to COVID-19 testing as a condition of participation, enrollment, employment, service, or entry at any private or public institution in the State of Illinois;
- iv. taking a person's temperature as a condition of participation, enrollment, employment, service, or entry at any private or public institution in the State of Illinois;
- v. requiring any vaccination as a condition of participation, enrollment, employment, service, or entry at any private or public institution in the State of Illinois;
- vi. participating in contact tracing of any type of other activity considered a health care regimen as a condition of participation, enrollment, employment, service or entry at any private or public institution in the State of Illinois.

Respectfully submitted,

/s/(Full Name)

(Full Name)

(Address)

(City, IL Zip code)

(Phone Number)

(email@address)

Additional Plaintiffs:

/s/(Full Name First Person)

(Full Name)

(Address)

(City, IL Zip code)

(Phone Number)

/s/(Full Name Second Person)

(Full Name)

(Address)

(City, IL Zip code)

(Phone Number)

/s/(Full Name Third Person)

(Full Name)

(Address)

(City, IL Zip code)

(Phone Number)

/s/(Full Name – Fourth Person)

(Full Name)

(Address)

(City, IL Zip code)

(Phone Number)

## **VERIFICATION**

Under penalties as provided by law pursuant to § 1-109 of the Code of Civil Procedure, I certify that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certify as aforesaid that I verily believe the same to be true.

/s/(Full Name)

(Full Name)

(Address)

(City, IL Zip code)

(Phone Number)

(email@address)