

Haine: “Going Back To Work Is Not And Should Not Be A Crime”

by Tom Haine
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EDWARDSVILLE - In response to Governor Pritzker's new rule threatening criminal prosecution for violations of his stay-at-home orders, Tom Haine released the following statement:

Last week, our Governor issued a new emergency rule stating that violations of his stay-at-home orders are class A misdemeanors, subject to criminal prosecution and possible jail time. As the news headline read Monday: "Pritzker's new order could mean jail time for businesses."

I reject that conclusion. In the United States elected officials can only act within the power granted them by law and the Constitution. With his new emergency rule the Governor has gone beyond his legally granted power. Responsibly going back to work is not and should not be a crime.

Two entities can prosecute state crimes in Madison County: our local State's Attorney and the Illinois Attorney General. But, the Attorney General cannot independently bring a criminal prosecution - if the State's Attorney refuses - unless it relates to a few specific kinds of crimes clearly outlined in statute. Violations of the Governor's stay-at-home orders are not among them. The decision to criminally prosecute such violations lies exclusively within the discretion of our local State's Attorney. It is key that individuals, businesses, and churches have a clear understanding of what to expect from that office.

If I am elected State's Attorney, here will be my policy:

I will not criminally prosecute otherwise law-abiding persons or businesses solely for violations of the Governor's legally dubious stay-at-home orders. Family businesses should be able to proceed with a responsible reopening without fear of criminal prosecution.

Here is why:

My priority as State's Attorney will be to fight violent crime and make our justice system stronger, faster, and fairer. There is already a significant backlog of serious cases that need to be resolved. As my commanders taught me in the Army JAG Corps: justice delayed is justice denied.

The Governor's recent rules and orders face serious legal hurdles and criminal convictions based solely upon them will likely be overturned. Just last month a Sangamon County judge ruled that major policy shifts must be deliberated on and

passed by the Illinois General Assembly - the new emergency rule was not. Also, the Governor's stay-at-home orders burden many fundamental Constitutional rights and are not narrowly tailored to the reality in Madison County or justified by local health facts. Finally, the 30 days outlined in the Emergency Management Act has come and gone, making the Governor's ability to continue to exercise emergency powers highly questionable.

I will not redirect resources from our effort to punish actual criminals to try to enforce legally questionable executive orders and rules against good people who are just trying to save their businesses, which are essential to the local community that we all share.

COVID-19 is a serious concern, especially for our older and vulnerable friends and family. But we are adults in the freest country in the world and can weigh the risk of infection just as we weigh the risk of getting in a car or any other activity that has a potential for harm. I applaud our County Board of Health who voted 26-2 to re-open Madison County and issued guidelines for businesses to reopen safely.

This is not to say all businesses should open all at once and in the same way. Each owner needs to make their own responsible decisions about reopening pursuant to the Madison County plan. Each should seek legal counsel on the risks reopening poses regarding insurance, licensure, and other civil liability.

But in Madison County they should not fear criminal prosecution.

Sincerely,

Tom Haine