

133rd General Assembly
Regular Session
2019-2020

. R. No.

A R E S O L U T I O N

To exhibit articles of impeachment against Governor 1
Richard Michael DeWine in support of impeachment 2
of him for misdemeanors in office. 3

ARTICLES OF IMPEACHMENT 4

Exhibited by the House of Representatives of the State of 5
Ohio against Governor Richard Michael DeWine in support of its 6
impeachment of him for misdemeanors in office. 7

WHEREAS, "Article I, Section 1 of the Ohio Constitution 8
states that, "All men are, by nature, free and independent, and 9
have certain inalienable rights, among which are those of 10
enjoying and defending life and liberty, acquiring, possessing, 11
and protecting property, and seeking and obtaining happiness and 12
safety."; and 13

WHEREAS, Article I, Section 2 of the Ohio Constitution 14
states that, "All political power is inherent in the people. 15
Government is instituted for their equal protection and benefit, 16
and they have the right to alter, reform, or abolish the same, 17
whenever they may deem it necessary; and no special privileges 18
or immunities shall ever be granted, that may not be altered, 19
revoked, or repealed by the general assembly."; and 20



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WHEREAS, The General Assembly has attempted to work with
Richard Michael DeWine, who has vetoed reasonable legislation to
reign in his power, such as S.B. 55 of the 133rd General
Assembly, and has threatened to veto other reasonable
legislation, such as S.B. 1 and H.B. 618 of the 133rd General
Assembly, which assert the legislature's role in safeguarding
Ohioans; and

WHEREAS, The Ohio Supreme Court has long acknowledged that
"[p]arents enjoy a well-established legal right to make
important decisions for their children," and "the State is
simply not an adequate surrogate for the judgment of a loving,
nurturing parent" and, regarding the liberty interest infringed
upon when overruling the educational and health choices parents
make for their children, "the interest of parents in the care,
custody, and control of their children...is perhaps the oldest
of the fundamental liberty interests recognized by the U.S
Supreme Court"; and

WHEREAS, In *Steele v. Hamilton Cty. Cmty. Mental Health
Bd.*, the Ohio Supreme Court held that "[t]he right to refuse
medical treatment" is "inherent in every individual," and
Article I, Section 1 of the Ohio Constitution ensures that every
Ohioan is provided with "personal security, bodily integrity,
and autonomy"; and

WHEREAS, Article II, Section 23 of the Ohio Constitution
states that, "The house of Representatives shall have the sole
power of impeachment, but a majority of the members elected must
concur therein. Impeachments shall be tried by the senate; and
the senators, when sitting for that purpose, shall be upon oath
or affirmation to do justice according to law and evidence. No
person shall be convicted without the concurrence of two-thirds
of the senators."; and

WHEREAS, Article II, Section 24 of the Ohio Constitution

states that, "The governor, judges, and all state officers, may 53
be impeached for any misdemeanor in office; but judgment shall 54
not extend further than removal from office, and 55
disqualification to hold any office under the authority of this 56
state. The party impeached, whether convicted or not, shall be 57
liable to indictment, trial, and judgment, according to law"; 58
and 59

WHEREAS, At the time of the writing of the Ohio 60
Constitution, "misdemeanor" was not necessarily a crime and was 61
defined in Webster's 1828 dictionary as: MISDEME'ANOR, noun: Ill 62
behavior; evil conduct; fault; mismanagement. 1. In law, an 63
offense of a less atrocious nature than a crime. Crimes and 64
misdemeanors are mere synonymous terms; but in common usage, the 65
word crime is made to denote offenses of a deeper and more 66
atrocious dye, while small faults and omissions of less 67
consequence are comprised under the gentler name of 68
misdemeanors."; and 69

WHEREAS, United States Supreme Court Justice Joseph Story 70
(1812-1845) stated: "The offences to which the power of 71
impeachment has been and is ordinarily applied as a remedy are 72
of a political character. Not but that crimes of a strictly 73
legal character fall within the scope of the [impeachment] 74
power...; but that it has a more enlarged operation, and reaches 75
what are aptly termed political offences, growing out of 76
personal misconduct or gross neglect, or usurpation, or habitual 77
disregard of the public interests, in the discharge of the 78
duties of political office."; and 79

WHEREAS, Ohio history and precedents verify that no actual 80
crime needs to be alleged for the purposes of impeachment and 81
removal from office, e.g., Judges William Irvin and Robert 82
Slaughter for being absent without leave, Judges Calvin Pease 83
and George Tod for holding statutes unconstitutional and 84
unenforceable, Judge John Thompson for judicial arrogance, Judge 85

James Ferguson for judicial arrogance and incompetence, and 86
Judges George Brown and William Smith for judicial incompetence; 87
and 88

WHEREAS, Impeachment of a state officer is not subject to 89
executive veto or judicial review. 90

ARTICLE I 91

WHEREAS, Article 1, Section 20 of the Ohio Constitution states 92
that, "This enumeration of rights shall not be construed to 93
impair or deny others retained by the people; and all powers, 94
not herein delegated, remain with the people"; and 95

WHEREAS, No single person or governor shall be permitted to 96
assume dictatorial powers over the people; and 97

WHEREAS, Ohio courts, in cases such as *Rock House v. Acton* 98
(Court of Common Pleas, Lake County, 20-CV-631), *Kalahari v.* 99
Acton (Court of Common Pleas, Erie County, 20-CV-0201), and 100
Cattlemans Restaurant v. Ashland County Health Department (Court 101
of Common Pleas, Ashland County, 20-CIV-099), have concluded 102
that section 3701.13 of the Revised Code, which the Director of 103
Health relies upon, does not give the Director the authority to 104
impose any penalties for noncompliance with sweeping health 105
orders; and 106

WHEREAS, Richard Michael DeWine has violated the separation 107
of powers by directing, or allowing, the Ohio Department of 108
Health to issue orders outside the scope of its authority for 109
administering legislation, which is tantamount to creating new 110
laws, a duty exclusively reserved to the General Assembly per 111
Article II, Section 1 which states in part, "The legislative 112
power of the state shall be vested in a general assembly 113
consisting of a senate and house of representatives...". 114

ARTICLE II 115

WHEREAS, Richard Michael DeWine violated his oath of office 116

when he conspired with Secretary of State Frank LaRose to cancel 117
the March 17, 2020, primary election in violation of section 118
3501.01 of the Revised Code. 119

ARTICLE III 120

WHEREAS, Richard Michael DeWine violated his oath of office 121
when he conspired with Secretary of State Frank LaRose to 122
schedule and publish the date of the 2020 primary election as 123
June 2, 2020, an authority that belongs solely to the General 124
Assembly under Article I, Section 4 of the United States 125
Constitution; Article II, Section 27 and Article V, Section 7 of 126
the Ohio Constitution; and division (E)(2) of section 3501.01 of 127
the Revised Code. 128

ARTICLE IV 129

WHEREAS, Richard Michael DeWine has inflicted and continues 130
to inflict irreversible economic hardship on a growing number of 131
Ohioans; and 132

WHEREAS, Richard Michael DeWine authorized Amy Acton, MD, 133
MPH, former Director of the Department of Health, and her 134
successor, Lance D. Himes, Interim Director of the Department of 135
Health, to order the closing and/or restriction of private 136
businesses, which closure was beyond the quarantine and 137
isolation powers granted to the Department by the Revised Code, 138
and which closure violated the Fourth, Fifth, and Fourteenth 139
Amendments to the United States Constitution and Article I, 140
Section 10 of the Ohio Constitution, and which closure resulted 141
in record-high unemployment, causing not only increased poverty, 142
increased depression, increased despair, and increased suicides, 143
but also the necessity for state budget cuts impacting schools 144
and social programs when they are needed most; and 145

WHEREAS, Richard Michael DeWine failed to anticipate or 146
plan for more than a million newly unemployed Ohioans who 147

suffered the additional indignity of being unable to communicate 148
with an overwhelmed Department of Job and Family Services to 149
file claims, creating additional and unnecessary hardship; and 150

WHEREAS, Richard Michael DeWine demonstrated grotesque 151
discrimination against the medical health and welfare of the 152
general population by denying nonemergency healthcare, including 153
dental and vision, by which discrimination resulted in needless 154
suffering, worsening of treatable conditions, unnecessary 155
reliance on opiates to mask treatable pain, increased poverty 156
due to the higher cost of delayed treatment, increased 157
depression, increased despair, and increased suicides; and 158

WHEREAS, The denial of healthcare services violates Article 159
1, Section 21 of the Ohio Constitution and resulted in massive 160
financial losses for healthcare providers creating additional 161
unemployment and economic despair; and 162

WHEREAS, Enforcing the mandates listed in this article 163
under penalty of a second-degree misdemeanor carrying a ninety- 164
day jail sentence and a \$750 fine violates civil liberties and 165
due process rights. 166

ARTICLE V 167

WHEREAS, Richard Michael DeWine ordered the shutdown of 168
schools, a power that belongs exclusively to the State Board of 169
Education; and 170

WHEREAS, After schools reopened, Richard Michael DeWine 171
ordered that all students wear face coverings, which violates 172
students' civil liberties; and 173

WHEREAS, The Ohio Constitution demands that the right to 174
notice and an opportunity to be heard must be granted at a 175
meaningful time and in a meaningful manner where the state seeks 176
to infringe a protected liberty or property interest, as 177
described in State v. Hochhausler, 1996-Ohio-374, and despite 178

the important liberties at stake, the Director of Health's Order 179
masking others' children provides no opportunity for a hearing 180
when access to an exemption is denied. 181

ARTICLE VI 182

WHEREAS, Richard Michael DeWine has repeatedly proven his 183
incompetence by providing wildly inaccurate forecasts and 184
repeatedly misleading COVID-19 data; and 185

WHEREAS, Richard Michael DeWine has committed misfeasance 186
and malfeasance with his policy prescriptions, which have proven 187
to be far worse than the virus itself. 188

ARTICLE VII 189

WHEREAS, Richard Michael DeWine shifted his position from 190
supporting voluntary use of face coverings while questioning 191
their value to imposing the requirement of face coverings by 192
executive order, which order has no executive authority, 193
violates civil liberties of those required to wear them, and 194
foments public backlash; and 195

WHEREAS, Richard Michael DeWine authorized the Department 196
of Health to mandate nearly twelve million Ohioans to stay at 197
home twenty-four hours per day, seven days per week, with a list 198
of government-approved exceptions, thereby violating their civil 199
liberties and due process rights and effectively placing them 200
under house arrest; and 201

WHEREAS, Because the Department of Health created the 202
Dispute Resolution Commission, which consists of three members 203
of the executive branch of government - namely, Director of 204
Commerce Sheryl Maxfield, Director of Development Services Lydia 205
Mihalik, and Public Utilities Commission of Ohio Chairman Sam 206
Randazzo - and which makes arbitrary decisions about the 207
conditions under which businesses may stay open and under which 208
they must close, Richard Michael DeWine has violated due process 209

rights under the Fifth and Fourteenth Amendments to the United States Constitution and under Article I, Section 16 of the Ohio Constitution by granting unilateral power to the Dispute Resolution Commission; and

WHEREAS, Enforcing the mandates listed in this article under penalty of a second-degree misdemeanor carrying a ninety-day jail sentence and a \$750 fine violates civil liberties and due process rights; and

WHEREAS, Richard Michael DeWine violated section 2921.45 of the Revised Code, which provides that,

"(A) No public servant, under color of his office, employment, or authority, shall knowingly deprive, or conspire or attempt to deprive any person of a constitutional or statutory right.

(B) Whoever violates this section is guilty of interfering with civil rights, a misdemeanor of the first degree."

ARTICLE VIII

WHEREAS, Richard Michael DeWine has imposed face coverings on attendees in houses of worship, in violation of the First Amendment to the United States Constitution, as well as the protections guaranteed by Article I, Sections 1, 3, and 7 of the Ohio Constitution; and

WHEREAS, Enforcing this mandate under penalty of a second-degree misdemeanor carrying a ninety-day jail sentence and a \$750 fine violates civil liberties and due process rights; and

WHEREAS, The Supreme Court of Ohio has determined that the Ohio Constitution's Free Exercise Clause "goes beyond that provided by the federal Constitution's Free Exercise Clause." *Humphrey v. Lane*, 89 Ohio St.3d 62, 67, 2000-Ohio-435, which case stated that "the standard for reviewing a generally applicable, religion-neutral state regulation that allegedly

violates a person's right to free exercise of religion is 241
whether the regulation serves a compelling state interest and is 242
the least restrictive means of furthering that interest." 243

ARTICLE IX 244

WHEREAS, Richard Michael DeWine's face covering mandate 245
promotes fear, turns neighbors against neighbors, and contracts 246
the economy by making people fearful to leave their homes, to 247
the detriment of every Ohioan; and 248

WHEREAS, Healthcare professionals have stated that, for the 249
general population wearing face coverings, people are more 250
likely to infect themselves with COVID-19 because they will 251
touch their face more often to adjust the covering, and that 252
face coverings retain moisture, bacteria, and other viruses, in 253
addition to re-breathing carbon dioxide, making them potentially 254
dangerous for the general public to wear; and 255

WHEREAS, Healthcare professionals, as well as current 256
studies, have contradicted themselves and each other regarding 257
the ability (if any) of face coverings to materially slow the 258
spread of COVID-19; and 259

WHEREAS, Many find the mandate to wear face coverings 260
offensive, insulting, humiliating, degrading, and an indignity; 261
and 262

WHEREAS, Richard Michael DeWine holds business licenses 263
hostage and uses coercion to mandate face covering requirements 264
on Ohio's workers, with few exceptions, making Ohio a hostile 265
work environment; and 266

WHEREAS, enforcing the mandates listed in this article 267
under penalty of a second-degree misdemeanor carrying a ninety- 268
day jail sentence and a \$750 fine violates civil liberties and 269
due process rights; and 270

WHEREAS, Richard Michael DeWine has abused section 3701.13 271

of the Revised Code and his power against the people and used 272
the threat of shutting down the economy and destroying 273
livelihoods by deploying state and local health commissioners as 274
police officers to coerce the people into wearing face 275
coverings. 276

ARTICLE X 277

WHEREAS, Richard Michael DeWine has banned liquor sales to 278
non-Ohio residents in the Ohio border counties of Ashtabula, 279
Trumbull, Mahoning, Columbiana, Jefferson, and Belmont, and 280
therefore may be in violation of Article 1, Section 8, Clause 3 281
of the United States Constitution, which grants Congress the 282
power "to Regulate Commerce with foreign Nations, and among the 283
several States." 284

And the House of Representatives saves to itself the 285
liberty of exhibiting, at any time after the adoption of these 286
Articles of Impeachment, any further causes for impeachment of 287
Richard Michael DeWine of which it may become aware; 288

And the House of Representatives demands that the Senate 289
summon Richard Michael DeWine to answer to these Articles of 290
Impeachment, that the Senate put Richard Michael DeWine to trial 291
on the Articles of Impeachment, and that the Senate enter 292
judgment on the Articles of Impeachment; 293

And the House of Representatives demands the right to reply 294
to any demurrer and any answer that Richard Michael DeWine may 295
make to these Articles of Impeachment, and the right to present 296
proof to the Senate of the matters stated in the Articles of 297
Impeachment. 298