

**IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT,
IN AND FOR ALACHUA COUNTY, FLORIDA**

DARRIS FRIEND, et al.,

Plaintiffs,

Case No. 2021-CA-2412

v.

CITY OF GAINESVILLE,

Defendant.

**AMICUS BRIEF OF THE STATE OF
FLORIDA IN SUPPORT OF PLAINTIFFS**

Plaintiffs, employees of the City of Gainesville, ask this Court for emergency relief enjoining the City from requiring all city employees to obtain a COVID-19 vaccine. The Attorney General—who is authorized by law to appear in any suit in which the State has an interest, § 16.01(4), Fla. Stat.—submits this amicus brief in support of Plaintiffs’ request.

I. AN INJUNCTION IS IN THE PUBLIC INTEREST.

Plaintiffs’ requested relief is in the public interest because the challenged policy threatens to exacerbate the police shortage that Florida and the rest of the country are facing.¹ “Law enforcement agencies across the United States are

¹ *Police Officer Shortage Part of 8-Year Nationwide Trend*, ABC, available at <https://wjla.com/news/nation-world/police-officer-shortage-part-of-8-year-nationwide-trend> (last visited Sep. 13, 2021).

struggling to recruit and hire police officers.”² This problem is a compounding one, as recruiting shortfalls cause “existing officers” to be “overworked and burned out,” making it more difficult to retain those officers.³ Further, rising anti-police rhetoric has made it even more difficult for police departments to “attract applicants.”⁴

The resulting police shortages are a threat to public safety in Florida. When law enforcement agencies “lose officers without bringing in a number of qualified recruits to replace them,” this leads to “[l]onger wait times” after citizens call the police, “fewer crimes solved and cleared,” and an overall lower “quality of life in our communities.”⁵

The State of Florida has been actively seeking to mitigate this threat to public safety. The State recently paid police officers and other first responders a \$1,000 bonus in recognition of their sacrifices during the COVID-19 pandemic.⁶ And

² *The State of Recruitment: A Crisis for Law Enforcement*, at 2, INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE, available at https://www.theiacp.org/sites/default/files/239416_IACP_RecruitmentBR_HR_0.pdf (last visited Sep. 13, 2021).

³ *Id.*

⁴ *Police Recruiting Suffers as Morale Hits New Lows*, AXIOS, available at <https://www.axios.com/police-morale-suffers-recruiting-down-fb25f81e-b423-41fe-9d5f-242d43ebf337.html> (last visited Sep. 13, 2021); see also Daniel Cassady, *Amid Calls for Police Reform Across the Nation, Police Struggling with Recruiting and Retention*, FORBES, available at <https://www.forbes.com/sites/danielcassady/2020/07/29/amid-calls-for-police-reform-across-the-nation-police-struggle-with-recruiting-and-retention/?sh=3d6ebe304f94> (last visited Sep. 13, 2021); *The State of Recruitment*, *supra* note 2, at 4.

⁵ *The State of Recruitment*, *supra* note 2, at 5.

⁶ Press Release, *Governor Ron DeSantis Distributes Bonus Checks to Jacksonville Sheriff’s Deputies Through the ‘Florida’s Heroes’ Initiative*, available at

Governor DeSantis recently announced police recruiting-related proposals for the next legislative session, including new officer signing bonuses, scholarship programs, and out-of-state relocation support.⁷ The Legislature has also enacted measures to prevent local governments from defunding the police. *See* § 166.241(4)(a), Fla. Stat.

But as the State seeks to ensure adequate police protection for its citizens, the City of Gainesville is undermining those efforts, threatening to fire police, first responders, and other city employees over the deeply personal decision to get a COVID-19 vaccine. Forcing police officers out of their jobs is contrary to public safety and is therefore contrary to the public interest. *See Stevenson v. State and Local Police Agencies*, 42 F. Supp. 2d 229, 232 (W.D.N.Y. 1999). These individuals put their lives on the line for the people of Florida every day—and have continued to do so while much of the country was locked in their homes due to the COVID-19 pandemic. They deserve better.

<https://www.flgov.com/2021/08/10/governor-ron-desantis-distributes-bonus-checks-to-jacksonville-sheriffs-deputies-through-the-floridas-heroes-initiative/> (last visited Sep. 13, 2021).

⁷ Press Release, *Governor Ron DeSantis Announces New Initiatives to Recruit Law Enforcement Officers to Florida*, available at <https://www.flgov.com/2021/08/17/governor-ron-desantis-announces-new-initiatives-to-recruit-law-enforcement-officers-to-florida/> (last visited Sep. 13, 2021).

II. PLAINTIFFS ARE LIKELY TO PREVAIL ON THEIR ARGUMENT THAT GAINESVILLE’S POLICY VIOLATES SECTION 381.00316(2).

Florida’s vaccine passport ban, § 381.00316, Fla. Stat., forbids a “governmental entity” from, among other things, “requir[ing] persons to provide any documentation certifying COVID-19 vaccination” to “gain access to . . . the governmental entity’s operations in this state,” *id.* § 381.00316(2). The City’s policy operates to deny employees “access to” the City’s “operations,” in violation of that statute. The term “operations” is broad enough to include the hiring and firing of City employees, who are integral to running a government, and the term “persons” is sufficiently capacious to include City employees.

The City may argue that “access to” governmental operations protects only entry onto government property and obtaining government services. That argument, however, would render the phrase “access to” surplusage, since the statute already prohibits denying “entry upon” or “service from” governmental operations. *Id.* § 381.00316(2); *see Duncan v. Walker*, 533 U.S. 167, 174 (2001) (explaining a court’s “duty to give effect, if possible, to every clause and word of a statute”).

The City may also argue that Section 381.00316(2) applies only to patrons of government services, not employees. But unlike subsection (1), which uses the narrower terms “patrons” and “customers,” subsection (2) uses the broad term “persons,” which certainly includes employees. § 381.00316(1)–(2), Fla. Stat.

CONCLUSION

For the foregoing reasons, Plaintiffs' motion should be granted.

Respectfully submitted,

ASHLEY MOODY
ATTORNEY GENERAL

/s/ James H. Percival

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**MOTION FOR LEAVE TO FILE
AMICUS BRIEF ON BEHALF OF PLAINTIFFS**

The Attorney General respectfully requests leave of this Court to file an amicus brief in support of Plaintiffs. The Attorney General is authorized by law to appear in any suit in which the State has an interest, § 16.01(4), Fla. Stat., and therefore has a statutory right to appear here. The Attorney General wishes to explain why, in light of the police shortage affecting Florida and the entire nation, the public interest favors granting an injunction. The Attorney General also wishes to explain the proper interpretation of Section 381.00316(2), Florida Statutes.

The Plaintiffs consent to this motion. The City of Gainesville has not communicated its position, but instead has inquired as to what authority Florida relies on to file an amicus brief. Counsel for Florida cited Section 16.01(4), Florida

Statutes, and has not heard further from the City. Given the time-sensitive nature of Plaintiffs' motion, however, the State wishes to get its amicus brief on file.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies have been furnished by email service or via filing with the Florida Courts E-Filing Portal on September 13th, 2021 to the following:

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