

Motion Granted; Order and Dissent to Order filed July 17, 2025.



**In The
Fifteenth Court of Appeals**

NO. 15-25-00116-CV

**KEN PAXTON, IN HIS OFFICIAL CAPACITY AS ATTORNEY
GENERAL FOR THE STATE OF TEXAS AND THE OFFICE OF THE
ATTORNEY GENERAL FOR THE STATE OF TEXAS, Appellants**

V.

**DELIA GARZA, IN HER OFFICIAL CAPACITY AS TRAVIS COUNTY
ATTORNEY, ET AL.; JOHN CREUZOT, IN HIS OFFICIAL CAPACITY
AS DALLAS COUNTY CRIMINAL DISTRICT ATTORNEY, ET AL.; AND
BRIAN MIDDLETON, IN HIS OFFICIAL CAPACITY AS DISTRICT
ATTORNEY OF FORT BEND COUNTY (268TH JUDICIAL DISTRICT),
ET AL., Appellees**

**On Appeal from the 459th District Court
Travis County, Texas
Trial Court Cause No. D-1-GN-25-003445**

ORDER

Pending before this Court is Appellees' Emergency Motion for Temporary Relief, which asks this Court to stay enforcement of the reporting requirements of

Chapter 56 in Title 1 of the Texas Administrative Code against Appellees pending resolution of the Attorney General’s appeal of the trial court’s order granting temporary injunctive relief enjoining enforcement of those administrative rules.

The Attorney General’s notice of appeal superseded the trial court’s temporary injunction by operation of law. *See* Tex. R. App. P. 29.1(b); Tex. Civ. Prac. & Rem. Code § 6.001(b). In an appeal of an interlocutory order, however, a court of appeals “may make any temporary orders necessary to preserve the parties’ rights until disposition of the appeal.” Tex. R. App. P. 29.3. Depending on the circumstances, this rule allows a court of appeals to preserve the parties’ rights even if the temporary order has “the same practical effect as denying supersedeas of the trial court’s injunction.” *In re Abbott*, 645 S.W.3d 276, 282 (Tex. 2022) (citing *In re Tex. Educ. Agency*, 619 S.W.3d 679, 680 (Tex. 2021); *In re Geomet Recycling LLC*, 578 S.W.3d 82, 90 (Tex. 2019)).

Similar to considerations governing injunctive relief, determining whether to grant temporary relief requires us to “make a preliminary inquiry into the likely merits of the parties’ legal positions” and balance the harms that “will befall either party” as well as non-parties and the public, depending on the court’s decision. *In re State*, 711 S.W.3d 641, 645 (Tex. 2024). A court of appeals may further consider “other matters, depending on the circumstances.” *Id.* at 645. Because a stay is a “creature of equity,” a court “asked to issue one may take into account other case-specific equitable considerations that bear on its exercise of discretion.” *Id.* at 645–46.

The problem here is the procedural posture of this case, which is different than what the supreme court encountered in *In re State*. We do not yet have full briefing, and some of the issues in this case are legal issues that we cannot

definitively decide on the merits based only on an emergency motion and response, without full development of the arguments. As the supreme court has noted, “[t]he merits need not—an often should not—be definitively determined at this preliminary stage.” *Id.* at 645. This is one of those cases, and “other matters” should be considered. *Id.*

The case before us presents a close question of statutory construction and many other issues that are mixed questions of fact and law and are hotly contested. Appellees have raised serious questions of statutory construction on whether the Attorney General had express authority to promulgate the rules at issue and whether that authority may be implied. Based on the limited briefing we have received, as well as amicus briefs submitted to us thus far, the issues before us are complex. The parties had several months to consider, object, or defend the rules, but we have not, and we are reluctant to decide who is “likely to succeed on the merits” of a dispute that arrived on this Court’s doorstep two weeks ago.

The Attorney General points out potential harm that could come from a stay, but those harms are lessened considerably if the stay of enforcement is limited in time, as we intend it to be. Before the Attorney General promulgated the new rules, effective June of 2025, Appellees had no obligation to prepare and produce reports as required under those rules, which they contend require hours of work that will take away their ability to effectively prosecute cases and will lead to the production of privileged and confidential information. On balance, the potential for immediate, irreparable harm appears higher if there is not at least a temporary stay in place while we review the underlying merits, while any harm of a stay suggested by the Attorney General is less immediate in nature and not irreparable.

Under these case-specific circumstances, we **order** a stay under Texas Rule

of Appellate Procedure 29.3 and leave the trial court’s temporary injunction in place as to the named Appellees only.¹ *See In re State*, 711 S.W.3d at 645–46. The reinstatement of the trial court’s temporary injunction does not stay any other existing obligations of the Appellees to provide information to the Attorney General. Given the stakes in this case, it is not our intent to hold this matter in abeyance any longer than necessary.

With these considerations in mind, we grant Appellees’ Emergency Motion for Temporary Relief and **order** that the accelerated briefing schedule set forth in the Texas Rules of Appellate Procedure will govern the parties’ briefing deadlines. Neither party will be allowed any extensions.

This case will also be set for **submission and oral argument on September 24, 2025, at 1:30 pm, at the Court of Criminal Appeals, located at the Supreme Court Building, 201 W. 14th Street, Room 106.**

PER CURIAM

Panel consists of Chief Justice Brister and Justices Field and Farris. (Farris, J. dissenting).

¹ Appellant points out that the language of the trial court’s temporary injunction is broad and includes entities who are not a party in the court below. This stay does not apply to any third-party subject to the rules at issue who is not a party in the trial court or this Court. *See In re Abbott*, 645 S.W.3d 276, 283 (Tex. 2022) (concluding that Rule 29.3 does not allow appellate courts to issue stay that applies to non-parties).