

# Impact of Michigan Supreme Court Ruling

*Whitmer vs MI House and Senate*

10/4/20

# MI Supreme Court Ruling: Legal\* Implications

- Struck down 160 of the 200 COVID regulations passed by Governor Whitmer under the Emergency Powers Acts
- Effective 21 days from the date of the ruling, the Governor's extended Emergency Orders will be unconstitutional and no longer in effect
- Effective immediately, the AG will no longer enforce the regulations passed under Emergency Orders of the Governor
- The HHS has authority to limit crowd size in the event of epidemics, but enforcement authorities are weak
- The Governor can work with the House and Senate to enact COVID legislation in the future

\* Note: I am not a lawyer, this is from news articles written by lawyers. Michigan is not a state that I consult to.

# The Big 5 Orders – Ruled Unconstitutional

Breaking these rules were misdemeanors, and did not result in any jail time

- **Mask Mandate** – Executive Order 153. Michiganders are required to wear face coverings in public, indoor places. Masks are also required in outdoor places where attendees cannot maintain six feet of distance from one another and on public transportation. This is also the order that puts requirements on businesses to enforce customer mask wearing. *Reinstated by HHS 10/5/20 through 10/30/20 at 4:58PM, under MCL 332 253*
- **Restaurants at 50% Capacity** - Executive Order 2020-184. Requires restaurants to follow 20 rules. Restaurants reopened for indoor dining in June, but with limits in place. Indoor dining spaces are limited to 50% of normal seating – plus all groups must be separated by 6 feet or more. The order also requires people to wear masks at all times, except when seated. Other requirements include making employees wear masks, closing self-serve spaces like drink stations and buffets, closing common areas where people can dance or mingle and requiring restaurants to close immediately if an employee shows symptoms of COVID-19. *Reinstated by HHS 10/5/20 through 10/30/20 at 4:58PM, under MCL 332 253*
- **Gathering Limits** – October 9 EO scheduled to be enacted. Indoor venues can host 20 people per 1,000 square feet as long as people wear masks. Outdoor venues can host 30 people per 1,000 square feet or 30% seating capacity, and up to 1,000 people in the largest outdoor spaces. High School indoor venues in Regions 1-5 and 7 are allowed to hold 20 percent of their seating capacity up to 500 spectators, and indoor venues in Regions 6 and 8 able to be at 25 percent capacity. Outdoor athletic venues across the state are allowed to hold 30 percent of their seating capacity up to 1,000 spectators. *Reinstated by HHS 10/5/20 through 10/30/20 at 4:58PM, under MCL 332 253*
- **Bar Closures** - On July 1, Whitmer closed down indoor service at bars in Michigan that had at least 70% of their sales coming from alcohol. Since the state doesn't track sales data by how much is from alcohol versus other products, this regulation has been unenforceable. *Partially reinstated by HHS 10/5/20 through 10/30/20 at 4:58PM, under MCL 332 253*
- **Worker Office Space** - Executive Order 2020-176. Office workers in Michigan who can work remotely are required to keep working from home. *Partially reinstated by HHS 10/5/20 through 10/30/20 at 4:58PM, under MCL 332 253*
- Executive Order 2020-184. Lays out requirements for office spaces, including increased distancing, posting signs about personal hygiene and disinfecting high-touch surfaces.

Each violation be charged as a misdemeanor with a \$200 fine and up to 6 months in jail and a civil fine of up to \$1000 per violation. Local Health Departments are authorized to carry out this order of Director Gordon with Law Enforcement acting as “department representatives”

# MI COVID Cases: Implications of Court Ruling

Daily infections and testing

Trend

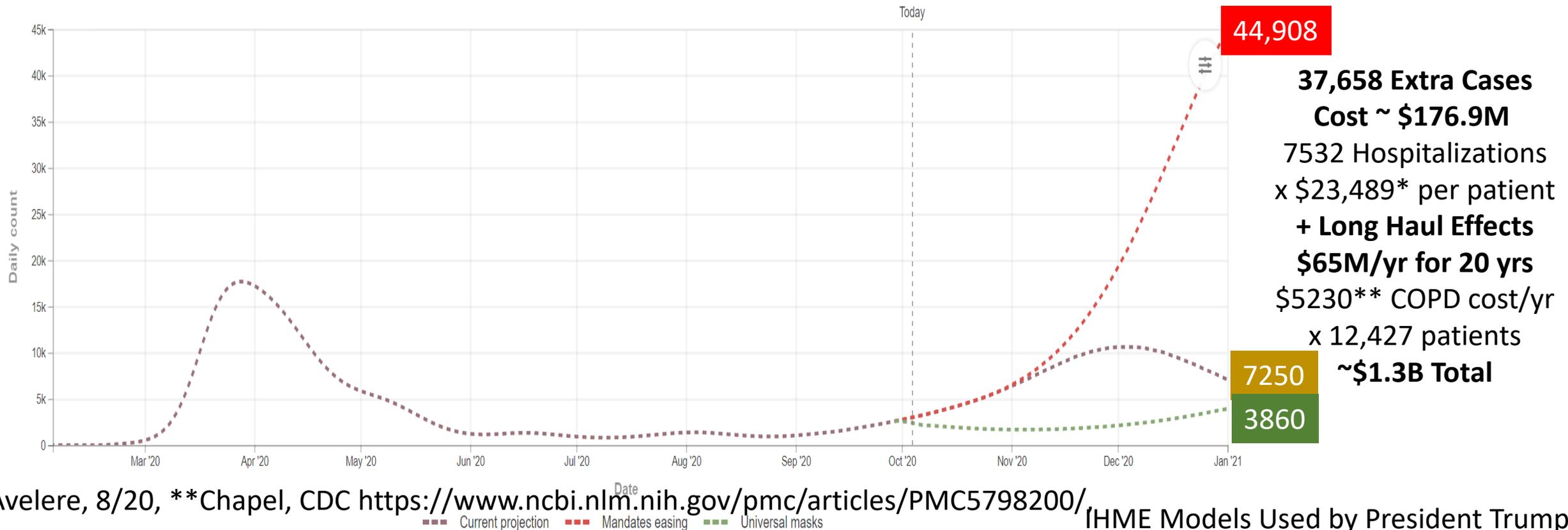
Compare

Map

Estimated infections are the number of people we estimate are infected with COVID-19 each day, including those not tested.

Estimated infections Confirmed infections Tests

Scenario Projection X Easing X Masks X



# MI COVID Deaths: Implications of Court Ruling

Daily deaths

Trend

Compare

Map

Daily deaths is the best indicator of the progression of the pandemic, although there is generally a 17-21 day lag between infection and deaths.

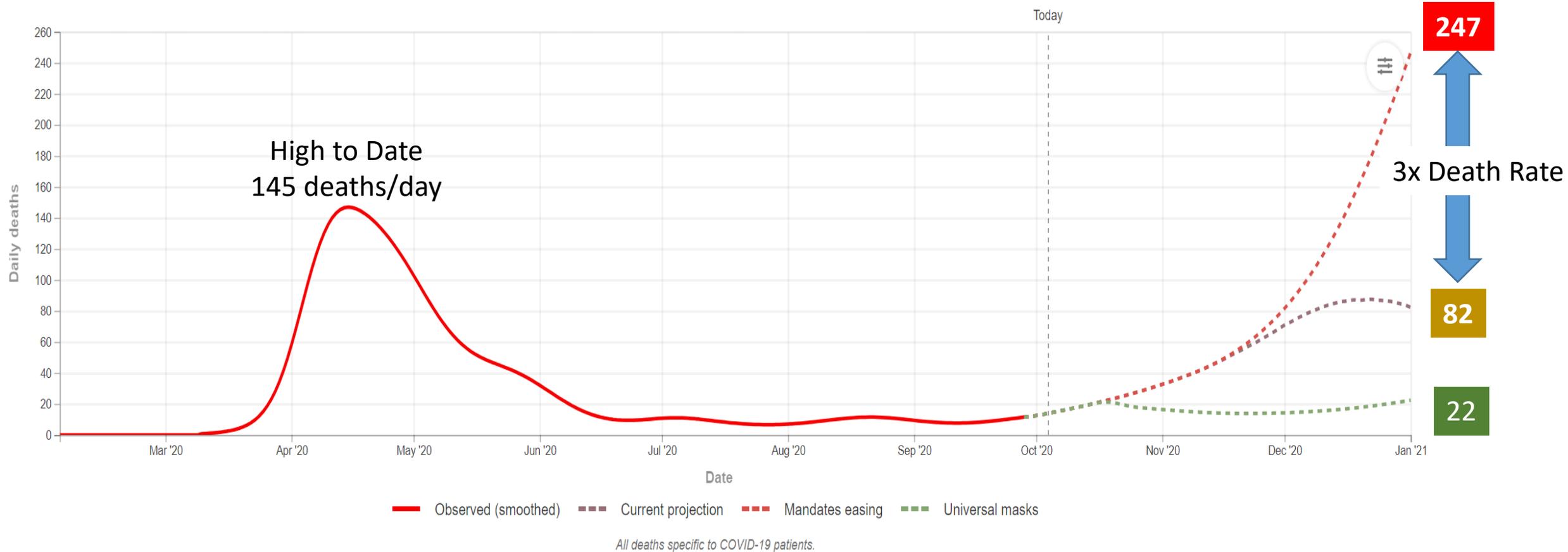
Scenario ⓘ

Projection x

Easing x

Masks x

▼



# MI COVID Deaths: Implications of Court Ruling

Total deaths   **Daily deaths**   Infections and testing   Hospital resource use   Mask use   Social distancing

**11,871** COVID-19 deaths

based on Current projection scenario by January 1, 2021

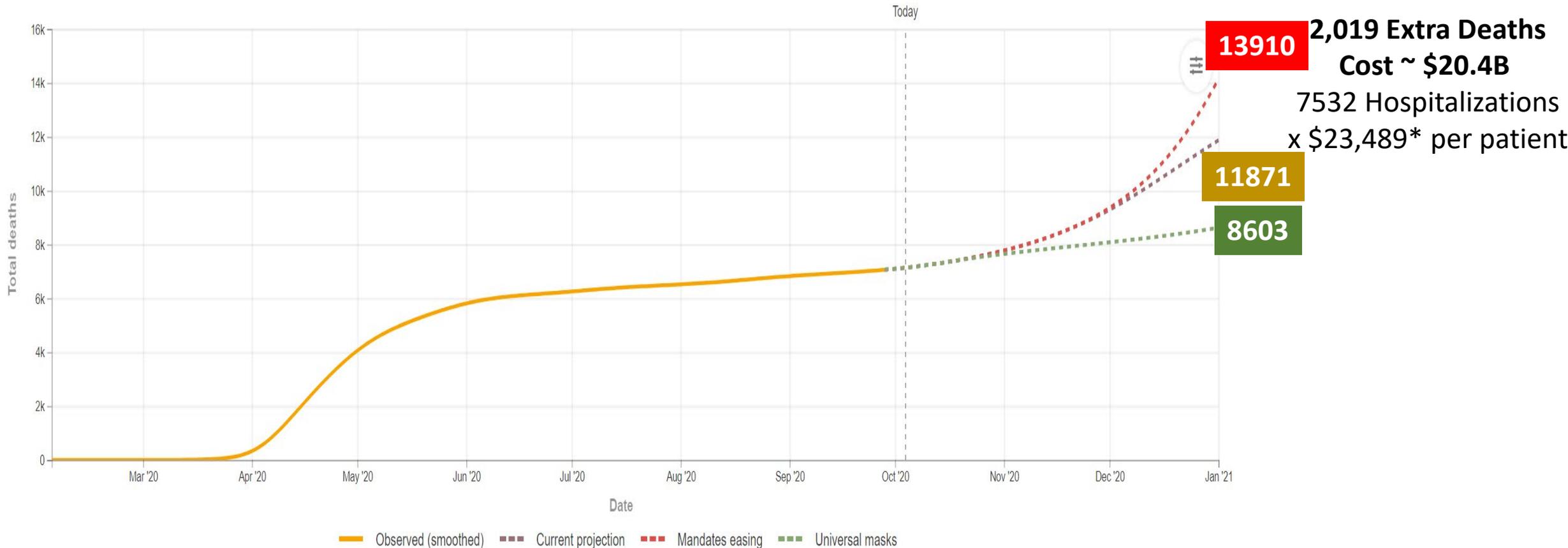
Scenario ⓘ

Projection x

Easing x

Masks x

▼



All deaths specific to COVID-19 patients.

\*Avalere, 8/20

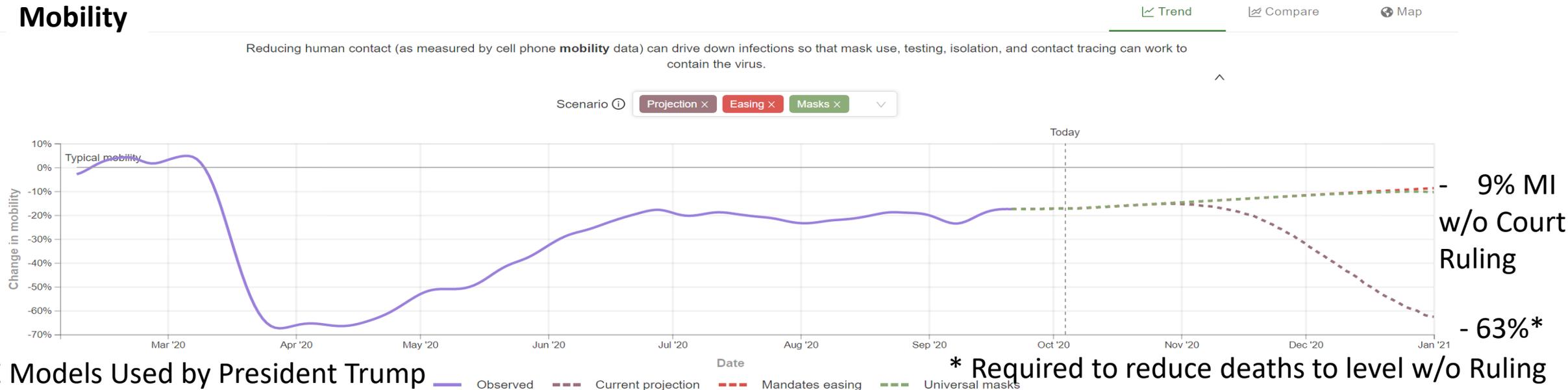
IHME Models Used by President Trump

# How Big an Imposition Have the E.O.'s Been?

## Mask Use



## Mobility



IHME Models Used by President Trump

# Costs of the Court Ruling

## November & December, 2020

	37,658 Extra Cases at a Cost	~ \$176.9M
	12,427 Extra Long Haul Cases	~ \$ 65.0M per year over 20 years
	2,019 Excess Deaths at a Cost	~ \$20,400M over 20 year period
<b>Total</b>	<b>Likely GDP Impact</b>	<b>~ \$2.7B</b>

## January – October 2021

Best Scenario – Vaccine Control by 11/21 = **One year of impact of Court Ruling ~\$16.2B**

The total annual contribution of all restaurants to the Michigan economy ~\$17.9B (So we could have closed all of them, paid them as though they were open and about broken even over the next year.)

**... And this ruling will drag GDP productivity down by ~3.5% every year for the next 20 years.**

# Conclusion: Permanent Damage & Individual Costs

## Impact on Michigan

- Overall Big Issue - Michigan will not be able to respond quickly across the state to stop an exponentially growing virus with this ruling just as we are going into the fall COVID season
- Inability to control outbreaks overwhelm hospitals which increase death rates by 2 – 14x

“It’s better to *over-respond* to an epidemic early and back off rather than to hope, wait and see. It will overwhelm you -

- COVID-19 reproduces exponentially while our responses are linear
- Our traditional processes will not work to control COVID-19”

Impact on you: Not much change in the need to distance and wear masks.

Upon Likely Repeal of ACA/Obamacare:

- Big Issue – The costs for individuals uninsured will be approximately 3x vs the Medicare/Medicaid/commercial insurance mixed rates quoted here.  
**If you are not insured and hospitalized with COVID expect to pay over \$70,000**
- Big Issue – The long haul conditions traced to COVID will be considered pre-existing conditions and not transferrable to the next insurer/employer.  
**If you are uninsured, expect to pay over \$20,000 per year**

# Trump's Medicines - If you are elderly and in the Hospital, this is the state of the art in treatment

*Talk to your treating physician about receiving the following medications*

- Regeneron Monoclonal Antibody Cocktail (or convalescent plasma)
  - Remdesivir, Antiviral
  - Dexamethasone, Steroid
  - Famintidine, anti-histimine/H2 inhibitor
  - Vitamin D, immuno-modulator
  - Melatonin, immuno-modulator
  - Zinc, immuno-modulator
  - Aspirin, anti-inflammatory, anti-clotting\*
- 
- Block the Virus
- Avoid the Cytokine Storm

President Trump also received this year's flu vaccine.

\*Also consider discussing low molecular weight Heparin as a standard treatment