

2007 Assembly Bill 321

Date of enactment: **March 12, 2008**
Date of publication*: **March 26, 2008**

2007 WISCONSIN ACT 79

AN ACT *to renumber and amend* 118.07 (2); *to amend* 165.25 (6) (b), 166.23, 250.042 (4) (b), 893.82 (2) (d) 1n., 895.46 (5) (am), 895.51 (title) and 895.51 (2); and *to create* 15.107 (18), 16.964 (1) (j), 16.9645, 118.07 (2) (b), 250.042 (4) (a) 3m., 895.51 (1) (bm), 895.51 (1) (dm), 895.51 (2m) and 895.51 (3m) of the statutes; **relating to:** designation of state agency status for certain health care facilities that use volunteer providers during a declared state of emergency; providing state agency status to volunteer providers in mass clinics; declarations of emergencies by counties; immunity from liability for qualified food and qualified emergency household products; creating an interoperability council; and requiring public and private schools to conduct tornado or other hazard drills.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 15.107 (18) of the statutes is created to read:

15.107 (18) INTEROPERABILITY COUNCIL. (a) There is created an interoperability council, attached to the department of administration under s. 15.03.

(b) The council consists of all of the following:

1. The executive director of the office of justice assistance, the adjutant general, the secretary of natural resources, the secretary of transportation, and a representative from the department of administration with knowledge of information technology, or their designees.

2. Ten members appointed by the governor for staggered 4-year terms, including a chief of police, a sheriff, a chief of a fire department, a director of emergency medical services, a local government elected official, a local emergency management director, a representative of a federally recognized American Indian tribe or band in this state, a hospital representative, a local health department representative, and one other person with relevant

experience or expertise in interoperable communications.

(c) The governor shall designate a member of the council as the chairperson and a member as the vice chairperson.

SECTION 2. 16.964 (1) (j) of the statutes is created to read:

16.964 (1) (j) Provide staff support for the interoperability council under s. 16.9645 and oversight of the development and operation of a statewide public safety interoperable communication system.

SECTION 3. 16.9645 of the statutes is created to read:
16.9645 Interoperability council. (1) In this section:

(a) “Council” means the interoperability council created under s. 15.107 (18).

(b) “Dispatch center” has the meaning given for “public safety answering point” in s. 146.70 (1) (gm).

(c) “Interoperability” means the ability of public safety agencies to communicate with each other and with agencies and entities identified under sub. (2) (a) by means of radio or associated communications systems,

* Section 991.11, WISCONSIN STATUTES 2005–06 : Effective date of acts. “Every act and every portion of an act enacted by the legislature over the governor’s partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated” by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

including the exchange of voice, data, or video communications on demand and in real time, as needed and authorized.

(d) "Public safety agency" has the meaning given in s. 146.70 (1) (g).

(2) The council shall do all of the following:

(a) Identify types of agencies and entities, including public works and transportation agencies, hospitals, and volunteer emergency services agencies to be included, in addition to public safety agencies, in a statewide public safety interoperable communication system.

(b) Recommend short-term and long-term goals to achieve a statewide public safety interoperable communication system.

(c) Recommend and periodically review a strategy and timeline for achieving the goals under par. (b), including objectives for local units of government.

(d) Assist the office of justice assistance in identifying and obtaining funding to implement a statewide public safety interoperable communication system.

(e) Advise the office of justice assistance on allocating funds, including those available for homeland security, for the purpose of achieving the goals under par. (b).

(f) Make recommendations to the office of justice assistance on all of the following:

1. Technical and operational standards for public safety interoperable communication systems.

2. Guidelines and procedures for using public safety interoperable communication systems.

3. Minimum standards for public safety interoperable communication systems, facilities, and equipment used by dispatch centers.

4. Certification criteria for persons who operate public safety interoperable communication systems for dispatch centers.

SECTION 4m. 118.07 (2) of the statutes is renumbered 118.07 (2) (a) and amended to read:

118.07 (2) (a) Once each month, without previous warning, the person having direct charge of any public or private school shall drill all pupils in the proper method of departure from the building as if in case of fire, except when the person having direct charge deems that the health of the pupils may be endangered by inclement weather conditions. At least twice annually, without previous warning, the person having direct charge of any public or private school shall drill all pupils in the proper method of evacuation to a safe location as if in the case of a tornado or other hazard. The school board or governing body of the private school shall maintain for at least 7 years a record of each fire drill and tornado or other hazard drill conducted.

SECTION 4o. 118.07 (2) (b) of the statutes is created to read:

118.07 (2) (b) In each community having a recognized fire department, the person having direct charge of any public or private school shall annually file a report

pertaining to such drills, on a form furnished by the department of commerce, with the chief of the fire department. When no fire drill is held during any month, or when only one or no tornado or other hazard drill is held in a year, the person having direct charge of the school shall state the reasons in the report.

SECTION 5. 165.25 (6) (b) of the statutes is amended to read:

165.25 (6) (b) Volunteer health care providers who provide services under s. 146.89 or 250.042 (4) ~~and~~, volunteer behavioral health providers, pupil services providers, and substance abuse prevention providers who provide services under s. 250.042 (4), and health care facilities on whose behalf services are provided under s. 250.042 (4) are, for the provision of those services, covered by this section and shall be considered agents of the department of health and family services for purposes of determining which agency head may request the attorney general to appear and defend them.

SECTION 6. 166.23 of the statutes is amended to read:

166.23 Emergency powers of counties, cities, villages and towns. (1) Notwithstanding any other provision of law to the contrary, the governing body of any county, city, village, or town is empowered to declare, by ordinance or resolution, an emergency existing within the county, city, village, or town whenever conditions arise by reason of war, conflagration, flood, heavy snow storm, blizzard, catastrophe, disaster, riot or civil commotion, acts of God, and including conditions, without limitation because of enumeration, which impair transportation, food or fuel supplies, medical care, fire, health or police protection or other vital facilities of the county, city, village, or town. The period of the emergency shall be limited by the ordinance or resolution to the time during which the emergency conditions exist or are likely to exist.

(2) The emergency power of the governing body conferred under sub. (1) includes the general authority to order, by ordinance or resolution, whatever is necessary and expedient for the health, safety, welfare and good order of the county, city, village, or town in the emergency and includes without limitation because of enumeration the power to bar, restrict or remove all unnecessary traffic, both vehicular and pedestrian, from the local highways, notwithstanding any provision of chs. 341 to 349 or any other provisions of law. The governing body of the county, city, village, or town may provide penalties for violation of any emergency ordinance or resolution not to exceed a \$100 forfeiture or, in default of payment of the forfeiture, 6 months' imprisonment for each separate offense.

(2m) If the governing body of a county, city, village, or town declares an emergency under sub. (1) and intends to make use of behavioral health providers, health care providers, pupil services providers, or substance abuse prevention providers, as specified in s. 250.042 (4), the

governing body or its agent shall, as soon as possible, notify the department of health and family services of this intent.

(3) If, because of the emergency conditions, the governing body of the county, city, village, or town is unable to meet with promptness, the chief executive officer or acting chief executive officer of any county, city, village, or town shall exercise by proclamation all of the powers conferred upon the governing body under sub. (1) or (2) which within the discretion of the officer appear necessary and expedient for the purposes herein set forth. The proclamation shall be subject to ratification, alteration, modification or repeal by the governing body as soon as that body can meet, but the subsequent action taken by the governing body shall not affect the prior validity of the proclamation.

SECTION 6m. 250.042 (4) (a) 3m. of the statutes is created to read:

250.042 (4) (a) 3m. "Mass clinic" means a designated space that is arranged by a local health department or by the department and operated during a defined period of time to provide vaccination, prophylaxis, medication, or other specialized treatment to a population in response to a public health emergency.

SECTION 7. 250.042 (4) (b) of the statutes is amended to read:

250.042 (4) (b) A behavioral health provider, health care provider, pupil services provider, or substance abuse prevention provider who, during a state of emergency declared under s. 166.03 (1) (b) 1. or 166.23, provides behavioral health services, health care services, pupil services, or substance abuse prevention services for which the behavioral health provider, health care provider, pupil services provider, or substance abuse prevention provider has been licensed or certified or, as a nurse's assistant, has met requirements, is, for the provision of these services a state agent of the department for purposes of ss. 165.25 (6), 893.82, and 895.46 and is an employee of the state for purposes of worker's compensation benefits. The behavioral health services, health care services, pupil services, or substance abuse prevention services shall be provided on behalf of a health care facility or mass clinic on a voluntary, unpaid basis, except that the behavioral health provider, health care provider, pupil services provider, or substance abuse prevention provider may accept reimbursement for travel, lodging, and meals. The health care facility on whose behalf the services are provided is, for the provision of the services, a state agent of the department for purposes of ss. 165.25 (6), 893.82, and 895.46.

SECTION 8. 893.82 (2) (d) 1n. of the statutes is amended to read:

893.82 (2) (d) 1n. A behavioral health provider, health care provider, pupil services provider, or substance abuse prevention provider who provides services under s. 250.042 (4) and a health care facility on whose

behalf services are provided under s. 250.042 (4), for the provision of those services.

SECTION 9. 895.46 (5) (am) of the statutes is amended to read:

895.46 (5) (am) A behavioral health provider, health care provider, pupil services provider, or substance abuse prevention provider who provides services under s. 250.042 (4) and a health care facility on whose services are provided under s. 250.042 (4).

SECTION 10. 895.51 (title) of the statutes is amended to read:

895.51 (title) Civil liability exemption: food or emergency household products; donation, sale, or distribution.

SECTION 11. 895.51 (1) (bm) of the statutes is created to read:

895.51 (1) (bm) "Qualified emergency household products" includes flashlights, generators, blankets, personal care products, household cleaning products, and emergency supplies that meet the standards for safety and quality established by federal or state law, regulation, or rule, that are not defective, and that have not been recalled by the consumer products safety commission.

SECTION 12. 895.51 (1) (dm) of the statutes is created to read:

895.51 (1) (dm) "Governmental unit" means the United States; the state; any county, city, village, or town; any political subdivision, department, division, board, or agency of the United States, the state, or any county, city, village, or town; or any federally recognized American Indian tribe or band in this state or an agency of the tribe or band.

SECTION 13. 895.51 (2) of the statutes is amended to read:

895.51 (2) Any person engaged in the processing, distribution, or sale of food products, for profit or not for profit, who donates or sells, at a price not to exceed overhead and transportation costs, qualified food to a charitable organization or food distribution service, or governmental unit is immune from civil liability for the death of or injury to an individual caused by the qualified food donated or sold by the person.

SECTION 14. 895.51 (2m) of the statutes is created to read:

895.51 (2m) Any person engaged in the manufacturing, distribution, or sale of qualified emergency household products, for profit or not for profit, who donates or sells, at a price not to exceed overhead and transportation costs, qualified emergency household products to a charitable organization or governmental unit in response to a state of emergency declared under s. 166.03 (1) (b) 1. or 166.23 is immune from civil liability for the death of or injury to an individual caused by the qualified emergency household product donated or sold by the person.

SECTION 15. 895.51 (3m) of the statutes is created to read:

895.51 (3m) Any charitable organization that distributes free of charge qualified emergency household products received under sub. (2m) is immune from civil liability for the death of or injury to an individual caused by the qualified emergency household product distributed by the charitable organization.

SECTION 16. Nonstatutory provisions.

(1) INITIAL TERMS OF COUNCIL MEMBERS. Notwithstanding section 15.107 (18) (b) 2. of the statutes, as created by this act, the initial terms of 5 of the members of the interoperability council appointed under section

15.107 (18) (b) 2. of the statutes, as created by this act, shall expire on July 1, 2009, and the terms of the other 5 members of the council appointed under section 15.107 (18) (b) 2. of the statutes, as created by this act, shall expire on July 1, 2011.

SECTION 17. Initial applicability.

(1) This treatment of section 895.51 (title), (1) (bm) and (dm), (2), (2m), and (3m) of the statutes first applies to an injury or death occurring on the effective date of this subsection.

