

## 2007 BILL

1     **AN ACT to amend** 166.23 of the statutes; **relating to:** declarations of  
2     emergencies by counties.

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***Analysis by the Legislative Reference Bureau***

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the Joint Legislative Council's Special Committee on Disaster Preparedness Planning.

Current law provides that a behavioral health provider, health care provider, pupil services provider, or substance abuse prevention provider who, during a declared emergency, provides behavioral health services, health care services, pupil services, or substance abuse prevention services for which the person has been licensed or certified is, for the provision of those services, a state agent of the Department of Health and Family Services (DHFS) for purposes of several specified statutes. The services must have been provided on behalf of a health care facility on a voluntary, unpaid basis, except that the provider may accept reimbursement for travel, lodging, and meals. The emergency must be declared by the governor under s. 166.03 (1) (b) 1., stats., or by a city, village, or town under s. 166.23, stats.

Current law provides that the volunteers are considered to be state agents of DHFS for the purpose of specified statutes. Those statutes require notice to the Department of Justice (DOJ) within a specified time period, allow DOJ to represent the person in civil or administrative actions, limit damages to \$250,000 (with no punitive damages allowed), and require that the damages be paid by the state.

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This bill expands s. 166.23, stats., to allow declarations of emergencies by governing bodies of counties. By including counties in that statute, the specified types of volunteer providers at health care facilities will be considered agents of DHFS under the statutes described in the previous paragraph during an emergency declared by the governing body of a county.

**SECTION 1.** 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.

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**(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.

**(END)**