

AUTHORIZING THE FILING OF AN AMICUS BRIEF IN SUPPORT OF STATE DEPARTMENT
OF HEALTH SERVICES SECRETARY-DESIGNEE PALM'S STATEWIDE PUBLIC HEALTH
EMERGENCY ORDER IN
WISCONSIN LEGISLATURE v. PALM, et al.

On March 24, 2020, Wisconsin Health Services Secretary-Designee Palm ("Secretary-Designee") issued Emergency Order #12 ("Order #12") that required everyone in Wisconsin to stay at home or place of residence except in limited circumstances in order to slow down the rate of COVID-19 infections in Wisconsin. Since then, Emergency Order #12 has worked to flatten the curve of COVID-19 infections. For example, when the Order was issued, the number of Wisconsin residents testing positive for COVID-19 was doubling every 3.4 days. By April 14, 2020, the rate of doubling was approximately 12 days. Moreover, the number of deaths from COVID-19 had been projected to reach up to 1,500 deaths by April 8, but since the Order was put in place, the number of deaths reached only 99 on April 8.

On April 16, the Secretary-Designee issued Emergency Order #28 (Order #28) which extended the requirement to stay at home or place of residence until May 26, 2020. In response, the Wisconsin Legislature filed a motion for a temporary injunction of Order #28 and a petition for an original action with the Wisconsin Supreme Court. In its motion, the Wisconsin Legislature argues that Secretary-Designee's Order #28 is unlawful because she did not have the authority to issue it, exceeded her authority when she issued Order #28, and arbitrarily drafted the order. If the motion is successful, the Secretary-Designee's Order #28 would be enjoined and the stay at home restrictions would be lifted.

Prohibiting the Secretary-Designee from issuing statewide public health emergency orders such as Order #28, would place Dane County residents' health and safety at risk. The issuance of statewide public health emergency orders to control communicable diseases is a critical tool to control the spread of contagious diseases like COVID-19.

The Wisconsin Supreme Court has authorized the filing of amici briefs by April 29, 2020. Since time is of the essence, the County Executive requested the Office of the Corporation Counsel to work with the Madison City Attorney's Office in developing an amicus brief in support of the Secretary-Designee's statutory authority to issue statewide public health emergency orders, such as Order #28.

NOW, THEREFORE, BE IT RESOLVED that the Dane County Board of Supervisors supports the amicus brief filed in the Wisconsin Supreme Court that supports the statutory authority of the Secretary-Designee to issue statewide public health emergency orders in WISCONSIN LEGISLATURE v. PALM, et al., No. 2020AP765-0A.