



WISCONSIN LEGISLATURE

P. O. Box 7882 Madison, WI 53707-7882

April 9, 2020

The Honorable Tony Evers
Governor, State of Wisconsin
2 East Main Street
Madison, WI 53703

RE: DHS EMERGENCY ORDER #12 – Outdoor Religious Gatherings

Dear Governor Evers,

While Wisconsinites appreciate the efforts made by our government officials to take the COVID-19 pandemic seriously, we, as government officials, cannot simply abandon the most fundamental rights under the United States and Wisconsin Constitutions, including but not limited to, the freedoms of assembly, religious exercise, and travel. Nor can any branch of government, be it the legislative or executive, issue edicts, based neither on science or the law, and expect such edicts to be upheld by the judicial courts or the court of public opinion.

With that said, We are requesting that your administration and/or DHS specifically respond to the question of whether “outdoor religious gatherings” that comply with all social distancing and other “Safer-At-Home” provisions are prohibited under your Executive Order #72, Emergency Order #12 (EO12) or any other order or state statute/law. For your convenience and to assist in your timely response, we have attached a legal memorandum from the non-partisan Wisconsin Legislative Council that reads in part:

“Under both Emergency Orders #8 and #12, it is permissible for a religious service to be held outside, including a drive-up service, as long as there is compliance with certain restrictions specified in the orders....

Under Emergency Order #12, religious services are expressly encouraged to continue while the order is in effect.”

Further, attorneys at Legislative Reference Bureau provided guidance on EO12 stating in part:

“EO12 expressly permits religious gatherings and imposes the fewer-than-ten-people limitation only with respect to religious gatherings that take place “in a room or confined space.” ... to read the order other than as permitting such gatherings would result in an apparent absurdity...”

While, the legislature has not received any justification as to why these types of restrictions should occur or why narrowly-tailored accommodations cannot be made, apparently your administration placed further restrictions on worship services with guidance to county health departments. This is despite the fact that your most recent legislative update specifically deemed churches as “Essential Business” for the purposes of your orders.

As of the writing of this letter, churches in Taylor, Walworth, Waukesha, Outagamie, and Dane Counties have apparently received communications prohibiting any planned outdoor worship services even if specifically designed to comply with social distancing guidelines set forth by Emergency Orders #8 and #12. This guidance apparently also deemed travel to church services as “non-essential”. Churches in these counties and across the state require clarity and relief from the confusion created by the latest Department of Health Services (DHS) guidelines in relation to outdoor and drive-up worship services. In addition to my request for clarification of your order, we are requesting a copy of the communication that DHS sent to county health departments relating to outdoor worship services.

If you and your Administration disagree with the above analysis, please indicate how in your response to my specific question. Along with providing for physical security, government must accommodate the free exercise of individuals to engage in congregational worship, as guaranteed under the Constitutions of the United States and the State of Wisconsin.

Thank you again for your efforts to address this crisis. We look forward to your prompt response to these concerns.

Sincerely,

David Craig
State Senator
28th Senate District

Dale Kooyenga
State Senator
5th Senate District

Barbara Dittrich
State Representative
38th Assembly District

Roger Roth
State Senator
19th Senate District

André Jacque
State Senator
1st Senate District

Treig Pronschinske
State Representative
92nd Assembly District

Albert Darling
State Senator
8th Senate District

Gae Magnafici
State Representative
28th Assembly district

Mary Felzkowski
State Representative
35th Assembly District

Steve Nass
State Senator
11th Senate District

Chuck Wichgers
State Representative
83rd Assembly District

Dan Knodl
State Representative
24th Assembly District

Duey Stroebel
State Senator
20th Senate District

Ken Skowronski
State Representative
82nd Assembly District

Cody Horlacher
State Representative
33rd Assembly District

Patrick Testin
State Senator
24th Senate District

Tim Ramthun
State Representative
59th Assembly District

Shae Sortwell
State Representative
2nd Assembly District

Van Wanggaard
State Senator
21st Senator District

Bob Kulp
State Representative
69th Assembly District

Jesse James
State Representative
68th Assembly District

Scott Allen
State Representative
97th Assembly District

Rick Gundrum
State Representative
58th Assembly District

Scott Krug
State Representative
72nd Assembly District

Jeremy Thiesfeldt
State Representative
52nd Assembly District

Terry Katsma
State Representative
26th Assembly District

Gary Tauchen
State Representative
6th Assembly District

Dave Murphy
State Representative
56th Assembly District

CC: Secretary-designee Andrea Palm