

Evers slams GOP lawsuit over stay-at-home order as nakedly political power grab

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Gov. Tony Evers slammed GOP leaders today for suing to overturn his administration's latest stay-at-home order, calling the lawsuit a nakedly political power grab that diminishes the threat COVID-19 poses to the health of Wisconsin residents.

Evers yesterday said the suit's message to those who have contracted COVID-19 and died from the disease is "their health doesn't count."

"Legislative Republicans, frankly, have said to the people of Wisconsin our power, our political power is more important than your health," Evers said.

The suit comes five days after his administration announced an extension of a stay-at-home order to May 26; it had originally been set to expire April 26. Republicans balked at the move and knocked the plan Evers released Monday setting benchmarks for when the state would start reopening what the gov's administration has deemed non-essential businesses.

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Senate Majority Leader Scott Fitzgerald, R-Juneau, and Assembly Speaker Robin Vos, R-Rochester, said they had no choice but to turn to the Supreme Court to "rein in this obvious abuse of power."

"Wisconsinites deserve certainty, transparency, and a plan to end the constant stream of executive orders that are eroding both the economy and their liberty even as the state is clearly seeing a decline in COVID infections," they said.

The suit argues the Evers administration improperly circumvented the Legislature with the second stay-at-home order, arguing the gov should've gone through the emergency rules process rather than having DHS Secretary Andrea Palm issue the directive.

Evers' powers under the original public health emergency declaration end early next month without a joint resolution of the Legislature to extend it. But the second stay-at-home order was issued by Palm under powers granted her outside of the gov's authority.

Noting Palm hasn't been confirmed by the Senate, the suit accuses her of laying "claim to a suite of czar-like powers — unlimited in scope and indefinite in duration — over the people of Wisconsin."

The suit argues the Legislature didn't grant Palm the power she's now citing in extending the order. What's more, it argues she purposefully avoided issuing an emergency rule to cut lawmakers out of the process.

The suit asks the state Supreme Court to take the emergency petition directly and issue an injunction preventing the Evers administration from enforcing the new order.

GOP lawmakers also asked for the court to stay the proposed injunction for six days to give DHS time to promulgate a new emergency rule.

"If a single bureaucrat can evade the controls and accountability measures that the Legislature has enacted to control agency overreach simply by labeling what is obviously an emergency rule a mere 'order,' then all of the reforms that the Legislature has put in place, and which this Court has interpreted and enforced over the years, are a meaningless, dead letter — in their most consequential application."

The Evers administration has until Tuesday to respond to the suit.

After Palm issued the second stay-at-home order, two Senate Republicans called for the chamber to quickly convene and reject her nomination. Evers called that suggestion silly, saying Palm is "a consummate professional," adding he supports her "100 percent."

Evers dismissed the call to go through the administrative rules process as simply a

power play, saying it would delay the state's reaction amid the pandemic.

"People are going to die," Evers said. "This isn't just like some academic endeavor here."

Senate Minority Leader Jennifer Shilling, D-La Crosse, slammed Republicans for wasting taxpayer dollars on the private attorneys representing them in the middle of a health crisis, urging her GOP colleagues to "come to grips with the severity of this virus."

"During a pandemic, the last thing we need is Republican retaliation that could jeopardize Wisconsin's most vulnerable citizens," she said.

Read the suit:

<http://legis.wisconsin.gov/senate/13/fitzgerald/media/1402/20200421-supporting-memorandum-final.pdf>