2005 DRAFTING REQUEST

Bill

Received: **02/15/2006**

Received By: **chanaman**

Wanted: **As time permits**

Identical to LRB:

For: **Mary Lazich (608) 266-5400**

By/Representing: **Paul Beard**

This file may be shown to any legislator: **NO**

Drafter: **chanaman**

May Contact:

Addl. Drafters:

Subject: **Criminal Law - law enforcement**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Lazich@legis.state.wi.us**

Carbon copy (CC:) to: **robin.ryan@legis.state.wi.us**

Pre Topic:

No specific pre topic given

Topic:

Action by off-duty police officers

Instructions:

See Attached--companion to LRB-2072

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	chanaman 02/15/2006	kfollett 02/15/2006		_____ _____			S&L
/1			pgreensl 02/15/2006	_____ _____	lnorthro 02/15/2006	lnorthro 02/24/2006	

FE Sent For: at intro 2/28

<END>

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/?	chanaman	/1 kjf 2/15	2/15 PS	2/15 PS 1/6			

FE Sent For:

<END>

-4667/1

TODAY

2005 – 2006 LEGISLATURE

LRB–2072/2
RLR:jld&kjf:rs
stays

2005 BILL

cps: PWF where indicated

companion bill no change

regen cnt

AN ACT ***to amend*** 165.85 (3) (d); and ***to create*** 175.40 (6m) of the statutes; **relating to:** authority for an off–duty peace officer to act outside his or her territorial jurisdiction.

Analysis by the Legislative Reference Bureau

Under current law, a peace officer while on duty and on official business, may make an arrest or provide aid or assistance outside his or her territorial jurisdiction but within the state if all of the following conditions are met: 1) the officer's action would be authorized if done in his or her own jurisdiction; 2) the officer is responding to an emergency situation, which poses a significant threat of death or bodily harm, or the officer is responding to activity that constitutes a felony; and 3) the officer's supervising agency has adopted policies authorizing the officer to act outside his or her jurisdiction, and the officer's actions are in compliance with the policies. Also under current law, a peace officer is immune from civil or criminal liability for acts done in the course of his or her official duty, including acts that meet the above criteria and are committed outside the officer's territorial jurisdiction but within the state.

This bill provides that an off–duty peace officer may make an arrest or provide aid or assistance outside his or her territorial jurisdiction but within the state if conditions similar to those for an on–duty officer acting outside his or her jurisdiction are met. The officer must be engaging in conduct that would be authorized if done in his or her own jurisdiction. The officer may act in response to an emergency that poses a significant threat of death or bodily harm, but may not act solely in response

to commission of a felony. Finally, an off–duty officer may only act outside his or her jurisdiction if the officer's supervising agency has adopted policies authorizing action by off–duty officers outside their jurisdiction and if the officer's acts are in compliance with those policies.

The bill grants a peace officer civil and criminal immunity for acts authorized by the bill that are committed while the officer is off duty and out of his or her jurisdiction but in the state. The bill further provides that an off–duty officer acting outside his or her jurisdiction and in accordance with authority provided in the bill is eligible for worker's compensation benefits, and in general is considered to be performing his or her duty and engaging in his or her occupation so as to be eligible for duty disability benefits. Finally, the bill makes the state, rather than the officer's employer, financially liable for defending against lawsuits, paying damages, and paying worker's compensation benefits arising out of an act committed by an off–duty officer acting outside his or her jurisdiction and in accordance with the authority provided under the bill.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

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

, as affected by 2005 Wisconsin Act 60,

SECTION 1. 165.85 (3) (d) of the statutes is amended to read:

165.85 **(3)** (d) Establish minimum curriculum requirements for preparatory courses and programs, and recommend minimum curriculum requirements for recertification and advanced courses and programs, in schools operated by or for this state or any political subdivision of the state for the specific purpose of training law enforcement recruits, law enforcement officers, tribal law enforcement recruits, tribal law enforcement officers, jail officer recruits, jail officers, secure detention officer recruits, or secure detention officers in areas of knowledge and ability necessary to the attainment of effective performance as an officer, and ranging from traditional subjects such as first aid, patrolling, statutory authority, techniques of arrest, protocols for official action by off–duty officers (plain) and firearms (plain) and recording custodial interrogations, to subjects designed to provide a better understanding of ever–increasing complex problems in law enforcement such as human relations, civil rights, constitutional law, and

supervision, control and maintenance of a jail or secure detention facility. The board shall appoint a 13–member advisory curriculum committee consisting of 6 chiefs of police and 6 sheriffs to be appointed on a geographic basis of not more than one chief of police and one sheriff from any one of the 8 state administrative districts together with the director of training of the Wisconsin state patrol. This committee shall advise the board in the establishment of the curriculum requirements.

SECTION 2. 175.40 (6m) of the statutes is created to read:

175.40 **(6m)** (a) An off–duty peace officer may arrest a person or provide aid or assistance outside of his or her territorial jurisdiction but in the state if all of the following apply:

1. The officer is responding to an emergency situation that poses a significant threat to life or of bodily harm.

2. The officer is taking action that he or she would be authorized to take under the same circumstances in the officer's territorial jurisdiction.

3. The officer's supervising agency has adopted written policies authorizing off–duty officers to make arrests or provide aid or assistance outside of the agency's territorial jurisdiction but in the state, and the policies at a minimum address all of the following:

a. Reasonable responses to an emergency situation under subd. 1.

b. Arrests made in response to an emergency situation under subd. 1.

c. Notification of and cooperation with a law enforcement agency of another jurisdiction regarding arrests made and other actions taken in the other jurisdiction.

4. The officer's action is in compliance with the policies under subd. 3.

(b) A supervising agency may limit its officer's authority to act under this subsection by including limitations in the written policies under par. (a) 3.

1 (c) 1. For purposes of civil and criminal liability and for purposes of s. 895.46,
2 an off–duty peace officer acting outside the officer's jurisdiction as authorized under
3 this subsection is considered to be acting in an official capacity as an officer of the
4 state employee, or agent of the state.

5 2. For purposes of worker's compensation under ch. 102, an off–duty peace
6 officer acting outside the officer's territorial jurisdiction as authorized under this
7 subsection is considered to be an employee of the state and the officer is eligible for
8 the same benefits as if the officer had sustained the injury while performing services
9 growing out of and incidental to the officer's employment with the employing
10 supervisory agency.

11 3. An off–duty peace officer acting outside the officer's territorial jurisdiction
12 as authorized under this subsection is considered to be performing his or her duty
13 and engaging in his or her occupation.

14 **(END)**

Northrop, Lori

From: Sen.Lazich
Sent: Friday, February 24, 2006 2:52 PM
To: LRB.Legal
Subject: Draft Review: LRB 05-4667/1 Topic: Action by off-duty police officers

Please Jacket LRB 05-4667/1 for the SENATE.

LRB - 4667/1
RLR

CCC
to
SB - 641

(¶) #. Page 4, line 6: before "employee" insert "a state".

<end>

cjs

LRB
Wisconsin Legislative Reference Bureau

State of Wisconsin
2005–2006 LEGISLATURE

CORRECTIONS IN:

2005 SENATE BILL 641

Prepared by the Legislative Reference Bureau
(April 12, 2006)

1. Page 4, line 6: before "employee" insert ", state".

(END)

LRB–4667/1ccc–1
CJS:ch

Minor clerical corrections in legislation are authorized under s. 35.17, stats.; Senate Rule 31; Assembly Rule 36; and Joint Rule 56.