

2011 DRAFTING REQUEST

Assembly Amendment (AA-SB125)

Received: 01/24/2012

Received By: phurley

Wanted: As time permits

Companion to LRB:

For: Kelda Helen Roys (608) 266-5340

By/Representing:

May Contact:

Drafter: phurley

Subject: Justice - criminal

Addl. Drafters:

Extra Copies:

Submit via email: YES

Requester's email: Rep.Roys@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Funding for the sexual assault victims program

Instructions:

out of discretionary fund, direct DOJ to pay \$ to the SAVs program

Discussed germaneness with requester, so no need to dnote that.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	phurley 01/24/2012	jdye 01/25/2012	phenry 01/25/2012	_____	sbasford 01/25/2012	sbasford 01/25/2012	

FE Sent For:

<END>

2011 DRAFTING REQUEST

Assembly Amendment (AA-SB125)

Received: 01/24/2012

Received By: phurley

Wanted: As time permits

Companion to LRB:

For: Kelda Helen Roys (608) 266-5340

By/Representing:

May Contact:

Drafter: phurley

Subject: Justice - criminal

Addl. Drafters:

Extra Copies:

Submit via email: YES

Requester's email: Rep.Roys@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Funding for the sexual assault victims program

Instructions:

out of discretionary fund, direct DOJ to pay \$ to the SAVs program

Discussed germaneness with requester, so no need to dnote that.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	phurley	<i>1/25 jld</i>	<i>ph</i>	<i>✓</i>			

FE Sent For:

<END>

Hurley, Peggy

From: Gillis, George
Sent: Tuesday, January 24, 2012 11:14 AM
To: Hurley, Peggy
Subject: Amendment to SB 125

Peggy,
We would like to allocate 331,100 this year and 447,100 in 12-13 from the DOJ discretionary fund to the SAVS program

Thank you

-George

George J. Gillis Jr.
Office of Rep. Roys

KELDA HELEN ROYS
STATE REPRESENTATIVE
ASSEMBLY DEMOCRATIC CAUCUS CHAIR

81st District * Wisconsin State Assembly
State Capitol * Room 113 North
P.O. Box 8953 * Madison, WI 53708
(608) 266-5340 * Fax (608) 282-3681
Rep.Roys@legis.wi.gov

DOJ gr fund
20-455(5)(c)

20-455.5)(gc)



2011 SENATE BILL 125

June 10, 2011 - Introduced by Senators GROTHMAN, GALLOWAY, LASEE and LAZICH, cosponsored by Representatives JACQUE, BROOKS, BERNIER, KAUFERT, KNUDSON, LEMAHIEU, LITJENS, SPANBAUER, STRACHOTA, VOS and WEININGER. Referred to Committee on Judiciary, Utilities, Commerce, and Government Operations.

1 **AN ACT to repeal** 893.83 (title) and 893.83 (2); and **to renumber and amend**
2 893.83 (1) of the statutes; **relating to:** liability of cities, villages, towns, and
3 counties for damages caused by an insufficiency or want of repair of a highway.

Analysis by the Legislative Reference Bureau

Under current law, cities, villages, towns, and counties are immune from claims arising out of the performance of a discretionary duty, or duty that requires a governmental entity to use judgment or discretion in carrying out the duty. Cities, villages, towns, and counties are liable for damages of up to \$50,000 arising out of the performance of a nondiscretionary duty.

Also under current law, cities, villages, towns, and counties are liable for damages of up to \$50,000 to a person or property resulting from an insufficiency or want of repair of a highway, which includes shoulders, sidewalks, and bridges. Cities, villages, towns, and counties are also liable for damages resulting from the accumulation of snow or ice that has existed on a highway for at least three weeks.

The Wisconsin Supreme Court in *Morris v. Juneau County*, 219 Wis. 2d 544 (1998), held that the statutory provision imposing liability on cities, villages, towns, and counties for highway defects is an exception to the more general provision granting immunity to cities, villages, towns, and counties from liability arising out of the performance of discretionary duties.

Finally, under current law, if the negligence or deliberate wrongdoing of a person contributes to the creation of a highway defect that results in damages to a person or property, the negligent or wrongdoing person is primarily liable and the

SENATE BILL 125

city, village, town, or county is secondarily liable only if the negligent person or the person who committed the wrongdoing does not satisfy the judgment, and the city, village, town, or county is otherwise liable for the damages.

This bill eliminates the specific immunity exception under which cities, villages, towns, and counties may be held liable for an insufficiency or want of repairs of a highway. This bill does not affect the immunity exception under which cities, villages, towns, and counties may be held liable for damages of up to \$50,000 for the accumulation of snow or ice that has existed on a highway for at least three weeks. The bill also eliminates secondary liability for cities, villages, towns, and counties.

For further information see the *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:

1 **SECTION 1.** 893.83 (title) of the statutes is repealed.

2 **SECTION 2.** 893.83 (1) of the statutes is renumbered 893.83 and amended to
3 read:

4 **893.83 Damages caused by highway defects accumulation of snow or**
5 **ice; liability of municipality city, village, town, and county.** If damages
6 happen to any person or his or her property by reason of the insufficiency or want of
7 repairs of any highway that any town, city, or village is bound to keep in repair, the
8 person sustaining the damages has a right to recover the damages from the town,
9 city, or village. ~~If the damages happen by reason of the insufficiency or want of~~
10 ~~repairs of a highway that any county by law or by agreement with any town, city, or~~
11 ~~village is bound to keep in repair, or that occupies any land owned and controlled by~~
12 ~~the county, the county is liable for the damages and the claim for damages shall be~~
13 ~~against the county. If the damages happen by reason of the insufficiency or want of~~
14 ~~repairs of a bridge erected or maintained at the expense of 2 or more towns, cities,~~
15 ~~villages, or counties, the action shall be brought against all of the towns, cities,~~
16 ~~villages, or counties that are liable for the repairs of the bridge. Upon recovery of~~

SENATE BILL 125

1 ~~judgment, the damages and costs shall be paid by the towns, cities, villages, or~~
2 ~~counties in the proportion in which they are liable for the repairs. The court may~~
3 ~~direct the judgment to be collected from each town, city, village, or county for its~~
4 ~~proportion only. The amount recoverable by any person for any damages so~~
5 ~~sustained shall not exceed \$50,000. The procedures under s. 893.80 shall apply to~~
6 ~~the commencement of actions brought under this subsection. No action may be~~
7 ~~maintained against a city, village, town, or county to recover damages for injuries~~
8 ~~sustained by reason of an accumulation of snow or ice upon any bridge or highway,~~
9 ~~unless the accumulation existed for 3 weeks. Any action to recover damages for~~
10 ~~injuries sustained by reason of an accumulation of snow or ice that has existed for~~
11 ~~3 weeks or more upon any bridge or highway is subject to s. 893.80.~~

12 **SECTION 3.** 893.83 (2) of the statutes is repealed.

13 **SECTION 4. Initial applicability.**

14 (1) This act first applies to actions arising on the effective date of this
15 subsection.

16 (END)



State of Wisconsin
2011 - 2012 LEGISLATURE



LRBa2198/1
PJH:.....

Jld

ASSEMBLY AMENDMENT,
TO 2011 SENATE BILL 125

Wednesday
am

1 At the locations indicated, amend the bill as follows:

2 1. Page 1, line 3: after "highway" insert "✓, and making an appropriation" ✓

3 2. Page 2, line 1: before that line insert:

4 "SECTION 1d. 20.455 (5) (gc) of the statutes ✓ is amended to read: ✓ as affected by 2011 Wisconsin Act 32,

5 20.455 (5) (gc) *Crime victim and witness surcharge, sexual assault victim*

6 *services. All moneys received from any crime victim and witness assistance*

7 *surcharge authorized under s. 973.045 (1) that are allocated to this appropriation*

8 account under s. 973.045 (2m) (a), and all amounts transferred from sub. (5) (c) to ^{par.}

9 provide grants for sexual assault victim services under s. 165.93 and to administer

10 the grant program." ✓

History: 1971 c. 125; 1973 c. 90, 336; 1975 c. 39 s. 732 (1); 1975 c. 224; 1977 c. 29, 418; 1979 c. 34 ss. 286m, 290, 523 to 526; 1979 c. 189, 279, 355; 1981 c. 20, 169; 1983 a. 27 ss. 427 to 430, 1800; 1983 a. 199, 523; 1985 a. 29, 120; 1987 a. 27, 326, 399; 1989 a. 31, 122, 336; 1991 a. 11, 39, 269; 1993 a. 16, 98, 193, 460, 496; 1995 a. 27 ss. 1014h to 1029, 9126 (19), 9130 (4); 1995 a. 227; 1997 a. 27, 237; 1999 a. 5, 9, 186; 2001 a. 16, 109; 2003 a. 33, 139, 309, 326; 2005 a. 25 ss. 376c to 363r, 415m to 415v, 415w, 416g, 416h; 2005 a. 60, 254, 433; 2007 a. 1; 2007 a. 20 ss. 482 to 500, 9121 (6) (a); 2007 a. 200; 2009 a. 28, 179, 358; 2011 a. 32, 35.

11 3. Page 2, line 1: delete "SECTION 1" and substitute "SECTION 1M".

12 4. Page 3, line 12: after that line insert:

lower case
NO CS

