

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0588/P1dn
CMH:sac:ph

December 10, 2012

Representative Jacque:

This is a preliminary version of the draft because I anticipate you may have many changes to the draft.

Cathlene Hanaman
Deputy Chief
Phone: (608) 267-9810
E-mail: cathlene.hanaman@legis.wisconsin.gov

Hanaman, Cathlene

From: Jacque, Andre
Sent: Friday, December 14, 2012 1:08 AM
To: Hanaman, Cathlene
Cc: Julian, Jamie; Tony Gibart
Subject: FW: Draft review: LRB -0588/P1 Topic: Domestic violence reports and training
Attachments: 13-0588/P1.pdf; DraftersNote1.pdf

Hello Cathlene,

Thanks for preparing the attached preliminary draft regarding law enforcement's handling of domestic violence incidents. While there is currently a requirement in statute for law enforcement officers to file a report if there is probable cause that an act of domestic violence occurred but an arrest was not made, it appears that few such reports are being filed and thus less history is being established which may be a benefit to prosecutors in establishing a pattern of abuse (even if the victim recants their initial testimony out of fear, or other reasons). For this reason, the primary intent of my proposal is to require a law enforcement officer responding to a domestic violence call (in other words, domestic violence was reported at the time an officer was dispatched, regardless of whether the officer determines they have probable cause that a crime was committed) to take a complete offense report including the officer's disposition of the case, as is the case with the Washington state statute.

Please keep the elements of the draft relating to officer training and additional information being made available, but also add in the requirement that officers responding to a call reporting suspected domestic violence must make a complete offense report which includes the officer's disposition of the case.

Thanks,
André

From: LRB.Legal
Sent: Monday, December 10, 2012 3:05 PM
To: Jacque, Andre
Subject: Draft review: LRB -0588/P1 Topic: Domestic violence reports and training

Following is the PDF version of draft LRB -0588/P1 and drafter's note.



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0588/P1 P2
CMH:sac:ph

SOON PLEASE
10/17

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Today

PWF
Jan 1/2/13

Ben act

1 **AN ACT** to renumber 49.165 (4) and 165.93 (4); to renumber and amend
2 968.075 (4); to amend 7.08 (10), 165.85 (4) (b) 1d. a., 968.075 (4) (title) and
3 968.075 (8); and to create 49.165 (4) (b), 165.85 (2) (as), 165.85 (4) (cp), 165.93
4 (4) (b), 968.075 (4) (a) 2. and 3. and 968.075 (7) (c) of the statutes; relating to:
5 training standards for law enforcement officers regarding domestic abuse
6 incidents and complaints. INSERT REL

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

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

7 **SECTION 1.** 7.08 (10) of the statutes is amended to read:
8 7.08 (10) DOMESTIC ABUSE AND SEXUAL ASSAULT SERVICE PROVIDERS. Provide to
9 each municipal clerk, on a continuous basis, the names and addresses of

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1 organizations that are certified under s. 49.165 (4) (a) or 165.93 (4) (a) to provide
2 services to victims of domestic abuse or sexual assault.

3 **SECTION 2.** 49.165 (4) of the statutes is renumbered 49.165 (4) (a).

4 **SECTION 3.** 49.165 (4) (b) of the statutes is created to read:

5 49.165 (4) (b) The department shall make available to law enforcement
6 agencies a current list containing the name and address of each organization that is
7 eligible to receive grants under sub. (2).

8 **SECTION 4.** 165.85 (2) (as) of the statutes is created to read:

9 165.85 (2) (as) “Domestic abuse” has the meaning given in s. 968.075 (1) (a).

10 **SECTION 5.** 165.85 (4) (b) 1d. a. of the statutes is amended to read:

11 165.85 (4) (b) 1d. a. ~~An adequate amount of training to enable the person being~~
12 ~~trained to deal effectively with~~ Training on the handling of domestic abuse incidents
13 and complaints, including training ~~that addresses the emotional and psychological~~
14 ~~effect that domestic abuse has on victims~~ that is consistent with the standards
15 established under par. (cp).

16 **SECTION 6.** 165.85 (4) (cp) of the statutes is created to read:

17 165.85 (4) (cp) The board shall establish standards for the training of law
18 enforcement officers in effectively handling domestic abuse incidents. The board
19 shall ensure that the training includes all of the following:

20 1. The law enforcement officer’s duty to protect the victim, which includes
21 adhering to the practices under s. 968.075 (2) (ar); to enforce all criminal laws with
22 regard to a domestic abuse incident; and to adhere to all of the requirements under
23 s. 968.075.

24 2. The emotional and psychological effects that domestic abuse has on its
25 victims.

as required under s. 968.07
(u)
(a)

1 3. The law enforcement officer's duty to prepare a complete offense report if the
2 ~~law enforcement officer has reasonable grounds to believe that a person is~~
3 ~~committing or has committed domestic abuse and that the person's actions constitute~~
4 ~~the commission of a crime.~~

5 4. The law enforcement officer's duty, if the law enforcement officer has
6 reasonable grounds to believe that a person is committing or has committed domestic
7 abuse, to advise the victim of all reasonable means to prevent further abuse,
8 including informing him or her of the availability of shelters and services in his or
9 her community, including using lists available under ss. 49.165 (4) (b) and 165.93 (4)
10 (b); giving notice of legal rights and remedies available to him or her; explaining the
11 procedure for filing a petition for a domestic abuse injunction under s. 813.12; and
12 providing him or her with a statement that reads substantially as follows, "If you are
13 the victim of domestic abuse, you may ask a prosecuting attorney to file a criminal
14 complaint. You may also file a petition under s. 813.12 of the Wisconsin statutes for
15 a domestic abuse injunction."

16 5. The law enforcement officer's option, if the law enforcement officer has
17 reasonable ground^s to believe that a person is committing or has committed domestic
18 abuse, to arrange transportation for victim to the hospital for treatment of injuries
19 or to a place of safety or a shelter.

20 **SECTION 7.** 165.93 (4) of the statutes is renumbered 165.93 (4) (a).

21 **SECTION 8.** 165.93 (4) (b) of the statutes is created to read:

22 165.93 (4) (b) The department shall make available to law enforcement
23 agencies a current list containing the name and address of each organization that is
24 eligible to receive grants under sub. (2).

25 **SECTION 9.** 968.075 (4) (title) of the statutes is amended to read:

1 968.075 (4) (title) REPORT AND ACTION REQUIRED WHERE NO ARREST.

2 **SECTION 10.** 968.075 (4) of the statutes is renumbered 968.075 (4) (a) (intro.)
3 and amended to read:

4 968.075 (4) (a) (intro.) If a law enforcement officer does not make an arrest
5 under this section when the officer has reasonable grounds to believe that a person
6 is committing or has committed domestic abuse and that person's acts constitute the
7 commission of a crime, the officer shall ~~prepare~~ do all of the following:

8 1. Prepare a written report stating why the person was not arrested.

9 (b) The report prepared under par. (a) 1. shall be sent to the district attorney's
10 office, in the county where the acts took place, immediately after investigation of the
11 incident has been completed. The district attorney shall review the report to
12 determine whether the person involved in the incident should be charged with the
13 commission of a crime. After receiving the report, the district attorney shall meet
14 with the victim if the victim requests such a meeting.

15 **SECTION 11.** 968.075 (4) (a) 2. and 3. of the statutes are created to read:

16 968.075 (4) (a) 2. Notify the victim that he or she may meet with the district
17 attorney as provided in par. (b).

18 3. Advise the victim of the importance of retaining any evidence of the crime.

19 **SECTION 12.** 968.075 (7) (c) of the statutes is created to read:

20 968.075 (7) (c) A policy indicating that a district attorney shall meet with an
21 alleged victim of domestic abuse if the victim requests such a meeting, without
22 regard to whether the decision was to prosecute or not to prosecute the particular

23 domestic abuse incident *or whether a person was arrested for a particular*
24 **SECTION 13.** 968.075 (8) of the statutes is amended to read:
domestic abuse incident

INS
4-19

1 968.075 (8) EDUCATION AND TRAINING. Any education and training by the law
2 enforcement agency relating to the handling of domestic abuse incidents and
3 complaints shall ~~stress enforcement of criminal laws in domestic abuse incidents and~~
4 ~~protection of the alleged victim~~ conform to the standards established under s. 165.85
5 (4) (cp). Law enforcement agencies and community organizations with expertise in
6 the recognition and handling of domestic abuse incidents shall cooperate in all
7 aspects of the training.

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(END)

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2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0588/p2ins
CMH:.....

1 Insert REL

2 , law enforcement reports following a domestic abuse incident, and ^a requirement
3 for district attorney to meet with victims of domestic abuse at victim's request

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5 Insert A

Current law generally requires a law enforcement officer to arrest a person if the officer has reasonable grounds to believe that the person has committed domestic abuse and that the person's actions constitute the commission of a crime. If the law enforcement officer does not arrest a person under these conditions, the officer must prepare a written report stating why the person was not arrested. The report must be sent to the district attorney's office and the district attorney must review the report to determine whether to charge the person. The district attorney must submit a report to the Department of Justice (DOJ) that lists the number of such arrests and the number of prosecutions and convictions resulting from the arrests. Under this bill, if the law enforcement officer does not make an arrest because he or she did not have reasonable grounds to believe that the person had committed domestic abuse or that the person's acts constituted the commission of a crime, the officer must also prepare a report that states why he or she lacked reasonable grounds to believe one of those factors. In addition, under this bill, the district attorney must include on the report to DOJ, the number of responses made by law enforcement to an incident involving domestic abuse that did not result in an arrest and the number of prosecutions and convictions of persons on those reports who were not initially arrested for the incident for a crime involving domestic abuse.

Under current law, a person must complete a preparatory program of law enforcement training that is approved by the law enforcement standards board before being appointed as a law enforcement officer. Any training program must include an adequate amount of training to enable the person to deal effectively with domestic abuse incidents. This bill requires the law enforcement standards board to establish standards for the training of law enforcement officers in handling domestic abuse incidents. The training must include the following: 1) the law enforcement officer's duty to protect the victim, to enforce all criminal laws in a domestic abuse incident, and to arrest the predominant aggressor if a crime has been committed; 2) the law enforcement officer's duty to advise the victim of all reasonable means to prevent further abuse, including informing him or her of shelters and services, giving notice of legal rights and remedies, explaining how to file a petition for a domestic abuse injunction, and how to contact a prosecuting attorney; 3) the law enforcement officer's option to arrange transportation for the victim to go to the hospital or to a place of safety.

Under current law, each district attorney's office must have written policies that encourage the prosecution of domestic abuse offenses. The policies must include a policy indicating that a decision not to prosecute a domestic abuse incident may not be based solely upon the absence of visible indications of injury, upon the victim's consent to any prosecution of the other person, or upon the relationship of the persons involved in the incident. This bill requires the district attorney's office to have a policy requiring a district attorney to meet with an alleged victim of domestic abuse if the victim requests such a meeting.

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

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Insert 4-19

SECTION 1. 968.075 (4) (a) (intro.) of the statutes is created to read:

968.075 (4) (a) (intro.) If a law enforcement officer responds to a situation in which domestic abuse was reported or the law enforcement officer knew, or should have known, that domestic abuse was involved, and does not make an arrest under this section, the law enforcement officer shall prepare a written report as follows:

SECTION 2. 968.075 (4) (a) 2. of the statutes is created to read:

968.075 (4) (a) 2. If a law enforcement officer does not make an arrest under this section because he or she did not have reasonable grounds to believe that a person is committing or has committed domestic abuse or that the person's acts constitute the commission of a crime, the officer shall state in the report why the officer did not have reasonable grounds to believe one of those factors.

SECTION 3. 968.075 (4) of the statutes is renumbered 968.075 (4) (a) 1. and amended to read:

968.075 (4) (a) 1. If a law enforcement officer does not make an arrest under this section when the officer has reasonable grounds to believe that a person is committing or has committed domestic abuse and that person's acts constitute the

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1 commission of a crime, the officer shall ~~prepare a written report stating~~ state in the
2 report why the person was not arrested. The

3 (b) A report under par. (a) shall be sent to the district attorney's office, in the
4 county where the acts took place, immediately after investigation of the incident has
5 been completed. The district attorney shall review the report to determine whether
6 the person involved in the incident should be charged with the commission of a crime.
7 After receiving the report, the district attorney shall meet with the victim if the
8 victim requests such a meeting.

History: 1987 a. 346; 1989 a. 293; 1993 a. 319; 1995 a. 304; 2005 a. 104; 2011 a. 267; s. 13.92 (1) (bm) 2.

9 SECTION 4. 968.075 (4) (c) of the statutes is created to read:

10 968.075 (4) (c) If a law enforcement officer responds to a situation in which
11 domestic abuse was reported or the law enforcement officer knew, or should have
12 known, that domestic abuse was involved, and does not make an arrest under this
13 section, the law enforcement officer shall notify the victim that he or she may meet
14 with the district attorney as provided in par. (b) and shall advise the victim of the
15 importance of retaining any evidence of the domestic abuse.

~~INSERT 5-8~~

16 SECTION 5. 968.075 (9) (a) 1m. of the statutes is created to read:

MS. 17 968.075 (9) (a) 1m. The number of responses law enforcement made that
5-8 18 involved a domestic abuse incident that did not result in an arrest.

19 SECTION 6. 968.075 (9) (a) 2. and (b) of the statutes are amended to read:

20 968.075 (9) (a) 2. The number of subsequent prosecutions and convictions of
21 the persons arrested for domestic abuse incidents, and the number of subsequent
22 prosecutions and convictions of the persons not initially arrested for domestic abuse
23 incidents as reported under sub. (4) (a) 2.

1 (b) The listing of the number of arrests, responses, prosecutions, and
2 convictions under par. (a) shall include categories by statutory reference to the
3 offense involved and include totals for all categories.

History: 1987 a. 346; 1989 a. 293; 1993 a. 319; 1995 a. 304; 2005 a. 104; 2011 a. 267; s. 13.92 (1) (bm) 2.

To: Rep. André Jacque
From: Tony Gibart, WCADV
Re: LRB 0588/2

The following are my recommended changes to LRB 588/P2:

Remove sections related to a new requirement that the D.A. meet with victims.

- Remove page 5, lines 8 to 13.
- Remove page 6, lines 1 to 12.

Remove language to creating a duty to “advise the victim of all reasonable means to prevent abuse.”

Although I understand this language comes from the Washington State law, I think it is unnecessary and may lead to problems. Officers with minimal training may believe they are obligated to offer advice or do safety planning with victims. This type of in-depth assistance is more appropriately given by victim advocates. I think we can only reasonably obligate officers to give information about rights, restraining orders and the availability of victim services, all things that are specifically enumerated in the current draft.

I checked with the Washington State domestic violence coalition. They did not feel strongly about this particular aspect of their law. While they were not immediately aware of specific problems, they did tend to think the provision could be problematic.

Add the following provision to address misinterpretations of provisions related to crime victims’ right to privacy.

Chapter 950.01 is amended as follows:

Legislative intent. In recognition of the civic and moral duty of victims and witnesses of crime to fully and voluntarily cooperate with law enforcement and prosecutorial agencies, and in further recognition of the continuing importance of such citizen cooperation to state and local law enforcement efforts and the general effectiveness and well-being of the criminal justice system of this state, the legislature declares its intent, in this chapter, to ensure that all victims and witnesses of crime are treated with dignity, respect, courtesy and sensitivity; and that the rights extended in this chapter to victims and witnesses of crime are honored and protected by law enforcement agencies, prosecutors and judges in a manner no less vigorous than the protections afforded criminal defendants. Nothing in this chapter shall be construed to impair the exercise of prosecutorial discretion. Nothing in this chapter shall be construed as prohibiting a public official, employee, or agency from sharing information with victim service organizations that are eligible to receive grants under 49.165(2) or 165.93(2).



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0588/P2
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10-2/24

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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1 **AN ACT** *to renumber* 49.165 (4) and 165.93 (4); *to renumber and amend*
2 968.075 (4); *to amend* 7.08 (10), 165.85 (4) (b) 1d. a., 968.075 (4) (title), 968.075
3 (8) and 968.075 (9) (a) 2. and (b); and *to create* 49.165 (4) (b), 165.85 (2) (as),
4 165.85 (4) (cp), 165.93 (4) (b), 968.075 (4) (a) (intro.), 968.075 (4) (a) 2., 968.075
5 (4) (c), 968.075 (7) (c) and 968.075 (9) (a) 1m. of the statutes; **relating to:**
6 training standards for law enforcement officers regarding domestic abuse
7 incidents and complaints, ^{and} law enforcement reports following a domestic abuse
8 incident, and a requirement for district attorney to meet with victims of
9 domestic abuse at victim's request.

Analysis by the Legislative Reference Bureau

Current law generally requires a law enforcement officer to arrest a person if the officer has reasonable grounds to believe that the person has committed domestic abuse and that the person's actions constitute the commission of a crime. If the law enforcement officer does not arrest a person under these conditions, the officer must prepare a written report stating why the person was not arrested. The report must be sent to the district attorney's office and the district attorney must review the report to determine whether to charge the person. The district attorney must submit

a report to the Department of Justice (DOJ) that lists the number of such arrests and the number of prosecutions and convictions resulting from the arrests. Under this bill, if the law enforcement officer does not make an arrest because he or she did not have reasonable grounds to believe that the person had committed domestic abuse or that the person's acts constituted the commission of a crime, the officer must also prepare a report that states why he or she lacked reasonable grounds to believe one of those factors. In addition, under this bill, the district attorney must include on the report to DOJ, the number of responses made by law enforcement to an incident involving domestic abuse that did not result in an arrest and the number of prosecutions and convictions of persons on those reports for a crime involving domestic abuse.

Under current law, a person must complete a preparatory program of law enforcement training that is approved by the law enforcement standards board before being appointed as a law enforcement officer. Any training program must include an adequate amount of training to enable the person to deal effectively with domestic abuse incidents. This bill requires the law enforcement standards board to establish standards for the training of law enforcement officers in handling domestic abuse incidents. The training must include the following: 1) the law enforcement officer's duty to protect the victim, to enforce all criminal laws in a domestic abuse incident, and to arrest the predominant aggressor if a crime has been committed; 2) the law enforcement officer's duty to advise the victim of all reasonable means to prevent further abuse, including informing him or her of shelters and services, giving notice of legal rights and remedies, explaining how to file a petition for a domestic abuse injunction, and how to contact a prosecuting attorney; 3) the law enforcement officer's option to arrange transportation for the victim to go to the hospital or to a place of safety.

Under current law, each district attorney's office must have written policies that encourage the prosecution of domestic abuse offenses. The policies must include a policy indicating that a decision not to prosecute a domestic abuse incident may not be based solely upon the absence of visible indications of injury, upon the victim's consent to any prosecution of the other person, or upon the relationship of the persons involved in the incident. ~~This bill requires the district attorney's office to have a policy requiring a district attorney to meet with an alleged victim of domestic abuse if the victim requests such a meeting.~~

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:

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- 2 **7.08 (10) DOMESTIC ABUSE AND SEXUAL ASSAULT SERVICE PROVIDERS.** Provide to
- 3 each municipal clerk, on a continuous basis, the names and addresses of

1 organizations that are certified under s. 49.165 (4) (a) or 165.93 (4) (a) to provide
2 services to victims of domestic abuse or sexual assault.

3 SECTION 2. 49.165 (4) of the statutes is renumbered 49.165 (4) (a).

4 SECTION 3. 49.165 (4) (b) of the statutes is created to read:

5 49.165 (4) (b) The department shall make available to law enforcement
6 agencies a current list containing the name and address of each organization that is
7 eligible to receive grants under sub. (2).

8 SECTION 4. 165.85 (2) (as) of the statutes is created to read:

9 165.85 (2) (as) "Domestic abuse" has the meaning given in s. 968.075 (1) (a).

10 SECTION 5. 165.85 (4) (b) 1d. a. of the statutes is amended to read:

11 165.85 (4) (b) 1d. a. ~~An adequate amount of training to enable the person being~~
12 ~~trained to deal effectively with~~ Training on the handling of domestic abuse incidents
13 and complaints, including training that addresses the emotional and psychological
14 effect that domestic abuse has on victims that is consistent with the standards
15 established under par. (cp).

16 SECTION 6. 165.85 (4) (cp) of the statutes is created to read:

17 165.85 (4) (cp) The board shall establish standards for the training of law
18 enforcement officers in effectively handling domestic abuse incidents. The board
19 shall ensure that the training includes all of the following:

20 1. The law enforcement officer's duty to protect the victim, which includes
21 adhering to the practices under s. 968.075 (2) (ar); to enforce all criminal laws with
22 regard to a domestic abuse incident; and to adhere to all of the requirements under
23 s. 968.075.

24 2. The emotional and psychological effects that domestic abuse has on its
25 victims.

1 3. The law enforcement officer's duty to prepare a complete offense report as
2 required under s. 968.075 (4) (a).

3 4. The law enforcement officer's duty, if the law enforcement officer has
4 reasonable grounds to believe that a person is committing or has committed domestic
5 abuse, to advise the victim of all reasonable means to prevent further abuse,
6 including informing him or her of the availability of shelters and services in his or
7 her community, including using lists available under ss. 49.165 (4) (b) and 165.93 (4)
8 (b); giving notice of legal rights and remedies available to him or her; explaining the
9 procedure for filing a petition for a domestic abuse injunction under s. 813.12; and
10 providing him or her with a statement that reads substantially as follows, "If you are
11 the victim of domestic abuse, you may ask a prosecuting attorney to file a criminal
12 complaint. You may also file a petition under s. 813.12 of the Wisconsin statutes for
13 a domestic abuse injunction."

14 5. The law enforcement officer's option, if the law enforcement officer has
15 reasonable grounds to believe that a person is committing or has committed domestic
16 abuse, to arrange transportation for victim to the hospital for treatment of injuries
17 or to a place of safety or a shelter. *at the request of the victim,*

18 SECTION 7. 165.93 (4) of the statutes is renumbered 165.93 (4) (a).

19 SECTION 8. 165.93 (4) (b) of the statutes is created to read:

20 165.93 (4) (b) The department shall make available to law enforcement
21 agencies a current list containing the name and address of each organization that is
22 eligible to receive grants under sub. (2).

23 SECTION 9. 968.075 (4) (title) of the statutes is amended to read:

968.075 (4) (title) REPORT AND ACTION REQUIRED WHERE NO ARREST.

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1 **SECTION 10.** 968.075 (4) of the statutes is renumbered 968.075 (4) (a) 1. and
2 amended to read:

3 968.075 (4) (a) 1. If a law enforcement officer does not make an arrest under
4 this section when the officer has reasonable grounds to believe that a person is
5 committing or has committed domestic abuse and that person's acts constitute the
6 commission of a crime, the officer shall ~~prepare a written report stating~~ state in the
7 report why the person was not arrested. The

8 **(b)** A report under par. (a) shall be sent to the district attorney's office, in the
9 county where the acts took place, immediately after investigation of the incident has
10 been completed. The district attorney shall review the report to determine whether
11 the person involved in the incident should be charged with the commission of a crime.

12 After receiving the report, the district attorney shall meet with the victim if the
13 victim requests such a meeting.

14 **SECTION 11.** 968.075 (4) (a) (intro.) of the statutes is created to read:

15 968.075 (4) (a) (intro.) If a law enforcement officer responds to a situation in
16 which domestic abuse was reported or the law enforcement officer knew, or should
17 have known, that domestic abuse was involved, and does not make an arrest under
18 this section, the law enforcement officer shall prepare a written report as follows:

19 **SECTION 12.** 968.075 (4) (a) 2. of the statutes is created to read:

20 968.075 (4) (a) 2. If a law enforcement officer does not make an arrest under
21 this section because he or she did not have reasonable grounds to believe that a
22 person is committing or has committed domestic abuse or that the person's acts
23 constitute the commission of a crime, the officer shall state in the report why the
24 officer did not have reasonable grounds to believe one of those factors.

25 **SECTION 13.** 968.075 (4) (c) of the statutes is created to read:

1 968.075 (4) (c) If a law enforcement officer responds to a situation in which
2 domestic abuse was reported or the law enforcement officer knew, or should have
3 known, that domestic abuse was involved, the law enforcement officer shall notify
4 the victim that he or she may meet with the district attorney as provided in par. (b)
5 and shall advise the victim of the importance of retaining any evidence of the
6 domestic abuse.

7 **SECTION 14.** 968.075 (7) (c) of the statutes is created to read:

8 968.075 (7) (c) A policy indicating that a district attorney shall meet with an
9 alleged victim of domestic abuse if the victim requests such a meeting, without
10 regard to whether the decision was to prosecute or not to prosecute the particular
11 domestic abuse incident or whether a person was arrested for a particular domestic
12 abuse incident.

13 **SECTION 15.** 968.075 (8) of the statutes is amended to read:

14 968.075 (8) EDUCATION AND TRAINING. Any education and training by the law
15 enforcement agency relating to the handling of domestic abuse incidents and
16 complaints shall stress enforcement of criminal laws in domestic abuse incidents and
17 protection of the alleged victim conform to the standards established under s. 165.85
18 (4)(cp). Law enforcement agencies and community organizations with expertise in
19 the recognition and handling of domestic abuse incidents shall cooperate in all
20 aspects of the training.

21 **SECTION 16.** 968.075 (9) (a) 1m. of the statutes is created to read:

22 968.075 (9) (a) 1m. The number of responses law enforcement made that
23 involved a domestic abuse incident that did not result in an arrest.

24 **SECTION 17.** 968.075 (9) (a) 2. and (b) of the statutes are amended to read:

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0588/p3ins
CMH:.....

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2 **SECTION 1.** 950.01 of the statutes is amended to read:

3 **950.01 Legislative intent.** In recognition of the civic and moral duty of
4 victims and witnesses of crime to fully and voluntarily cooperate with law
5 enforcement and prosecutorial agencies, and in further recognition of the continuing
6 importance of such citizen cooperation to state and local law enforcement efforts and
7 the general effectiveness and well-being of the criminal justice system of this state,
8 the legislature declares its intent, in this chapter, to ensure that all victims and
9 witnesses of crime are treated with dignity, respect, courtesy and sensitivity; and
10 that the rights extended in this chapter to victims and witnesses of crime are honored
11 and protected by law enforcement agencies, prosecutors and judges in a manner no
12 less vigorous than the protections afforded criminal defendants. This chapter does
13 not prohibit a public official, employee, or agency from sharing information with
14 victim service organizations that are eligible to ^{receive} ~~receive~~ grants under s. 49.165 (2) or
15 165.93 (2). Nothing in this chapter shall be construed to impair the exercise of
16 prosecutorial discretion.

History: 1979 c. 219; 2011 a. 283.

Hanaman, Cathlene

From: Julian, Jamie
Sent: Monday, March 04, 2013 1:38 PM
To: Hanaman, Cathlene
Subject: Changes to LRB 0588

Hi,

We have a couple more changes for this draft:

This draft contains language creating a duty to "advise the victim of all reasonable means to prevent abuse. I think we can only reasonably obligate officers to give information about rights, restraining orders and the availability of victim services, so we should remove that language.

Also, the criteria for obtaining a civil domestic abuse restraining order and the criteria for a criminal case being classified as domestic abuse are slightly different. Therefore, some criminal activity which forms the basis for a domestic abuse arrest will not fall under the domestic abuse restraining order statute. Non-intimate partner, cohabitating adults is the main class of 968.075 cases that would not fit under 813.12. Therefore, please add a reference to harassment restraining orders, which would cover all victims.

4. The law enforcement officer's duty, if the law enforcement officer has reasonable grounds to believe that a person is committing or has committed domestic abuse, to ~~advise the victim of all reasonable means to prevent further abuse,~~ including informing him or her of the availability of shelters and services in his or her community, including using lists available under ss. 49.165 (4) (b) and 165.93 (4) (b); giving notice of legal rights and remedies available to him or her; explaining the procedure for filing a petition for a domestic abuse injunction under s. 813.12 or harassment injunction under 813.125; and providing him or her with a statement that reads substantially as follows, "If you are the victim of domestic abuse, you may ask ~~a prosecuting attorney~~ the district attorney to file a criminal complaint. You may also file a petition under s. 813.12 of the Wisconsin statutes for a domestic abuse injunction or petition under s. 813.125 of the Wisconsin statutes for a harassment injunction."

Let me know if you have any questions,

Jamie Julian

Office of Rep. André Jacque
2nd Assembly District

Room 123 West
State Capitol
P.O. Box 8952
Madison, WI 53709

(608) 266-9870



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0588/P3

CMH:sac:cs

SOON -
IN 3/4

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

reyn cat

1 **AN ACT** *to renumber* 49.165 (4) and 165.93 (4); *to renumber and amend*
2 968.075 (4); *to amend* 7.08 (10), 165.85 (4) (b) 1d. a., 950.01, 968.075 (4) (title),
3 968.075 (8) and 968.075 (9) (a) 2. and (b); and *to create* 49.165 (4) (b), 165.85
4 (2) (as), 165.85 (4) (cp), 165.93 (4) (b), 968.075 (4) (a) (intro.), 968.075 (4) (a) 2.
5 and 968.075 (9) (a) 1m. of the statutes; **relating to:** training standards for law
6 enforcement officers regarding domestic abuse incidents and complaints, and
7 law enforcement reports following a domestic abuse incident.

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Current law generally requires a law enforcement officer to arrest a person if the officer has reasonable grounds to believe that the person has committed domestic abuse and that the person's actions constitute the commission of a crime. If the law enforcement officer does not arrest a person under these conditions, the officer must prepare a written report stating why the person was not arrested. The report must be sent to the district attorney's office and the district attorney must review the report to determine whether to charge the person. The district attorney must submit a report to the Department of Justice (DOJ) that lists the number of such arrests and the number of prosecutions and convictions resulting from the arrests. Under this bill, if the law enforcement officer does not make an arrest because he or she did not have reasonable grounds to believe that the person had committed domestic abuse

or that the person's acts constituted the commission of a crime, the officer must also prepare a report that states why he or she lacked reasonable grounds to believe one of those factors. In addition, under this bill, the district attorney must include on the report to DOJ, the number of responses made by law enforcement to an incident involving domestic abuse that did not result in an arrest and the number of prosecutions and convictions of persons on those reports for a crime involving domestic abuse.

Under current law, a person must complete a preparatory program of law enforcement training that is approved by the law enforcement standards board before being appointed as a law enforcement officer. Any training program must include an adequate amount of training to enable the person to deal effectively with domestic abuse incidents. This bill requires the law enforcement standards board to establish standards for the training of law enforcement officers in handling domestic abuse incidents. The training must include the following: 1) the law enforcement officer's duty to protect the victim, to enforce all criminal laws in a domestic abuse incident, and to arrest the predominant aggressor if a crime has been committed; 2) the law enforcement officer's duty to advise the victim of all reasonable means to prevent further abuse, including informing him or her of shelters and services, giving notice of legal rights and remedies, explaining how to file a petition for a domestic abuse injunction, and how to contact a prosecuting attorney; 3) the law enforcement officer's option to arrange transportation for the victim to go to the hospital or to a place of safety.

Under current law, each district attorney's office must have written policies that encourage the prosecution of domestic abuse offenses. The policies must include a policy indicating that a decision not to prosecute a domestic abuse incident may not be based solely upon the absence of visible indications of injury, upon the victim's consent to any prosecution of the other person, or upon the relationship of the persons involved in the incident.

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:

1 SECTION 1. 7.08 (10) of the statutes is amended to read:

2 7.08 (10) DOMESTIC ABUSE AND SEXUAL ASSAULT SERVICE PROVIDERS. Provide to
3 each municipal clerk, on a continuous basis, the names and addresses of
4 organizations that are certified under s. 49.165 (4) (a) or 165.93 (4) (a) to provide
5 services to victims of domestic abuse or sexual assault.

6 SECTION 2. 49.165 (4) of the statutes is renumbered 49.165 (4) (a).

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1 **SECTION 3.** 49.165 (4) (b) of the statutes is created to read:

2 49.165 (4) (b) The department shall make available to law enforcement
3 agencies a current list containing the name and address of each organization that is
4 eligible to receive grants under sub. (2).

5 **SECTION 4.** 165.85 (2) (as) of the statutes is created to read:

6 165.85 (2) (as) "Domestic abuse" has the meaning given in s. 968.075 (1) (a).

7 **SECTION 5.** 165.85 (4) (b) ^{plain space} 1d. a. of the statutes is amended to read:

8 165.85 (4) (b) 1d. a. ~~An adequate amount of training to enable the person being~~
9 ~~trained to deal effectively with~~ Training on the handling of domestic abuse incidents
10 and complaints, including training that ~~addresses the emotional and psychological~~
11 ~~effect that domestic abuse has on victims~~ that is consistent with the standards
12 established under par. (cp).

13 **SECTION 6.** 165.85 (4) (cp) of the statutes is created to read:

14 165.85 (4) (cp) The board shall establish standards for the training of law
15 enforcement officers in effectively handling domestic abuse incidents. The board
16 shall ensure that the training includes all of the following:

17 1. The law enforcement officer's duty to protect the victim; to enforce all
18 criminal laws with regard to a domestic abuse incident; and to adhere to all of the
19 requirements under s. 968.075.

20 2. The emotional and psychological effects that domestic abuse has on its
21 victims.

22 3. The law enforcement officer's duty to prepare a complete offense report as
23 required under s. 968.075 (4) (a).

24 4. The law enforcement officer's duty, if the law enforcement officer has
25 reasonable grounds to believe that a person is committing or has committed domestic

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 3 her community, including using lists available under ss. 49.165 (4) (b) and 165.93 (4)
 4 (b); ^{give} giving notice of legal rights and remedies available to him or her; explaining the
 5 procedure for filing a petition for a domestic abuse ^{an} injunction under s. 813.12; and ^{or} 813.125
 6 ^{provide} providing him or her with a statement that reads substantially as follows, "If you are
 7 the victim of domestic abuse, you may ask ^a prosecuting ^{the district} attorney to file a criminal
 8 complaint. You may also file a petition under s. 813.12 of the Wisconsin statutes for
 9 a domestic abuse injunction." ^{or under s. 813.125 of the Wisconsin statutes for a}

10 5. The law enforcement officer's option to arrange transportation for a victim,
 11 at the request of the victim to the hospital for treatment of injuries or to a place of
 12 safety or a shelter. ^{harassment}
^{injunction}

13 SECTION 7. 165.93 (4) of the statutes is renumbered 165.93 (4) (a).

14 SECTION 8. 165.93 (4) (b) of the statutes is created to read:

15 165.93 (4) (b) The department shall make available to law enforcement
 16 agencies a current list containing the name and address of each organization that is
 17 eligible to receive grants under sub. (2).

18 SECTION 9. 950.01 of the statutes is amended to read:

19 **950.01 Legislative intent.** In recognition of the civic and moral duty of
 20 victims and witnesses of crime to fully and voluntarily cooperate with law
 21 enforcement and prosecutorial agencies, and in further recognition of the continuing
 22 importance of such citizen cooperation to state and local law enforcement efforts and
 23 the general effectiveness and well-being of the criminal justice system of this state,
 24 the legislature declares its intent, in this chapter, to ensure that all victims and
 25 witnesses of crime are treated with dignity, respect, courtesy and sensitivity; and

1 that the rights extended in this chapter to victims and witnesses of crime are honored
2 and protected by law enforcement agencies, prosecutors and judges in a manner no
3 less vigorous than the protections afforded criminal defendants. This chapter does
4 not prohibit a public official, employee, or agency from sharing information with
5 victim service organizations that are eligible to receive grants under s. 49.165 (2) or
6 165.93 (2). Nothing in this chapter shall be construed to impair the exercise of
7 prosecutorial discretion.

8 **SECTION 10.** 968.075 (4) (title) of the statutes is amended to read:

9 968.075 (4) (title) REPORT AND ACTION REQUIRED WHERE NO ARREST.

10 **SECTION 11.** 968.075 (4) of the statutes is renumbered 968.075 (4) (a) 1. and
11 amended to read:

12 968.075 (4) (a) 1. If a law enforcement officer does not make an arrest under
13 this section when the officer has reasonable grounds to believe that a person is
14 committing or has committed domestic abuse and that person's acts constitute the
15 commission of a crime, the officer shall ~~prepare a written report stating~~ state in the
16 report why the person was not arrested. The

17 (b) A report under par. (a) shall be sent to the district attorney's office, in the
18 county where the acts took place, immediately after investigation of the incident has
19 been completed. The district attorney shall review the report to determine whether
20 the person involved in the incident should be charged with the commission of a crime.

21 **SECTION 12.** 968.075 (4) (a) (intro.) of the statutes is created to read:

22 968.075 (4) (a) (intro.) If a law enforcement officer responds to a situation in
23 which domestic abuse was reported or the law enforcement officer knew, or should
24 have known, that domestic abuse was involved, and does not make an arrest under
25 this section, the law enforcement officer shall prepare a written report as follows:

1 **SECTION 13.** 968.075 (4) (a) 2. of the statutes is created to read:

2 968.075 (4) (a) 2. If a law enforcement officer does not make an arrest under
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4 person is committing or has committed domestic abuse or that the person's acts
5 constitute the commission of a crime, the officer shall state in the report why the
6 officer did not have reasonable grounds to believe one of those factors.

7 **SECTION 14.** 968.075 (8) of the statutes is amended to read:

8 968.075 (8) EDUCATION AND TRAINING. Any education and training by the law
9 enforcement agency relating to the handling of domestic abuse incidents and
10 complaints shall stress enforcement of criminal laws in domestic abuse incidents and
11 protection of the alleged victim conform to the standards established under s. 165.85
12 (4) (cp). Law enforcement agencies and community organizations with expertise in
13 the recognition and handling of domestic abuse incidents shall cooperate in all
14 aspects of the training.

15 **SECTION 15.** 968.075 (9) (a) 1m. of the statutes is created to read:

16 968.075 (9) (a) 1m. The number of responses law enforcement made that
17 involved a domestic abuse incident that did not result in an arrest.

18 **SECTION 16.** 968.075 (9) (a) 2. and (b) of the statutes are amended to read:

19 968.075 (9) (a) 2. The number of subsequent prosecutions and convictions of
20 the persons arrested for domestic abuse incidents, and the number of subsequent
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today's changes

My great

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1 (b) The listing of the number of arrests, responses, prosecutions, and
2 convictions under par. (a) shall include categories by statutory reference to the
3 offense involved and include totals for all categories.

4

(END)

Parisi, Lori

From: Julian, Jamie
Sent: Monday, April 08, 2013 3:03 PM
To: LRB.Legal
Subject: Draft Review: LRB -0588/1 Topic: Domestic violence reports and training

Please Jacket LRB -0588/1 for the ASSEMBLY.