



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-4119/1
MLJ&CMH:ahc

2017 SENATE BILL 403

September 14, 2017 - Introduced by Senators TESTIN, L. TAYLOR, OLSEN, DARLING and WANGGAARD, cosponsored by Representatives OTT, BALLWEG, TUSLER, JACQUE, MURPHY and SPIROS. Referred to Committee on Judiciary and Public Safety.

1 **AN ACT to renumber and amend** 165.85 (3) (cm); **to amend** 165.85 (2) (bv),
2 165.85 (2) (c), 165.85 (3) (a) and 165.85 (3) (b); and **to create** 165.85 (2) (ap),
3 165.85 (2) (be), 165.85 (2) (fm), 165.85 (3) (am), 165.85 (3) (cm) 6. and 165.85 (4)
4 (em) of the statutes; **relating to:** the responsibilities of the Law Enforcement
5 Standards Board.

Analysis by the Legislative Reference Bureau

This bill makes certain changes to the responsibilities of the Law Enforcement Standards Board. Under current law, the Law Enforcement Standards Board regulates the training of law enforcement officers. This bill requires the Law Enforcement Standards Board to also regulate jail and juvenile detention officer training standards, and to regulate recruitment standards for the recruiting of new law enforcement, jail, and juvenile detention officers.

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

6 **SECTION 1.** 165.85 (2) (ap) of the statutes is created to read:
7 165.85 (2) (ap) "Employment file" means all files relating to a person's
8 employment, including performance reviews, files related to job performance,

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1 internal affairs investigative files, administrative files, previous personnel
2 applications, personnel-related claims, disciplinary actions, and all substantiated
3 complaints and commendations, but does not include pay or benefit information,
4 similar administrative data or information that does not relate to performance or
5 conduct, or medical files unless the medical file relates to mental competency issues
6 bearing on the person's suitability for a law enforcement, tribal law enforcement, jail,
7 or juvenile detention officer position.

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

9 165.85 (2) (be) "Government agency" means any department, agency, or court
10 of this state, or of a city, village, town, or county in this state.

11 **SECTION 3.** 165.85 (2) (bv) of the statutes is amended to read:

12 165.85 (2) (bv) "Law enforcement agency" means a governmental unit of this
13 state or a political subdivision of this state that employs one or more law enforcement
14 officers, and includes the Marquette University police department.

15 **SECTION 4.** 165.85 (2) (c) of the statutes is amended to read:

16 165.85 (2) (c) "Law enforcement officer" means any person employed by the
17 state or any political subdivision of the state, for the purpose of detecting and
18 preventing crime and enforcing laws or ordinances and who is authorized to make
19 arrests for violations of the laws or ordinances that the person is employed and sworn
20 to enforce. "Law enforcement officer" includes a university police officer, as defined
21 in s. 175.42 (1) (b).

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

23 165.85 (2) (fm) "Tribal law enforcement agency" has the meaning given in s.
24 165.83 (1) (e).

25 **SECTION 6.** 165.85 (3) (a) of the statutes is amended to read:

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1 165.85 (3) (a) Promulgate rules for the administration of this section including
2 the authority to require the submission of reports and information pertaining to the
3 administration of this section by law enforcement and agencies, tribal law
4 enforcement agencies, jails, juvenile detention facilities, and schools approved by the
5 board and operated by or for this state or any political subdivision of the state for the
6 specific purpose of training law enforcement recruits, law enforcement officers,
7 tribal law enforcement recruits, tribal law enforcement officers, jail officer recruits,
8 jail officers, juvenile detention officer recruits, or juvenile detention officers in this
9 state.

10 **SECTION 7.** 165.85 (3) (am) of the statutes is created to read:

11 165.85 (3) (am) Establish minimum qualification standards for admission to
12 preparatory law enforcement or correctional officer training for preservice students
13 and recruits.

14 **SECTION 8.** 165.85 (3) (b) of the statutes is amended to read:

15 165.85 (3) (b) Establish minimum educational and, training, and recruitment
16 standards for admission to employment as a law enforcement or, tribal law
17 enforcement, jail, or juvenile detention officer in permanent positions and in
18 temporary, probationary or part-time status. Educational and training standards
19 for tribal law enforcement officers under this paragraph shall be identical to
20 standards for other law enforcement officers.

21 **SECTION 9.** 165.85 (3) (cm) of the statutes is renumbered 165.85 (3) (cm) (intro.)

22 and amended to read:

23 165.85 (3) (cm) (intro.) Decertify law enforcement, tribal law enforcement, jail,
24 or juvenile detention officers who ~~terminate employment or are terminated,~~ who
25 violate do one of the following:

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1 1. Violate or fail to comply with a rule, policy, or order of the board relating to
2 curriculum ~~or~~, training, ~~who falsify~~, or recruitment.

3 2. Falsify information to obtain or maintain certified status, ~~who are~~.

4 3. Are certified as the result of an administrative error, ~~who are~~.

5 4. Are convicted of a felony or of any offense that, if committed in Wisconsin,
6 could be punished as a felony, ~~who are~~.

7 5. Are convicted of a misdemeanor crime of domestic violence, ~~or who fail as~~
8 defined in 18 USC 921 (a) (33), or are convicted of domestic abuse as defined in s.
9 968.075 (1) (a), or the conviction is subject to the imposition of the domestic abuse
10 surcharge under s. 973.055 (1), regardless of whether any part of the surcharge is
11 waived by the court under s. 973.055 (4).

12 7. Fail to pay court-ordered payments of child or family support, maintenance,
13 birth expenses, medical expenses, or other expenses related to the support of a child
14 or former spouse, or who fail to comply, after appropriate notice, with a subpoena or
15 warrant issued by the department of children and families or a county child support
16 agency under s. 59.53 (5) and related to paternity or child support proceedings.

17 ~~(cp)~~ The board shall establish procedures for decertification under par. (cm) in
18 compliance with ch. 227, except that decertification for ~~failure to pay court-ordered~~
19 ~~payments of child or family support, maintenance, birth expenses, medical expenses,~~
20 ~~or other expenses related to the support of a child or former spouse or for failure to~~
21 ~~comply, after appropriate notice, with a subpoena or warrant issued by the~~
22 ~~department of children and families or a county child support agency under s. 59.53~~
23 ~~(5) and related to paternity or child support proceedings~~ an action described under
24 par. (cm) 7. shall be done as provided under sub. (3m) (a).

25 **SECTION 10.** 165.85 (3) (cm) 6. of the statutes is created to read:

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1 165.85 (3) (cm) 6. For any crime listed in subd. 4. or 5., enter into any of the
2 following if the board determines that certification is not in the best interest of the
3 public:

4 a. A deferred judgment and sentencing agreement or deferred sentencing
5 agreement, whether pending or successfully completed.

6 b. A deferred prosecution agreement, whether pending or successfully
7 completed.

8 c. A pretrial diversion agreement, whether pending or successfully completed.

9 **SECTION 11.** 165.85 (4) (em) of the statutes is created to read:

10 165.85 (4) (em) *Officer recruitment.* 1. When a law enforcement agency, tribal
11 law enforcement agency, jail, or juvenile detention facility recruits for new officers,
12 the interviewing agency shall require each candidate that it interviews for a law
13 enforcement, tribal law enforcement, jail, or juvenile detention position, who has
14 been employed by another law enforcement agency, tribal law enforcement agency,
15 jail, juvenile detention facility, or government agency to execute a written waiver
16 that explicitly authorizes each law enforcement agency, tribal law enforcement
17 agency, jail, juvenile detention facility, or other government agency to disclose the
18 candidate's employment files to the interviewing agency, and releases the
19 interviewing agency and each law enforcement agency, tribal law enforcement
20 agency, jail, juvenile detention facility, or government agency that employed the
21 candidate from any liability related to the use and disclosure of the candidate's
22 employment files.

23 2. A law enforcement agency, tribal law enforcement agency, jail, juvenile
24 detention facility, or government agency may disclose a candidate's employment files
25 by either providing copies to the interviewing agency or allowing the interviewing

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1 agency to review the files at the offices of the law enforcement agency, tribal law
2 enforcement agency, jail, juvenile detention facility, or government agency that
3 employed the candidate.

4 3. A candidate who refuses to execute the waiver shall not be considered for
5 employment by the interviewing agency or considered for certification by the board.

6 4. The interviewing agency shall, at least 30 days prior to making its hiring
7 decision, submit the waiver to each law enforcement agency, tribal law enforcement
8 agency, jail, juvenile detention facility, or government agency that has employed the
9 candidate. A law enforcement agency, tribal law enforcement agency, jail, juvenile
10 detention facility, or government agency that receives a waiver shall provide the
11 requested employment files to the interviewing agency not more than 21 days after
12 receiving the waiver.

13 5. The interviewing agency may also conduct an official oral interview of
14 individuals from the law enforcement agency, tribal law enforcement agency, jail,
15 juvenile detention facility, or government agency that employed the candidate.

16 6. A law enforcement agency, tribal law enforcement agency, jail, juvenile
17 detention facility, or government agency is not required to provide the candidate's
18 employment records if the agency or facility is prohibited from providing the
19 employment records pursuant to a binding nondisclosure agreement to which the
20 law enforcement agency, tribal law enforcement agency, jail, juvenile detention
21 facility, or government agency is a party if the agreement was executed before the
22 effective date of this subdivision [LRB inserts date].

23 7. No law enforcement agency, tribal law enforcement agency, jail, juvenile
24 detention facility, or government agency, may enter into a nondisclosure agreement
25 preventing an interviewing law enforcement agency, tribal law enforcement agency,

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1 jail, or juvenile detention facility from viewing employment files after the effective
2 date of this subdivision [LRB inserts date].

3 8. A law enforcement agency, tribal law enforcement agency, jail, juvenile
4 detention facility, or government agency is not liable for complying with the
5 provisions of this paragraph or participating in an official oral interview with an
6 investigator from the interviewing agency, regarding the candidate.

7 (END)