

# State of Wisconsin



2007 Senate Bill 269

Date of enactment: **March 26, 2008**

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## 2007 WISCONSIN ACT 184

AN ACT *to renumber and amend* 704.19 (2) (b); and *to create* 66.0627 (7), 704.01 (3m), 704.16 and 704.44 of the statutes; **relating to:** terminating a tenancy for imminent threat of serious physical harm, making rental agreements that restrict access to certain services void and unenforceable, and prohibiting the imposition of fees for certain local government law enforcement services.

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

**SECTION 1e.** 66.0627 (7) of the statutes is created to read:

66.0627 (7) Notwithstanding sub. (2), no city, village, town, or county may enact an ordinance, or enforce an existing ordinance, that imposes a fee on the owner or occupant of property for a call for assistance that is made by the owner or occupant requesting law enforcement services that relate to any of the following:

- (a) Domestic abuse, as defined in s. 813.12 (1) (am).
- (b) Sexual assault, as described under ss. 940.225, 948.02, and 948.025.
- (c) Stalking, as described in s. 940.32.

**SECTION 1m.** 704.01 (3m) of the statutes is created to read:

704.01 (3m) "Rental agreement" means an oral or written agreement between a landlord and tenant, for the rental or lease of a specific dwelling unit or premises, in which the landlord and tenant agree on the essential terms of the tenancy, such as rent. "Rental agreement" includes a lease. "Rental agreement" does not include an agreement to enter into a rental agreement in the future.

**SECTION 1s.** 704.16 of the statutes is created to read:

**704.16 Termination of tenancy for imminent threat of serious physical harm. (1) TERMINATING TENANCY BY TENANT.** A residential tenant may terminate his or her tenancy and remove from the premises if both of the following apply:

(a) The tenant or a child of the tenant faces an imminent threat of serious physical harm from another person if the tenant remains on the premises.

(b) The tenant provides the landlord with notice in the manner provided under s. 704.21 and with a certified copy of any of the following:

1. An injunction order under s. 813.12 (4) protecting the tenant from the person.
2. An injunction order under s. 813.122 protecting a child of the tenant from the person.
3. An injunction order under s. 813.125 (4) protecting the tenant or a child of the tenant from the person, based on the person's engaging in an act that would constitute sexual assault under s. 940.225, 948.02, or 948.025, or stalking under s. 940.32, or attempting or threatening to do the same.
4. A condition of release under ch. 969 ordering the person not to contact the tenant.

\* Section 991.11, WISCONSIN STATUTES 2005-06 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

5. A criminal complaint alleging that the person sexually assaulted the tenant or a child of the tenant under s. 940.225, 948.02, or 948.025.

6. A criminal complaint alleging that the person stalked the tenant or a child of the tenant under s. 940.32.

7. A criminal complaint that was filed against the person as a result of the person being arrested for committing a domestic abuse offense against the tenant under s. 968.075.

(2) **NOT LIABLE FOR RENT.** If a residential tenant removes from the premises because of a threat of serious physical harm to the tenant or to a child of the tenant from another person and provides the landlord with a certified copy specified under sub. (1) and with notice that complies with s. 704.21, the tenant shall not be liable for any rent after the end of the month following the month in which he or she provides the notice or removes from the premises, whichever is later. The tenant's liability for rent under this subsection is subject to the landlord's duty to mitigate damages as provided in s. 704.29 (2).

(3) **TERMINATION OF TENANCY BY LANDLORD.** (a) In this subsection, "offending tenant" is a tenant whose tenancy is being terminated under this subsection.

(b) A landlord may terminate the tenancy of an offending tenant if all of the following apply:

1. The offending tenant commits one or more acts, including verbal threats, that cause another tenant, or a child of that other tenant, who occupies a dwelling unit in the same single-family rental unit, multiunit dwelling, or apartment complex as the offending tenant to face an imminent threat of serious physical harm from the offending tenant if the offending tenant remains on the premises.

2. The offending tenant is the named offender in any of the following:

a. An injunction order under s. 813.12 (4) protecting the other tenant from the offending tenant.

b. An injunction order under s. 813.122 protecting the child of the other tenant from the offending tenant.

c. An injunction order under s. 813.125 (4) protecting the other tenant or the child of the other tenant from the offending tenant, based on the offending tenant's engaging in an act that would constitute sexual assault under s. 940.225, 948.02, or 948.025, or stalking under s. 940.32, or attempting or threatening to do the same.

d. A condition of release under ch. 969 ordering the offending tenant not to contact the other tenant.

e. A criminal complaint alleging that the offending tenant sexually assaulted the other tenant or the child of the other tenant under s. 940.225, 948.02, or 948.025.

f. A criminal complaint alleging that the offending tenant stalked the other tenant or the child of the other tenant under s. 940.32.

g. A criminal complaint that was filed against the offending tenant as a result of the offending tenant being arrested for committing a domestic abuse offense against the other tenant under s. 968.075.

3. The landlord gives the offending tenant written notice that complies with s. 704.21 requiring the offending tenant to vacate on or before a date that is at least 5 days after the giving of the notice. The notice shall state the basis for its issuance and the right of the offending tenant to contest the termination of tenancy in an eviction action under ch. 799. If the offending tenant contests the termination of tenancy, the tenancy may not be terminated without proof by the landlord by the greater preponderance of the credible evidence of the allegations against the offending tenant.

**SECTION 2.** 704.19 (2) (b) of the statutes is renumbered 704.19 (2) (b) 1. and amended to read:

704.19 (2) (b) 1. A periodic tenancy can be terminated by notice under this section only at the end of a rental period. In the case of a tenancy from year-to-year the end of the rental period is the end of the rental year even though rent is payable on a more frequent basis.  
**Nothing**

2. Notwithstanding subd. 1., nothing in this section prevents termination of a tenancy before the end of a rental period because of an imminent threat of serious physical harm, as provided in s. 704.16, or for nonpayment of rent or breach of any other condition of the tenancy, as provided in s. 704.17.

**SECTION 3.** 704.44 of the statutes is created to read:

**704.44 Rental agreement that restricts access to certain services is void.** A rental agreement is void and unenforceable if it allows a landlord in a residential tenancy to do any of the following because a tenant has contacted an entity for law enforcement services, health services, or safety services:

(1) Increase rent.

(2) Decrease services.

(3) Bring an action for possession of the premises.

(4) Refuse to renew a rental agreement.

(5) Threaten to take any action under subs. (1) to (4).

**SECTION 4. Initial applicability.**

(1) **TENANTS AND LANDLORDS.** The treatment of sections 704.16, 704.19 (2) (b), and 704.44 of the statutes first applies to rental agreements entered into, modified, or renewed on the effective date of this subsection.

(2m) **LOCAL GOVERNMENT LAW ENFORCEMENT SERVICES.** The treatment of section 66.0627 (7) of the statutes first applies to a call that is made for law enforcement services on the effective date of this subsection.