

**2001 DRAFTING REQUEST**

**Bill**

Received: 01/11/2001

Received By: nelsorp1

Wanted: As time permits

Identical to LRB:

For: Tom Sykora (608) 266-1194

By/Representing: Martha Hess

This file may be shown to any legislator: NO

Drafter: nelsorp1

May Contact:

Alt. Drafters:

Subject: Courts - miscellaneous

Extra Copies: PJK

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Termination of tenancy related to drug or criminal activity

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**Instructions:**

See Attached companion to 01-1354

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**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>
/?	nelsorp1 01/11/2001	jdye 01/11/2001		_____			
/1			martykr 01/30/2001	_____	lrb_docadmin 01/30/2001	lrb_docadmin 02/16/2001	

FE Sent For:

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Received By: **nelsorp1**

Wanted: **As time permits**

Identical to LRB:

For: **Tom Sykora (608) 266-1194**

By/Representing: **Martha Hess**

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

Drafter: **nelsorp1**

May Contact:

Alt. Drafters:

Subject: **Courts - miscellaneous**

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1/?	nelsorp1	1/11 jld	cmh u 1/30	cmh km			

FE Sent For:

<END>

## 2001 BILL

Regen

1 AN ACT to amend 704.17 (1) (c), 704.17 (2) (c), 704.17 (3) (b) and 893.80 (7) of the  
2 statutes; relating to: termination of a tenancy if notice given regarding drug  
3 or criminal gang activity.

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### *Analysis by the Legislative Reference Bureau*

Under current law, if a property owner receives notice from a law enforcement agency of a city, town, or village that a rental unit is a nuisance because the unit is being used to facilitate the delivery, distribution, or manufacture of a controlled substance or is being used to facilitate the activities of a criminal gang, the property owner may terminate the tenancy by giving the tenant written notice requiring the tenant to vacate on or before a date at least five days after the giving of the notice.

Under current law, the city, town, or village, and officers and employees of those municipalities who act in good faith, are immune from liability for acts or omissions related to the provision of a notice that a rental unit is a public nuisance.

This bill expands the law enforcement agencies that may give notice to a property owner that a rental unit is a nuisance to include any law enforcement agency of the state or of a political subdivision of the state and provides immunity to those additional entities and their officers and employees.

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

**BILL**

1           **SECTION 1.** 704.17 (1) (c) of the statutes is amended to read:

2           704.17 (1) (c) A property owner may terminate the tenancy of a week-to-week  
3 or month-to-month tenant if the property owner receives written notice from a law  
4 enforcement agency of a city, town or village, as defined in s. 165.83 (1) (b), that a  
5 nuisance under s. 823.113 (1) or (1m) (b) exists in that tenant's rental unit or was  
6 caused by that tenant on the property owner's property and if the property owner  
7 gives the tenant written notice requiring the tenant to vacate on or before a date at  
8 least 5 days after the giving of the notice. The notice shall state the basis for its  
9 issuance and the right of the tenant to contest the termination of tenancy in an  
10 eviction action under ch. 799. If the tenant contests the termination of tenancy, the  
11 tenancy may not be terminated without proof by the property owner by the greater  
12 preponderance of the credible evidence of the allegation in the notice from the law  
13 enforcement agency of a city, town or village that a nuisance under s. 823.113 (1) or  
14 (1m) (b) exists in that tenant's rental unit or was caused by that tenant. This  
15 paragraph does not require the sheriff of Milwaukee County to provide a property  
16 owner with a written notice that a nuisance exists under s. 823.113 (1) or (1m) (b).

17           **SECTION 2.** 704.17 (2) (c) of the statutes is amended to read:

18           704.17 (2) (c) A property owner may terminate the tenancy of a tenant who is  
19 under a lease for a term of one year or less or who is a year-to-year tenant if the  
20 property owner receives written notice from a law enforcement agency of a city, town  
21 or village, as defined in s. 165.83 (1) (b), that a nuisance under s. 823.113 (1) or (1m)  
22 (b) exists in that tenant's rental unit or was caused by that tenant on the property  
23 owner's property and if the property owner gives the tenant written notice requiring  
24 the tenant to vacate on or before a date at least 5 days after the giving of the notice.  
25 The notice shall state the basis for its issuance and the right of the tenant to contest

**BILL**

1 the termination of tenancy in an eviction action under ch. 799. If the tenant contests  
2 the termination of tenancy, the tenancy may not be terminated without proof by the  
3 property owner by the greater preponderance of the credible evidence of the  
4 allegation in the notice from the law enforcement agency of a city, town or village that  
5 a nuisance under s. 823.113 (1) or (1m) (b) exists in that tenant's rental unit or was  
6 caused by that tenant. This paragraph does not require the sheriff of Milwaukee  
7 County to provide a property owner with a written notice that a nuisance exists  
8 under s. 823.113 (1) or (1m) (b).

9 **SECTION 3.** 704.17 (3) (b) of the statutes is amended to read:

10 704.17 (3) (b) A property owner may terminate the tenancy of a tenant who is  
11 under a lease for a term of more than one year if the property owner receives written  
12 notice from a law enforcement agency of a city, town or village, as defined in s. 165.83  
13 (1) (b), that a nuisance under s. 823.113 (1) or (1m) (b) exists in that tenant's rental  
14 unit or was caused by that tenant on the property owner's property and if the  
15 property owner gives the tenant written notice to vacate on or before a date at least  
16 5 days after the giving of the notice. The notice shall state the basis for its issuance  
17 and the right of the tenant to contest the termination of tenancy in an eviction action  
18 under ch. 799. If the tenant contests the termination of tenancy, the tenancy may  
19 not be terminated without proof by the property owner by the greater preponderance  
20 of the credible evidence of the allegation in the notice from the law enforcement  
21 agency of a city, town or village that a nuisance under s. 823.113 (1) or (1m) (b) exists  
22 in that tenant's rental unit or was caused by that tenant. This paragraph does not  
23 require the sheriff of Milwaukee County to provide a property owner with a written  
24 notice that a nuisance exists under s. 823.113 (1) or (1m) (b).

25 **SECTION 4.** 893.80 (7) of the statutes is amended to read:

**BILL**

1           893.80 (7) No suit may be brought against ~~any city, town or village or~~ the state  
2           or any governmental subdivision or agency thereof or against any officer, official,  
3           agent or employee of any of those entities who, in good faith, acts or fails to act to  
4           provide a notice to a property owner that a public nuisance under s. 823.113 (1) or  
5           (1m) (b) exists.

6

(END)



STEPHEN R. MILLER  
CHIEF

# State of Wisconsin

## LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET  
5TH FLOOR  
MADISON, WI 53701-2037

LEGAL SECTION: (608) 266-3561  
LEGAL FAX: (608) 264-6948

January 30, 2001

### MEMORANDUM

To: Representative Sykora

From: Robert P. Nelson, Senior Legislative Attorney

Re: LRB-1991 Termination of tenancy related to drug or criminal activity

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

  X   JACKET FOR ASSEMBLY           JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 267-7511 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.