

2003 DRAFTING REQUEST

Bill

Received: **02/04/2003**

Received By: **rnelson2**

Wanted: **As time permits**

Identical to LRB:

For: **Ted Kanavas (608) 266-9174**

By/Representing: **Jeremy S**

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

Drafter: **mlief**

May Contact:

Addl. Drafters:

Subject: **Courts - immunity liability**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Kanavas@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Payment of litigation expenses of municipal employees

Instructions:

See attached

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>
/?	rnelson2 02/06/2003			_____			S&L
/1	mlief 02/07/2003	kgilfoy 02/17/2003	rschluet 02/18/2003	_____	sbasford 02/18/2003		S&L
/2	mlief	kgilfoy	pgreensl	_____	amentkow	amentkow	S&L

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	03/03/2003	03/03/2003	03/03/2003	_____	03/03/2003	03/17/2003	
/3	mlief 03/20/2003	kgilfoy 03/20/2003	rschluet 03/21/2003	_____	lemery 03/21/2003	lemery 03/21/2003	

FE Sent For:

At
intro

<END>

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Please jacket 13

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/2	mlief	kgilfoy	pgreensl	_____	amentkow	amentkow	

Handwritten notes: 13 - 3/20, kmg, and a signature with date 3-20-03.

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		12 - 3/3/03 Kmeq	3/3 P8				

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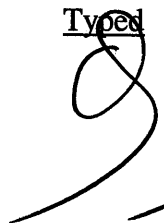

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1?	rnelson2 02/06/2003 mlief	1/2-2/17 Kmg					
			2-18-03				

FE Sent For:

<END>

Nelson, Robert P.

From: Shovers, Marc
Sent: Tuesday, February 04, 2003 2:09 PM
To: Dsida, Michael
Cc: Nelson, Robert P.
Subject: RE: Waukesha County Sheriff Bill Draft Request - Sec. 895.35 of WI Statutes

I think it's Bob's. Bob, what do you think?

-----Original Message-----

From: Dsida, Michael
Sent: Tuesday, February 04, 2003 9:11 AM
To: Shovers, Marc
Subject: FW: Waukesha County Sheriff Bill Draft Request - Sec. 895.35 of WI Statutes

I know it's in ch. 895, but would this be yours? Bob's? I'm pretty sure it's not mine, since it would cover lots of people besides police.

-----Original Message-----

From: Shepherd, Jeremy
Sent: Monday, February 03, 2003 5:37 PM
To: Dsida, Michael; Ryan, Robin
Cc: Pfaff, Bruce
Subject: Waukesha County Sheriff Bill Draft Request - Sec. 895.35 of WI Statutes

Michael and Robin,

Last February, the Waukesha County Sheriff's office responded to a call where a suicidal man held their Department at bay inside his vehicle. The stand off ended when a Waukesha County officer used deadly force in order to protect other officers at the scene. As a result, the incident went under investigation by the Department and the county's DA's office.

Through the process, the Waukesha Sheriff became aware that his officer would be legally represented by the municipality under Sec. 895.46, however Sec. 895.35 indicates that the municipality may pay for reasonable expenses. Therefore, the Waukesha County Sheriff requested a change making it mandatory that municipalities pay for legal representation for their officers when in this type of situation. Obviously, if an officer is found of wrong doing, there should be language addressing that which we included below.

Senator Kanavas requests the following changes to Sec. 895.35:

..**may** pay all reasonable expenses which such officer necessarily expended by reason thereof.

be changed to read:

...**SHALL** pay all resonalbe expenses which such officer necessarily expended by reason thereof.

and

Such expenses **may** likewise be paid, even though decided adversely...

be changed to read:

Such expenses **SHALL** likewise be paid, even though decided adversley...

Senator Kanavas also requests the following paragraph to be added to this secion:

This section shall not apply to employees (officers) who resign or are terminated as a result of an employment action.

Please call with any questions, comments or concerns.

*Do not make bill
unouchie*

*for cause
TC
w/Jeremy
2/6*

Nelson, Robert P.

From: Dsida, Michael
Sent: Wednesday, February 05, 2003 8:53 AM
To: Nelson, Robert P.
Subject: FW: Waukesha County Sheriff Bill Draft Request - Sec. 895.35 of WI Statutes

-----Original Message-----

From: Shepherd, Jeremy
Sent: Tuesday, February 04, 2003 4:14 PM
To: Dsida, Michael
Subject: RE: Waukesha County Sheriff Bill Draft Request - Sec. 895.35 of WI Statutes

Mike,

Just so we are clear, we want the changes only to apply to police officers as they are described in statute...

Thanks!

Jeremy
266-9174

-----Original Message-----

From: Dsida, Michael
Sent: Tuesday, February 04, 2003 3:39 PM
To: Shepherd, Jeremy
Cc: Nelson, Robert P.
Subject: RE: Waukesha County Sheriff Bill Draft Request - Sec. 895.35 of WI Statutes

Bob Nelson is generally our drafter for ch. 895, and since the changes that you propose will cover people other than law enforcement officers, I will forward your request to him.

Mike Dsida
Legislative Reference Bureau
608/266-9867
michael.dsida@state.legis.wi.us

-----Original Message-----

From: Shepherd, Jeremy
Sent: Monday, February 03, 2003 5:37 PM
To: Dsida, Michael; Ryan, Robin
Cc: Pfaff, Bruce
Subject: Waukesha County Sheriff Bill Draft Request - Sec. 895.35 of WI Statutes

Michael and Robin,

Last February, the Waukesha County Sheriff's office responded to a call where a suicidal man held their Department at bay inside his vehicle. The stand off ended when a Waukesha County officer used deadly force in order to protect other officers at the scene. As a result, the incident went under investigation by the Department and the county's DA's office.

Through the process, the Waukesha Sheriff became aware that his officer would be legally represented by the municipality under Sec. 895.46, however Sec. 895.35 indicates that the municipality **may** pay for reasonable expenses. Therefore, the Waukesha County Sheriff requested a change making it mandatory that municipalities pay for legal representation for their officers when in this type of situation. Obviously, if an officer is found of wrong doing, there should be language addressing that which we included below.

Senator Kanavas requests the following changes to Sec. 895.35:

..**may** pay all reasonable expenses which such officer necessarily expended by reason thereof.

Sincerely,

Jeremey J. Shepherd
Policy Advisor
Office of Senator Ted Kanavas
266-9174



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-1933/1

MJL: /:.....
mg

2003 BILL

1 AN ACT, *Gen. Cat.*; relating to: payment of litigation expenses of municipal ~~employees~~ *officers*.

Analysis by the Legislative Reference Bureau

Current law permits a municipality (a city, town, village, school district, technical college district, or county) to pay the reasonable expenses of a municipal officer who is sued in his or her official capacity. This bill requires the municipality to pay these litigation expenses unless the municipal officer resigns before the expenses are incurred or his or her employment is terminated for cause.

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:

2 SECTION 1. 895.35 of the statutes is amended to read:
3 **895.35 Expenses in actions against municipal and other officers.**
4 Whenever in any city, town, village, school district, technical college district or
5 county charges of any kind are filed or an action is brought against any officer thereof
6 in the officer's official capacity, or to subject any such officer, whether or not the
7 officer is being compensated on a salary basis, to a personal liability growing out of

BILL

1 the performance of official duties, and such charges or such action is discontinued or
2 dismissed or such matter is determined favorably to such officer, or such officer is
3 reinstated, or in case such officer, without fault on the officer's part, is subjected to
4 a personal liability as aforesaid, such city, town, village, school district, technical
5 college district or county ~~may~~ shall pay all reasonable expenses which such officer
6 necessarily expended by reason thereof. Such expenses ~~may~~ shall likewise be paid,
7 even though decided adversely to such officer, where it appears from the certificate
8 of the trial judge that the action involved the constitutionality of a statute, not
9 theretofore construed, relating to the performance of the official duties of said officer.

10 This section does not apply to an officer who resigns after the expenses are incurred
11 or to an officer whose employment is terminated for cause.

History: 1971 c. 154; 1993 a. 399, 486.

SECTION 2. Initial applicability.

12
13 (1) This act first applies to expenses incurred on the effective date of this
14 subsection.

15 (END)

TC from Jeremy Redraft

6-9174

Just emergency people emt, police, firefighters
1933/1



2003 BILL

soon To editing 3/3

emergency medical services personnel,
firefighters, and police officers
Gen. Cat.

1 AN ACT to amend 895.35 of the statutes; relating to: payment of litigation
2 expenses of municipal officers

For an emergency medical services technician,
first responder, firefighter, or police officer

Analysis by the Legislative Reference Bureau

person

Current law permits a municipality (a city, town, village, school district, technical college district, or county) to pay the reasonable expenses of a municipal officer who is sued in his or her official capacity. This bill requires the municipality to pay these litigation expenses unless the ~~municipal officer~~ resigns before the expenses are incurred or his or her employment is terminated for cause.

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:

3 SECTION 1. 895.35 of the statutes is ~~amended to read:~~

renumbered 895.35(1)

4 **895.35 Expenses in actions against municipal and other officers.**

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6 county charges of any kind are filed or an action is brought against any officer thereof
7 in the officer's official capacity, or to subject any such officer, whether or not the

BILL

1 officer is being compensated on a salary basis, to a personal liability growing out of
 2 the performance of official duties, and such charges or such action is discontinued or
 3 dismissed or such matter is determined favorably to such officer, or such officer is
 4 reinstated, or in case such officer, without fault on the officer's part, is subjected to
 5 a personal liability as aforesaid, such city, town, village, school district, technical
 6 college district or county ~~may~~ shall pay all reasonable expenses which such officer
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 8 even though decided adversely to such officer, where it appears from the certificate
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 10 theretofore construed, relating to the performance of the official duties of said officer.
 11 This section does not apply to an officer who resigns after the expenses are incurred
 12 or to an officer whose employment is terminated for cause.

SECTION 2. Initial applicability.

(1) This act first applies to expenses incurred on the effective date of this subsection.

(END)

SEC.#.
CR; 895.35(2)

895.35(2)⁸ Notwithstanding sub.(1), the city, town, village, school district, technical college district, or county shall pay all reasonable expenses under sub.(1) for an emergency medical services technician under ^e s.146.50(1)(e), ^e (pt) or (hmn)), a firefighter, or police officer, unless the person resigns after the expenses are incurred or the person's employment is terminated for cause.

Mentkowski, Annie

From: Shepherd, Jeremy
Sent: Monday, March 17, 2003 2:39 PM
To: LRB.Legal
Subject: Draft review: LRB 03-1933/2 Topic: Payment of litigation expenses of municipal employees

It has been requested by <Shepherd, Jeremy> that the following draft be jacketed for the SENATE:

Draft review: LRB 03-1933/2 Topic: Payment of litigation expenses of municipal employees



2003 BILL

SOON
TO editing 3/20 R.M. run

law enforcement
or ~~and~~ correctional

1 AN ACT to renumber 895.35; and to create 895.35 (2) of the statutes; relating
2 to: payment of litigation expenses of emergency medical services personnel, fire
3 fighters, and ~~police~~ officers.

Analysis by the Legislative Reference Bureau

Current law permits a municipality (a city, town, village, school district, technical college district, or county) to pay the reasonable expenses of a municipal officer who is sued in his or her official capacity. This bill requires the municipality to pay these litigation expenses for an emergency medical services technician, first responder, fire fighter, or ~~police~~ officer unless the person resigns before the expenses are incurred or his or her employment is terminated for cause.

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:

- 4 SECTION 1. 895.35 of the statutes is renumbered 895.35 (1).
- 5 SECTION 2. 895.35 (2) of the statutes is created to read:
- 6 895.35 (2) Notwithstanding sub. (1), the city, town, village, school district,
- 7 technical college district, or county shall pay all reasonable expenses under sub. (1)

BILL

law enforcement or correctional

1 for an emergency medical services technician under s. 146.50 (1) (e) or (hm), a fire
2 fighter, or ~~police~~ *law enforcement* officer, unless the person resigns ~~after~~ *before* the expenses are incurred or
3 the person's employment is terminated for cause.

SECTION 3. Initial applicability.

4 (1) This act first applies to expenses incurred on the effective date of this
5 subsection.
6

7 (END)

C - 2 - C

1 895.35 (2) ~~Notwithstanding sub. (1), the city, town, village, school district,~~
 2 technical college district, or county shall pay all reasonable expenses under sub. (1)
 3 for an emergency medical services technician under s. 146.50 (1) (e) or (hm), a fire
 4 fighter, or a law enforcement or correctional officer, unless the person resigns before
 5 the expenses are incurred or the person's employment is terminated for cause.

SECTION 3. Initial applicability.

6 (1) This act first applies to expenses incurred on the effective date of this
 7 subsection.
 8

Delete

change ^(END) to:
 personnel

PJD OK'd
 5/6/03

per MJL

Peter: can 2
 we make these
 changes by
 CC - Jonnie
 requested
 them.
 KG

CCC MSU
1933/3

SB-119

#. Page 2, line 3: delete "an".

#. Page 2, line 3: delete "technician"
and substitute "personnel".

KMG:



State of Wisconsin
2003-2004 LEGISLATURE

CORRECTIONS IN:

2003 SENATE BILL 119

Prepared by the Legislative Reference Bureau
(May 7, 2003)

1. Page 2, line 3: delete "an".
2. Page 2, line 3: delete "technician" and substitute "personnel".

Re-Printed
05-12-2003

CORRECTED COPY

Judgment and

2003 SENATE BILL 119

requires a municipality to pay the costs of a municipal officer or employee who is sued in his or her official capacity or for actions taken in the scope of his or her employment. Current law also NO

April 16, 2003 - Introduced by Senators KANAVAS, WELCH, ROESSLER, KEDZIE, LAZICH and HARSDORF, cosponsored by Representatives M. LEHMAN, HAHN, LADWIG, KREIBICH, MUSSER, AINSWORTH, HINES, TOWNSEND, McCORMICK, BIES, MILLER and KAUFERT. Referred to Committee on Homeland Security, Veterans and Military Affairs and Government Reform.

Regen

now

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- 2 to: payment of litigation expenses of emergency medical services personnel, fire
- 3 fighters, and law enforcement or correctional officers.

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4 SECTION 1. 895.35 of the statutes is renumbered 895.35 (1).

5 SECTION 2. 895.35 (2) of the statutes is created to read:

against whom criminal charges or a civil lawsuit not involving the recovery of damages is brought.

