

## 2005 DRAFTING REQUEST

### Assembly Substitute Amendment (ASA-AB263)

Received: **08/11/2005**

Received By: **mlief**

Wanted: **08/12/2005**

Identical to LRB:

For: **Brett Davis (608) 266-1192**

By/Representing: **luke**

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: **Rep.Davis@legis.state.wi.us**

Carbon copy (CC:) to:

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#### Pre Topic:

No specific pre topic given

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#### Topic:

Payment of attorney fees for certain municipal officers

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#### Instructions:

See Attached

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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>
/?	mlief 08/11/2005			_____			
/1		kfollett 08/11/2005	jfrantze 08/11/2005	_____	lemery 08/11/2005	lemery 08/11/2005	
/2	chanaman 09/01/2005	wjackson 09/01/2005	pgreensl 09/01/2005	_____	lemery 09/01/2005	lemery 09/01/2005	

FE Sent For:

<END>

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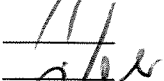
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/?	mlief	1/1 kjf 8/11	208/11 LC conv.				
FE Sent For:			208/11	208/11 pg			

**<END>**



State of Wisconsin  
2005 - 2006 LEGISLATURE

today

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LRBs0178/1  
MJL:...:jf  
kjf

ASSEMBLY SUBSTITUTE AMENDMENT,  
TO 2005 ASSEMBLY BILL 263

Gen

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1 AN ACT ...; relating to;

*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 renumbered 895.35 (1).

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

4 895.35 (2) (a) In this subsection:

5 1. "Criminal proceeding" means an action or proceeding governed under chs.  
6 967 to 979.

7 2. "Protective services officer" means an emergency medical technician or first  
8 responder under s. 146.50 (1) (e) to (hm), a fire fighter, or a law enforcement or  
9 correctional officer.

10 (b) Notwithstanding sub. (1), the city, town, village, school district, technical  
11 college district, or county shall reimburse a protective services officer for reasonable  
12 attorney fees incurred by the officer in connection with a criminal proceeding arising

1 from the officer's conduct in the line of duty unless, in relation to that conduct, any  
2 of the following applies:

- 3 1. ~~(a)~~ The officer is convicted of a crime.
- 4 2. ~~(b)~~ The officer's employment is terminated for cause.
- 5 3. ~~(c)~~ The officer resigns for reasons other than retirement before the expenses are  
6 incurred.

*attorney fees*

- 7 4. ~~(d)~~ The officer is demoted or reduced in rank.
- 8 5. ~~(e)~~ The officer is suspended without pay for 10 or more working days.

9 **SECTION 3. Initial applicability.**

10 (1) This act first applies to attorney fees incurred on the effective date of this  
11 subsection.

12 (END)

2005

Date (time) needed 8/12

LRBs 0178 / 1

SUBSTITUTE AMENDMENT [TO A BILL]

MJC: : We are to run these to a 101 Rather than a 11 when doing an LC conversion So Editor should write "STAPS" for the 11 version.

Use the appropriate components and routines developed for substit

S A SUBSTITUTE AMENDM TO 2005 SB AB 263 (LRB-

AN ACT . . . [generate catalog] to repeal . . . ; to renumi renumber . . . ; to renumber and amend . . . ; to consolidate, renumber and amend . . . ; to amend . . . ; to repeal and recreate . . . ; and to create . . . of the statutes; relating to: . . . Payment of attorney fees of . . . emergency medical services . . . personnel, fire fighters, first responders, and law enforcement or correctional . . . officers.

insert P. on 1

[NOTE: See section 4.02 (2) (br), Drafting Manual, for specific order of standard phrases.]

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

SECTION #.



TED KANAVAS  
STATE SENATOR

Ms. Lig,

CAN WE GET THE AMENDMENT WHICH  
IS ATTACHED, DRAFTED AS SOON AS POSSIBLE.  
IT SHOULD BE DRAFTED FOR BOAT AB 263  
AND SB 132. IF YOU NEED AUTHORIZATION  
FROM REP. DAVIS' OFFICE, TALK TO LUKE BARTON  
AT 6-1192.

THANKS FOR YOUR HELP.

MIKE RICHARDS  
6-9174

Tc from Luke  
Rep Davis  
OK to  
draft  
amend





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## WISCONSIN LEGISLATIVE COUNCIL

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*Terry C. Anderson, Director*  
*Laura D. Rose, Deputy Director*

TO: SENATOR TED KANAVAS AND REPRESENTATIVE BRETT DAVIS  
FROM: Don Dyke, Chief of Legal Services  
RE: Draft Substitute Amendment to 2005 Assembly Bill 263 and 2005 Senate Bill 132  
DATE: June 21, 2005

This memorandum describes the attached draft substitute amendment, WLC: 0224/P1, to 2005 Assembly Bill 263 and 2005 Senate Bill 132 (which are companion bills).

The substitute amendment requires the employing political subdivision to reimburse a protective services officer (as defined) for reasonable attorney fees incurred by the officer in connection with a criminal proceeding, including an inquest, arising from the officer's conduct in the line of duty unless, in relation to that conduct: (1) the officer is convicted of a crime; (2) the officer's employment is terminated for cause; (3) the officer resigns for reasons other than retirement before the expenses are incurred; (4) the officer is demoted or reduced in rank; or (5) the officer is suspended without pay for 10 or more working days.

The following are among the differences between the substitute amendment and the original bill:

1. The substitute amendment only applies to reasonable attorney fees incurred in connection with a criminal proceeding and does not apply, for example, to expenses incurred in a disciplinary proceeding.
2. The substitute amendment requires a political subdivision to "reimburse ... reasonable attorney fees incurred," rather than "pay all reasonable expenses under sub. (1)."
3. The substitute amendment applies to an officer's conduct "in the line of duty," rather than to actions or charges against an officer in the officer's "official capacity" or to conduct "growing out of the performance of official duties." (See current s. 895.35, Stats.)

The draft is labeled "preliminary." You may wish to seek review and comment from interested parties before the substitute amendment is formally drafted.

If you have any questions or need additional information, please feel free to contact me directly at the Legislative Council staff offices.

DD:tl

Attachment



State of Wisconsin  
2005 - 2006 LEGISLATURE

LRBs0178/1  
MJL:kjf:jf

ASSEMBLY SUBSTITUTE AMENDMENT ,  
TO 2005 ASSEMBLY BILL 263

1     **AN ACT** *to renumber* 895.35; and *to create* 895.35 (2) of the statutes; **relating**  
2             **to:** payment of attorney fees of emergency medical services personnel, fire  
3             fighters, first responders, and law enforcement or correctional officers.

*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) (a) In this subsection, "protective services officer" means an  
7             emergency medical technician or first responder under s. 146.50 (1) (e) to (hm), a fire  
8             fighter, or a law enforcement or correctional officer.

9             (b) Notwithstanding sub. (1), the city, town, village, school district, technical  
10            college district, or county shall reimburse a protective services officer for reasonable  
11            attorney fees incurred by the officer in connection with a criminal proceeding arising

1 from the officer's conduct in the line of duty unless, in relation to that conduct, any  
2 of the following applies:

3 1. The officer is convicted of a crime.

4 2. The officer's employment is terminated for cause.

5 3. The officer resigns for reasons other than retirement before the attorney fees  
6 are incurred.

7 4. The officer is demoted or reduced in rank.

8 5. The officer is suspended without pay for 10 or more working days.

9 **SECTION 3. Initial applicability.**

10 (1) This act first applies to attorney fees incurred on the effective date of this  
11 subsection.

12 (END)

## Lief, Madelon

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**From:** Bacher, Luke  
**Sent:** Thursday, September 01, 2005 11:40 AM  
**To:** Lief, Madelon  
**Cc:** Richards, Mike; Rep.Davis  
**Subject:** RE: Substitute Amendment Language

Lonnie,

Please draft this amendment for AB 263.

Thank you,

**Luke Bacher**  
**Legislative Assistant**  
**Office of State Representative Brett Davis**  
**(608)-266-1192**  
**Toll Free: 888-534-0080**  
**Luke.Bacher@legis.state.wi.us**

---

**From:** Richards, Mike  
**Sent:** Thursday, September 01, 2005 10:54 AM  
**To:** Lief, Madelon  
**Cc:** Davis, Brett; Bacher, Luke  
**Subject:** Substitute Amendment Language

Lonnie,

Thank you for being patient with us during our drafting of Senate Bill 132 and Assembly Bill 263. Attached with this e-mail is the substitute language that we would like to see drafted. The committee hearing's executive session is on the 6th, and therefore, we need this draft done by tomorrow if at all possible.

Thank you for your hard work. Brett Davis has asked me to contact you to get this drafted for him as well. Luke Bacher, from Brett Davis' office, will call you today to give you the go ahead to draft it. If you have any questions you can call me, or you may call Don Dyke at the Legislative Council

Thanks again, << File: LRB 2240 MDR DRAFT #2.doc >>

*Michael D. Richards*

*Michael D. Richards*  
*Office of State Senator Ted Kanavas*  
*State Capitol, Room 10 South*  
*Madison, WI 53707-7882*  
*608-266-9174*



State of Wisconsin  
2005 - 2006 LEGISLATURE

178  
LRBs 0180/1 2  
MJL:kjf&lmk:pg  
stays

Assembly  
~~SENATE~~ SUBSTITUTE AMENDMENT, ✓  
Assembly 263 ✓  
TO 2005 SENATE BILL 132

Due funds  
9/2

④ 10 ✓ Criminal proceeding ✓ means an  
action or proceeding under chs. 967 to 979.0  
④ 20

Regen

1 AN ACT to *renumber* 895.35; and to *create* 895.35 (2) of the statutes; relating  
2 to: payment of attorney fees of emergency medical services personnel, fire  
3 fighters, first responders, and law enforcement or correctional officers.

*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) (a) In this subsection ④ "protective services officer" means an  
7 emergency medical technician or first responder under s. 146.50 (1) (e) to (hm), a fire  
8 fighter, or a law enforcement or correctional officer.

9 (b) 1. Notwithstanding sub. (1), the city, town, village, school district, technical  
10 college district, or county shall reimburse a protective services officer for reasonable  
11 attorney fees incurred by the officer in connection with a criminal proceeding arising

1 from the officer's conduct in <sup>the performance of official duties</sup> ~~his or her official capacity~~ unless, in relation to that

2 conduct, any of the following applies:

3 a. The officer is convicted of a crime.

4 b. The officer's employment is terminated for cause.

5 c. The officer resigns for reasons other than retirement before the attorney fees  
6 are incurred.

7 d. The officer is demoted or reduced in rank.

8 e. The officer is suspended without pay for 10 or more working days.

9 2. If a collective bargaining agreement covering the protective services officer  
10 defines reasonable attorney fees for the purpose of subd. 1., that definition shall  
11 apply.

12 **SECTION 3. Initial applicability.**

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

15 (END)