



State of Wisconsin


LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX - **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 07/31/2007 (Per: PJK)





 Appendix A ... Part 01 of 02

 The 2007 drafting file for LRB-2269/1

has been copied/added to the drafting file for

2007 LRB-3020

 The attached 2007 draft was incorporated into the new 2007 draft listed above. For research purposes, this cover sheet and the attached drafting file were copied, and added, as a appendix, to the new 2007 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

 This cover sheet was added to rear of the original 2007 drafting file. The drafting file was then returned, intact, to its folder and filed.

2007 DRAFTING REQUEST

Bill

Received: 03/16/2007

Received By: pkahler

Wanted: As time permits

Identical to LRB:

For: Spencer Coggs (608) 266-2500

By/Representing: Dave de Felice

This file may be shown to any legislator: NO

Drafter: pkahler

May Contact:

Addl. Drafters: mshovers

Subject: Real Estate - landlord/tenant
Local Gov't - munis generally
Discrimination

Extra Copies:

Submit via email: YES

Requester's email: Sen.Coggs@legis.wisconsin.gov

Carbon copy (CC:) to: rja@legalaction.org

Pre Topic:

No specific pre topic given

Topic:

Landlord/tenant issues when domestic abuse and personal safety issues are involved; housing authorities, anti-discrimination

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>
/?	pkahler 03/22/2007	csicilia 04/27/2007		_____			Local
	mshovers 04/06/2007			_____			
	pkahler 04/10/2007			_____			
	gmalaise 04/26/2007			_____			

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1			pgreensl 05/01/2007	_____	cduerst 05/01/2007		Local
/P2	pkahler 05/11/2007	csicilia 05/21/2007	sherritz 05/22/2007	_____	cduerst 05/22/2007		Local
/P3	pkahler 06/11/2007	csicilia 07/03/2007	rschluet 07/05/2007	_____	lparisi 07/05/2007		Local
/1	pkahler 07/30/2007	csicilia 07/31/2007	rschluet 07/31/2007	_____	sbasford 07/31/2007		

FE Sent For:

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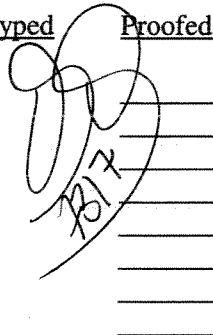
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/?	pkahler						
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Handwritten notes in the Drafting History table:
Under Reviewed: P1 cjs 5/1 07
Under Typed: 4/1
Under Proofed: 5/1
Under Submitted: pg mmm

FE Sent For:

<END>

Bill Request Form

Legislative Reference Bureau
100 N. Hamilton Street
Legal Section 266-3561

You may use this form or talk directly with the LRB attorney who will draft the bill.

Date 3-15-07
Legislator, agency, or other person requesting this draft SEN. COGGS / DAVE DE FELICE
Person submitting request (name and phone number) DAVE - 266-2500
Persons to contact for questions about this draft (names and phone numbers) DAVE

Describe the problem, including any helpful examples. How do you want to solve the problem?

PLEASE RE-DRAFT LBR 2881 USING
CHANGES SUGGESTED IN THE MEMO FROM
WCASA. ALSO, PLEASE USE N. CAROLINA
SB 1029 AS A REFERENCE. THESE DOCUMENTS
ARE ATTACHED.

Please attach a copy of any correspondence or other material that may help us. If you know of any statute sections that might be affected, list them or provide a marked-up copy.

You may attach a marked-up copy of any LRB draft or provide its number (e.g., 2001 LRB-2345/1 or 1999AB-67).

Requests are confidential unless stated otherwise. May we tell others that we are working on this for you? YES NO

If yes:

Anyone who asks? YES NO

Any legislator? YES NO

Only the following persons MEMBERS OF SEN. COGGS' STAFF

Do you consider this request urgent? YES NO If yes, please indicate why _____

Should we give this request priority over any pending request of this legislator, agency, or person?

YES NO



Wisconsin Coalition Against Sexual Assault, Inc.

600 Williamson St., Suite N2 • Madison, Wisconsin • 53703
Voice/TTY (608) 257-1516 • Fax (608) 257-2150 • www.wcasa.org



MEMORANDUM

TO: Senator Spencer Coggs
David de Felice

CC: Bob Anderson, Legal Action of Wisconsin, Inc.
Patti Seger, WI Coalition Against Domestic Violence

FROM: Mike Murray, Policy Specialist, WI Coalition Against Sexual Assault, Inc.

RE: Proposed Changes to Housing Rights Bill (LRB—2881/P1)

DATE: February 6, 2007

Section 3 of the Draft should read as follows:

704.19 (4) CONTENTS OF NOTICE. Notice must be in writing, formal or informal, and substantially inform the other party to the landlord-tenant relation of the intent to terminate the tenancy and the date of termination. A notice is not invalid because of errors in the notice which do not mislead, including omission of the name of one of several landlords or tenants. If a tenant is terminating a tenancy because the tenant or the child of the tenant faces a threat of serious physical harm from another person if he or she the tenant remains on the premises, the tenant shall include that reason in the notice and shall provide the landlord with a certified copy of one of the following:

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

(b) An injunction order under s. 813.125 (4) protecting the tenant or the child of the tenant from the person, if the person engaged in an act that would constitute sexual assault under s. 940.225, s. 948.02, or 948.025, or stalking under s. 940.32 ; or attempting or threatening to do the same. → on the basis that

(c) An injunction order under s. 813.122 protecting the tenant's child from the person.

(d) A condition of release under ch. 969 ordering the person not to contact the tenant.

(e) A criminal complaint that has been filed by the tenant that alleges that the person sexually assaulted the tenant or the child of the tenant under s. 940.225, s. 948.02, or s. 948.025.

(f) A criminal complaint that has been filed by the tenant alleging that the person stalked the tenant or the child of the tenant under s. 940.32.

(g) A criminal complaint has been filed as the result of an arrest alleging the commission of domestic abuse under s. 968.075 (1)(a) in the commission of the crime.

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

**SENATE BILL 1029
RATIFIED BILL**

AN ACT TO CLARIFY AND ENHANCE THE LAWS RELATING TO DOMESTIC VIOLENCE, TO ENACT LAWS REGARDING DOMESTIC VIOLENCE VICTIMS AND TENANCY, TO CLARIFY THAT THE FAILURE TO FILE A COUNTERCLAIM IN A SMALL CLAIMS ACTION DOES NOT BAR THE CLAIM IN A SEPARATE ACTION AND TO MAKE CHANGES TO LANDLORD TENANT LAW.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 50B-3 reads as rewritten:

"§ 50B-3. Relief.

(a) ~~The~~ If the court, including magistrates as authorized under G.S. 50B-2(c1), ~~may grant any finds that an act of domestic violence has occurred, the court shall grant a protective order to bring about a cessation of acts of domestic violence. The orders may restraining the defendant from further acts of domestic violence. A protective order may include any of the following~~ types of relief:

- (1) Direct a party to refrain from such ~~acts;~~acts.
 - (2) Grant to a party possession of the residence or household of the parties and exclude the other party from the residence or ~~household;~~household.
 - (3) Require a party to provide a spouse and his or her children suitable alternate ~~housing;~~housing.
 - (4) Award temporary custody of minor children and establish temporary visitation rights pursuant to G.S. 50B-2 if the order is granted ex parte, and pursuant to subsection (a1) of this section if the order is granted after notice or service of ~~process;~~process.
 - (5) Order the eviction of a party from the residence or household and assistance to the victim in returning to ~~it;~~it.
 - (6) Order either party to make payments for the support of a minor child as required by ~~law;~~law.
 - (7) Order either party to make payments for the support of a spouse as required by ~~law;~~law.
 - (8) Provide for possession of personal property of the ~~parties;~~parties.
 - (9) Order a party to refrain from doing any or all of the following:
 - a. Threatening, abusing, or following the other ~~party;~~party.
 - b. Harassing the other party, including by telephone, visiting the home or workplace, or other ~~means;~~means.
 - c. Otherwise interfering with the other ~~party;~~party.
 - (10) Award attorney's fees to either ~~party;~~party.
 - (11) Prohibit a party from purchasing a firearm for a time fixed in the ~~order;~~order.
 - (12) Order any party the court finds is responsible for acts of domestic violence to attend and complete an abuser treatment program if the program is approved by the Domestic Violence ~~Commission;~~and Commission.
 - (13) Include any additional prohibitions or requirements the court deems necessary to protect any party or any minor child.
- (a1) Upon the request of either party at a hearing after notice or service of process, the court shall consider and may award temporary custody of minor children and establish

temporary visitation rights as follows:

- (1) In awarding custody or visitation rights, the court shall base its decision on the best interest of the minor child with particular consideration given to the safety of the minor child.
- (2) For purposes of determining custody and visitation issues, the court shall consider:
 - a. Whether the minor child was exposed to a substantial risk of physical or emotional injury or sexual abuse.
 - b. Whether the minor child was present during acts of domestic violence.
 - c. Whether a weapon was used or threatened to be used during any act of domestic violence.
 - d. Whether a party caused or attempted to cause serious bodily injury to the aggrieved party or the minor child.
 - e. Whether a party placed the aggrieved party or the minor child in reasonable fear of imminent serious bodily injury.
 - f. Whether a party caused an aggrieved party to engage involuntarily in sexual relations by force, threat, or duress.
 - g. Whether there is a pattern of abuse against an aggrieved party or the minor child.
 - h. Whether a party has abused or endangered the minor child during visitation.
 - i. Whether a party has used visitation as an opportunity to abuse or harass the aggrieved party.
 - j. Whether a party has improperly concealed or detained the minor child.
 - k. Whether a party has otherwise acted in a manner that is not in the best interest of the minor child.
- (3) If the court awards custody, the court shall also consider whether visitation is in the best interest of the minor child. If ordering visitation, the court shall provide for the safety and well-being of the minor child and the safety of the aggrieved party. The court may consider any of the following:
 - a. Ordering an exchange of the minor child to occur in a protected setting or in the presence of an appropriate third party.
 - b. Ordering visitation supervised by an appropriate third party, or at a supervised visitation center or other approved agency.
 - c. Ordering the noncustodial parent to attend and complete, to the satisfaction of the court, an abuser treatment program as a condition of visitation.
 - d. Ordering either or both parents to abstain from possession or consumption of alcohol or controlled substances during the visitation or for 24 hours preceding an exchange of the minor child.
 - e. Ordering the noncustodial parent to pay the costs of supervised visitation.
 - f. Prohibiting overnight visitation.
 - g. Requiring a bond from the noncustodial parent for the return and safety of the minor child.
 - h. Ordering an investigation or appointment of a guardian ad litem or attorney for the minor child.
 - i. Imposing any other condition that is deemed necessary to provide for the safety and well-being of the minor child and the safety of the aggrieved party.

If the court grants visitation, the order shall specify dates and times for the visitation to take place or other specific parameters or conditions that are appropriate. A person, supervised visitation center, or other agency may be approved to supervise visitation after appearing in court or filing an affidavit accepting that responsibility and acknowledging accountability to the court.
- (4) A temporary custody order entered pursuant to this Chapter shall be without

prejudice and shall be for a fixed period of time not to exceed one year. Nothing in this section shall be construed to affect the right of the parties to a de novo hearing under Chapter 50 of the General Statutes. Any subsequent custody order entered under Chapter 50 of the General Statutes supersedes a temporary order issued pursuant to this Chapter.

(b) Protective orders entered pursuant to this Chapter shall be for a fixed period of time not to exceed one year. The court may renew a protective order for a fixed period of time not to exceed ~~one year, two years~~, including an order that previously has been renewed, upon a motion by the aggrieved party filed before the expiration of the current order; provided, however, that a temporary award of custody entered as part of a protective order may not be renewed to extend a temporary award of custody beyond the maximum one-year period. The court may renew a protective order for good cause. The commission of an act as defined in G.S. 50B-1(a) by the defendant after entry of the current order is not required for an order to be renewed. Protective orders entered, including consent orders, shall not be mutual in nature except where both parties file a claim and the court makes detailed findings of fact indicating that both parties acted as aggressors, that neither party acted primarily in self-defense, and that the right of each party to due process is preserved.

(c) A copy of any order entered and filed under this Article shall be issued to each party. In addition, a copy of the order shall be issued promptly to and retained by the police department of the city of the victim's residence. If the victim does not reside in a city or resides in a city with no police department, copies shall be issued promptly to and retained by the sheriff, and the county police department, if any, of the county in which the victim resides. If the defendant is ordered to stay away from the child's school, a copy of the order shall be delivered promptly by the sheriff to the principal or, in the principal's absence, the assistant principal or the principal's designee of each school named in the order.

(d) The sheriff of the county where a domestic violence order is entered shall provide for prompt entry of the order into the National Crime Information Center registry and shall provide for access of such orders to magistrates on a 24-hour-a-day basis. Modifications, terminations, renewals, and dismissals of the order shall also be promptly entered."

SECTION 2. G.S. 50B-3.1(e) reads as rewritten:

"(e) Retrieval. – If the court does not enter a protective order when the ex parte or emergency order expires, the defendant may retrieve any weapons surrendered to the sheriff unless the court finds that the defendant is precluded from owning or possessing a firearm pursuant to State or federal ~~law-law~~ or final disposition of any pending criminal charges committed against the person that is the subject of the current protective order."

SECTION 3. G.S. 50B-3.1(f) reads as rewritten:

"(f) Motion for Return. – The defendant may request the return of any firearms, ammunition, or permits surrendered by filing a motion with the court at the expiration of the current order or final disposition of any pending criminal charges committed against the person that is the subject of the current protective order and not later than 90 days after the expiration of the current ~~order-order~~ or final disposition of any pending criminal charges committed against the person that is the subject of the current protective order. Upon receipt of the motion, the court shall schedule a hearing and provide written notice to the plaintiff who shall have the right to appear and be heard and to the sheriff who has control of the firearms, ammunition, or permits. The court shall determine whether the defendant is subject to any State or federal law or court order that precludes the defendant from owning or possessing a firearm. The inquiry shall include:

- (1) Whether the protective order has been ~~renewed; renewed.~~
- (2) Whether the defendant is subject to any other protective ~~orders; or orders.~~
- (3) Whether the defendant is disqualified from owning or possessing a firearm pursuant to 18 U.S.C. § 922 or any State law.
- (4) Whether the defendant has any pending criminal charges, in either State or federal court, committed against the person that is the subject of the current protective order.

The court shall deny the return of firearms, ammunition, or permits if the court finds that the defendant is precluded from owning or possessing a firearm pursuant to State or federal ~~law-law~~

or if the defendant has any pending criminal charges, in either State or federal court, committed against the person that is the subject of the current protective order until the final disposition of those charges."

SECTION 4. G.S. 50-13.1(c) reads as rewritten:

"(c) For good cause, on the motion of either party or on the court's own motion, the court may waive the mandatory setting under Article 39A of Chapter 7A of the General Statutes of a contested custody or visitation matter for mediation. Good cause may include, but is not limited to, the following: a showing of undue hardship to a party; an agreement between the parties for voluntary mediation, subject to court approval; allegations of abuse or neglect of the minor child; allegations of alcoholism, drug abuse, or ~~spouse abuse~~, domestic violence between the parents in common; or allegations of severe psychological, psychiatric, or emotional problems. A showing by either party that the party resides more than fifty miles from the court shall be considered good cause."

SECTION 5. G.S. 42-40 reads as rewritten:

"§ 42-40. Definitions.

For the purpose of this Article, the following definitions shall apply:

N.C. law "Dom. Violence" 50B-13(a) includes act against child in household = ch. 12 abuse 940.225 948.02 948.025

"Protected tenant" means a tenant or household member who is a victim of domestic violence under Chapter 50B of the General Statutes or sexual assault or stalking under Chapter 14 of the General Statutes."

8/3.12 (am) (4)

SECTION 6. Article 5 of Chapter 42 of the General Statutes is amended by adding the following new sections to read:

"§ 42-42.1. Victim protection – nondiscrimination.

A landlord shall not terminate a tenancy, fail to renew a tenancy, refuse to enter into a rental agreement, or otherwise retaliate in the rental of a dwelling based substantially on: (i) the tenant, applicant, or a household member's status as a victim of domestic violence, sexual assault, or stalking; or (ii) the tenant or applicant having terminated a rental agreement under G.S. 42-45.1. Evidence provided to the landlord of domestic violence, sexual assault, or stalking may include any of the following:

940.32

- (1) Law enforcement, court, or federal agency records or files.
- (2) Documentation from a domestic violence or sexual assault program.
- (3) Documentation from a religious, medical, or other professional.

"§ 42-42.2. Victim protection – change locks.

(a) If the perpetrator of domestic violence, sexual assault, or stalking is not a tenant in the same dwelling unit as the protected tenant, a tenant of a dwelling unit may give oral or written notice to the landlord that a protected tenant is a victim of domestic violence, sexual assault, or stalking and may request that the locks to the dwelling unit be changed. A protected tenant is not required to provide documentation of the domestic violence, sexual assault, or stalking to initiate the changing of the locks, pursuant to this subsection. A landlord who receives a request under this subsection shall change the locks to the protected tenant's dwelling unit or give the protected tenant permission to change the locks within 48 hours.

(b) If the perpetrator of the domestic violence, sexual assault, or stalking is a tenant in the same dwelling unit as the victim, any tenant or protected tenant of a dwelling unit may give oral or written notice to the landlord that a protected tenant is a victim of domestic violence, sexual assault, or stalking and may request that the locks to the dwelling unit be changed. In these circumstances, the following shall apply:

- (1) Before the landlord or tenant changes the locks under this subsection, the tenant must provide the landlord with a copy of an order issued by a court that orders the perpetrator to stay away from the dwelling unit.
- (2) Unless a court order allows the perpetrator to return to the dwelling to retrieve personal belongings, the landlord has no duty under the rental agreement or by law to allow the perpetrator access to the dwelling unit, to provide keys to the perpetrator, or to provide the perpetrator access to the perpetrator's personal property within the dwelling unit once the landlord has been provided with a court order requiring the perpetrator to stay away from the dwelling. If a landlord complies with this section, the landlord is not liable for civil damages,

to a perpetrator excluded from the dwelling unit, for loss of use of the dwelling unit or loss of use or damage to the perpetrator's personal property.

- (3) The perpetrator who has been excluded from the dwelling unit under this subsection remains liable under the lease with any other tenant of the dwelling unit for rent or damages to the dwelling unit.

A landlord who receives a request under this subsection shall change the locks to the protected tenant's dwelling unit or give the protected tenant permission to change the locks within 72 hours.

(c) The protected tenant shall bear the expense of changing the locks. If a landlord fails to act within the required time, the protected tenant may change the locks without the landlord's permission. If the protected tenant changes the locks, the protected tenant shall give a key to the new locks to the landlord within 48 hours of the locks being changed."

SECTION 7. Article 5 of Chapter 42 of the General Statutes is amended by adding the following new section to read:

"§ 42-45.1. Early termination of rental agreement by victims of domestic violence, sexual assault, or stalking.

(a) Any protected tenant may terminate his or her rental agreement for a dwelling unit by providing the landlord with a written notice of termination to be effective on a date stated in the notice that is at least 30 days after the landlord's receipt of the notice. The notice to the landlord shall be accompanied by either: (i) a copy of a valid order of protection issued by a court pursuant to Chapter 50B or 50C of the General Statutes, other than an ex parte order, (ii) a criminal order that restrains a person from contact with a protected tenant, or (iii) a valid Address Confidentiality Program card issued pursuant to G.S. 15C-4 to the victim or a minor member of the tenant's household. A victim of domestic violence or sexual assault must submit a copy of a safety plan with the notice to terminate. The safety plan, dated during the term of the tenancy to be terminated, must be provided by a domestic violence or sexual assault program which substantially complies with the requirements set forth in G.S. 50B-9 and must recommend relocation of the protected tenant.

(b) Upon termination of a rental agreement under this section, the tenant who is released from the rental agreement pursuant to subsection (a) of this section is liable for the rent due under the rental agreement prorated to the effective date of the termination and payable at the time that would have been required by the terms of the rental agreement. The tenant is not liable for any other rent or fees due only to the early termination of the tenancy. If, pursuant to this section, a tenant terminates the rental agreement 14 days or more before occupancy, the tenant is not subject to any damages or penalties.

(c) Notwithstanding the release of a protected tenant from a rental agreement under subsection (a) of this section, or the exclusion of a perpetrator of domestic violence, sexual assault, or stalking by court order, if there are any remaining tenants residing in the dwelling unit, the tenancy shall continue for those tenants. The perpetrator who has been excluded from the dwelling unit under court order remains liable under the lease with any other tenant of the dwelling unit for rent or damages to the dwelling unit.

(d) The provisions of this section may not be waived or modified by agreement of the parties."

SECTION 8. G.S. 157-29(b) reads as rewritten:

"(b) In the operation or management of housing projects, ~~or~~ portions of projects, or other housing assistance programs for persons of low income, an authority shall at all times observe the following duties with respect to rentals and tenant selection:

(3) In the administration of its waiting lists, it shall adopt a preference for households with incomes of less than thirty percent (30%) of the area median income.

(4) An authority shall take applications on a continuous basis from persons meeting the preference listed in this section and shall not close the application process to these persons. Any additional local preferences shall not take priority over the preference in this section."

SECTION 9. G.S. 7A-219 reads as rewritten:

"§ 7A-219. Certain counterclaims; cross claims; third-party claims not permissible.

No counterclaim, cross claim or third-party claim which would make the amount in controversy exceed the jurisdictional amount established by G.S. 7A-210(1) is permissible in a small claim action assigned to a magistrate. No determination of fact or law in an assigned small claim action estops a party thereto in any subsequent action which, except for this section, might have been asserted under the Code of Civil Procedure as a counterclaim in the small claim action. Notwithstanding G.S. 1A-1, Rule 13, failure by a defendant to file a counterclaim in a small claims action assigned to a magistrate, or failure by a defendant to appeal a judgment in a small claims action to district court, shall not bar such claims in a separate action."

SECTION 10. G.S. 42-30 reads as rewritten:

"§ 42-30. Judgment by ~~confession or confession~~, where plaintiff has proved ~~case~~ case, or failure to appear.

The summons shall be returned according to its tenor, and if on its return it appears to have been duly served, and if (i) the plaintiff proves his case by a preponderance of the evidence, ~~or~~ (ii) the defendant admits the allegations of the complaint, or (iii) the defendant fails to appear on the day of court, and the plaintiff requests in open court a judgment for possession based solely on the filed pleadings where the pleadings allege defendant's failure to pay rent as a breach of the lease for which reentry is allowed and the defendant has not filed a responsive pleading, the magistrate shall give judgment that the defendant be removed from, and the plaintiff be put in possession of, the demised premises; and if any rent or damages for the occupation of the premises after the cessation of the estate of the lessee, not exceeding the jurisdictional amount established by G.S. 7A-210(1), be claimed in the oath of the plaintiff as due and unpaid, the magistrate shall inquire thereof, and if supported by a preponderance of the evidence, give judgment as he may find the fact to be."

SECTION 11. G.S. 42-34(b) reads as rewritten:

"(b) During an appeal to district court, it shall be sufficient to stay execution of a judgment for ejectment if the defendant appellant pays to the clerk of superior court any rent in arrears as determined by the magistrate and signs an undertaking that he or she will pay into the office of the clerk of superior court the amount of the tenant's share of the contract rent as it becomes due periodically after the judgment was entered and, where applicable, comply with subdivision (c) below. For the sole purpose of determining the amount of rent in arrears pursuant to a judgment for possession pursuant to G.S. 42-30(iii), the magistrate's determination shall be based upon (i) the available evidence presented to the magistrate or (ii) the amounts listed on the face of the filed Complaint in Summary Ejectment. Provided however, when the magistrate makes a finding in the record, based on evidence presented in court, that there is an actual dispute as to the amount of rent in arrears that is due and the magistrate specifies the specific amount of rent in arrears in dispute, in order to stay execution of a judgment for ejectment, the defendant appellant shall not be required to pay to the clerk of superior court the amount of rent in arrears found by the magistrate to be in dispute, even if the magistrate's judgment includes this amount in the amount of rent found to be in arrears. If a defendant appellant appeared at the hearing before the magistrate and the magistrate found an amount of rent in arrears that was not in dispute, and if an attorney representing the defendant appellant on appeal to the district court signs a pleading stating that there is evidence of an actual dispute as to the amount of rent in arrears, then the defendant appellant shall not be required to pay the rent in arrears alleged to be in dispute to stay execution of a judgment for ejectment pending appeal. Any magistrate, clerk, or district court judge shall order stay of execution upon the defendant appellant's paying the undisputed rent in arrears to the clerk and signing the undertaking. If either party disputes the amount of the payment or the due date in the undertaking, the aggrieved party may move for modification of the terms of the undertaking before the clerk of superior court or the district court. Upon such motion and upon notice to all interested parties, the clerk or court shall hold a hearing within 10 calendar days of the date the motion is filed and determine what modifications, if any, are appropriate."

SECTION 12. Section 1 of this act becomes effective October 1, 2005, and applies to orders entered on or after that date. Sections 5, 6, and 7 of this act become effective October 1, 2005, and apply to leases entered into or renewed on or after that date. The remainder of this act becomes effective October 1, 2005.

2005. In the General Assembly read three times and ratified this the 24th day of August,

Beverly E. Perdue
President of the Senate

James B. Black
Speaker of the House of Representatives

Michael F. Easley
Governor

Approved _____ .m. this _____ day of _____, 2005

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SA old ✓
SA new ✓
x - 1 of 2



State of Wisconsin
2005 - 2006 LEGISLATURE

2269/P1

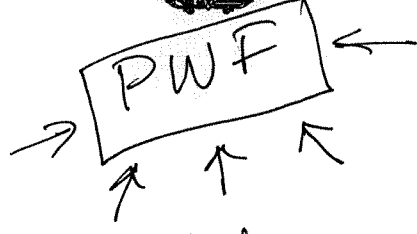
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PJK/MES/RPN:wj/rs
PJK/MES, GMM:cs

Fri 4/27

NOTE

2005 BILL



1006
(in H)

prohibiting discrimination in housing on the basis of abuse, sexual assault, or stalking victim status

x requiring landlords to change locks under certain circumstances

regenerate

- 1 AN ACT to create 66.0627 (7), 704.06 and 704.16 of the statutes; relating to:
- 2 termination of a tenancy, prohibiting certain actions by landlords ~~pertain to~~
- 3 tenant safety, and prohibiting the imposition of fees for local government
- 4 emergency services. ~~(x) and requiring housing authorities to give~~ the selection of tenants by housing authorities

Insert AGMM-A

Analysis by the Legislative Reference Bureau

Under current law, if leased premises become untenable because of damage by fire, water, or other casualty, because of a condition that is hazardous to the tenant's health, or because the tenant's health or safety is materially affected by lack of repairs to the premises, the tenant may remove from the premises and is not responsible for rent for the period after the premises became untenable. This bill provides that a tenant may terminate his or her tenancy and remove from the premises if ~~he or she~~ faces a threat of serious physical harm from another person if the tenant remains on the premises. The tenant may prove to the landlord that he or she faces a threat of serious physical harm only by providing the landlord with a certified copy of: 1) an injunction order protecting the tenant from the person; 2) a condition of release ordering the person not to contact the tenant; 3) a criminal complaint alleging that the person sexually assaulted or stalked the tenant; or 4) a criminal complaint filed against the person as a result of an arrest for committing a domestic abuse offense against the tenant. If the tenant provides the required certified copy and proper notice of the termination of the tenancy to the landlord and removes from the premises, the tenant is not responsible for any rent after the end

x the tenant or his/her child a member of the tenant's household

x or the household member

analysis will be provided in a later version.

use 4 star note

④ ***** NOTE: This analysis is not complete. A complete analysis

BILL

of the month in which he or she provides the notice or removes from the premises, whichever is later.

Under current law, a landlord may not increase rent, decrease services, bring an action for possession of the premises, refuse to renew a lease, or threaten to do any of those things, if there is a preponderance of evidence that the landlord's action or inaction is in retaliation against the tenant for making a good faith complaint about a defect in the premises to a public official or housing code enforcement agency, for complaining about a violation of a local housing code, or for exercising a legal right related to residential tenancies. This bill prohibits a landlord from increasing rent, decreasing services, bringing an action for possession of the premises, refusing to renew a lease, or threatening to do any of those things, because the tenant has contacted an entity for law enforcement services, health services, or safety services. The bill provides that any provision in a lease that allows a landlord to do any of those things is unenforceable.

Under current law, a municipality (a city, village, or town) may impose a special charge against real property for current services rendered, including services such as snow and ice removal, weed elimination, and sidewalk repair. This bill prohibits a municipality or a county from imposing 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, fire, or other emergency services from the municipality or county.

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

(Sub-sub) Local government emergency services

INS
NESANL

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

Insert
2-16MM

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

2 66.0627 (7) Notwithstanding sub. (2), no city, village, town, or county may
3 enact an ordinance, or enforce an existing ordinance, that imposes a fee on the owner
4 or occupant of property for a call for assistance that is made by the owner or occupant
5 requesting law enforcement, fire, or other emergency services that are provided by
6 the city, village, town, or county.

Senate
2-16MM

7 SECTION 2. 704.06 of the statutes is created to read:

8 704.06 Threat of serious physical harm. (1) TERMINATING TENANCY. A
9 tenant may terminate his or her tenancy and remove from the premises if the tenant

10 faces a threat of serious physical harm from another person if the tenant remains on

or a member of the tenant's household

BILL

SECTION 3

- 1 (a) Increase rent.
- 2 (b) Decrease services.
- 3 (c) Bring an action for possession of the premises.
- 4 (d) Refuse to renew a lease.
- 5 (e) Threaten to take any action under pars. (a) to (d).

6 (2) PROVISION UNENFORCEABLE. A provision in a lease that allows a landlord to
 7 take any action prohibited under sub. (1) is unenforceable.

8 (C) LEASE AGREEMENTS

SECTION 4. Initial applicability.

9 (1) ^{The} ~~The~~ treatment of sections ^{704.08, 704.09 and} ~~704.08 and~~ 704.16 of the statutes first applies to
 10 leases entered into, modified, or renewed on the effective date of this subsection.

(C) LOCAL GOVERNMENT EMERGENCY SERVICES

11 (2) The treatment of section 66.0627 (7) of the statutes first applies to a call that
 12 is made for law enforcement, fire, or other emergency services on the effective date
 13 of this subsection.

14

(END)

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4-13 GMM

D-note

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FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2269/P1insgm
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SECTION 1. 66.0125 (3) (a) of the statutes is amended to read:

66.0125 (3) (a) The purpose of the commission is to study, analyze, and recommend solutions for the major social, economic, and cultural problems ~~which~~ that affect people residing or working within the local governmental unit including, ~~without restriction because of enumeration,~~ problems of the family, youth, education, the aging, juvenile delinquency, health and zoning standards, and discrimination in housing, employment and public accommodations and facilities on the basis of sex, class, race, religion, sexual orientation, or ethnic or minority status, and discrimination in housing on all of those bases ^{and on} the basis of abuse, sexual assault, or stalking victim status.

SECTION 2. 66.0125 (3) (c) 1. b. of the statutes is amended to read:

66.0125 (3) (c) 1. b. To ensure to all residents of a local governmental unit, regardless of sex, race, sexual orientation, or color, the rights to ~~possess equal housing accommodations and to enjoy equal employment opportunities and to ensure to those residents, regardless of sex, race, sexual orientation, color, or abuse, sexual assault, or stalking victim status.~~ the right to possess ^S equal housing accommodations.

SECTION 3. 66.0125 (9) of the statutes is amended to read:

66.0125 (9) INTENT. It is the intent of this section to promote fair and friendly relations among all the people in this state, and to that end race, creed, sexual orientation, or color ought not to be made tests in the matter of the right of any person to sell, lease, occupy or use real estate or to earn a livelihood or to enjoy the equal use of public accommodations and facilities and race, creed, sexual orientation, color, or

as defined in s. 106.50 (1m) (ab)

abuse, sexual assault, or stalking victim status ought not to be made tests in the matter of the right of any person to sell, lease, occupy, or use real estate.

(END OF INSERT)

(INSERT 2-6GMM)

SECTION 4. 66.1011 (1) of the statutes is amended to read:

66.1011 (1) DECLARATION OF POLICY. The right of all persons to have equal opportunities for housing regardless of their sex, race, color, physical condition, disability as defined in s. 106.50 (1m) (g), sexual orientation, as defined in s. 111.32 (13m), religion, national origin, marital status, family status, as defined in s. 106.50 (1m) (k), abuse, sexual assault, or stalking victim status, as defined in s. 106.50 (1m) (ab), lawful source of income, age, or ancestry is a matter both of statewide concern under ss. 101.132 and 106.50 and also of local interest under this section and s. 66.0125. The enactment of ss. 101.132 and 106.50 by the legislature does not preempt the subject matter of equal opportunities in housing from consideration by political subdivisions, and does not exempt political subdivisions from their duty, nor deprive them of their right, to enact ordinances which prohibit discrimination in any type of housing solely on the basis of an individual being a member of a protected class.

SECTION 5. 66.1201 (2m) of the statutes is amended to read:

66.1201 (2m) DISCRIMINATION. Persons otherwise entitled to any right, benefit, facility, or privilege under ss. 66.1201 to 66.1211 shall may not be denied ~~them the~~ right, benefit, facility, or privilege in any manner for any purpose nor be discriminated against because of sex, race, ^{strike} color, creed, sexual orientation, ~~abuse~~ sexual assault, or stalking victim status, or national origin.

or abuse, sexual assault, or stalking victim status, as defined in s. 106.50 (1m) (ab)

SECTION 6. 66.1205 (1) (d) of the statutes is created to read:

66.1205 (1) (d) In the administration of its waiting list, it shall adopt a preference for persons who would occupy the dwelling accommodations who have aggregate annual income of less than 30 percent of median income within the authority's area of operation.

SECTION 7. 66.1213 (3) of the statutes is amended to read:

66.1213 (3) DISCRIMINATION. Persons otherwise entitled to any right, benefit, facility, or privilege under this section shall may not be denied them the right, benefit, facility, or privilege in any manner for any purpose nor be discriminated against because of sex, race, color, ^{strike} creed, sexual orientation, ~~abuse, sexual assault~~ ^{use 3 times} or ~~stalking victim status~~ or national origin.

SECTION 8. 66.1301 (2m) of the statutes is amended to read:

66.1301 (2m) DISCRIMINATION. Persons entitled to any right, benefit, facility, or privilege under ss. 66.1301 to 66.1329 shall may not be denied them the right, benefit, facility, or privilege in any manner for any purpose nor be discriminated against because of sex, race, color, creed, sexual orientation, ~~abuse, sexual assault~~ or ~~stalking victim status~~ or national origin.

SECTION 9. 66.1331 (2m) of the statutes is amended to read:

66.1331 (2m) DISCRIMINATION. Persons otherwise entitled to any right, benefit, facility, or privilege under this section shall may not be denied them the right, benefit, facility, or privilege in any manner for any purpose nor be discriminated against because of sex, race, color, creed, sexual orientation, ~~abuse, sexual assault~~ or ~~stalking victim status~~ or national origin.

SECTION 10. 66.1333 (3) (e) 2. of the statutes is amended to read:

66.1333 (3) (e) 2. Persons otherwise entitled to any right, benefit, facility, or privilege under this section may not be denied the right, benefit, facility, or privilege in any manner for any purpose nor be discriminated against because of sex, race, color, creed, sexual orientation, ~~abuse, sexual assault, or stalking victim status~~ or national origin, or ~~abuse, sexual assault, or stalking victim status~~ as defined in s. 106.50 (1m) (ab)

SECTION 11. 106.50 (1) of the statutes is amended to read:

106.50 (1) INTENT. It is the intent of this section to render unlawful discrimination in housing. It is the declared policy of this state that all persons shall have an equal opportunity for housing regardless of sex, race, color, sexual orientation, disability, religion, national origin, marital status, family status, abuse, sexual assault, or stalking victim status, lawful source of income, age, or ancestry and it is the duty of the political subdivisions to assist in the orderly prevention or removal of all discrimination in housing through the powers granted under ss. 66.0125 and 66.1011. The legislature hereby extends the state law governing equal housing opportunities to cover single-family residences which are owner-occupied. The legislature finds that the sale and rental of single-family residences constitute a significant portion of the housing business in this state and should be regulated. This section shall be deemed an exercise of the police powers of the state for the protection of the welfare, health, peace, dignity, and human rights of the people of this state.

SECTION 12. 106.50 (1m) (ab) of the statutes is created to read:

106.50 (1m) (ab) "Abuse, sexual assault, or stalking victim status" means the status of a person who is seeking to rent or purchase housing or of a member or prospective member of the person's household has the is being believed by the lessor or seller of housing to be, a victim of domestic abuse, as defined in s. 813.12

with respect to

that the person

(1) (am), child abuse, as defined in s. 813.122 (1) (a), sexual assault, as described in s. 940.225, 948.02, or 948.025, or stalking, as described in s. 940.32.

SECTION 13. 106.50 (1m) (h) of the statutes is amended to read:

106.50 (1m) (h) "Discriminate" means to segregate, separate, exclude, or treat a person or class of persons unequally in a manner described in sub. (2), (2m), or (2r) because of sex, race, color, sexual orientation, disability, religion, national origin, marital status, family status, abuse, sexual assault, or stalking victim status, lawful source of income, age, or ancestry.

SECTION 14. 106.50 (1m) (nm) of the statutes is amended to read:

106.50 (1m) (nm) "Member of a protected class" means a group of natural persons, or a natural person, who may be categorized based on one or more of the following characteristics: sex, race, color, disability, sexual orientation as defined in s. 111.32 (13m), religion, national origin, marital status, family status, abuse, sexual assault, or stalking victim status, lawful source of income, age, or ancestry.

SECTION 15. 106.50 (5m) (d) of the statutes is amended to read:

106.50 (5m) (d) Nothing in this section requires that housing be made available to an individual whose tenancy would constitute a direct threat to the safety of other tenants or persons employed on the property or whose tenancy would result in substantial physical damage to the property of others, if the risk of direct threat or damage cannot be eliminated or sufficiently reduced through reasonable accommodations. A claim that an individual's tenancy poses a direct threat or a substantial risk of harm or damage must be evidenced by behavior by the individual that caused harm or damage, that directly threatened harm or damage, or that caused a reasonable fear of harm or damage to other tenants, persons employed on the property, or the property. No claim that an individual's tenancy would constitute

a direct threat to the safety of other persons or would result in substantial damage to property may be based on the fact that ~~a tenant has been or may~~ the individual or a member or prospective member of the individual's household has been or is believed by the lessor to be the victim of domestic abuse, as defined in s. 813.12 (1) (am), child abuse, as defined in s. 813.122 (1) (a), sexual assault, as described in s. 940.225, 948.02, or 948.025, or stalking, as described in s. 940.32.

SECTION 16. 106.50 (5m) (f) 1. of the statutes is amended to read:

106.50 (5m) (f) 1. Nothing in this section prohibits an owner or agent from requiring that a person who seeks to buy or rent housing supply information concerning family status and marital, financial, and business status but not concerning race, color, physical condition, disability, sexual orientation, ancestry, national origin, religion, creed, abuse, sexual assault, or stalking victim status, or, subject to subd. 2., age.

(PAIN)

SECTION 17. 224.77 (1) (o) of the statutes is amended to read:

224.77 (1) (o) In the course of practice as a mortgage banker, loan originator, or mortgage broker, except in relation to housing designed to meet the needs of elderly individuals, treated a person unequally solely because of sex, race, color, handicap, sexual orientation, as defined in s. 111.32 (13m), abuse, sexual assault, or stalking victim status, as defined in s. 106.50 (1m) (fm), religion, national origin, age, or ancestry, the person's lawful source of income, or the sex or marital status of the person maintaining a household.

ab

SECTION 18. 234.29 of the statutes is amended to read:

234.29 **Equality of occupancy and employment.** The authority shall require that occupancy of housing projects assisted under this chapter be open to all regardless of sex, race, religion, sexual orientation, abuse, sexual assault, or stalking

~~abuse, sexual assault, or stalking~~

, or abuse, sexual assault, or stalking victim status, as defined in s. 106.50 (1m) (ab)

(use twice)

~~victim status~~ ^{Strike} or [↑] creed, and that contractors and subcontractors engaged in the construction of economic development or housing projects, shall provide an equal opportunity for employment, without discrimination as to sex, race, religion, sexual orientation, or creed.

SECTION 19. 452.14 (3) (n) of the statutes is amended to read:

452.14 (3) (n) Treated any person unequally solely because of sex, race, color, handicap, national origin, ancestry, marital status, ~~abuse, sexual assault, or stalking~~

~~victim status~~ or ^{Strike} lawful source of income.

(END OF INSERT)

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(3) HOUSING DISCRIMINATION BASED ON ABUSE, SEXUAL ASSAULT, OR STALKING VICTIM STATUS. The treatment of sections 66.1011 (1), 66.0125 (3) (a) and (c) 1. b. and (9), 66.1201 (2m), 66.1213 (3), 66.1301 (2m), 66.1331 (2m), 66.1333 (3) (e) 2., 106.50 (1), (1m) (h), (hm), and (nm), and (5m) (d) and (f) 1., 224.77 (1) (o), 234.29, and 452.14 (3) (n) of the statutes first applies to acts of discrimination occurring on the effective date of this subsection.

(ab)5

(END OF INSERT)

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This bill makes various changes relating to the open housing law, the laws governing landlord-tenant relations, local government emergency services, and the selection of tenants by housing authorities.

Housing discrimination based on abuse, sexual assault, or stalking victim status

Current law prohibits discrimination in housing on the basis of sex, race, color, sexual orientation, disability, religion, national origin, marital status, family status, lawful source of income, age, or ancestry (protected class). Specifically, current law prohibits all of the following acts of discrimination based on a person's membership in a protected class:

1. Refusing to sell, rent, finance, or contract for the construction of housing or to discuss the terms of any of those transactions.
2. Exacting a different price, or different or more stringent terms or conditions, for the sale, lease, financing, or rental of housing.
3. Advertising in a manner that indicates discrimination by a preference or limitation.
4. Refusing to renew a lease, causing the eviction of a tenant from rental housing, or engaging in the harassment of a tenant.
5. Falsely representing that housing is unavailable for inspection, rental, or sale.
6. Otherwise making unavailable or denying housing.

Current law also prohibits a mortgage banker, loan originator, or mortgage broker from treating a person unequally based on the person's membership in a protected class and a real estate broker, real estate salesperson, or time-share salesperson from treating a person unequally based on the person's sex, race, color, handicap, national origin, ancestry, marital status, or lawful source of income.

Current law does not prohibit an owner of housing from requiring that a person who is seeking to buy or rent housing supply information concerning the person's family status, marital status, and financial and business status, but does prohibit an owner from requiring information concerning a person's race, color, disability, sexual orientation, ancestry, national origin, religion, creed, or, subject to an exception for housing for older persons, age.

This bill prohibits discrimination ^{has} in housing ^{is} on the basis of abuse, sexual assault, or stalking victim status, which is defined in the bill ^{to mean, with respect to} as the status of a person who is seeking to rent or purchase housing, or ^{the} ~~is~~ a member or prospective member of the person's household ~~having been, or being~~ believed by the lessor or seller of housing to be, a victim of domestic abuse, child abuse, sexual assault, or stalking. The bill also prohibits an owner of housing from requiring that a person seeking to buy or rent housing supply information concerning the person's abuse, sexual assault, or stalking victim status and prohibits a mortgage banker, loan originator, mortgage broker, real estate broker, real estate salesperson, or time-share salesperson from treating a person unequally based on the person's abuse, sexual assault, or stalking victim status.

"Domestic abuse" is defined under current law as the intentional infliction of physical pain, physical injury, or illness, the intentional impairment of physical condition, sexual assault, criminal damage to property, or a threat to engage in any of that conduct, by an adult family member or household member against another adult family member or household member, by an adult caregiver against an adult who is under the caregiver's care, or by an adult against his or her former spouse, an adult with whom he or she has or has had a dating relationship, or an adult with whom he or she has a child in common. "Child abuse" is defined under current law as physical injury inflicted on a child by other than accidental means, sexual intercourse or sexual contact with a child, sexual exploitation of a child, causing a child to view or listen to sexual activity, permitting a child to engage in prostitution, exposing one's genitals to a child, manufacturing methamphetamine in the home or

presence of a child, causing emotional damage to a child, or threatening to engage in any of that conduct.

Landlord-tenant relations when tenant or household member is abuse, sexual assault, or stalking victim

(END OF INSERT)

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PJK:.....

INSERT 2-7
183

child

§ 13.12(1)(am), abuse, as defined in s. 813.12(1)(a)
of a child who

1 SECTION 1. 704.08 of the statutes is created to read:

2 **704.08 Requirement to change locks of protected tenant. (1) DEFINITION.**

3 In this section, "protected tenant" means a tenant or a member of the tenant's
4 household who is a victim of domestic abuse, as defined in s. ~~940.025, 948.02, or 940.025~~ sexual

5 assault, as described in s. 940.225, 948.02, or 940.025, or stalking, as described in s.
6 940.32.

STET: leave as
typed

****NOTE: I've used "as defined in" and "as described in" so that a conviction is not necessary. "Domestic abuse" is defined in other sections, as well. (See ss. 46.95 (1) (a) and 813.12 (1) (am).) Do you want to use a different definition from the one I've used? There is no definition or description of "domestic violence" in the statutes. That phrase, however, could be used without a definition or description.

7 (2) DIFFERING REQUIREMENTS DEPENDING ON PERPETRATOR'S RESIDENCE. (a) If a
8 tenant is a protected tenant, and if the perpetrator of the domestic abuse, sexual
9 assault, or stalking with respect to the protected tenant is not a tenant in the same
10 dwelling unit as the protected tenant, all of the following apply:

11 1. Any tenant of the dwelling or a member of the protected tenant's household
12 the protected tenant is a victim of domestic abuse, child abuse, sexual assault, or stalking and
13 may request that the locks to the protected tenant's dwelling unit be changed.

14 2. Within 48 hours after receiving a request under subd. 1., the landlord shall
15 change the locks to the protected tenant's dwelling unit or give the protected tenant
16 permission to change the locks.

17 3. The protected tenant is not required to provide documentation of the
18 domestic abuse, child abuse, sexual assault, or stalking to initiate changing the locks under this
19 paragraph.



Sub 2-7 contd 2003

1 (b) If a tenant is a protected tenant, and if the perpetrator of the domestic
2 ^(child abuse) abuse, sexual assault, or stalking with respect to the protected tenant is a tenant in
3 the same dwelling unit as the protected tenant, all of the following apply:

4 1. The protected tenant or any tenant in the same dwelling unit as the protected
5 tenant may give oral or written notice to the landlord that the protected tenant is a
6 ^(child abuse) victim of domestic abuse, sexual assault, or stalking and may request that the locks
7 to the protected tenant's dwelling unit be changed.

*or a member of
the protected
tenant's
household*

8 2. Within 72 hours after receiving a request under subd. 1., the landlord shall
9 change the locks to the protected tenant's dwelling unit or give the protected tenant
10 permission to change the locks, but only if the protected tenant provides the landlord
11 with a copy of a court order that requires the perpetrator to stay away from the
12 dwelling unit.

13 3. If the landlord has been provided with a copy of a court order under subd.
14 2., unless that or another court order allows the perpetrator to return to the dwelling
15 unit to retrieve personal belongings, the landlord is not required to allow the
16 perpetrator access to the dwelling unit, to provide keys to the perpetrator, or to
17 provide the perpetrator access to the perpetrator's personal property within the
18 dwelling unit. A landlord in compliance with this subdivision is not liable to a
19 perpetrator who is excluded from the dwelling unit for civil damages for loss of use
20 of the dwelling unit or for loss of use or damage to the perpetrator's personal property.

21 4. A perpetrator who has been excluded from a dwelling unit under subd. 3.
22 remains liable with any other tenant of the dwelling unit for rent or damages to the
23 dwelling unit.

24 (c) The protected tenant shall bear the expense of changing the locks under this
25 section. If a landlord who is required under this section to change the locks or give



Sec 2-7 cont'd 303

1 the protected tenant permission to change the locks fails to act within the required
2 time, the protected tenant may change the locks without the landlord's permission.
3 A protected tenant who changes the locks under this section shall give the landlord
4 a key to the new locks within 48 hours after the locks are changed.

(END OF INSERT 2-~~4~~⁷)

INSERT 3-5

5 (b) An injunction order under s. 813.122 protecting a ~~child~~ of the tenant from
6 the person.

7 (c) An injunction order under s. 813.125 (4) protecting the tenant or a ~~child~~ of
8 the tenant ~~from~~ the person, based on the person's engaging in an act that would
9 constitute sexual assault under s. 940.225 or stalking under s. 940.32, or attempting
10 or threatening to do the same.

****NOTE: Under s. 813.125, it does not appear that harrasment injunctions are
ordered for acts constituting sexual assault against a child under s. 948.02 or 948.025
as in the proposed language.

(END OF INSERT 3-5)

INSERT 3-14

****NOTE: I didn't understand what changes were needed for par. (g); the suggested
language did not seem to do anything different. Also, I did not include "that has been filed
by the tenant" after "criminal complaint" in pars. (e) and (f) above. I am advised that the
district attorney, not the tenant, would file a criminal complaint.

(END OF INSERT 3-14)

INSERT 3-20 102

11 (3) OTHER TENANTS REMAIN LIABLE. Notwithstanding sub. (2), the tenancy of any
12 other tenants at the premises shall continue, and those tenants remain liable for
13 payment of rent and any damages to the premises.



member
is household
948.02, or 948.025
member
is household
Plan
948.02
948.025
are included
in "abuse"
under 948.02(1)

Ins 3-20 cont'd 2082

****NOTE: The North Carolina law adds that the provisions of this section may not be waived or modified by agreement of the parties. Do you want to include that? What if there are additional tenants under sub. (3) who cannot afford to stay after the protected tenant leaves and the landlord wants to let them out of the lease and rent the premises to someone else?

1 SECTION 2. 704.42 of the statutes is created to read:

2 704.42 Landlord may not discriminate. A landlord may not terminate a
3 tenancy, fail to renew a lease, refuse to enter into a rental agreement, or otherwise
4 retaliate in the rental of real property substantially on the basis of any of the
5 following:

813.12(1)(am), abuse, as defined in s. 813.122
(1)(a), & a child

6 (1) That the tenant or applicant, or a member of the tenant's or applicant's
7 household, is a victim of domestic abuse, as defined in s. ~~968.075(1)(a)~~, sexual
8 assault, as described in s. 940.225, 948.02, or 940.025, or stalking, as described in s.
9 940.32.

10 (2) That the tenant or applicant has terminated a tenancy under s. 704.16

****NOTE: The North Carolina law listed some forms of evidence of domestic violence, sexual assault, or stalking, but I didn't understand the reason. The statute did not indicate any purpose for the evidence. Why would or should evidence be provided to a landlord in the context of this prohibition? Does it mean that if a tenant or applicant presents evidence to a landlord the landlord *must* renew a lease or enter into a lease because if the landlord doesn't the assumption is that the action is based substantially on the fact that the person is a victim of domestic violence, sexual assault, or stalking? If a landlord doesn't know that someone is a victim of domestic violence, sexual assault, or stalking, the landlord can't discriminate on that basis. If a landlord knows or has reason to believe that someone is a victim, that is enough for the prohibition on discrimination to apply. I don't think a list of types of evidence is necessary or useful. If you want the list, however, the statute should provide the circumstances under which the evidence would be presented to a landlord and the consequences flowing from it.

C ←

↑ STET:
leave
as
typed

(END OF INSERT 3-20)

2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2269/?insMES
PJK&MES:.....

INSERT ANL *MES*

~~Under current law, a city, village, town or county (political subdivision) may enact an ordinance prohibiting discrimination in housing against an individual solely because the individual is a member of a protected class. "Protected class" is defined to mean a group of natural persons, or a natural person, who may be categorized based on one or more of the following characteristics: sex, race, color, disability, sexual orientation, religion, national origin, marital status, family status, lawful source of income, age or ancestry. The ordinance may be similar to state statutes, or it may be more inclusive.~~

~~This bill adds to the type of persons covered by the protected class designation. The bill creates the category of protected tenant, which is defined as a tenant or a household member of a tenant who is a victim of domestic violence, sexual assault, or stalking.~~

Under current law, a housing authority is required to observe a number of specified duties with respect to rentals and tenant selection, such as a requirement that it rent or lease dwelling units only to persons of low income and at rentals within the financial reach of low income persons. This bill adds another duty for a housing authority. Under the bill, a housing authority must administer its waiting lists in a way that adopts a preference for households with incomes of less than 30 percent of the median income within the authority's area of operation.

~~INSERT 2-6~~ *MES* (ed of insert)

~~SECTION 1. 66.1011 (1) of the statutes is amended to read:~~

~~66.1011 (1) DECLARATION OF POLICY. The right of all persons to have equal opportunities for housing regardless of their sex, race, color, physical condition, disability as defined in s. 106.50 (1m) (g), sexual orientation as defined in s. 111.32 (13m), religion, national origin, marital status, family status as defined in s. 106.50 (1m) (k), status as a protected tenant, lawful source of income, age or ancestry is a matter both of statewide concern under ss. 101.132 and 106.50 and also of local interest under this section and s. 66.0125. The enactment of ss. 101.132 and 106.50 by the legislature does not preempt the subject matter of equal opportunities in housing from consideration by political subdivisions, and does not exempt political~~

(Sub sub)
Selection of tenants
Selection of tenants by housing authority

~~subdivisions from their duty, nor deprive them of their right, to enact ordinances which prohibit discrimination in any type of housing solely on the basis of an individual being a member of a protected class.~~

~~SECTION 2. 66.1011 (1m) (f) of the statutes is created to read:~~

~~66.1011 (1m) (f) "Protected tenant" means a tenant, or a household member of a tenant, who is a victim of domestic violence under s. 813.12 (1) (am), sexual assault under s. 940.225, 948.02, or 948.025, or stalking under s. 940.32.~~

~~History: 1971 c. 185 s. 7; 1975 c. 94, 275, 422; 1977 c. 418 s. 929 (55); 1981 c. 112; 1981 c. 391 s. 210; 1985 a. 29; 1989 a. 47; 1991 a. 295; 1995 a. 27; 1997 a. 237; 1999 a. 82; 1999 a. 150 s. 447; Stats. 1999 s. 66.1011; 1999 a. 186 ss. 61, 62.~~

~~SECTION 3. 66.1205 (1) (d) of the statutes is created to read:~~

~~66.1205 (1) (d) In the administration of its waiting list, it shall adopt a preference for persons who would occupy the dwelling accommodations who have aggregate annual income of less than 30 percent of median income within the authority's area of operation.~~

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2269/P1dn

GMM:f:...

fMES

g's

Senator Coggs:

In reviewing this draft, please note all of the following:

1. The Wisconsin Coalition Against Sexual Assault language speaks of "the tenant or a child of the tenant." This draft substitutes "member of the tenant's household" for "child" in order to protect vulnerable persons who may not be the natural or adopted children of a tenant, for example, a child who is under the guardianship, foster care, or kinship care of a tenant or a vulnerable adult who is living in the household of a tenant.
2. The North Carolina definition of "domestic violence" at G.S. 50B-1(a) includes an act against a child in the household, while Wisconsin law defines "domestic abuse" and "child abuse" separately in ss. 812.13 (1) (am) and 812.122 (1) (a). Accordingly, this draft expressly references child abuse as well as domestic abuse throughout. ✓✓
3. The Wisconsin Open Housing Law, s. 106.50 covers not only rental housing but also the sale, financing, and construction of housing. Accordingly, this draft prohibits discrimination on the basis of abuse, sexual assault, or stalking victim status not only in the rental of housing but also in the sale, financing, and construction of housing.

Gordon M. Malaise
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E-mail: gordon.malaise@legis.wisconsin.gov

→ I did not add a cross-reference to created A. 66.1205(1)(d)
in D. 66.1205 (3). Is this OK?
66.1205 (3).

MES

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2269/P1dn
GMM&MES:cjs:pg

April 27, 2007

Senator Coggs:

In reviewing this draft, please note all of the following:

1. The Wisconsin Coalition Against Sexual Assault language speaks of "the tenant or a child of the tenant." This draft substitutes "member of the tenant's household" for "child" in order to protect vulnerable persons who may not be the natural or adopted children of a tenant, for example, a child who is under the guardianship, foster care, or kinship care of a tenant or a vulnerable adult who is living in the household of a tenant.
2. The North Carolina definition of "domestic violence" at G.S. 50B-1(a) includes an act against a child in the household, while Wisconsin law defines "domestic abuse" and "child abuse" separately in ss. 812.13 (1) (am) and 812.122 (1) (a). Accordingly, this draft expressly references child abuse as well as domestic abuse throughout.
3. The Wisconsin Open Housing Law, s. 106.50 covers not only rental housing but also the sale, financing, and construction of housing. Accordingly, this draft prohibits discrimination on the basis of abuse, sexual assault, or stalking victim status not only in the rental of housing but also in the sale, financing, and construction of housing.

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I did not add a cross-reference to created s. 66.1205 (1) (d) in s. 66.1205 (3). Is this OK?

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Bill Request Form

Legislative Reference Bureau
100 N. Hamilton Street
Legal Section 266-3561

You may use this form or talk directly with the LRB attorney who will draft the bill.

Date 5-10-07

Legislator, agency, or other person requesting this draft SEN. COGGS

Person submitting request (name and phone number) DAVE 266-2500

Persons to contact for questions about this draft (names and phone numbers) DAVE

Describe the problem, including any helpful examples. How do you want to solve the problem?

PLEASE RE-DRAFT LRB 2269 WITH ONLY THE CHANGES REFERENCED ON THE ATTACHED MEMO FROM THE COALITION AGAINST SEXUAL ASSAULT.

Please attach a copy of any corresponding statute sections that might be affected.

You may attach a marked-up copy of a bill (e.g., 2001 LRB-2345/1 or 1999AB-67).

Requests are confidential unless you indicate otherwise.

YES NO

If yes:

Only the following information should be disclosed:

SIMPLE VERSION:
RE-DRAFT
2005 LRB 2881
WITH CHANGES
FROM MEMO.

THANKS
DAVE

What other information or documents may help us. If you know of any marked-up copy.

Bill number (e.g., 2001 LRB-2345/1 or 1999AB-67).

Do you want us to tell others that we are working on this request?

NO
NO

PERSON, LEGAL ACTION, WI

JOSH FREKER, COAL. AGAINST DOM. VIOL.
MIKE MURRAY, COAL. AGAINST SEX ASSAULT

Do you consider this request urgent? YES NO If yes, please indicate why PART OF A PKG. OF BILLS

Should we give this request priority over any pending request of this legislator, agency, or person?

YES NO

PRELIMINARY DRAFT – NOT READY FOR INTRODUCTION

1 AN ACT *to amend* 704.19 (4); and *to create* 66.0627 (7), 704.035 and 704.29 (5)
2 of the statutes; **relating to:** termination of tenancies and certain lease
3 agreements pertaining to tenant safety and prohibiting the imposition of fees
4 for local government emergency services.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

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

5 SECTION 1. 66.0627 (7) of the statutes is created to read:
6 66.0627 (7) Notwithstanding sub. (2), no city, village, town, or county may
7 enact an ordinance, or enforce an existing ordinance, that imposes a fee on the owner
8 or occupant of property for a call for assistance that is made by the owner or occupant
9 requesting law enforcement, fire, or other emergency services that are provided by
10 the city, village, town, or county.

1 **SECTION 2.** 704.035 of the statutes is created to read:

2 **704.035 Lease that restricts access to certain services.** A lease is
3 unenforceable if it allows a landlord in a residential tenancy to increase rent,
4 decrease services, bring an action for possession of the premises, refuse to renew a
5 lease, or threaten any of the foregoing, because a tenant has contacted any entity for
6 law enforcement, health services, or safety services.

7 **SECTION 3.** 704.19 (4) of the statutes is amended to read:

8 **704.19 (4) CONTENTS OF NOTICE.** Notice must be in writing, formal or informal,
9 and substantially inform the other party to the landlord-tenant relation of the intent
10 to terminate the tenancy and the date of termination. A notice is not invalid because
11 of errors in the notice which do not mislead, including omission of the name of one
12 of several landlords or tenants. If a tenant is terminating a tenancy because the
13 tenant faces a threat of serious physical harm from another person if he or she
14 remains on the premises, the tenant shall include that reason in the notice and shall
15 provide the landlord with a certified copy of one of the following:

16 (a) An injunction order under s. 813.12 (4) protecting the tenant from the
17 person.

18 (b) A condition of release under ch. 969 ordering the person not to contact the
19 tenant.

20 (c) A criminal complaint that has been filed by the tenant that alleges that the
21 person sexually assaulted the tenant under s. 940.225.

22 (d) A criminal complaint that has been filed by the tenant alleging that the
23 person stalked the tenant under s. 940.32.

24 **SECTION 4.** 704.29 (5) of the statutes is created to read:



Wisconsin Coalition Against Sexual Assault, Inc.

600 Williamson St., Suite N2 • Madison, Wisconsin • 53703
Voice/TTY (608) 257-1516 • Fax (608) 257-2150 • www.wcasa.org



MEMORANDUM

TO: Senator Spencer Coggs
David de Felice

CC: Bob Anderson, Legal Action of Wisconsin, Inc.
Patti Seger, WI Coalition Against Domestic Violence

FROM: Mike Murray, Policy Specialist, WI Coalition Against Sexual Assault, Inc.

RE: Proposed Changes to Housing Rights Bill (LRB—2881/P1)

DATE: February 6, 2007

Section 3 of the Draft should read as follows:

704.19 (4) CONTENTS OF NOTICE. Notice must be in writing, formal or informal, and substantially inform the other party to the landlord-tenant relation of the intent to terminate the tenancy and the date of termination. A notice is not invalid because of errors in the notice which do not mislead, including omission of the name of one of several landlords or tenants. If a tenant is terminating a tenancy because the tenant or the child of the tenant faces a threat of serious physical harm from another person if he or she—the tenant remains on the premises, the tenant shall include that reason in the notice and shall provide the landlord with a certified copy of one of the following:

- (a) An injunction order under s. 813.12 (4) protecting the tenant from the person.
- (b) An injunction order under s. 813.125 (4) protecting the tenant or the child of the tenant from the person, if the person engaged in an act that would constitute sexual assault under s. 940.225, s. 948.02, or 948.025, or stalking under s. 940.32 ; or attempting or threatening to do the same.
- (c) An injunction order under s. 813.122 protecting the tenant's child from the person.
- (d) A condition of release under ch. 969 ordering the person not to contact the tenant.
- (e) A criminal complaint that has been filed by the tenant that alleges that the person sexually assaulted the tenant or the child of the tenant under s. 940.225, s. 948.02, or s. 948.025.
- (f) A criminal complaint that has been filed by the tenant alleging that the person stalked the tenant or the child of the tenant under s. 940.32.

(g) A criminal complaint has been filed as the result of an arrest alleging the commission of domestic abuse under s. 968.075 (1)(a) in the commission of the crime.