

## 2007 DRAFTING REQUEST

### Bill

Received: 10/17/2007

Received By: pkahler

Wanted: As time permits

Identical to LRB:

For: Steve Wieckert (608) 266-3070

By/Representing: Scott Becher

This file may be shown to any legislator: NO

Drafter: pkahler

May Contact:

Addl. Drafters:

Subject: Real Estate - landlord/tenant  
Criminal Law - drugs  
Criminal Law - procedure

Extra Copies:

Submit via email: YES

Requester's email: Rep.Wieckert@legis.wisconsin.gov

Carbon copy (CC:) to:

---

### Pre Topic:

No specific pre topic given

---

### Topic:

Require vacation of premises upon receiving notice that tenant convicted of a drug crime

---

### 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>
/?	pkahler 10/17/2007	chanaman 10/25/2007		_____			Local
	phurley 10/24/2007	bkraft 10/25/2007		_____			
	pkahler 10/25/2007			_____			
	phurley 10/25/2007			_____			
	pkahler			_____			

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	10/25/2007			_____			
/P1			jfrantze 10/26/2007	_____ _____	sbasford 10/26/2007		
/1	pkahler 10/31/2007	bkraft 11/01/2007	nnatzke 11/01/2007	_____ _____	lparisi 11/01/2007	sbasford 12/13/2007	

FE Sent For: N/A

<END>

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	pkahler 10/25/2007						
	phurley 10/25/2007						
	pkahler						

Vers.      Drafted      Reviewed      Typed      Proofed      Submitted      Jacketed      Required

10/25/2007

/P1

jfrantze  
10/26/2007

sbasford  
10/26/2007

*11bjk 11/1*

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	phurley 10/25/2007						
	pkahler						

Vers.      Drafted      Reviewed      Typed      Proofed      Submitted      Jacketed      Required

1/PI bjk 10/25

FE Sent For:

\_\_\_\_\_

**<END>**



10-18-07

Scott Becker - Rep Wierck

wants a bill that allows landlords to  
evict - in 2 days - a tenant who  
is convicted of a drug offense

we discussed how ll would find out &  
decided to require clerk of  
court to send notice (similar  
to the notice in 704.17 for  
nuisance) rather than have  
lls ck court records



State of Wisconsin  
2007 - 2008 LEGISLATURE

LRB-3322/0  
PJK&PJH:.....

PI  
Ljk

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION ✓

→ J-note  
by Monday 10/29, please  
Gen cot ←

1 AN ACT relating to: termination of a tenancy for a drug conviction and  
2 requiring clerks of circuit court to provide notice of drug convictions. ✓

*Analysis by the Legislative Reference Bureau*

Under current law, if a landlord receives written notice from a law enforcement agency or from the district attorney's office that a nuisance exists on the landlord's property because the property is being used for the delivery, distribution, or manufacture of a controlled substance or as a meeting place of a criminal gang or to facilitate the activities of a criminal gang, the landlord may terminate the tenancy of the tenant causing the nuisance by providing written notice requiring the tenant to vacate the premises on or before a date that is at least five days after the giving of the notice. This bill provides that, if a landlord receives written notice from the clerk of circuit court that a tenant has been convicted of a drug offense, the landlord may terminate the tenant's tenancy by providing written notice to the tenant requiring the tenant to vacate the premises on or before a date that is not less than two days after the giving of the notice. If the tenant contests the termination of tenancy in an eviction action, the landlord must prove by the greater preponderance of the credible evidence that the tenant was convicted of a drug offense. The bill defines "drug offense" as a misdemeanor or felony that has as an element possession, use, manufacture, or distribution of a controlled substance. ✓

This bill also requires the clerk of the circuit court where the person was convicted of a drug crime to send a notice of the person's conviction to the owner of the residence where the person resides or resided at the time of the offense. ✓

For further information see the *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:*

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

704.17 (title) **Notice terminating tenancies for failure to pay rent or other breach by tenant, or drug conviction.**

History: 1981 c. 286; 1993 a. 139, 486; 1995 a. 267; 2005 a. 281.

SECTION 2. 704.17 (1) (d) of the statutes is created to read:

704.17 (1) (d) 1. In this paragraph, "drug offense" means a misdemeanor or felony that has as an element possession, use, manufacture, or distribution of a controlled substance, as defined in s. 961.01(4).

2. A property owner may terminate the tenancy of a week-to-week or month-to-month tenant if the property owner receives written notice from the clerk of circuit court under s. 973.139 that the tenant has been convicted of a drug offense and if the property owner gives the tenant written notice requiring the tenant to vacate on or before a date not less than 2 days after the giving of the notice. The notice shall state the basis for its issuance and the right of the tenant to contest the termination of tenancy in an eviction action under ch. 799. If the tenant contests the termination of tenancy, the tenancy may not be terminated without proof by the property owner by the greater preponderance of the credible evidence of the allegation in the notice from the clerk of circuit court that the tenant was convicted of a drug offense.

SECTION 3. 704.17 (2) (d) of the statutes is created to read:

1           √ 704.17 (2) (d) 1. In this paragraph, "drug offense" means a misdemeanor or  
2 felony that has as an element possession, use, manufacture, or distribution of a  
3 controlled substance.     ↑ as defined in s. 961.01<sub>A</sub>(4)

4           2. A property owner may terminate the tenancy of a tenant who is under a lease  
5 for a term of one year or less or who is a year-to-year tenant if the property owner  
6 receives written notice from the clerk of circuit court under s. 973.139 that the tenant  
7 has been convicted of a drug offense and if the property owner gives the tenant  
8 written notice requiring the tenant to vacate on or before a date not less than 2 days  
9 after the giving of the notice. The notice shall state the basis for its issuance and the  
10 right of the tenant to contest the termination of tenancy in an eviction action under  
11 ch. 799. If the tenant contests the termination of tenancy, the tenancy may not be  
12 terminated without proof by the property owner by the greater preponderance of the  
13 credible evidence of the allegation in the notice from the clerk of circuit court that the  
14 tenant was convicted of a drug offense.

15           **SECTION 4.** 704.17 (3) (c) of the statutes is created to read:

16           √ 704.17 (3) (c) 1. In this paragraph, "drug offense" means a misdemeanor or  
17 felony that has as an element possession, use, manufacture, or distribution of a  
18 controlled substance.     ↑ as defined in s. 961.01<sub>A</sub>(4)

19           2. A property owner may terminate the tenancy of a tenant who is under a lease  
20 for a term of more than one year if the property owner receives written notice from  
21 the clerk of circuit court under s. 973.139 that the tenant has been convicted of a drug  
22 offense and if the property owner gives the tenant written notice to vacate on or  
23 before a date at least 5 days after the giving of the notice. The notice shall state the  
24 basis for its issuance and the right of the tenant to contest the termination of tenancy  
25 in an eviction action under ch. 799. If the tenant contests the termination of tenancy,

1 the tenancy may not be terminated without proof by the property owner by the  
2 greater preponderance of the credible evidence of the allegation in the notice from  
3 the clerk of circuit court that the tenant was convicted of a drug offense.

4 SECTION 5. 973.139 of the statutes is created to read:

5 **973.139 Courts to report convictions to the owner of a convicted**  
6 **person's residence.** Upon conviction of a person for a drug offense, as defined in  
7 s. 704.17 (3) (c) 1., the clerk of the circuit court in which such conviction occurred  
8 shall promptly forward the record of conviction to the owner of the residence where  
9 the convicted person resides or resided at the time of the offense.

10 SECTION 6. Initial applicability.

11 (1) This act first applies to offenses committed on the effective date of this  
12 subsection.

13 (END)

*→ note*

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

LRB-3322/dn  
PJK&PJH:.....

PI  
Lbjk

Date

Rather than require clerks of court to determine if a person who has been convicted of a drug offense is a tenant, which would be extremely onerous for the clerks, we have required the clerk of court to provide notice to the owner of property that is the residence of a person convicted of a drug offense. In some cases, the property owner may be the person, or a family member of the person, who was convicted. You could eliminate the requirement for the clerks of court and simply have landlords check the court records, as often as a landlord wishes, to determine if a tenant has been convicted of a drug offense. That way you would avoid the cost of having clerks provide notice. ✓

Pamela J. Kahler  
Senior Legislative Attorney  
Phone: (608) 266-2682  
E-mail: pam.kahler@legis.wisconsin.gov

Peggy Hurley  
Legislative Attorney  
Phone: (608) 266-8906  
E-mail: peggy.hurley@legis.wisconsin.gov

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

LRB-3322/P1dn  
PJK&PJH:bjk:jf

October 26, 2007

Rather than require clerks of court to determine if a person who has been convicted of a drug offense is a tenant, which would be extremely onerous for the clerks, we have required the clerk of court to provide notice to the owner of property that is the residence of a person convicted of a drug offense. In some cases, the property owner may be the person, or a family member of the person, who was convicted. You could eliminate the requirement for the clerks of court and simply have landlords check the court records, as often as a landlord wishes, to determine if a tenant has been convicted of a drug offense. That way you would avoid the cost of having clerks provide notice.

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Steve Weickert

by phone message

LRB - 3322

take out clerk of court duty

limit drug offense to a felony for  
dealing

later talked to Scott by phone -

he said to limit the offense to is convicted

so that a past conviction

does not apply





State of Wisconsin  
2007 - 2008 LEGISLATURE

LRB-3322/PJ  
PJK&PJH:bjk:ff

1  
2  
3  
4  
stays

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

2007 Bill

→ Draft in 10-31

manufacture or distribution ✓

regenerate ↓

1 AN ACT to amend 704.17 (title); and to create 704.17 (1) (d), 704.17 (2) (d),  
2 704.17 (3) (c) and 973.139 of the statutes; relating to: termination of a tenancy  
3 for a drug conviction and requiring clerks of circuit court to provide notice of  
4 drug convictions.

**Analysis by the Legislative Reference Bureau**

Under current law, if a landlord receives written notice from a law enforcement agency or from the district attorney's office that a nuisance exists on the landlord's property because the property is being used for the delivery, distribution, or manufacture of a controlled substance or as a meeting place of a criminal gang or to facilitate the activities of a criminal gang, the landlord may terminate the tenancy of the tenant causing the nuisance by providing written notice requiring the tenant to vacate the premises on or before a date that is at least five days after the giving of the notice. This bill provides that, if a landlord receives written notice from the clerk of circuit court that a tenant has been convicted of a drug offense, the landlord may terminate the tenant's tenancy by providing written notice to the tenant requiring the tenant to vacate the premises on or before a date that is not less than two days after the giving of the notice. If the tenant contests the termination of tenancy in an eviction action, the landlord must prove by the greater preponderance of the credible evidence that the tenant was convicted of a drug offense. The bill defines "drug offense" as a misdemeanor or felony that has as an element possession, use, manufacture, or distribution of a controlled substance.

\*  
\*  
\*  
\*

is

This bill also requires the clerk of the circuit court where the person was convicted of a drug crime to send a notice of the person's conviction to the owner of the residence where the person resides or resided at the time of the offense.

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

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9 convicted person resides or resided at the time of the offense.

10 SECTION 6. Initial applicability.

11 (1) This act first applies to offenses committed on the effective date of this  
12 subsection.

13 (END)

D-note

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

LRB-3322/1dn

PJK:.....

Lbjk

Date

Representative Wieckert:

In this version of the draft, I have limited the drug offense to a felony for either manufacture or distribution of a controlled substance. Let me know if you would like the offense further limited to only distribution.

I also changed the draft to say that the tenant "is" convicted of a drug offense, rather than "has been" convicted, so that the implication is that the conviction occurs while the tenant is a tenant, as opposed to some time in the past before he or she became a tenant of the landlord doing the evicting. Let me know if this is not okay. Also let me know if you want to more explicitly require that the conviction occurs while the tenant is a tenant.

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

LRB-3322/1dn  
PJK:bjk:nwn

November 1, 2007

Representative Wieckert:

In this version of the draft, I have limited the drug offense to a felony for either manufacture or distribution of a controlled substance. Let me know if you would like the offense further limited to only distribution.

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E-mail: [pam.kahler@legis.wisconsin.gov](mailto:pam.kahler@legis.wisconsin.gov)

## Duerst, Christina

---

**From:** Becher, Scott  
**Sent:** Wednesday, December 12, 2007 2:43 PM  
**To:** LRB.Legal  
**Subject:** FW: Co-sponsorship – Fast Track Eviction of Drug Dealers – LRB 3322  
**Attachments:** 07-33221.pdf

Please jacket this bill. Thanks.

---

**From:** Wieckert, Steve  
**Sent:** Wednesday, December 12, 2007 2:07 PM  
**To:** \*Legislative Assembly Democrats; \*Legislative Assembly Republicans; \*Legislative Senate Democrats; \*Legislative Senate Republicans  
**Subject:** Co-sponsorship – Fast Track Eviction of Drug Dealers – LRB 3322  
**TO:** All Legislators  
**FROM:** Rep. Steve Wieckert  
**DATE:** December 12, 2007  
**RE:** Co-sponsorship – Fast Track Eviction of Drug Dealers – LRB 3322

This legislation would allow a landlord to evict a convicted drug dealer from an apartment with a two day notice

Drug dealers are not only breaking the law by selling illegal substances they are also destroying neighborhoods, hurting innocent law abiding families by reckoning havoc in the neighborhoods where the drug dealers are located. Incidental crime, vandalism, theft, and harassment are much more common in a neighborhood that has one or more drug dealers.

Drug Enforcement Administration Agents have reported that an important and effective way to reduce illegal drug activities is to not allow drug dealers to become established in a place to set up their illegal manufacturing or distribution operations. Fast track evictions as provided by this bill will help in this effort.

Current law provides that one way a drug dealer can now be evicted is for a law enforcement agency to issue a nuisance notice to the landlord which would then allow the landlord to evict the problem tenant. This bill streamlines that process eliminating part of the bureaucracy and red tape of requiring a nuisance notice to be issued if there is an actual court conviction of a drug dealer. This bill also allows a landlord to evict a convicted drug dealer in two days as opposed to the current law which requires a minimum of a five day notice.

If you would like to co-sponsor this bill please feel free to contact Scott Becher myself at 266-3070 by December 27<sup>th</sup>.

### *Analysis by the Legislative Reference Bureau*

Under current law, if a landlord receives a written notice from a law enforcement agency or from the district

attorney's office that a nuisance exists on the landlord's property because the property is being used for the delivery, distribution, or manufacture of a controlled substance or as a meeting place of a criminal gang or to facilitate the activities of a criminal gang, the landlord may terminate the tenancy of the tenant causing the nuisance by providing written notice requiring the tenant to vacate the premises on or before a date that is at least five days after the giving of the notice. This bill provides that, if a tenant is convicted of a drug offense, the landlord may terminate the tenant's tenancy by providing written notice to the tenant requiring the tenant to vacate the premises on or before a date that is not less than two days after the giving of the notice. If the tenant contests the termination preponderance of the credible evidence that the tenant was convicted of a drug offense. The bill defines "drug offense" as a felony that has as an element manufacture or distribution of a controlled substance.



07-33221.pdf (17  
KB)