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State of Wisconsin 2005 - 2006 LEGISLATURE

2269/PI

LRB-2881/4

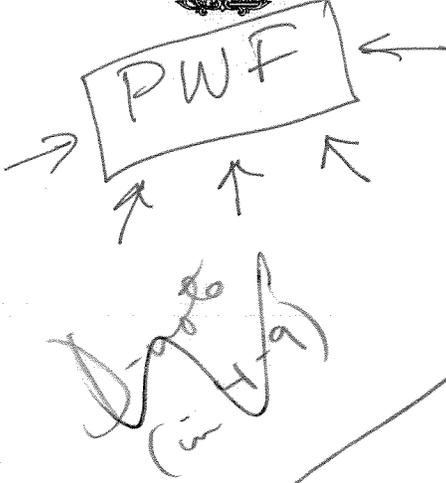
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PJK/MES, GMM:CS

Fri 4/27

DATE

2005 BILL



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

the tenant or his or her designated a member of the tenant's household

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

x) and requiring housing authorities to ~~control~~ 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 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 will be provided in a later version.

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.

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

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

66.0627 (7) Notwithstanding sub. (2), no city, village, town, or county may enact an ordinance, or enforce an existing ordinance, that imposes 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 that are provided by the city, village, town, or county.

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

704.06 Threat of serious physical harm. (1) **TERMINATING TENANCY.** A tenant may terminate his or her tenancy and remove from the premises if the tenant faces a threat of serious physical harm from another person if the tenant remains on

or a member of the tenant's household

Emergency Services
Local Government
(Sub-sub)
INS
MES/AMU
Insert 2-16MM
Insert 7-66MM
704.06
704.06

BILL

member
or a member of the tenant's household

1 the premises. The tenant may prove that he or she faces a threat of serious physical
2 harm from another person only by providing the landlord with a certified copy of any
3 of the following:

or a member of the tenant's household

Insert 3-5

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

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

or a member of the tenant's household

8 *e* (c) A criminal complaint alleging that the person sexually assaulted the tenant
9 under s. 940.225.

948.02, or 948.025

10 *f* (d) A criminal complaint alleging that the person stalked the tenant under s.
11 940.32.

member of the tenant's household

Insert 3-14

12 *g* (e) A criminal complaint that was filed against the person as a result of the
13 person being arrested for committing a domestic abuse offense against the tenant,
14 under s. 968.075.

or member of the tenant's household

15 (2) NOT LIABLE FOR RENT. If a tenant removes from the premises because of a
16 threat of serious physical harm from another person and provides the landlord with
17 a certified copy specified under sub. (1) and with notice that complies with s. 704.19,
18 if applicable, and s. 704.21, the tenant shall not be liable for any rent after the end
19 of the month in which he or she provides the notice or removes from the premises,
20 whichever is later.

to the tenant or to a member of the tenant's household

Insert 3-20

21 SECTION 3. 704.16 of the statutes is created to read:

22 **704.16 Landlord may not restrict access to certain services. (1)**

23 PROHIBITED ACTIONS. A landlord in a residential tenancy may not do any of the
24 following because a tenant has contacted an entity for law enforcement services,
25 health services, or safety services:

BILL

- 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 (S) LEASE AGREEMENTS.

SECTION 4. Initial applicability.

9 (1) ^{The} ~~This~~ treatment of sections ^{704.08, 704.06} and 704.16 of the statutes first applies to
 10 leases entered into, modified, or renewed on the effective date of this subsection.

(S) 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)

Insert
4-13 GMM

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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 ^{plus} 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, ^S the right to possess 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.

PLAIN

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, creed, sexual orientation, ~~abuse, sexual assault,~~ or ~~stalking victim status,~~ or national origin.

use 3 times
or abuse, sexual assault or stalking victim status, as defined in s. 106.50 (1m) (ab)

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~~ ^{strike} _↑

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 having been, or 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

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status of

has

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the

(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.

(PLAIN)

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) (hm), 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

[Handwritten scribble]

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

(usetwice)

~~victim status~~ 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 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.

that the person

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.

has is to mean, with respect to

the

This bill prohibits discrimination in housing on the basis of abuse, sexual assault, or stalking victim status, which is defined in the bill as 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 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

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INSERT 2-6

child

log 3

§ 13.12(1)(am),

abuse, as defined in s. 813.122(1)(a)
of a child, etc.

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

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

In this section, "protected tenant" means a tenant or a member of the tenant's household who is a victim of domestic abuse, as defined in s. ~~940.025~~ (1)(a), sexual assault, as described in s. 940.225, 948.02, or 940.025, or stalking, as described in s. 940.32.

that the tenant

with respect to

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.

(2) DIFFERING REQUIREMENTS DEPENDING ON PERPETRATOR'S RESIDENCE. (a) If a

tenant is a protected tenant, and if the perpetrator of the domestic abuse, sexual assault, or stalking with respect to the protected tenant is not a tenant in the same dwelling unit as the protected tenant, all of the following apply:

1. Any tenant of the dwelling may give oral or written notice to the landlord that the protected tenant is a victim of domestic abuse, sexual assault, or stalking and may request that the locks to the protected tenant's dwelling unit be changed.

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

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



Sub 2-7 cont'd 2013

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.

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

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



Sub 2-7 code 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 2-6) *→7*

INSERT 3-5

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

7 (c) An injunction order under s. 813.125 (4) protecting the tenant or a *member* child of
8 the tenant *is household* 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 harrassment 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.



Pam
948.02
948.025
are included
in "abuse"
under 948.02(1)

Ins 3-20 contd 202

****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?

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

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

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

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

(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*

*Selection of tenants
Selection of tenants by housing authority*

~~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* *(edit insert)*

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

(sub sub)

~~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~~

~~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/MES

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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→ I did not add a cross-reference to created ^{66.1205(1)(d)} ~~§. 66.1205(d)~~
in ~~§. 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:

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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 1999 AB-67).

Requests are confidential unless this for you? YES NO

If yes:

Only the following persons

BOB ANDERSON, 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.