

**2009 DRAFTING REQUEST**

**Bill**

Received: **02/25/2009**

Received By: **gmalaise**

Wanted: **As time permits**

Identical to LRB:

For: **Joe Parisi (608) 266-5342**

By/Representing: **Anne Sappenfield**

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

Drafter: **gmalaise**

May Contact:

Addl. Drafters:

Subject: **Discrimination**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Parisi@legis.wisconsin.gov**

Carbon copy (CC:) to:

---

**Pre Topic:**

No specific pre topic given

---

**Topic:**

Housing discrimination based on domestic abuse victim status

---

**Instructions:**

Prohibit housing discrimination based on domestic abuse victim status, including sexual assault and stalking

---

**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>
/?	gmalaise 02/25/2009	bkraft 03/09/2009		_____			State
/1			rschluet 03/09/2009	_____	lparisi 03/09/2009		State
/2	gmalaise 03/19/2009	bkraft 03/23/2009	phenry 03/23/2009	_____	lparisi 03/23/2009	cduerst 05/08/2009	

FE Sent For:

*at  
intro*

<END>

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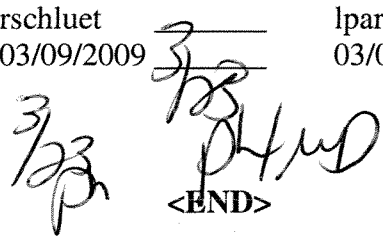
Instructions:

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/?	gmalaise 02/25/2009	bkraft 03/09/2009		_____			State
/1		1/2 bjk 3/23	rschluet 03/09/2009	_____	lparisi 03/09/2009		

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3/23  
  
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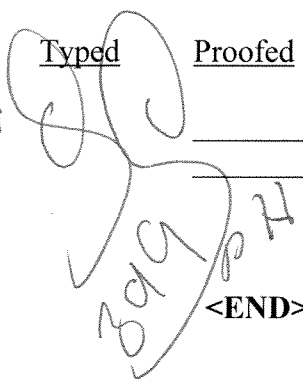
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/?	gmalaise	1 bjk 3/4					

FE Sent For:

<END>

IN 2/25

2009 ASSEMBLY BILL 22

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X-ref

Inserts

February 5, 2009 - Introduced by Representatives SCHNEIDER, GRIGSBY, A. WILLIAMS, KESSLER and VRUWINK. Referred to Committee on Housing.

Repeal

1 AN ACT *to renumber and amend* 66.0125 (1); *to amend* 66.0125 (3) (a), 66.0125  
2 (3) (c) 1. b., 66.0125 (9), 66.1011 (1), 66.1201 (2m), 66.1213 (3), 66.1301 (2m),  
3 66.1331 (2m), 66.1333 (3) (e) 2., 106.50 (1), 106.50 (1m) (h), 106.50 (1m) (nm),  
4 106.50 (5m) (f) 1., 224.77 (1) (o), 234.29 and 452.14 (3) (n); and *to create* 66.0125  
5 (1) (a), 66.0125 (1) (b), 106.50 (1m) (bg), 106.50 (1m) (fg), 106.50 (7) and 111.336  
6 of the statutes; **relating to:** prohibiting discrimination in housing because of

7 ~~arrest or conviction record, making it a Class I felony to discriminate in~~  
8 ~~employment or housing because of arrest or conviction record, and providing a~~  
9 ~~penalty.~~

domestic abuse victim status  
and providing a penalty

**Analysis by the Legislative Reference Bureau**

**Introduction**

This bill prohibits discrimination in housing because of an arrest or conviction record that is more than three years old and makes such discrimination a Class I felony, which is punishable by a fine not to exceed \$10,000 or imprisonment not to exceed three years and six months, or both. The bill also makes it a Class I felony to discriminate in employment based on arrest or conviction record.

**ASSEMBLY BILL 22*****Housing discrimination***

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), ~~but not on the basis of arrest or conviction record.~~ A person who engages in an act of housing discrimination may be required to provide such relief as may be appropriate, including economic and noneconomic damages and injunctive or other equitable relief, and to pay a forfeiture of not more than \$10,000, except that a person who is not a natural person may be required to pay a forfeiture of not more than \$25,000 if the person has committed a previous act of housing discrimination within the preceding five years or a forfeiture of not more than \$50,000 if the person has committed two or more previous acts of housing discrimination within the preceding seven years.

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. In addition, current law prohibits 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.

~~This bill prohibits discrimination in housing on the basis of an arrest or conviction record that is more than three years old 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 such an arrest or conviction record. The bill also makes it a Class I felony to commit an act of housing discrimination against an individual on the basis of such an arrest or conviction record. In addition, the bill requires a person who commits an act of housing discrimination against an individual on the basis of an arrest or conviction within the previous three years to inform the individual of the reason for the act, allow the individual to provide information relevant to the arrest or conviction, and, if the individual provides that information, reconsider the act.~~

***Employment discrimination***

~~Current law, subject to certain exceptions, prohibits discrimination in employment, licensing, and labor organization membership based on arrest or conviction record. Current law specifies, however, that it is not employment discrimination because of arrest record to refuse to employ or to license, or to suspend from employment or licensing, an individual who is subject to a pending criminal charge, the circumstances of which substantially relate to the circumstances of the particular job or licensed activity. Also, under current law, it is not employment discrimination because of conviction record to refuse to employ or to license, or to bar or terminate from employment or licensing, an individual who has been convicted of a felony, misdemeanor, or other offense, the circumstances of which substantially relate to the circumstances of the particular job or licensed activity.~~

~~Notwithstanding those exemptions, current law prohibits an individual who has been convicted of certain crimes from engaging in certain occupations, including caregiver at certain entities that provide care or treatment services for children or adults, school bus or human services vehicle operator, alternative pupil~~



ASSEMBLY BILL 22

transportation provider, hazardous materials transporter, Division of Gaming in the Department of Administration or Lottery Division in the Department of Revenue employee, lottery ticket retailer, Indian gaming vendor, viatical settlement broker or provider, private detective or investigator, private security person, burglar alarm installer, or alcohol beverage seller (regulated occupations).

This bill makes it a Class I felony to commit an act of employment discrimination against an individual because of arrest or conviction record. The bill, however, does not apply to an act of employment discrimination that is required or permitted with respect to a regulated occupation or to an arrest or conviction, the circumstances of which substantially relate to the circumstances of the particular job or licensed activity.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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

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

1 SECTION 1. 66.0125 (1) of the statutes is renumbered 66.0125 (1) (intro.) and  
2 amended to read: (b)

3 66.0125 (1) DEFINITION: DEFINITIONS. (intro.) In this section, "local:

4 (c) "Local governmental unit" means a city, village, town, school district, or  
5 county. Domestic abuse victim status

6 SECTION 2. 66.0125 (1) (a) of the statutes is created to read:

7 66.0125 (1) (a) "Arrest record," for purposes of discrimination in housing, has  
8 the meaning given in s. 106.50 (1m) (b) and, for purposes of discrimination in  
9 employment, has the meaning given in s. 111.32 (1). (hm)

10 SECTION 3. 66.0125 (1) (b) of the statutes is created to read:

ASSEMBLY BILL 22

66.0125 (1) (b) "Conviction record," for purposes of discrimination in housing, has the meaning given in s. 106.50 (1m) (fg) and, for purposes of discrimination in employment, has the meaning given in s. 111.32 (3).

SECTION 4. 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 and employment on all of those bases plus the basis of arrest or conviction record, domestic abuse victim status.

SECTION 5. 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, or arrest or conviction record, the rights to possess equal housing accommodations and to enjoy equal employment opportunities, and to ensure to those residents, regardless of those bases plus the basis of domestic abuse victim status, the right to possess equal housing opportunities.

SECTION 6. 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

ASSEMBLY BILL 22

-5-  
domestic abuse victim status

1 arrest or conviction record ought not to be made tests in the matter of the right of any  
2 person to sell, lease, occupy, or use real estate ~~on to earn a livelihood~~;

3 SECTION 7. 66.1011 (1) of the statutes is amended to read:

4 66.1011 (1) DECLARATION OF POLICY. The right of all persons to have equal  
5 opportunities for housing regardless of their sex, race, color, physical condition,  
6 disability, as defined in s. 106.50 (1m) (g), sexual orientation, as defined in s. 111.32  
7 (13m), religion, national origin, marital status, family status, as defined in s. 106.50

8 (1m) (k), lawful source of income, arrest record, as defined in s. 106.50 (1m) (bg),

9 conviction record, as defined in s. 106.50 (1m) (fg), age, or ancestry is a matter both  
10 of statewide concern under ss. 101.132 and 106.50 and also of local interest under  
11 this section and s. 66.0125. The enactment of ss. 101.132 and 106.50 by the  
12 legislature does not preempt the subject matter of equal opportunities in housing  
13 from consideration by political subdivisions, and does not exempt political  
14 subdivisions from their duty, nor deprive them of their right, to enact ordinances  
15 which that prohibit discrimination in any type of housing solely on the basis of an  
16 individual being a member of a protected class.

17 SECTION 8. 66.1201 (2m) of the statutes is amended to read:

18 66.1201 (2m) DISCRIMINATION. Persons otherwise entitled to any right, benefit,  
19 facility, or privilege under ss. 66.1201 to 66.1211 shall may not be denied them the  
20 right, benefit, facility, or privilege in any manner for any purpose nor be  
21 discriminated against because of sex, race, color, creed, sexual orientation, arrest

22 record, as defined in s. 106.50 (1m) (bg), conviction record, as defined in s. 106.50 (1m)

23 (fg) or national origin.

24 SECTION 9. 66.1213 (3) of the statutes is amended to read:

domestic abuse victim status  
as defined in  
s. 106.50 (1m) (hm)

domestic abuse victim status

g. (hm)

ASSEMBLY BILL 22

SECTION 9

1           66.1213 (3) DISCRIMINATION. Persons otherwise entitled to any right, benefit,  
 2 facility, or privilege under this section shall may not be denied them the right,  
 3 benefit, facility, or privilege in any manner for any purpose nor be discriminated  
 4 against because of sex, race, color, creed, sexual orientation, ~~arrest record, as defined~~  
 5 ~~in s. 106.50 (1m) (b), conviction record,~~ <sup>domestic abuse victim status</sup> as defined in s. 106.50 (1m) ~~(b),~~ <sup>(hm)</sup> or national  
 6 origin.

7           SECTION 10. 66.1301 (2m) of the statutes is amended to read:

8           66.1301 (2m) DISCRIMINATION. Persons entitled to any right, benefit, facility,  
 9 or privilege under ss. 66.1301 to 66.1329 shall may not be denied them the right,  
 10 benefit, facility, or privilege in any manner for any purpose nor be discriminated  
 11 against because of sex, race, color, creed, sexual orientation, ~~arrest record, as defined~~  
 12 ~~in s. 106.50 (1m) (b), conviction record,~~ <sup>domestic abuse victim status</sup> as defined in s. 106.50 (1m) ~~(b),~~ <sup>(hm)</sup> or national  
 13 origin.

14           SECTION 11. 66.1331 (2m) of the statutes is amended to read:

15           66.1331 (2m) DISCRIMINATION. Persons otherwise entitled to any right, benefit,  
 16 facility, or privilege under this section shall may not be denied them the right,  
 17 benefit, facility, or privilege in any manner for any purpose nor be discriminated  
 18 against because of sex, race, color, creed, sexual orientation, ~~arrest record, as defined~~  
 19 ~~in s. 106.50 (1m) (b), conviction record,~~ <sup>domestic abuse victim status</sup> as defined in s. 106.50 (1m) ~~(b),~~ <sup>(hm)</sup> or national  
 20 origin.

21           SECTION 12. 66.1333 (3) (e) 2. of the statutes is amended to read:

22           66.1333 (3) (e) 2. Persons otherwise entitled to any right, benefit, facility, or  
 23 privilege under this section may not be denied the right, benefit, facility, or privilege  
 24 in any manner for any purpose nor be discriminated against because of sex, race,

ASSEMBLY BILL 22 domestic abuse victim status

1 color, creed, sexual orientation, ~~arrest record, as defined in s. 106.50 (1m) (bg).~~

2 ~~conviction record~~ as defined in s. 106.50 (1m) (fg) or national origin

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

domestic abuse victim status

4 106.50 (1) INTENT. It is the intent of this section to render unlawful  
5 discrimination in housing. It is the declared policy of this state that all persons shall  
6 have an equal opportunity for housing regardless of sex, race, color, sexual  
7 orientation, disability, religion, national origin, marital status, family status, lawful  
8 source of income, ~~arrest or conviction record~~, age, or ancestry and it is the duty of the  
9 political subdivisions to assist in the orderly prevention or removal of all  
10 discrimination in housing through the powers granted under ss. 66.0125 and  
11 66.1011. The legislature hereby extends the state law governing equal housing  
12 opportunities to cover single-family residences which that are owner-occupied. The  
13 legislature finds that the sale and rental of single-family residences constitute a  
14 significant portion of the housing business in this state and should be regulated.  
15 This section shall be deemed considered an exercise of the police powers of the state  
16 for the protection of the welfare, health, peace, dignity, and human rights of the  
17 people of this state.

18 SECTION 14. 106.50 (1m) (bg) of the statutes is created to read:

19 106.50 (1m) (bg) "Arrest record" includes information indicating that an  
20 individual has been questioned, apprehended, taken into custody or detention, held  
21 for investigation, arrested, charged with, indicted, or tried for any felony,  
22 misdemeanor, or other offense pursuant to any law enforcement or military  
23 authority more than 3 years before a discriminatory act in violation of sub. (2) occurs.

24 SECTION 15. 106.50 (1m) (fg) of the statutes is created to read:

ASSEMBLY BILL 22

1 106.50 (1m) (fg) "Conviction record" includes information indicating that an  
 2 individual has been convicted of any felony, misdemeanor, or other offense, has been  
 3 adjudicated delinquent, has been less than honorably discharged, or has been placed  
 4 on probation, fined, imprisoned, placed on extended supervision, or paroled  
 5 pursuant to any law enforcement or military authority more than 3 years before a  
 6 discriminatory act in violation of sub. (2) occurs.

domestic abuse victim status

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

8 106.50 (1m) (h) "Discriminate" means to segregate, separate, exclude, or treat  
 9 a person or class of persons unequally in a manner described in sub. (2), (2m), or (2r)  
 10 because of sex, race, color, sexual orientation, disability, religion, national origin,  
 11 marital status, family status, lawful source of income, ~~arrest or conviction record~~,  
 12 age, or ancestry.

13 SECTION 17. 106.50 (1m) (nm) of the statutes is amended to read:

14 106.50 (1m) (nm) "Member of a protected class" means a group of natural  
 15 persons, or a natural person, who may be categorized based on one or more of the  
 16 following characteristics: because of sex, race, color, disability, sexual orientation as  
 17 defined in s. 111.32 (13m), religion, national origin, marital status, family status,  
 18 lawful source of income, ~~arrest or conviction record~~, age, or ancestry.

19 SECTION 18. 106.50 (5m) (f) 1. of the statutes is amended to read:

20 106.50 (5m) (f) 1. Nothing in this section prohibits an owner or agent from  
 21 requiring that a person who seeks to buy or rent housing supply information  
 22 concerning ~~arrest or conviction record~~, family status, and marital, financial, and  
 23 business status but not concerning race, color, ~~physical condition~~, disability, sexual  
 24 orientation, ancestry, national origin, religion, creed, or, subject to subd. 2., age.

25 SECTION 19. 106.50 (7) of the statutes is created to read:

domestic abuse victim status

Insert  
8-12

Insert  
8-18

ASSEMBLY BILL 22

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~~106.50 (7) DISCRIMINATION BASED ON ARREST OR CONVICTION RECORD. (a) Any person who commits a discriminatory act in violation of sub. (2) because of arrest or conviction record is guilty of a Class I felony.~~

~~(b) Any person who commits an act described in sub. (2) against an individual because the individual has been the subject of an action described in sub. (1m) (bg) or (fg) within the 3 years preceding that act shall inform the individual of the reason for the act, allow the individual to provide information relevant to the action, and, if the individual provides that information, reconsider the act.~~

~~SECTION 20. 111.336 of the statutes is created to read:~~

~~**111.336 Arrest or conviction record; criminal penalty. (1) Except as provided in sub. (2), any person who commits an act of employment discrimination because of arrest or conviction record is guilty of a Class I felony.**~~

~~(2) Subsection (1) does not apply to an act of employment discrimination that is permitted or required under s. 48.685 (4m) (a) or (b) or (5m), 50.065 (4m) (a) or (b) or (5m), 85.21 (3m) (b), 111.335, 121.555 (3) (c), 343.12 (2) (dm), (7), or (8) (a) or (b), 343.14 (2g) (a), 346.923, 562.045, 565.02 (1) (b) or (2) (c), 565.10 (3) (a), 569.04 (2), or 632.68 (3) (a) 4. or (5) (a) 3.~~

*was affected by 2009 Wisconsin Act 22*

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SECTION 21. 224.77 (1) (o) of the statutes is amended to read:

224.77 (1) (o) In the course of practice as a mortgage banker, <sup>(mortgage banker)</sup> loan originator, <sup>(loan originator)</sup> or mortgage broker, <sup>(mortgage broker)</sup> except in relation to housing designed to meet the needs of elderly individuals, <sup>(elderly individuals)</sup> ~~creates~~ <sup>st</sup> a person <sup>(treated)</sup> unequally solely because of sex, race, color, handicap, sexual orientation, as defined in s. 111.32 (13m), religion, national origin, age, or ancestry, the person's lawful source of income, ~~the person's arrest record, as defined in s. 106.50 (1m) (bg), or conviction record, as defined in s. 106.50 (1m) (fg),~~ or the sex or marital status of the person maintaining a household.

*or domestic abuse victim status, as defined in s. 106.50 (1) (hm)*

*Insrt 9-25*

ASSEMBLY BILL 22

SECTION 22. 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, ~~arrest record as defined in s.~~

~~106.50 (1m) (bg) conviction record~~ as defined in s. 106.50 (1m) ~~(fg)~~ 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,

~~arrest record, as defined in s. 111.32 (1), conviction record, as defined in s. 111.32 (3),~~

or creed.

SECTION 23. 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 ~~or~~ lawful source of income, ~~arrest~~

~~record, as defined in s. 106.50 (1m) (bg), or conviction record, as defined in s. 106.50~~

~~(1m) (fg)~~

(END)

(CS) DISCRIMINATION BASED ON DOMESTIC ABUSE VICTIM STATUS

Effective Dates (B)

SECTION

(1) This act takes effect on the day after publication, except as follows:

(a) The repeal and recreation of section 224077 (1) of the statutes takes effect on January 1, 2010, or on the day after publication, whichever is later.



2009-2010 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB09-2233/lins  
GMM:.....

(INSERT 8-6)<sup>212</sup>

X  
1 SECTION 1. 106.50 (1m) (hm) of the statutes is created to read:

2 106.50 (1m) (hm) "Domestic abuse victim status" means the status of a person  
3 who is seeking to rent or purchase housing or of a member or prospective member  
4 of the person's household having been, or being believed by the lessor or seller of  
5 housing to be, a victim of domestic abuse, as defined in s. 813.12 (1) (am), sexual  
6 assault under s. 940.225, 948.02, or 948.025, or stalking under s. 940.32.

(END OF INSERT)

(INSERT 8-18)

X  
7 SECTION 2. 106.50 (5m) (d) of the statutes is amended to read:

8 106.50 (5m) (d) Nothing in this section requires that housing be made available  
9 to an individual whose tenancy would constitute a direct threat to the safety of other  
10 tenants or persons employed on the property or whose tenancy would result in  
11 substantial physical damage to the property of others, if the risk of direct threat or  
12 damage cannot be eliminated or sufficiently reduced through reasonable  
13 accommodations. A claim that an individual's tenancy poses a direct threat or a  
14 substantial risk of harm or damage must be evidenced by behavior by the individual  
15 that caused harm or damage, that directly threatened harm or damage, or that  
16 caused a reasonable fear of harm or damage to other tenants, persons employed on  
17 the property, or the property. No claim that an individual's tenancy would constitute  
18 a direct threat to the safety of other persons or would result in substantial damage  
19 to property may be based on the fact that a tenant has been or may be the victim of  
20 individual's domestic abuse, as defined in s. 813.12 (1) (am) victim status.

106, 139, 359; 1991 a. 295, 315; 1993 a. 27; 1995 a. 27 s. 3687; Stats. 1995 s. 106.04; 1995 a. 225; 1995 a. 448 ss. 66, 68; 1997 a. 112, 237, 312; 1999 a. 82 ss. 38 to 74; Stats. 1999 s. 106.50; 1999 a. 150 s. 672; 1999 a. 162; 2001 a. 30 s. 108; 2001 a. 109; 2005 a. 25; 2007 a. 11.

**(END OF INSERT)**

**(INSERT A)**

Current law, however, 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 in housing on the basis of domestic abuse 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, sexual assault, sexual assault of a child, repeated sexual assault of a child, 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 domestic abuse 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.

**(END OF INSERT)**

Inst 9-23

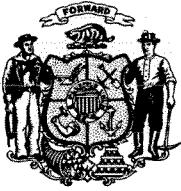
As affected by 2009 Wisconsin Acts 2 and 111-1  
Section #. 224.77 (1) (o) of the statutes ~~(amended)~~ to read:  
(Inst) is  
repealed and recreated

224.77 (1) (o) In the course of practice as a mortgage banker, mortgage loan originator, or mortgage broker, except in relation to housing designed to meet the needs of elderly individuals, treat a person unequally solely because of sex, race, color, handicap, sexual orientation, as defined in s. 111.32 (13m), 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.

History: 1987 a. 359; 1987 a. 403 ss. 182, 256; Stats. 1987 s. 440.77; 1993 a. 112; 1995 a. 27 ss. 6598 to 6600; Stats. 1995 s. 224.77; 1997 a. 145, 191, 237; 1999 a. 32, 82; 1999 a. 150 s. 672; 2003 a. 33, 260; 2007 a. 20; 2009 a. 2 ss. 673 to 707, 709.

or domestic abuse victim status, as defined in  
s. 106.50 (1)(b)

(Inst)



State of Wisconsin  
2009 - 2010 LEGISLATURE

LN 3119

LRB-2233/T

GMM:bjk:rs

stays

2  
RMR

2009 BILL

SA-

regen.

1 **AN ACT to renumber and amend** 66.0125 (1); **to amend** 66.0125 (3) (a), 66.0125  
2 (3) (c) 1. b., 66.0125 (9), 66.1011 (1), 66.1201 (2m), 66.1213 (3), 66.1301 (2m),  
3 66.1331 (2m), 66.1333 (3) (e) 2., 106.50 (1), 106.50 (1m) (h), 106.50 (1m) (nm),  
4 106.50 (5m) (d), 106.50 (5m) (f) 1., 224.77 (1) (o), 234.29 and 452.14 (3) (n); **to**  
5 **repeal and recreate** 224.77 (1) (o); and **to create** 66.0125 (1) (a) and 106.50  
6 (1m) (hm) of the statutes; **relating to:** prohibiting discrimination in housing  
7 because of domestic abuse victim status and providing a penalty.

**Analysis by the Legislative Reference Bureau**

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). A person who engages in an act of housing discrimination may be required to provide such relief as may be appropriate, including economic and noneconomic damages and injunctive or other equitable relief, and to pay a forfeiture of not more than \$10,000, except that a person who is not a natural person may be required to pay a forfeiture of not more than \$25,000 if the person has committed a previous act of housing discrimination within the preceding five years or a forfeiture of not more than \$50,000 if the person has committed two or more previous acts of housing discrimination within the preceding seven years.

**BILL**

a person's status as a victim of domestic abuse, sexual assault, or stalking

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. In addition, current law prohibits 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, however, 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 in housing on the basis of domestic abuse 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, sexual assault, sexual assault of a child, repeated sexual assault of a child, 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 domestic abuse victim status.

as a victim of domestic abuse, sexual assault, or stalking

"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.

For further information see the *state* 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:***

1           **SECTION 1.** 66.0125 (1) of the statutes is renumbered 66.0125 (1) (intro.) and  
2 amended to read:

3           66.0125 (1) ~~DEFINITION.~~ DEFINITIONS. (intro.) In this section, "local:

4           (b) "Local governmental unit" means a city, village, town, school district, or  
5 county.

6           **SECTION 2.** 66.0125 (1) (a) of the statutes is created to read:

**BILL**

*status as a victim of domestic abuse, sexual assault, or stalking*

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66.0125 (1) (a) ~~Domestic abuse victim status~~ for purposes of discrimination in housing, has the meaning given in s. 106.50 (1m) ~~(h)~~ (u)

**SECTION 3.** 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 domestic abuse

victim status. *the basis of sex, class, race, religion, sexual orientation, ethnic or minority status, or status as a victim of domestic abuse, sexual assault, or stalking*

**SECTION 4.** 66.0125 (3) (c) 1. b. of the statutes is amended to read: or stalking

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 right to enjoy equal employment opportunities and to ensure to those residents, regardless of those basis plus the basis of domestic abuse

victim status, the right to possess equal housing opportunities.

**SECTION 5.** 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

*sex, race, sexual orientation, color, or status as a victim of domestic abuse, sexual assault, or stalking*

**BILL**

*as a victim of domestic abuse, sexual assault  
or stalking*

*History  
use  
31)*

1 ~~domestic abuse victim~~ status, ought not to be made tests in the matter of the right of  
2 any person to sell, lease, occupy, or use real estate.

3 **SECTION 6.** 66.1011 (1) of the statutes is amended to read:

4 66.1011 (1) DECLARATION OF POLICY. The right of all persons to have equal  
5 opportunities for housing regardless of their sex, race, color, physical condition,  
6 disability, as defined in s. 106.50 (1m) (g), sexual orientation, as defined in s. 111.32  
7 (13m), religion, national origin, marital status, family status, as defined in s. 106.50

8 (1m) (k), ~~domestic abuse victim~~ status, as defined in s. 106.50 (1m) ~~(hm)~~ <sup>(u)</sup> lawful  
9 source of income, age, or ancestry is a matter both of statewide concern under ss.  
10 101.132 and 106.50 and also of local interest under this section and s. 66.0125. The  
11 enactment of ss. 101.132 and 106.50 by the legislature does not preempt the subject  
12 matter of equal opportunities in housing from consideration by political  
13 subdivisions, and does not exempt political subdivisions from their duty, nor deprive  
14 them of their right, to enact ordinances which that prohibit discrimination in any  
15 type of housing solely on the basis of an individual being a member of a protected  
16 class.

17 **SECTION 7.** 66.1201 (2m) of the statutes is amended to read:

18 66.1201 (2m) DISCRIMINATION. Persons otherwise entitled to any right, benefit,  
19 facility, or privilege under ss. 66.1201 to 66.1211 ~~shall~~ may not be denied ~~them~~ the  
20 right, benefit, facility, or privilege in any manner for any purpose nor be  
21 discriminated against because of sex, race, color, creed, sexual orientation, ~~domestic~~  
22 ~~abuse victim~~ status, as defined in s. 106.50 (1m) ~~(hm)~~ <sup>(u)</sup>, or national origin.

23 **SECTION 8.** 66.1213 (3) of the statutes is amended to read:

24 66.1213 (3) DISCRIMINATION. Persons otherwise entitled to any right, benefit,  
25 facility, or privilege under this section ~~shall~~ may not be denied ~~them~~ the right,

**BILL**

*as a victim of domestic abuse, sexual assault, or*

*stalking*

1 benefit, facility, or privilege in any manner for any purpose nor be discriminated  
2 against because of sex, race, color, creed, sexual orientation, domestic abuse victim  
3 status, as defined in s. 106.50 (1m) (hm), or national origin.

4 **SECTION 9.** 66.1301 (2m) of the statutes is amended to read:

5 66.1301 (2m) DISCRIMINATION. Persons entitled to any right, benefit, facility,  
6 or privilege under ss. 66.1301 to 66.1329 shall may not be denied them the right,  
7 benefit, facility, or privilege in any manner for any purpose nor be discriminated  
8 against because of sex, race, color, creed, sexual orientation, domestic abuse victim  
9 status, as defined in s. 106.50 (1m) (hm), or national origin.

10 **SECTION 10.** 66.1331 (2m) of the statutes is amended to read:

11 66.1331 (2m) DISCRIMINATION. Persons otherwise entitled to any right, benefit,  
12 facility, or privilege under this section shall may not be denied them the right,  
13 benefit, facility, or privilege in any manner for any purpose nor be discriminated  
14 against because of sex, race, color, creed, sexual orientation, domestic abuse victim  
15 status, as defined in s. 106.50 (1m) (hm), or national origin.

16 **SECTION 11.** 66.1333 (3) (e) 2. of the statutes is amended to read:

17 66.1333 (3) (e) 2. Persons otherwise entitled to any right, benefit, facility, or  
18 privilege under this section may not be denied the right, benefit, facility, or privilege  
19 in any manner for any purpose nor be discriminated against because of sex, race,  
20 color, creed, sexual orientation, domestic abuse victim status, as defined in s. 106.50  
21 (1m) (hm), or national origin.

22 **SECTION 12.** 106.50 (1) of the statutes is amended to read:

23 106.50 (1) INTENT. It is the intent of this section to render unlawful  
24 discrimination in housing. It is the declared policy of this state that all persons shall  
25 have an equal opportunity for housing regardless of sex, race, color, domestic abuse



**BILL**

*status as a victim of domestic abuse, sexual assault, or stalking*

**SECTION 12**

1 victim status, sexual orientation, disability, religion, national origin, marital status,  
 2 family status, lawful source of income, age, or ancestry and it is the duty of the  
 3 political subdivisions to assist in the orderly prevention or removal of all  
 4 discrimination in housing through the powers granted under ss. 66.0125 and  
 5 66.1011. The legislature hereby extends the state law governing equal housing  
 6 opportunities to cover single-family residences ~~which that~~ are owner-occupied. The  
 7 legislature finds that the sale and rental of single-family residences constitute a  
 8 significant portion of the housing business in this state and should be regulated.  
 9 This section shall be deemed considered an exercise of the police powers of the state  
 10 for the protection of the welfare, health, peace, dignity, and human rights of the  
 11 people of this state.

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

12 **106.50 (1m) (h)** "Discriminate" means to segregate, separate, exclude, or treat  
 13 a person or class of persons unequally in a manner described in sub. (2), (2m), or (2r)  
 14 because of sex, race, color, sexual orientation, disability, religion, national origin,  
 15 marital status, family status, ~~domestic abuse victim status~~, lawful source of income,  
 16 age, or ancestry.

**SECTION 14.** 106.50 (1m) ~~(h)~~ of the statutes is created to read:

17 **106.50 (1m) (u)** ~~"Domestic abuse victim status"~~ means the status of a person  
 18 who is seeking to rent or purchase housing or of a member or prospective member  
 19 of the person's household having been, or being believed by the lessor or seller of  
 20 housing to be, a victim of domestic abuse, as defined in s. 813.12 (1) (am), sexual  
 21 assault under s. 940.225, 948.02, or 948.025, or stalking under s. 940.32.  
 22  
 23

**SECTION 15.** 106.50 (1m) (nm) of the statutes is amended to read:

*Move to p 7, 85*

*(u) status as a victim of domestic abuse, sexual assault, or stalking*

Insert  
P 6 & 18 to 23  
1

**BILL**

as a victim of domestic abuse, sexual assault,  
or stalking

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

6 **SECTION 16.** 106.50 (5m) (d) of the statutes is amended to read:

7 106.50 (5m) (d) Nothing in this section requires that housing be made available  
8 to an individual whose tenancy would constitute a direct threat to the safety of other  
9 tenants or persons employed on the property or whose tenancy would result in  
10 substantial physical damage to the property of others, if the risk of direct threat or  
11 damage cannot be eliminated or sufficiently reduced through reasonable  
12 accommodations. A claim that an individual's tenancy poses a direct threat or a  
13 substantial risk of harm or damage must be evidenced by behavior by the individual  
14 that caused harm or damage, that directly threatened harm or damage, or that  
15 caused a reasonable fear of harm or damage to other tenants, persons employed on  
16 the property, or the property. No claim that an individual's tenancy would constitute  
17 a direct threat to the safety of other persons or would result in substantial damage  
18 to property may be based on the fact that a tenant has been or may be the victim of  
19 ~~individual's domestic abuse~~ as defined in s. 813.12 (1) (am) ~~victim~~ status.

20 **SECTION 17.** 106.50 (5m) (f) 1. of the statutes is amended to read:

21 106.50 (5m) (f) 1. Nothing in this section prohibits an owner or agent from  
22 requiring that a person who seeks to buy or rent housing supply information  
23 concerning family status, and marital, financial, and business status but not  
24 concerning race, color, physical condition, disability, sexual orientation, ancestry,

**BILL**

*as a victim of domestic abuse, sexual assault,  
or stalking*

(2X)

1 national origin, religion, creed, ~~domestic abuse victim~~ status, or, subject to subd. 2.,  
2 age.

3 **SECTION 18.** 224.77 (1) (o) of the statutes is amended to read:

4 224.77 (1) (o) In the course of practice as a mortgage banker, loan originator,  
5 or mortgage broker, except in relation to housing designed to meet the needs of  
6 elderly individuals, treated a person unequally solely because of sex, race, color,  
7 handicap, sexual orientation, as defined in s. 111.32 (13m), religion, national origin,  
8 age, or ancestry, the person's lawful source of income, or the sex or marital status,  
9 or ~~domestic abuse victim~~ status, as defined in s. 106.50 (1) ~~(b)~~ <sup>(u)</sup> of the person  
10 maintaining a household.

11 **SECTION 19.** 224.77 (1) (o) of the statutes, as affected by 2009 Wisconsin Acts  
12 2 and ... (this act), is repealed and recreated to read:

13 224.77 (1) (o) In the course of practice as a mortgage banker, mortgage loan  
14 originator, or mortgage broker, except in relation to housing designed to meet the  
15 needs of elderly individuals, treat a person unequally solely because of sex, race,  
16 color, handicap, sexual orientation, as defined in s. 111.32 (13m), religion, national  
17 origin, age, or ancestry, the person's lawful source of income, or the sex, marital  
18 status, or ~~domestic abuse victim~~ status, as defined in s. 106.50 (1) ~~(b)~~ <sup>(u)</sup> of the person  
19 maintaining a household.

20 **SECTION 20.** 234.29 of the statutes is amended to read:

21 **234.29 Equality of occupancy and employment.** The authority shall  
22 require that occupancy of housing projects assisted under this chapter be open to all  
23 regardless of sex, race, religion, sexual orientation, ~~domestic abuse victim~~ status, as  
24 defined in s. 106.50 (1m) ~~(b)~~ <sup>(u)</sup>, or creed, and that contractors and subcontractors  
25 engaged in the construction of economic development or housing projects, shall

**BILL**

*as a victim of domestic abuse, sexual assault,  
or stalking*

**SECTION 20**

1 provide an equal opportunity for employment, without discrimination as to sex, race,  
2 religion, sexual orientation, or creed.

3 **SECTION 21.** 452.14 (3) (n) of the statutes is amended to read:

4 452.14 (3) (n) Treated any person unequally solely because of sex, race, color,  
5 handicap, national origin, ancestry, marital status ~~or~~, lawful source of income, or  
6 domestic abuse victim status, as defined in s. 106.50 (1m) ~~(hm)~~ <sup>(u)</sup>

7 **SECTION 22. Effective dates.** This act takes effect on the day after publication,  
8 except as follows: <sup>(c)</sup> *AS A VICTIM OF DOMESTIC ABUSE, SEXUAL ASSAULT,  
OR STALKING*

9 (1) DISCRIMINATION BASED ON ~~DOMESTIC ABUSE VICTIM~~ STATUS. The repeal and  
10 recreation of section 224.77 (1) (o) of the statutes takes effect on January 1, 2010, or  
11 on the day after publication, whichever is later.

12 (END)

## Malaise, Gordon

---

**From:** Murray, Mike  
**Sent:** Thursday, March 19, 2009 9:00 AM  
**To:** Malaise, Gordon  
**Cc:** 'Robert J. Andersen'; 'Tony Gibart'  
**Subject:** LRB 2233/1- Housing Discrimination

**Attachments:** final suggested revisions to LRB 2233.1.doc

Hi Gordon,

I just left you a message about this bill on your voicemail. Thank you very much for your work on this draft. It looks good and the folks that we are working on the issue with only had a few suggestions. I have attached their suggestions to this email.

If you have follow up questions regarding their suggestions, please feel free to contact either one of them. The two people that Joe is working with on this bill are Bob Anderson from Legal Action Wisconsin and Tony Gibart from the WI Coalition Against Domestic Violence. Both of them are attorneys and quite familiar with the subject area. I have copied them to this email.

Thanks again for your help on this. We really appreciate it. Please feel free to contact if you have any questions or concerns.



final suggested  
revisions to L...

Mike

Mike Murray  
Office of Representative Joe Parisi

**DISCRIMINATION IN HOUSING BASED ON DOMESTIC VIOLENCE,  
SEXUAL ASSAULT OR STALKING**

This is a very thorough draft and does not require many changes. Below are some suggested revisions.

**Suggestions for Revision of LRB-2233/1**

1. On page 3, lines 11 and 12, delete the underlined and substitute as follows:

“and discrimination in housing based on status as a victim of domestic violence, sexual assault, or stalking.”

[There is no reference in the bill draft to the other proposed statute, so “domestic abuse status” is a little confusing. Moreover, as I indicate below, these three things are separate categories and cannot be lumped together under “domestic abuse status.” I know the drafter is trying to come up with a solution that is not as lengthy or, in some cases clumsy, but I do not see any alternative. See my comments below on the definition of “domestic abuse status.”

2. On page 3, line 17 “basis” should be plural.

3. On page 3, lines 17 and 18, delete the underlined and substitute

“and to ensure those residents the right to possess equal housing opportunities on those bases plus the bases of status as a victim of domestic abuse, sexual assault or stalking.”

4. On page 4, line 1, delete the underlined and substitute

“and tests ought not to be made in the matter of the right of any person to sell, lease, occupy, or use real estate on the basis of race, creed, sexual orientation, color, or domestic abuse, sexual assault or stalking.”

5. On page 4, line 8, delete the underlined and substitute

status as a victim of domestic abuse, sexual assault, or stalking as defined in s. 106.50(1m)(hm). (u)

6. On page 4, lines 21 and 22, delete the underlined and substitute

status as a victim of domestic abuse, sexual assault, or stalking as defined in s. 106.50(1m)(hm).

7. On page 5, lines 2-3, delete the underlined and substitute

status as a victim of domestic abuse, sexual assault, or stalking as defined in s. 106.50(1m)(hm).

8. On page 5, lines 14-15 and lines 20-21; and p. 6 line 16; page 7, line 5; page 8, line 1, 9 and 23-24; and page 9, line 6 delete the underlined and substitute

status as a victim of domestic abuse, sexual assault, or stalking as defined in s. 106.50(1m)(hm).

9. On page 6, line 19, delete "Domestic abuse victim status" and substitute

"Status as a victim of domestic abuse, sexual assault or stalking"

[I do not think you can lump together domestic abuse, sexual assault, and stalking in one category called "domestic abuse status." It is misleading and may well lead to trouble in interpretation by the courts. Besides, the definition of domestic abuse under s. 813 limits itself to people who have had some kind of relationship to each other, while sexual assault or stalking do not necessarily involve that]

10. On page 7, lines 18 - 19, delete all the material and substitute

to property may be based on the status of the tenant as a victim of domestic abuse, sexual assault or stalking.

11. Please revise the remaining sections with the definitional scheme set forth above (i.e. using "status as a victim of domestic violence, sexual assault, or stalking" instead of "domestic abuse victim status.")

**Barman, Mike**

---

**From:** Murray, Mike  
**Sent:** Friday, May 08, 2009 2:36 PM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 09-2233/2 Topic: Housing discrimination based on domestic abuse victim status

Please Jacket LRB 09-2233/2 for the ASSEMBLY.