

**2009 DRAFTING REQUEST**

**Bill**

Received: **09/05/2008**

Received By: **gmalaise**

Wanted: **As time permits**

Identical to LRB:

For: **Scott Gunderson (608) 266-3363**

By/Representing: **Mike Bruhn**

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

Drafter: **gmalaise**

May Contact:

Addl. Drafters:

Subject: **Discrimination  
Employ Priv - miscellaneous**

Extra Copies:

Submit via email: **YES**

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

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Lateness or absence from work of volunteer fire fighter, emergency medical technician, first responder, or ambulance driver

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**Instructions:**

See Attached--redraft 07-3928/1

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	gmalaise 09/09/2008	kfollett 09/22/2008		_____			S&L
/1			phenry 09/22/2008	_____	lparisi 09/22/2008	mbarman 02/10/2009	

FE Sent For: **"/1" @ intro. 10/5/09**

<END>

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1?	gmalaise	1/1/08 9/22	g ph	g ph	g ph		
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FE Sent For:

<END>

**Malaise, Gordon**

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**From:** Bruhn, Mike  
**Sent:** Tuesday, September 02, 2008 10:04 AM  
**To:** Malaise, Gordon  
**Subject:** 2009 Drafting Request

Gordon,

Representative Gunderson would like to have 2007 LRB 3928/1 redrafted for the 2009 Legislative Session. If you have any questions, please feel free to contact me at 266-3363.

Thanks,

Michael Bruhn  
Rep. Gunderson's office

# RESEARCH APPENDIX - Draft Transfer/Copy Request Form

- Atty's please complete this form and give to Mike Barman

(Request Made By: GMM) (Date: 9 / 9 / 08)



Please transfer the drafting file for

2007 LRB -3928 to the drafting file

for 2009 LRB -0153

The final version of the 2007 draft and the final Request Sheet will copied on yellow paper, and returned to the original 2007 drafting file. A new cover sheet will be created/included listing the new location of the drafting file's "guts".

For research purposes, because the 2007 draft was incorporated into a new 2009 draft, the complete drafting file will be transferred, as a separate appendix, to the new 2009 drafting file. This request form will be inserted into the "guts" of the 2009 draft. If introduced, the appendix will be scanned/added to the electronic drafting file folder.

**--- OR ---**

Please copy the drafting file for

2009 LRB /                      (include the version) and place it in the

drafting file for 2009 LRB

For research purposes, because the original 2009 draft was incorporated into another 2009 draft, the original drafting file will be copied on yellow paper (darkened/ auto centered/reduced to 90%) and added, as a separate appendix, to the new 2009 drafting file. This request form will be inserted into the "guts" of the new 2009 draft. If introduced the appendix will be scanned/added to the electronic drafting file folder.

The original drafting file will then returned, intact, to its folder and filed. For future reference, a copy of the transfer/copy request form will also be added to the "guts" of the original draft.

0153/1

UPS: request  
Fix  
Sheet please

9

2007 BILL

for a volunteer fire department or fire  
a public agency, or a nonprofit corporation,  
Corporation

(use here)

Regen

1 AN ACT to create 103.88, 106.54 (8) and 111.91 (2) (gr) of the statutes; relating  
2 to: a requirement that an employer permit an employee who is a volunteer fire  
3 fighter, emergency medical technician, first responder, or ambulance driver to  
4 be late for or absent from work if the lateness or absence is due to the employee  
5 responding to an emergency that begins before the employee is required to  
6 report to work.

**Analysis by the Legislative Reference Bureau**

Current law requires an employer to grant to an employee a leave of absence from employment without pay for certain purposes, including to vote, serve as an election official, serve on a jury, and testify in a criminal proceeding. Current law also requires a state agency to grant to a state employee a leave of absence with pay for certain purposes, including to serve as a bone marrow or organ donor, attend national guard or military reserves training, report for a preinduction physical for military service, serve on a jury, and compete in promotional examinations or interviews. In addition, current law permits a state agency to grant to a state employee a leave of absence with pay to allow the state employee to participate in providing specialized disaster relief services for the American Red Cross.

This The bill requires an employer to permit an employee who is a volunteer fire fighter, emergency medical technician, first responder, or ambulance driver to be late for or absent from work, without pay, if the lateness or absence is due to the employee

**BILL**

for a volunteer fire department or fire company,  
a public agency, or a nonprofit corporation

(line three)

responding to an emergency that begins before the employee is required to report to work and if the employee does all of the following:

1. By no later than 30 days after becoming a member of a volunteer fire department or becoming affiliated with an ambulance service provider, submits to the employer a written statement signed by the chief of the volunteer fire department or by the person in charge of the ambulance service provider notifying the employer that the employee is a volunteer fire fighter, emergency medical technician, first responder, or ambulance driver;

2. When dispatched to an emergency, makes every effort to notify the employer that the employee may be late for or absent from work due to the employee's responding to the emergency or, if prior notification cannot be made due to the extreme circumstances of the emergency or the inability of the employee to contact the employer, submits to the employer a written statement from the chief of the volunteer fire department or from the person in charge of the ambulance service provider explaining why prior notification could not be made.

3. When late for or absent from work due to responding to an emergency, provides, on the request of the employer, a written statement from the chief of the volunteer fire department or from the person in charge of the ambulance service provider certifying that the employee was responding to an emergency at the time of the lateness or absence and indicating the date and time of the response to the emergency.

The bill prohibits an employer from ~~not~~ interfering with, restraining, or denying the exercise of the right of an employee who is a fire fighter, emergency medical technician, first responder, or ambulance driver to respond to an emergency as provided in the bill ~~and~~ from discharging or discriminating against such an employee in promotion, in compensation, or in the terms, conditions, or privileges of employment for responding to an emergency as provided in the bill; 2) opposing a discharge or discrimination in violation of the bill; 3) filing a complaint or attempting to enforce a right under the bill; or 4) testifying or assisting in any action or proceeding to enforce a right under the bill.

An employee whose right to respond to an emergency as provided in the bill is interfered with, restrained, or denied or who is discharged or discriminated against in violation of the bill may file a complaint with the Department of Workforce Development (DWD), and DWD must process the complaint in the same manner that employment discrimination complaints are processed under current law. If DWD finds that an employer has interfered with, restrained, or denied the right of an employee to respond to an emergency as provided in the bill or has discharged or discriminated against an employee in violation of the bill, DWD may order the employer to take action to remedy the violation, including reinstating the employee, providing compensation in lieu of reinstatement, providing back pay accrued not more than two years before the complaint was filed, and paying reasonable actual costs and attorney fees to the complainant.

The bill also prohibits an employer from

1)

5

**BILL**

256.01(3), that is a volunteer fire department or fire company, a public agency, or a nonprofit corporation

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

1 SECTION 1. 103.88 of the statutes is created to read:

2 **103.88 Absence from work of volunteer fire fighter, emergency**  
3 **medical technician, first responder, or ambulance driver. (1) DEFINITIONS.**

4 In this section:

5 (a) "Ambulance service provider" means an ambulance service provider, as  
6 defined in s. 146.50 (1) (c), that is operated by a public agency, as defined in s. 146.50

7 (1) (a), or by a nonprofit corporation, as defined in s. 146.50 (1) (b). 256.01(12)

8 (b) "Emergency" means a fire, hazardous substance release, medical condition,  
9 or any other situation that poses a clear and immediate danger to life or health or  
10 a significant loss of property. 256.01(5)

11 (c) "Emergency medical technician" has the meaning given in s. 146.50 (1) (c).

12 (d) "Employee" means an individual employed in this state by an employer.

13 (e) "Employer" means a person engaging in any activity, enterprise, or business  
14 in this state. "Employer" includes the state and any office, department, independent  
15 agency, authority, institution, association, society, or other body in state government  
16 created or authorized to be created by the constitution or any law, including the  
17 legislature and the courts. 256.01(9)

18 (f) "First responder" has the meaning given in s. 146.50 (1) (h).

19 (g) "Responding to an emergency" includes going to, attending to, and  
20 returning from an emergency.

(g) "Non-profit corporation" has the meaning given in s. 256.01(12).

(h) "Public agency" has the meaning given in s. 256.15(1)(a).



**BILL**

for a volunteer fire department, public agency, or a nonprofit corporation

or fire company, a

1 (2) ABSENCE FROM WORK PERMITTED. An employer shall permit an employee who  
 2 is a volunteer fire fighter, emergency medical technician, first responder, or  
 3 ambulance driver to be late for or absent from work if the lateness or absence is due  
 4 to the employee responding to an emergency that begins before the employee is  
 5 required to report to work and if the employee complies with sub. (3) (a). This  
 6 subsection does not entitle an employee to receive wages or salary for the time the  
 7 employee is absent from work due to responding to an emergency as provided in this  
 8 subsection.

may be late for or absent from work under sub. (2) if the employee does (a)

9 (3) RESPONSIBILITIES OF EMPLOYEE. An employee who is a volunteer fire fighter,  
 10 ~~emergency medical technician, first responder, or ambulance driver shall do~~ all of the  
 11 following:

submits

for a volunteer fire department or fire company, a public agency, or a nonprofit corporation

12 1. (a) By no later than 30 days after becoming a member of a volunteer fire  
 13 department or fire company or becoming affiliated with an ambulance service  
 14 provider, submit to the employee's employer a written statement signed by the chief  
 15 of the volunteer fire department or fire company or by the person in charge of the  
 16 ambulance service provider notifying the employer that the employee is a volunteer  
 17 fire fighter, emergency medical technician, first responder, or ambulance driver.

makes

18 2. (b) When dispatched to an emergency, make every effort to notify the  
 19 employee's employer that the employee may be late for or absent from work due to  
 20 the employee's responding to the emergency or, if prior notification cannot be made  
 21 due to the extreme circumstances of the emergency or the inability of the employee

submits

22 to contact the employer, submit to the employer a written statement from the chief  
 23 of the volunteer fire department or fire company or from the person in charge of the  
 24 ambulance service provider explaining why prior notification could not be made.

**BILL**

*Provides*

*of an employee under sub. (2)*

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(3) (c) When late for or absent from work due to responding to an emergency, provide on the request of the employee's employer, a written statement from the chief of the volunteer fire department or fire company or from the person in charge of the ambulance service provider certifying that the employee was responding to an emergency at the time of the lateness or absence and indicating the date and time of the response to the emergency.

*notifies*

*the employee shall notify*

(b) (d) When the employee's status as a member of a volunteer fire department or fire company or as an affiliate of an ambulance service provider changes, including termination of that status, notify the employee's employer of that change in status.

(4) PROHIBITED ACTS. (a) No person may interfere with, restrain, or deny the exercise of the right of an employee to respond to an emergency as provided in sub. (2).

(b) No person may discharge or discriminate against an employee in promotion, in compensation, or in the terms, conditions, or privileges of employment for responding to an emergency as provided in sub. (2), opposing a practice prohibited under this section, filing a complaint or attempting to enforce any right under this section, or testifying or assisting in any action or proceeding to enforce any right under this section.

(5) ENFORCEMENT. An employee whose right to respond to an emergency under sub. (2) is interfered with, restrained, or denied in violation of sub. (4) (a) or who is discharged or discriminated against in violation of sub. (4) (b) may file a complaint with the department, and the department shall process the complaint in the same manner that employment discrimination complaints are processed under s. 111.39. If the department finds that an employer has violated sub. (4) (a) or (b), it may order the employer to take action to remedy the violation, including reinstating the

**BILL**

1 employee, providing compensation in lieu of reinstatement, providing back pay  
2 accrued not more than 2 years before the complaint was filed, and paying reasonable  
3 actual costs and attorney fees to the complainant.

4 **SECTION 2.** 106.54 (8) of the statutes is created to read:

5 106.54 (8) The division shall receive complaints under s. 103.88 (5) and shall  
6 process the complaints in the same manner that employment discrimination  
7 complaints are processed under s. 111.39.

8 **SECTION 3.** 111.91 (2) (gr) of the statutes is created to read:

9 111.91 (2) (gr) The right of an employee who is a fire fighter, emergency medical  
10 technician, first responder, or ambulance driver, to respond to an emergency as  
11 provided under s. 103.88 (2).

12 **SECTION 4. Initial applicability.**

13 (1) This act first applies to an employee who is affected by a collective  
14 bargaining agreement that contains provisions inconsistent with this act on the day  
15 on which the collective bargaining agreement expires or is extended, modified, or  
16 renewed, whichever occurs first.

17 (END)

For a volunteer fire department  
or fire company, a  
public agency, as defined in  
s. 256.15 (1)(n), or a  
nonprofit corporation, as defined in  
s. 256.01(12),

**Barman, Mike**

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**From:** Bruhn, Mike  
**Sent:** Tuesday, February 10, 2009 12:36 PM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 09-0153/1 Topic: Lateness or absence from work of volunteer fire fighter, emergency medical technician, first responder, or ambulance driver

Please Jacket LRB 09-0153/1 for the ASSEMBLY.