



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2009 Wisconsin Act 264
[2009 Assembly Bill 713]

Mutual Assistance Between Tribal and State, County, or Municipal Law Enforcement Agencies

Under the law enforcement mutual assistance statute, one law enforcement agency may respond to a request for assistance from another law enforcement agency. The requesting agency is responsible for defending a responding officer in a civil action arising out of the officer's response and for indemnifying the officer for the amount of any civil penalties imposed or damages awarded in such an action. The responding agency is responsible for personnel costs (such as the salary and benefits of the responding officer) and other costs (such as damage to equipment), but may bill the requesting agency for these costs. Under prior law, the law enforcement mutual assistance statute did not apply to tribal law enforcement agencies.

2009 Wisconsin Act 264 authorizes tribal law enforcement agencies to both request assistance from state, county, or municipal law enforcement agencies and to respond to requests for assistance from such agencies. It assigns responsibility for defending and indemnifying officers in civil actions arising out of a response and responsibility for the costs associated with a response in the same manner as current law. That is to say, when requesting assistance, the tribe is responsible for the cost of defending and indemnifying the responding state, county, or municipal officers in any civil action arising from the response and may be responsible for any costs incurred by the responding agency; when the tribe is responding to a request for assistance, the responsibilities are reversed.

To ensure that a tribe's responsibility for the costs of a law enforcement agency that responds to its request for assistance can be enforced, the Act limits the authority of a state, county, or municipal law enforcement agency to respond to a request for assistance from a tribal law enforcement agency to cases in which one of the following applies:

1. The tribe has adopted a resolution waiving its sovereign immunity to the extent required to allow enforcement of this responsibility in state courts or a resolution that the Department of Justice (DOJ) determines has the same effect.

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.state.wi.us/>.

2. The tribe maintains insurance to cover these costs up to specified limits.
3. The responding law enforcement agency has an agreement with the tribal law enforcement agency under which the responding law enforcement agency accepts the responsibility for these costs.

The Act requires that, for one of the foregoing actions to have the effect of allowing a nontribal law enforcement agency to respond to a request for assistance from a tribal law enforcement agency, the tribal law enforcement agency must have provided a copy of the resolution, insurance policy, or agreement to the DOJ, and the DOJ must have posted the document or a notice of the document on the Internet site that it maintains for exchanging information with law enforcement agencies.

Effective date: Act 264 takes effect on May 22, 2010.

Prepared by: David L. Lovell, Senior Analyst

May 11, 2010

DLL:jal