

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

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PJK:kjf:rs

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Just a few thoughts about new s. 704.44 (9):

1. If you are concerned about the cross-reference to the definition of “victim” becoming obsolete and causing a problem for leases that include the cross-reference, another sentence could be added that, as suggested, says “for purposes of this subsection, “victim” has the meaning given in s. 905.02.” The question is whether leases would then contain that language and cross-reference. (I’m not sure it’s a problem, though, because if the definition cross-reference changes, that change should have an initial applicability to leases entered into or renewed on the effective date.)
2. Although “crime” is defined in s. 939.12, that definition does not apply in ch. 704. If we added to s. 704.44 (9) “for purposes of this subsection, “crime” has the meaning given in s. 939.12,” that same sentence should be added to s. 704.44 (10).
3. I think your concern, Rob, about a court finding a lease void and unenforceable if it allows for the eviction of a perpetrator of domestic abuse against a fellow tenant is a valid one. The new language for s. 704.44 (9) also seems contrary to s. 704.16, which authorizes a landlord to terminate the tenancy of just such a tenant.

Turning the language around, a lease is void and unenforceable if it allows the landlord to evict a tenant for a crime committed against the tenant *or someone who lawfully resides with the tenant*. In your scenario, a tenant (who is the perpetrator of the crime) may be evicted based solely on a crime committed in or on the rental property and someone who lawfully resides with the tenant was the victim of that crime. It doesn’t matter that by definition the “victim” cannot be the person who commits the crime. In this scenario, the “victim” is not the tenant who commits the crime but the person who lawfully resides with the tenant.

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