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**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**  
**SENATE SUBSTITUTE AMENDMENT ,**  
**TO SENATE BILL 179**

*Now*

*change or part 11*

*Revised*

1 **AN ACT to repeal** 704.28 (4) (d), 799.45 (3) (am) 1., 799.45 (3) (am) 2., 799.45 (3)  
2 (am) 3., 799.45 (3) (am) 4., 799.45 (3) (am) 5., 799.45 (3) (am) 6. and 799.45 (3)  
3 (am) 7.; **to renumber and amend** 66.0104 (3), 349.13 (3m), 704.16 (3) (a) and  
4 799.45 (3) (am) (intro.); **to amend** 349.13 (5) (b) 2., 349.13 (5) (c), 704.05 (5) (a)  
5 1., 704.05 (5) (b) 2. (intro.), 704.05 (5) (bf), 704.07 (3) (a), 704.08, 704.16 (3) (b)  
6 1., 704.28 (2), 704.28 (4) (b), 704.28 (4) (c), 704.44 (9), 704.95, 799.05 (3) (b),  
7 799.06 (2), 799.12 (2), 799.12 (3), 799.20 (4), 799.206 (3), 799.40 (1), 799.40 (1m),  
8 799.42, 799.44 (1), 799.44 (2), 799.45 (title), 799.45 (1), 799.45 (2) (b), 799.45 (2)  
9 (bg), 799.45 (2) (c), 799.45 (3) (title), 799.45 (3) (a), 799.45 (3) (b), 799.45 (3) (c)  
10 and 799.45 (4); and **to create** 66.0104 (2) (c), 66.0104 (2) (d), 66.0104 (3) (b),  
11 349.13 (3m) (a), (c), (d), (dg), (dm), (dr) and (e), 704.14, 704.16 (3) (a) 1., 704.16  
12 (3) (a) 2., 704.16 (3) (a) 3., 704.28 (5), 704.44 (10), 710.15 (5t) and 895.489 of the

1 statutes; **relating to:** miscellaneous provisions related to rental and vehicle  
2 towing practices and eviction proceedings, prohibitions on enacting ordinances  
3 that place certain limitations or requirements on landlords, terminating the  
4 tenancy of an offending tenant in a manufactured or mobile home community,  
5 providing an exemption from emergency rule procedures, granting  
6 rule-making authority.

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

7 **SECTION 1.** 66.0104 (2) (c) of the statutes is created to read:

8 66.0104 (2) (c) No city, village, town, or county may enact an ordinance that  
9 limits a residential tenant's responsibility, or a residential landlord's right to recover,  
10 for any damage or waste to, or neglect of, the premises that occurs during the tenant's  
11 occupancy of the premises, or for any other costs, expenses, fees, payments, or  
12 damages for which the tenant is responsible under the rental agreement or  
13 applicable law.

14 **SECTION 2.** 66.0104 (2) (d) of the statutes is created to read:

15 66.0104 (2) (d) 1. No city, village, town, or county may enact an ordinance that  
16 requires a landlord to communicate to tenants any information that is not required  
17 to be communicated to tenants under federal or state law.

18 2. No city, village, town, or county may enact an ordinance that requires a  
19 landlord to communicate to the city, village, town, or county any information  
20 concerning the landlord, unless any of the following applies:

21 a. The information is required under federal or state law.

22 b. The information is required of all residential real property owners.

1 c. The information is solely information that will enable a person to contact the  
2 owner or, at the option of the owner, an agent of the owner.

3 **SECTION 3.** 66.0104 (3) of the statutes is renumbered 66.0104 (3) (a) and  
4 amended to read:

5 66.0104 (3) (a) If a city, village, town, or county has in effect on December 21,  
6 2011, an ordinance that is inconsistent with sub. (2) (a) or (b), the ordinance does not  
7 apply and may not be enforced.

8 **SECTION 4.** 66.0104 (3) (b) of the statutes is created to read:

9 66.0104 (3) (b) If a city, village, town, or county has in effect on the effective date  
10 of this paragraph ... [LRB inserts date], an ordinance that is inconsistent with sub.  
11 (2) (c) or (d), the ordinance does not apply and may not be enforced.

12 **SECTION 5.** 349.13 (3m) of the statutes is renumbered 349.13 (3m) (b) and  
13 amended to read:

14 349.13 (3m) (b) ~~No Subject to par. (dr) 1., if private property is not properly~~  
15 ~~posted and a vehicle involved in trespass parking on a is parked on the private~~  
16 ~~parking lot or facility shall be removed property and is not authorized to be parked~~  
17 ~~there, the vehicle may be removed immediately, at the vehicle owner's expense,~~  
18 without the permission of the vehicle owner, ~~except~~ upon the issuance of a  
19 repossession judgment or upon ~~formal complaint and~~ the issuance of a citation for  
20 illegal parking issued by a ~~traffic or police officer.~~

21 **SECTION 6.** 349.13 (3m) (a), (c), (d), (dg), (dm), (dr) and (e) of the statutes are  
22 created to read:

23 349.13 (3m) (a) In this subsection:

24 1. "Parking enforcer" has the meaning given in s. 341.65 (1) (ar).

1           2. “Properly posted” means there is clearly visible notice that an area is private  
2 property and that vehicles that are not authorized to park in this area may be  
3 immediately removed.

4           (c) Subject to par. (dr) 1., if private property is properly posted and a vehicle is  
5 parked on the private property and is not authorized to be parked there, the vehicle  
6 may be removed immediately, at the vehicle owner’s expense, without the permission  
7 of the vehicle owner, regardless of whether a citation is issued for illegal parking.

8           (d) 1. Subject to par. (dr), a vehicle may be removed from private property under  
9 par. (b) or (c) only by a towing service at the request of the property owner or property  
10 owner’s agent, a traffic officer, or a parking enforcer.

11           2. Before any vehicle is removed under par. (b) or (c) by a towing service, the  
12 towing service shall notify a local law enforcement agency of the make, model, vehicle  
13 identification number, and registration plate number of the vehicle and the location  
14 to which the vehicle will be removed.

15           3. Subject to par. (dr) 2., if a vehicle is removed under par. (b) or (c) by a towing  
16 service, the vehicle owner shall pay the reasonable charges for removal and, if  
17 applicable, storage of the vehicle, as well as any service fee imposed under par. (dm).  
18 Subject to par. (dr) 2., if the vehicle was removed at the request of the property owner  
19 or property owner’s agent, these reasonable charges shall be paid directly to the  
20 towing service, and the towing service may impound the vehicle until these charges  
21 are paid. If these charges have not been paid in full within 30 days of the vehicle’s  
22 removal and the vehicle owner has not entered into a written agreement with the  
23 towing service to pay these reasonable charges in installment payments, the vehicle  
24 shall be deemed abandoned and may be disposed of as are other abandoned vehicles.

1 (dg) Every law enforcement agency shall maintain a record of each notice  
2 received under par. (d) 2., as well as identification of the towing service removing the  
3 vehicle.

4 (dm) If requested by the municipality in which the removed vehicle was  
5 illegally parked, the towing service shall charge the vehicle owner a service fee not  
6 exceeding \$35 and shall remit this service fee to the municipality. All service fees  
7 collected by a towing service under this paragraph may be aggregated and forwarded  
8 together, on a monthly basis, to each applicable municipality.

9 (dr) 1. A towing service may not remove a vehicle under this subsection if the  
10 vehicle has been reported to a law enforcement agency as stolen.

11 2. A towing service may not collect any charges for the removal or storage of  
12 an illegally parked vehicle under this subsection if the towing service has not  
13 complied with par. (d) 2. with respect to the vehicle.

14 (e) The department shall promulgate rules establishing all of the following:

15 1. Reasonable charges for removal and storage of vehicles under this  
16 subsection.

17 2. The form and manner of display of notice necessary to qualify as “properly  
18 posted” under par. (a) 2.

19 3. Guidelines for towing services to notify law enforcement under par. (d) upon  
20 removal of a vehicle.

21 **SECTION 7.** 349.13 (5) (b) 2. of the statutes is amended to read:

22 349.13 (5) (b) 2. A person who has custody of a vehicle removed or stored under  
23 subs. (3) to (4) or otherwise at the request of a law enforcement officer, traffic officer,  
24 parking enforcer, property owner, or property owner’s agent shall release the

1 personal property within the vehicle to the owner of the vehicle during regular office  
2 hours upon presentation by the owner of proper identification.

3 **SECTION 8.** 349.13 (5) (c) of the statutes is amended to read:

4 349.13 (5) (c) A traffic or police officer or parking enforcer who requests removal  
5 of a vehicle under subs. (3) to (4) by a towing service shall, within 24 hours of  
6 requesting the removal, notify the towing service of the name and last-known  
7 address of the registered owner and all lienholders of record of the vehicle if the  
8 vehicle is to be removed to any location other than a public highway within one mile  
9 from the location from which the vehicle is to be removed and if the officer or parking  
10 enforcer is not employed by a municipality or county that has entered into a towing  
11 services agreement which requires the municipality or county to provide notice to  
12 such owner and lienholders of the towing.

13 **SECTION 9.** 704.05 (5) (a) 1. of the statutes is amended to read:

14 704.05 (5) (a) 1. If a tenant removes from or is evicted from the premises and  
15 leaves personal property, the landlord may presume, in the absence of a written  
16 agreement between the landlord and the tenant to the contrary, that the tenant has  
17 abandoned the personal property and may, subject to par. (am) and s. 799.45 (3m),  
18 dispose of the abandoned personal property in any manner that the landlord, in its  
19 sole discretion, determines is appropriate.

20 **SECTION 10.** 704.05 (5) (b) 2. (intro.) of the statutes is amended to read:

21 704.05 (5) (b) 2. (intro.) If the abandoned tenant removes from the premises and  
22 leaves behind personal property that is a manufactured home, mobile home, or titled  
23 vehicle, before disposing of the abandoned property the landlord shall give notice of  
24 the landlord's intent to dispose of the property by sale or other appropriate means  
25 to all of the following:

1           **SECTION 11.** 704.05 (5) (bf) of the statutes is amended to read:

2           704.05 (5) (bf) *Notice that landlord will not store property.* If the landlord does  
3 not intend to store personal property left behind by a tenant who removes from the  
4 premises, except as provided in par. (am), the landlord shall provide written notice  
5 to a tenant, when the tenant enters into, ~~and when the tenant or~~ renews, a rental  
6 agreement, that the landlord will not store any items of personal property that the  
7 tenant leaves behind when the tenant removes from the premises, except as provided  
8 in par. (am). Notwithstanding pars. (a), (am), and (b), if the landlord ~~does not provide~~  
9 has not provided to a tenant the notice required under this paragraph, the landlord  
10 shall comply with s. 704.05, 2009 stats., with respect to any personal property left  
11 behind by the tenant when the tenant removes from the premises.

12           **SECTION 12.** 704.07 (3) (a) of the statutes is amended to read:

13           704.07 (3) (a) If the premises are damaged ~~by the negligence or improper use~~  
14 ~~of the premises by, including by an infestation of insects or other pests, due to the acts~~  
15 or inaction of the tenant, the landlord may elect to allow the tenant must to  
16 remediate or repair the damage and restore the appearance of the premises by  
17 redecorating. However, the landlord may elect to undertake the remediation, repair,  
18 or redecoration, and in such case the tenant must reimburse the landlord for the  
19 reasonable cost thereof; the cost to the landlord is presumed reasonable unless  
20 proved otherwise by the tenant.

21           **SECTION 13.** 704.08 of the statutes is amended to read:

22           **704.08 ~~Information check-in~~ Check-in sheet.** A landlord shall provide to  
23 a new residential tenant when the tenant commences his or her occupancy of the  
24 premises a ~~standardized information~~ check-in sheet that contains an itemized  
25 ~~description of the tenant may use to make comments, if any, about the condition of~~

1 the premises ~~at the time of check-in~~. The tenant shall be given 7 days from the date  
2 the tenant commences his or her occupancy to complete the check-in sheet and  
3 return it to the landlord. The landlord is not required to provide the ~~information~~  
4 check-in sheet to a tenant upon renewal of a rental agreement. This section does not  
5 apply to the rental of a plot of ground on which a manufactured home, as defined in  
6 s. 704.05 (5) (b) 1. a., or a mobile home, as defined in s. 704.05 (5) (b) 1. b., may be  
7 located.

8 **SECTION 14.** 704.14 of the statutes is created to read:

9 **704.14 Notice of domestic abuse protections.** A residential rental  
10 agreement shall include the following notice in the agreement or in an addendum to  
11 the agreement:

12 **NOTICE OF DOMESTIC ABUSE PROTECTIONS**

13 (1) As provided in section 106.50 (5m) (dm) of the Wisconsin statutes, a tenant  
14 may be able to stop an eviction action if the tenant can prove that the landlord knew,  
15 or should have known, the tenant is a victim of domestic abuse, sexual assault, or  
16 stalking and that the eviction action is based on conduct related to domestic abuse,  
17 sexual assault, or stalking committed by either of the following:

18 (a) A person who was not the tenant's invited guest.

19 (b) A person who was the tenant's invited guest, but the tenant has done either  
20 of the following:

21 1. Sought an injunction barring the person from the premises.

22 2. Provided a written statement to the landlord stating that the person will no  
23 longer be an invited guest of the tenant and the tenant has not subsequently invited  
24 the person to be the tenant's guest.



1           (2) A tenant who is a victim of domestic abuse, sexual assault, or stalking may  
2 have the right to terminate the rental agreement in certain limited situations, as  
3 provided in section 704.16 of the Wisconsin statutes. If the tenant has safety  
4 concerns, the tenant should contact a local victim service provider or law  
5 enforcement agency.

6           (3) A tenant is advised that this notice is only a summary of the tenant's rights  
7 and the specific language of the statutes governs in all instances.

8           **SECTION 15.** 704.16 (3) (a) of the statutes is renumbered 704.16 (3) (a) (intro.)  
9 and amended to read:

10           704.16 (3) (a) (intro.) In this subsection, ~~“offending:~~

11           4. “Offending tenant” is a tenant whose tenancy is being terminated under this  
12 subsection.

13           **SECTION 16.** 704.16 (3) (a) 1. of the statutes is created to read:

14           704.16 (3) (a) 1. “Community” has the meaning given in s. 710.15 (1) (ad).

15           **SECTION 17.** 704.16 (3) (a) 2. of the statutes is created to read:

16           704.16 (3) (a) 2. “Manufactured home” has the meaning given in s. 101.91 (2).

17           **SECTION 18.** 704.16 (3) (a) 3. of the statutes is created to read:

18           704.16 (3) (a) 3. “Mobile home” has the meaning given in s. 710.15 (1) (b).

19           **SECTION 19.** 704.16 (3) (b) 1. of the statutes is amended to read:

20           704.16 (3) (b) 1. The offending tenant commits one or more acts, including  
21 verbal threats, that cause another tenant, or a child of that other tenant, who  
22 occupies a dwelling unit in the same single-family rental unit, multiunit dwelling,  
23 or apartment complex, or a manufactured home or mobile home in the same  
24 community, as the offending tenant to face an imminent threat of serious physical  
25 harm from the offending tenant if the offending tenant remains on the premises.

1           **SECTION 20.** 704.28 (2) of the statutes is amended to read:

2           704.28 (2) NONSTANDARD RENTAL PROVISIONS. Except as provided in sub. (3), a  
3 rental agreement may include one or more nonstandard rental provisions that  
4 authorize the landlord to withhold amounts from the tenant’s security deposit for  
5 reasons not specified in sub. (1) (a) to (e). Any such nonstandard rental provisions  
6 shall be provided to the tenant in a separate written document entitled  
7 “NONSTANDARD RENTAL PROVISIONS.” The landlord shall specifically identify  
8 ~~and discuss~~ each nonstandard rental provision with the tenant before the tenant  
9 enters into a rental agreement with the landlord. If the tenant signs his or her name,  
10 or writes his or her initials, by a nonstandard rental provision, it is rebuttably  
11 presumed that the landlord has specifically identified ~~and discussed~~ the  
12 nonstandard rental provision with the tenant and that the tenant has agreed to it.

13           **SECTION 21.** 704.28 (4) (b) of the statutes is amended to read:

14           704.28 (4) (b) If the tenant vacates the premises or is evicted before the  
15 termination date of the rental agreement, the date on which the tenant’s rental  
16 agreement terminates or, if the landlord rerents the premises before the tenant’s  
17 rental agreement terminates, the date on which the new tenant’s tenancy begins.

18           **SECTION 22.** 704.28 (4) (c) of the statutes is amended to read:

19           704.28 (4) (c) If the tenant vacates the premises or is evicted after the  
20 termination date of the rental agreement, the date on which the landlord learns that  
21 the tenant has vacated the premises or has been removed from the premises under  
22 s. 799.45 (2).

23           **SECTION 23.** 704.28 (4) (d) of the statutes is repealed.

24           **SECTION 24.** 704.28 (5) of the statutes is created to read:

1           704.28 (5) APPLICATION TO RESIDENTIAL TENANCIES. This section applies to  
2 residential tenancies only.

3           **SECTION 25.** 704.44 (9) of the statutes is amended to read:

4           704.44 (9) Allows the landlord to terminate the tenancy of a tenant if a crime  
5 is based solely on criminal activity committed in or on the rental property, ~~even if the~~  
6 ~~tenant could not reasonably have prevented the crime that is directed against the~~  
7 tenant and that is not committed by the tenant.

8           **SECTION 26.** 704.44 (10) of the statutes is created to read:

9           704.44 (10) Allows the landlord to terminate the tenancy of a tenant for a crime  
10 committed in relation to the rental property and the rental agreement does not  
11 include the notice required under s. 704.14.

12           **SECTION 27.** 704.95 of the statutes is amended to read:

13           **704.95 Practices regulated by the department of agriculture, trade**  
14 **and consumer protection.** Practices in violation of ~~this chapter s. 704.28 or 704.44~~  
15 may also constitute unfair methods of competition or unfair trade practices under s.  
16 100.20. However, the department of agriculture, trade and consumer protection may  
17 not issue an order or promulgate a rule under s. 100.20 that changes any right or duty  
18 arising under this chapter.

19           **SECTION 28.** 710.15 (5t) of the statutes is created to read:

20           710.15 (5t) TERMINATION OF TENANCY FOR THREAT OF SERIOUS HARM.  
21 Notwithstanding sub. (5m), nothing in this section prevents termination of a tenancy  
22 because of an imminent threat of serious physical harm, as provided in s. 704.16.

23           **SECTION 29.** 799.05 (3) (b) of the statutes is amended to read:

24           799.05 (3) (b) Except in eviction actions, the return date for a summons served  
25 upon a resident of this state shall be not less than 8 days nor more than 30 days from

1 the issue date, and service shall be made not less than 8 days prior to the return date.  
2 In eviction actions, the return date for a summons served upon a resident of this state  
3 shall be not less than 5 days nor more than ~~30~~ 25 days from the issue date, and service  
4 shall be made not less than 5 days prior to the return date.

5 **SECTION 30.** 799.06 (2) of the statutes is amended to read:

6 799.06 (2) A person may commence and prosecute or defend an action or  
7 proceeding under this chapter and may appear in his, her, or its own proper person  
8 or by an attorney regularly authorized to practice in the courts of this state. Under  
9 this subsection, a person is considered to be acting in his, her, or its own proper  
10 person if the appearance is by a ~~full-time member~~, as defined in s. 183.0102 (15),  
11 agent, or authorized employee of the person, or by an agent of the member or an  
12 authorized employee of the agent. An assignee of any cause of action under this  
13 chapter shall not appear by a full-time authorized employee, unless the employee  
14 is an attorney regularly authorized to practice in the courts of this state.

15 **SECTION 31.** 799.12 (2) of the statutes is amended to read:

16 799.12 (2) Any circuit court may by rule authorize the service of summons in  
17 some or all actions under this chapter, ~~except eviction actions~~, by mail under sub. (3)  
18 in lieu of personal or substituted service under s. 801.11.

19 **SECTION 32.** 799.12 (3) of the statutes is amended to read:

20 799.12 (3) If authorized by court rule under sub. (2), service may be made by  
21 mail by leaving the original and necessary copies of the summons with the clerk of  
22 court, together with the fee prescribed in s. 814.62 (4). The court ~~may by rule~~ shall  
23 require the use of certified mail with return receipt requested, in which event for all  
24 eviction cases for which service by mail is authorized under sub. (2), and for all other  
25 cases may by rule require the use of certified mail with return receipt requested.

1 Whenever the use of certified mail is required, the additional fee prescribed in s.  
2 814.62 (4) shall be paid for each defendant. The clerk shall mail a copy to each  
3 defendant at the last-known address as specified in the summons. Service of the  
4 summons is considered completed when it is mailed, unless the envelope enclosing  
5 the summons has been returned unopened to the clerk prior to the return date. All  
6 mailing of summonses shall be done in envelopes upon which the clerk's return  
7 address appears, with a request to return to that address. Service by mail to obtain  
8 a personal judgment shall be limited to the county where the action is commenced.

9 **SECTION 33.** 799.20 (4) of the statutes is amended to read:

10 799.20 (4) INQUIRY OF DEFENDANT WHO APPEARS ON RETURN DATE. If the defendant  
11 appears on the return date of the summons or any adjourned date thereof, the court  
12 or circuit court commissioner shall make sufficient inquiry of the defendant to  
13 determine whether the defendant claims a defense to the action. If it appears to the  
14 court or circuit court commissioner that the defendant claims a defense to the action,  
15 the court or circuit court commissioner shall schedule a trial of all the issues involved  
16 in the action, unless the parties stipulate otherwise or the action is subject to  
17 immediate dismissal. In a residential eviction action, the court or circuit court  
18 commissioner shall hold and complete a court or jury trial of the issue of possession  
19 of the premises involved in the action within 30 days of the return date of the  
20 summons or any adjourned date thereof, unless the parties stipulate otherwise or the  
21 action is subject to immediate dismissal.

22 **SECTION 34.** 799.206 (3) of the statutes is amended to read:

23 799.206 (3) When all parties appear in person or by their attorneys on the  
24 return date in an eviction, garnishment, or replevin action and any party claims that  
25 a contest exists, the matter shall be forthwith scheduled for a hearing, to be held as

1 soon as possible before a judge and in the case of an eviction action, not more than  
2 20 days after the return date.

3 **SECTION 35.** 799.40 (1) of the statutes is amended to read:

4 799.40 (1) WHEN COMMENCED. A civil action of eviction may be commenced by  
5 a person entitled to the possession of real property, or by that person's agent  
6 authorized in writing, to remove therefrom any person who is not entitled to either  
7 the possession or occupancy of such real property.

8 **SECTION 36.** 799.40 (1m) of the statutes is amended to read:

9 799.40 (1m) ACCEPTANCE OF RENT OR OTHER PAYMENT. If a landlord commences  
10 an action under this section against a tenant whose tenancy has been terminated for  
11 failure to pay rent or for any other reason, the action under this section may not be  
12 dismissed solely because the landlord accepts past due rent or any other payment  
13 from the tenant after ~~the termination of the tenant's tenancy~~ serving notice of default  
14 or after commencing the action.

15 **SECTION 37.** 799.42 of the statutes is amended to read:

16 **799.42 Service and filing in eviction actions.** The complaint shall be  
17 served with the summons when ~~personal or substituted~~ service is had under s. 799.12  
18 (1), (2), or (3).

19 **SECTION 38.** 799.44 (1) of the statutes is amended to read:

20 799.44 (1) ORDER FOR JUDGMENT. In an eviction action, if the court finds that  
21 the plaintiff is entitled to possession, the court shall immediately enter an order for  
22 judgment ~~shall be~~ for the restitution of the premises to the plaintiff ~~and, if.~~ If an  
23 additional cause of action is joined under s. 799.40 (2) and plaintiff prevails thereon,  
24 the court shall enter judgment for such other relief as the court orders. Judgment  
25 shall be entered accordingly as provided in s. 799.24.

1           **SECTION 39.** 799.44 (2) of the statutes is amended to read:

2           799.44 (2) WRIT OF RESTITUTION. At the time of ordering judgment for the  
3           restitution of premises, the court shall immediately order that a writ of restitution  
4           be issued, and the writ may be delivered to the sheriff for execution in accordance  
5           with s. 799.45. No writ shall be executed if received by the sheriff more than 30 days  
6           after its issuance.

7           **SECTION 40.** 799.45 (title) of the statutes is amended to read:

8           **799.45 (title) Execution of writ of restitution; disposal of personal**  
9           **property.**

10          **SECTION 41.** 799.45 (1) of the statutes is amended to read:

11          799.45 (1) WHEN EXECUTED. Upon delivery of a writ of restitution to the sheriff,  
12          and after payment to the sheriff of the fee required by s. 814.70 (8), the sheriff shall  
13          execute the writ. If the plaintiff, or the plaintiff's attorney or agent, does not notify  
14          the sheriff under sub. ~~(3)~~ ~~(am)~~ (3m) that the plaintiff or his or her agent will remove  
15          and store or dispose of the property, the sheriff may require that prior to the  
16          execution of any writ of restitution the plaintiff deposit a reasonable sum  
17          representing the probable cost of removing the defendant's property chargeable to  
18          the plaintiff under s. 814.70 (8) and (10) and of the services of deputies under s.  
19          814.70 (8). In case of dispute as to the amount of the required deposit, the amount  
20          of that deposit shall be determined by the court under s. 814.70 (10).

21          **SECTION 42.** 799.45 (2) (b) of the statutes is amended to read:

22          799.45 (2) (b) ~~Remove~~ If the plaintiff or his or her agent does not notify the  
23          sheriff under sub. (3m) that the plaintiff or his or her agent will remove and store or  
24          dispose of the personal property, remove or supervise removal from the premises

1 described in the writ, using such reasonable force as may be necessary, all personal  
2 property found in the premises not the property of the plaintiff.

3 **SECTION 43.** 799.45 (2) (bg) of the statutes is amended to read:

4 799.45 (2) (bg) ~~Assist~~ If requested by the plaintiff or his or her agent, assist the  
5 plaintiff or his or her agent in the removal, under sub. (3) ~~(am)~~ (3m), of all personal  
6 property found in the premises described in the writ, not the property of the plaintiff,  
7 using such reasonable force as may be necessary.

8 **SECTION 44.** 799.45 (2) (c) of the statutes is amended to read:

9 799.45 (2) (c) Exercise ordinary care in the removal or supervision of removal  
10 of all persons ~~and property from the premises and, in the removal or supervision of~~  
11 removal of personal property under par. (b), and in the handling and storage of all  
12 property removed from the premises under par. (b).

13 **SECTION 45.** 799.45 (3) (title) of the statutes is amended to read:

14 799.45 (3) (title) MANNER OF REMOVAL AND DISPOSITION OF REMOVED GOODS BY  
15 SHERIFF.

16 **SECTION 46.** 799.45 (3) (a) of the statutes is amended to read:

17 799.45 (3) (a) In accomplishing the removal of property from the premises  
18 described in the writ, the sheriff is authorized to engage the services of a mover or  
19 trucker unless the plaintiff notifies the sheriff under ~~par. (am)~~ sub. (3m) that the  
20 plaintiff will remove and store or dispose of the property.

21 **SECTION 47.** 799.45 (3) (am) (intro.) of the statutes is renumbered 799.45 (3m)  
22 and amended to read:

23 799.45 (3m) ALTERNATIVE DISPOSITION OF PROPERTY BY PLAINTIFF. When  
24 delivering a writ of restitution to the sheriff ~~in counties other than counties with a~~  
25 population of 500,000 or more, as a complete alternative to the procedure for



1 disposition of the property under sub. (3), the plaintiff or his or her attorney or agent  
2 may notify the sheriff that the plaintiff or the plaintiff's agent will be responsible for  
3 the removal and storage, provided that the plaintiff has provided the notice under  
4 s. 704.05 (5) (bf), or disposal of the property that is found in the premises described  
5 in the writ and that does not belong to the plaintiff. When notifying the sheriff that  
6 the plaintiff or the plaintiff's agent will remove the property, the plaintiff or his or  
7 her attorney or agent shall file the bond or insurance policy required under subd. 5.  
8 with the clerk of court that issued the writ of restitution in accordance with s. 704.05  
9 (5) (a), (am), (b), (c), and (cm). If the sheriff is notified that the plaintiff or the  
10 plaintiff's agent will be responsible for the removal and storage or disposal of the  
11 property under this paragraph subsection, the sheriff shall, in executing the writ of  
12 restitution if requested by the plaintiff or his or her agent, supervise the removal and  
13 handling of the property by the plaintiff or the plaintiff's agent. The sheriff may  
14 prevent the plaintiff or the plaintiff's agent from removing property under this  
15 paragraph if the plaintiff or the plaintiff's agent fails to comply with subd. 1., 2., 5.  
16 or 6. or if the plaintiff or the plaintiff's agent fails to exercise ordinary care in the  
17 removal and handling of the property as required under subd. 3. If the plaintiff or  
18 the plaintiff's agent remove and store the property under this paragraph, the  
19 plaintiff or the plaintiff's agent shall do all of the following:

20 **SECTION 48.** 799.45 (3) (am) 1. of the statutes is repealed.

21 **SECTION 49.** 799.45 (3) (am) 2. of the statutes is repealed.

22 **SECTION 50.** 799.45 (3) (am) 3. of the statutes is repealed.

23 **SECTION 51.** 799.45 (3) (am) 4. of the statutes is repealed.

24 **SECTION 52.** 799.45 (3) (am) 5. of the statutes is repealed.

25 **SECTION 53.** 799.45 (3) (am) 6. of the statutes is repealed.

1           **SECTION 54.** 799.45 (3) (am) 7. of the statutes is repealed.

2           **SECTION 55.** 799.45 (3) (b) of the statutes is amended to read:

3           799.45 (3) (b) Except as provided in ~~pars. (am) and par.~~ (c), the property  
4 removed from such premises under this subsection shall be taken to some place of  
5 safekeeping within the county selected by the sheriff. Within 3 days of the removal  
6 of the goods, the sheriff shall mail a notice to the defendant as specified in sub. (4)  
7 stating the place where the goods are kept and, ~~if the plaintiff had not removed the~~  
8 ~~property under par. (am),~~ shall deliver to the defendant any receipt or other  
9 document required to obtain possession of the goods. Warehouse or other similar  
10 receipts issued with respect to goods stored by the sheriff under this subsection shall  
11 be taken in the name of the defendant. All expenses incurred for storage and other  
12 like charges after delivery by the sheriff ~~or by the plaintiff~~ to a place of safekeeping  
13 shall be the responsibility of the defendant. Any person accepting goods from the  
14 sheriff ~~or the plaintiff~~ for storage under this subsection, ~~or the plaintiff, if he or she~~  
15 ~~stores the property in his or her premises,~~ shall have all of the rights and remedies  
16 accorded by law against the defendant personally and against the property stored for  
17 the collection of such charges, including the lien of a warehouse under s. 407.209.  
18 Risk of damages to or loss of such property shall be borne by the defendant after  
19 delivery by the sheriff to the place of safekeeping.

20           **SECTION 56.** 799.45 (3) (c) of the statutes is amended to read:

21           799.45 (3) (c) When, in the exercise of ordinary care, the sheriff determines that  
22 property to be removed from premises described in the writ is without monetary  
23 value, the sheriff ~~or the plaintiff, if he or she has agreed to remove the property under~~  
24 ~~par. (am),~~ may deliver or cause the same to be delivered to some appropriate place  
25 established for the collection, storage, and disposal of refuse. In such case the sheriff

1 shall notify the defendant as specified in sub. (4) of the place to which the goods have  
2 been delivered within 3 days of the removal of the goods. The exercise of ordinary  
3 care by the sheriff under this subsection does not include searching apparently  
4 valueless property for hidden or secreted articles of value.

5 **SECTION 57.** 799.45 (4) of the statutes is amended to read:

6 799.45 (4) MANNER OF GIVING NOTICE TO DEFENDANT. All notices required by sub.  
7 (3) to be given to the defendant by the sheriff ~~or by the plaintiff~~ shall be in writing  
8 and shall be personally served upon the defendant or mailed to the defendant at the  
9 last-known address, even if such address be the premises which are the subject of  
10 the eviction action.

11 **SECTION 58.** 895.489 of the statutes is created to read:

12 **895.489 Civil liability exemption; tenancy references. (1)** In this section:

13 (a) “Reference” means a written or oral statement about the rental performance  
14 of an applicant for tenancy and may include statements about the applicant’s  
15 payment history, conformance to rental agreement requirements, or conformance to  
16 local and state laws; factual statements regarding any rental agreement  
17 enforcement actions, including notices given under s. 704.17, 704.19, or 710.15 (5r);  
18 and factual statements about any dispute settlement between the landlord and  
19 applicant in accordance with any agreement between the landlord and applicant  
20 relating to termination of the applicant’s tenancy.

21 (b) “Tenant” means a residential tenant, regardless of the type of tenancy or  
22 rental period.

23 (2) A landlord who, on the request of a prospective landlord of an applicant for  
24 tenancy or on the request of the applicant for tenancy, provides a reference to the  
25 prospective landlord is presumed to be acting in good faith and, unless lack of good

1 faith is shown by clear and convincing evidence, is immune from all civil liability that  
2 may result from providing that reference. The presumption of good faith under this  
3 subsection may be rebutted only upon a showing by clear and convincing evidence  
4 that the landlord knowingly provided false information in the reference or made the  
5 reference maliciously.

6 **SECTION 59. Nonstatutory provisions.**

7 (1) PROPOSED PERMANENT RULES. The department of transportation shall  
8 present the statement of scope of the rules required under section 349.13 (3m) (e) of  
9 the statutes, as created by this act, to the governor for approval under section  
10 227.135 (2) of the statutes no later than the 60th day after the effective date of this  
11 subsection.

12 (2) EMERGENCY RULES. Using the procedure under section 227.24 of the statutes,  
13 the department of transportation shall promulgate the rules required under section  
14 349.13 (3m) (e) of the statutes, as created by this act, for the period before the  
15 effective date of the permanent rules promulgated under section 349.13 (3m) (e) of  
16 the statutes, as created by this act, but not to exceed the period authorized under  
17 section 227.24 (1) (c) of the statutes, subject to extension under section 227.24 (2) of  
18 the statutes. Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes,  
19 the department is not required to provide evidence that promulgating a rule under  
20 this subsection as an emergency rule is necessary for the preservation of public  
21 peace, health, safety, or welfare and is not required to provide a finding of an  
22 emergency for a rule promulgated under this subsection. Notwithstanding section  
23 227.24 (1) (e) 1d. and 1g. of the statutes, the department is not required to prepare  
24 a statement of the scope of the rules promulgated under this subsection or present  
25 the rules to the governor for approval. The department of transportation shall

1 promulgate the rules under this subsection no later than the first day of the 7th  
2 month beginning after the effective date of this subsection.

3 **SECTION 60. Initial applicability.**

4 (1) INSECT INFESTATIONS. The treatment of section 704.07 (3) (a) of the statutes  
5 first applies to tenancies that are in effect on the effective date of this subsection.

6 (2) NOTICE REGARDING NONSTORAGE OF PROPERTY. The treatment of section 704.05  
7 (5) (bf) of the statutes first applies to personal property left behind by a tenant under  
8 a rental agreement that is renewed on the effective date of this subsection.

9 (3) RETURN OF SECURITY DEPOSIT AFTER EVICTION. The treatment of section 704.28  
10 (4) (b), (c), and (d) of the statutes first applies to eviction actions that are commenced  
11 on the effective date of this subsection.

12 (4) APPLICABILITY OF SECURITY DEPOSIT PROVISIONS. The treatment of sections  
13 704.28 (5) of the statutes first applies to tenancies that are in effect on the effective  
14 date of this subsection.

15 (5) VOID RENTAL AGREEMENT. The treatment of section 704.44 (9) of the statutes  
16 first applies to rental agreements that are entered into or renewed on the effective  
17 date of this subsection.

18 (6) VIOLATIONS THAT CONSTITUTE UNFAIR TRADE PRACTICES. The treatment of  
19 section 704.95 of the statutes first applies to violations that occur on the effective  
20 date of this subsection.

21 (7) TERMINATION OF TENANCY IN MANUFACTURED OR MOBILE HOME COMMUNITY. The  
22 treatment of sections 704.16 (3) (b) 1. and 710.15 (5t) of the statutes, the renumbering  
23 and amendment of section 704.16 (3) (a) of the statutes, and the creation of section  
24 704.16 (3) (a) 1., 2., and 3. of the statutes first apply to acts causing an imminent  
25 threat of serious physical harm committed on the effective date of this subsection.



## **Kahler, Pam**

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**From:** Kahler, Pam  
**Sent:** Tuesday, September 03, 2013 11:00 AM  
**To:** Kovach, Robert  
**Subject:** RE: Questions about Sub for SB 179

That is correct. SA 2 places that language after "or" on line 4.

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**From:** Kovach, Robert  
**Sent:** Tuesday, September 03, 2013 10:49 AM  
**To:** Kahler, Pam  
**Subject:** Questions about Sub for SB 179

Dear Pam,

This question form Debbi Conrad:

Page 17, lines 3-4 – should the underlined added language start some place on line 4 (after the word "or" on line 4, for instance) instead of on line 3? The giving of the notice @ 704.05(5)(bf) says that the landlord will not store personal property – and other subsections make it clear that landlord can dispose if the notice was given. The underlined language seems out of place since it appears directly after and thus seems to modify "removal and storage." The landlord's ability to remove and store is not dependent upon the notice, rather the landlord's ability to dispose is.

Let me know if that needs to be fixed.

## **Rob Kovach**

Policy Advisor/Committee Clerk  
Office of Senator Frank Lasee  
(608) 266-3512

## Kahler, Pam

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**From:** Kovach, Robert  
**Sent:** Tuesday, September 03, 2013 1:48 PM  
**To:** Kahler, Pam  
**Cc:** Soper, John  
**Subject:** RE: Questions about Sub for SB 179

Let's make it a /P3 for now. Go ahead and make these changes, and there are some other suggestions to come from John Soper. Let me know what you think about those.

## Rob Kovach

Policy Advisor/Committee Clerk  
Office of Senator Frank Lasee  
(608) 266-3512

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**From:** Kahler, Pam  
**Sent:** Tuesday, September 03, 2013 12:05 PM  
**To:** Kovach, Robert  
**Subject:** RE: Questions about Sub for SB 179

I found just one other error. SA 2 to SA 1 puts "and (10)" after s. 704.44 (9) in the Initial Applicability subsection (5). That is missing. But the engrossing was pretty mind-boggling! Let me know if you want me to make those two changes and change the sub to a "/1".

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**From:** Kovach, Robert  
**Sent:** Tuesday, September 03, 2013 11:15 AM  
**To:** Kahler, Pam  
**Subject:** RE: Questions about Sub for SB 179

Ok.

## Rob Kovach

Policy Advisor/Committee Clerk  
Office of Senator Frank Lasee  
(608) 266-3512

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**From:** Kahler, Pam  
**Sent:** Tuesday, September 03, 2013 11:03 AM  
**To:** Kovach, Robert  
**Subject:** RE: Questions about Sub for SB 179

Rob:



I had planned to make sure that everything got into the new sub correctly – just haven't had a chance yet. I will do that, though.

---

**From:** Kovach, Robert

**Sent:** Tuesday, September 03, 2013 10:49 AM

**To:** Kahler, Pam

**Subject:** Questions about Sub for SB 179

Dear Pam,

This question from Debbi Conrad:

Page 17, lines 3-4 – should the underlined added language start some place on line 4 (after the word “or” on line 4, for instance) instead of on line 3? The giving of the notice @ 704.05(5)(bf) says that the landlord will not store personal property – and other subsections make it clear that landlord can dispose if the notice was given. The underlined language seems out of place since it appears directly after and thus seems to modify “removal and storage.” The landlord’s ability to remove and store is not dependent upon the notice, rather the landlord’s ability to dispose is.

Let me know if that needs to be fixed.

**Rob Kovach**

Policy Advisor/Committee Clerk

Office of Senator Frank Lasee

(608) 266-3512

**Kahler, Pam**

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**From:** Kovach, Robert  
**Sent:** Wednesday, September 04, 2013 10:50 AM  
**To:** Kahler, Pam  
**Subject:** Soper changes

It looks like John is correct on the following changes:

P14 line 2, change 20 to 30 days to be consistent with section 33.

*ok per RJH*

I agree that "or evicted from" should appear consistent throughout 704.05 (5) The assembly amendments make that appear inconsistent, and I believe that would be problematic.

On page 17 of the bill the cross references on line 8-9 should also be consistent.

You should be good to go for the next p draft from there.

**Rob Kovach**

Policy Advisor/Committee Clerk  
Office of Senator Frank Lasee  
(608) 266-3512

## Kahler, Pam

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**From:** Kahler, Pam  
**Sent:** Tuesday, September 03, 2013 4:03 PM  
**To:** Soper, John  
**Cc:** Kovach, Robert  
**Subject:** RE: Technical Fixes to SB 179 Sub Amendment

John:

It looks like there must have been some confusion and reversal of ideas/policies between the two amendments to AB 183 that passed. In AA 1, we clearly did not want to require a landlord, in an eviction action, to have given the tenant notice that the landlord would not store property left behind. Thus, we did not include a reference to par. (bf) in s. 799.45 (3m). But then in AA 9, we added to s. 799.45 (3m) the language, "provided that the plaintiff has provided the notice under s. 704.05 (5) (bf)." If we want to require the landlord to have given the notice under par. (bf) in order to dispose of property without storage in an eviction – just the same as when a tenant removes from the premises - we could take out the "provided that the plaintiff.. etc.," language and add par. (bf) to the list of sections in s. 799.45 (3m) that the landlord must follow in an eviction action. Then we would add the eviction references in s. 704.05 (5) (b) 2. and (bf).

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**From:** Soper, John  
**Sent:** Tuesday, September 03, 2013 2:00 PM  
**To:** Kahler, Pam  
**Cc:** Kovach, Robert  
**Subject:** Technical Fixes to SB 179 Sub Amendment

Pam,

I have 2 things I found that may need to be changed for consistency & clarity in the large Senate Sub Amendment for SB 179.

First, Sections 10 & 11 outline notice requirements for the new expanded disposal of property notices. Section 9 uses the phrase If a tenant "removes or is evicted from the premises" while Sections 10 & 11 only use the phrase "removes from the premises". The legislative intent was for these provisions to have the same reach. References in Sections 10 and 11 to 'removal from premises' should include the eviction possibility, like Section 9.

Second, Section 34 (p14 Line 2) should be 30 days and not 20. 20 became 30 at some point in the legislative process (see Section 33 p13 line 19) and this change conforms court commissioner to small claims judge trails in timeline.

I understand Rob and others were feeding technical tweaks to you, with the Lasee office's blessing please include these changes in any updated version. Please contact me with any questions. Thank you.

John Soper  
Research Assistant  
Office of Rep. Duey Stroebel  
608-267-2370

## Kahler, Pam

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**From:** Kovach, Robert  
**Sent:** Wednesday, September 04, 2013 10:34 AM  
**To:** Kahler, Pam  
**Cc:** Soper, John  
**Subject:** FW: Victims protections SB179

Dear Pam,

Can you change 704.44(9) and 704.44(10) to match the language below and give us a new p draft?

Can you also put a copy of this email into the drafting file? The Q and A is important to show our intent.

## Rob Kovach

Policy Advisor/Committee Clerk  
Office of Senator Frank Lasee  
(608) 266-3512

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**From:** Rinehart, Mark W. [mailto:RinehartMW@DOJ.STATE.WI.US]  
**Sent:** Wednesday, September 04, 2013 10:00 AM  
**To:** Kovach, Robert  
**Subject:** RE: Victims protections SB179

Hi Rob,

A few thoughts from our folks on your comments:

*704.44 (9) Allows the landlord to terminate the tenancy of a tenant based solely on the commission of a crime in or on the rental property, if the tenant or someone who lawfully resides with the tenant, is the victim of that crime, as defined in s. 950.02.*

- We prefer "crime" over "criminal activity" - the definition of "crime" exists already and is based on conduct, not law enforcement referral or any criminal justice system disposition, so it allows for more flexibility.
- "Criminal activity" exists in several other chapters undefined. It is probably more complicated/risky to introduce a new definition for that term than to loop back to the existing 950 definition.
- The 950.02 cross reference ensures that someone who commits (or is alleged to have committed) the conduct which is the basis for the eviction is not protected from eviction. He/She would not be considered a "victim" of the crime under 950.02. It's really the same as having the "and did not commit the crime" language. Furthermore, the phrase "is the victim of that crime" closes the loop even tighter because everything refers back to the specific (crime) conduct being used as the basis for an eviction action.
- You may be right that changes to 950 could affect leases if the section cross-references 950.02. You could just pull the 950.02 language and put it in as "for the purpose of this chapter, "victim" means..." and not reference 950.02.

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**From:** Kovach, Robert [<mailto:Robert.Kovach@legis.wisconsin.gov>]  
**Sent:** Tuesday, September 03, 2013 5:16 PM  
**To:** Rinehart, Mark W.  
**Subject:** RE: Victims protections SB179

I'm not a lawyer but it looks like if the tenant perpetrates the crime against someone who is a lawful resident with the tenant, then the landlord cannot have such a provision that allows for eviction based on that crime. If we bring back the provision about "and did not commit the crime." I think it addresses this issue.

I worry that a judge won't agree with your first bullet point, and if a Man—the tenant, batters his lawfully residing girlfriend AND kids, the landlords action to evict the batterer violates 704.44(9). The eviction of the MAN is based solely on the domestic violence, even if the landlord isn't evicting the girlfriend and her kids. I'm afraid judge is going to say the lease is void and unenforceable against that tenant. We need to say "and did not commit the crime". I think that even under 905.02 (4)5 (b)

Also the 950.02 cross reference is touchy—If 950.02 is amended in the future, will it make hundreds of thousands of leases void and unenforceable because a definition of victim changes? Since victim is defined already in statute, do we really need to cross reference?

## **Rob Kovach**

Policy Advisor/Committee Clerk  
Office of Senator Frank Lasee  
(608) 266-3512

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**From:** Rinehart, Mark W. [<mailto:RinehartMW@DOJ.STATE.WI.US>]  
**Sent:** Tuesday, September 03, 2013 4:36 PM  
**To:** Kovach, Robert  
**Subject:**

Hi Rob,

Sorry for the delay in getting back to you. I've been in and out of the office all day with meetings.

We think it may be a more straightforward approach to use the word "crime" instead of working through the "criminal activity" language. We also like a reference to ch. 950.

1. Here is a suggestion:

[A rental agreement is void and unenforceable if it]

704.44 (9) Allows the landlord to terminate the tenancy of a tenant if based solely on the commission of a crime is committed in or on the rental property, even if the tenant could not reasonably have prevented the crime if the tenant or someone who lawfully resides with the tenant, is the victim of that crime, as defined in s. 950.02.

*704.44 (9) Allows the landlord to terminate the tenancy of a tenant based solely on the commission of a crime in or on the rental property, if the tenant or someone who lawfully resides with the tenant, is the victim of that crime, as defined in s. 950.02.*

- Under this language, it is clear that landlords can evict a tenant if he or she is the perpetrator because “victim” per 950.02 does not include the person “charged with or alleged to have committed the crime”. Note: This will allow for eviction if a tenant commits crimes against his or her children. The child’s status as a victim cannot protect the perpetrator-tenant from eviction. [This aligns with the treatment of child victims in ch. 950 and elsewhere— children do not have independent rights.]
  - The language offers protection for non-offending tenants whose dependents are victimized (both minor or adult dependents) by including all who reside with the tenant.
  - It appropriately narrows the tenancy protection to those who have a legal agreement with the landlord (“lawfully resides with the tenant”). This may be the next phrase we need to define.
  - It prohibits eviction based “solely” on the crime of which the tenant is the victim. Status as a “crime victim” in general will not protect a tenant from other [unrelated] eviction actions.
2. Note also the new section which offers additional incentive for landlords to include the proposed Notice of Domestic Abuse Protections (the notice starts on page 8 of the latest draft sent to us).

**SECTION 26.** 704.44 (10) of the statutes is created to read:

[A rental agreement is void and unenforceable if it]

704.44 (10) Allows the landlord to terminate the tenancy of a tenant for a crime committed in relation to the rental property and the rental agreement does not include the notice required under s. 704.14.