

2013 DRAFTING REQUEST

Bill

Received: 4/8/2013 Received By: chanaman
Wanted: As time permits Same as LRB: -0588
For: Jerry Petrowski (608) 266-2502 By/Representing: Lane Oling
May Contact: Drafter: chanaman
Subject: Criminal Law - domestic abuse Addl. Drafters:
Criminal Law - law enforcement Extra Copies:

Submit via email: YES
Requester's email: Sen.Petrowski@legis.wisconsin.gov
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Domestic violence reports and training

Instructions:

See attached

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>
/1	chanaman 4/8/2013	scalvin 4/8/2013	jmurphy 4/8/2013	_____	lparisi 4/8/2013	mbarman 4/19/2013	State S&L

FE Sent For:

*at intro
4/25*

<END>

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/1	chanaman	/1 sac 04/08/2013	 4/8				State S&L

FE Sent For:

<END>



State of Wisconsin
2013 - 2014 LEGISLATURE



2120/1

LRB-058871

CMH:sac:rs

2013 BILL

Re draft
comp
num

no
changes
today if
possible

regeral

1 AN ACT *to renumber* 49.165 (4) and 165.93 (4); *to renumber and amend*
 2 968.075 (4); *to amend* 7.08 (10), 165.85 (4) (b) 1d. a., 950.01, 968.075 (4) (title),
 3 968.075 (8) and 968.075 (9) (a) 2. and (b); and *to create* 49.165 (4) (b), 165.85
 4 (2) (as), 165.85 (4) (cp), 165.93 (4) (b), 968.075 (4) (a) (intro.), 968.075 (4) (a) 2.
 5 and 968.075 (9) (a) 1m. of the statutes; **relating to:** training standards for law
 6 enforcement officers regarding domestic abuse incidents and complaints, and
 7 law enforcement reports following a domestic abuse incident.

Analysis by the Legislative Reference Bureau

Current law generally requires a law enforcement officer to arrest a person if the officer has reasonable grounds to believe that the person has committed domestic abuse and that the person's actions constitute the commission of a crime. If the law enforcement officer does not arrest a person under these conditions, the officer must prepare a written report stating why the person was not arrested. The report must be sent to the district attorney's office and the district attorney must review the report to determine whether to charge the person. The district attorney must submit a report to the Department of Justice (DOJ) that lists the number of such arrests and the number of prosecutions and convictions resulting from the arrests. Under this bill, if the law enforcement officer does not make an arrest because he or she did not have reasonable grounds to believe that the person had committed domestic abuse

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or that the person's acts constituted the commission of a crime, the officer must also prepare a report that states why he or she lacked reasonable grounds to believe one of those factors. In addition, under this bill, the district attorney must include on the report to DOJ, the number of responses made by law enforcement to an incident involving domestic abuse that did not result in an arrest and the number of prosecutions and convictions of persons on those reports for a crime involving domestic abuse.

Under current law, a person must complete a preparatory program of law enforcement training that is approved by the law enforcement standards board before being appointed as a law enforcement officer. Any training program must include an adequate amount of training to enable the person to deal effectively with domestic abuse incidents. This bill requires the law enforcement standards board to establish standards for the training of law enforcement officers in handling domestic abuse incidents. The training must include the following: 1) the law enforcement officer's duty to protect the victim, to enforce all criminal laws in a domestic abuse incident, and to arrest the predominant aggressor if a crime has been committed; 2) the law enforcement officer's duty to inform the victim of shelters and services, give him or her notice of legal rights and remedies, explain how to file a petition for a domestic abuse or harassment injunction, and explain that he or she may contact a district attorney; and 3) the law enforcement officer's option to arrange transportation for the victim to go to the hospital or to a place of safety.

Under current law, each district attorney's office must have written policies that encourage the prosecution of domestic abuse offenses. The policies must include a policy indicating that a decision not to prosecute a domestic abuse incident may not be based solely upon the absence of visible indications of injury, upon the victim's consent to any prosecution of the other person, or upon the relationship of the persons involved in the incident.

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.** 7.08 (10) of the statutes is amended to read:

2 7.08 (10) DOMESTIC ABUSE AND SEXUAL ASSAULT SERVICE PROVIDERS. Provide to
3 each municipal clerk, on a continuous basis, the names and addresses of
4 organizations that are certified under s. 49.165 (4) (a) or 165.93 (4) (a) to provide
5 services to victims of domestic abuse or sexual assault.

6 **SECTION 2.** 49.165 (4) of the statutes is renumbered 49.165 (4) (a).

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1 **SECTION 3.** 49.165 (4) (b) of the statutes is created to read:

2 49.165 (4) (b) The department shall make available to law enforcement
3 agencies a current list containing the name and address of each organization that is
4 eligible to receive grants under sub. (2).

5 **SECTION 4.** 165.85 (2) (as) of the statutes is created to read:

6 165.85 (2) (as) "Domestic abuse" has the meaning given in s. 968.075 (1) (a).

7 **SECTION 5.** 165.85 (4) (b) 1d. a. of the statutes is amended to read:

8 165.85 (4) (b) 1d. a. ~~An adequate amount of training to enable the person being~~
9 ~~trained to deal effectively with~~ Training on the handling of domestic abuse incidents
10 and complaints, including training ~~that addresses the emotional and psychological~~
11 ~~effect that domestic abuse has on victims~~ that is consistent with the standards
12 established under par. (cp).

13 **SECTION 6.** 165.85 (4) (cp) of the statutes is created to read:

14 165.85 (4) (cp) The board shall establish standards for the training of law
15 enforcement officers in effectively handling domestic abuse incidents. The board
16 shall ensure that the training includes all of the following:

17 1. The law enforcement officer's duty to protect the victim; to enforce all
18 criminal laws with regard to a domestic abuse incident; and to adhere to all of the
19 requirements under s. 968.075.

20 2. The emotional and psychological effects that domestic abuse has on its
21 victims.

22 3. The law enforcement officer's duty to prepare a complete offense report as
23 required under s. 968.075 (4) (a).

24 4. The law enforcement officer's duty, if the law enforcement officer has
25 reasonable grounds to believe that a person is committing or has committed domestic

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1 abuse, to inform the victim of the availability of shelters and services in his or her
2 community, including using lists available under ss. 49.165 (4) (b) and 165.93 (4) (b);
3 give notice of legal rights and remedies available to him or her; explain the procedure
4 for filing a petition for an injunction under s. 813.12 or 813.125; and provide him or
5 her with a statement that reads substantially as follows, “If you are the victim of
6 domestic abuse, you may ask the district attorney to file a criminal complaint. You
7 may also file a petition under s. 813.12 of the Wisconsin statutes for a domestic abuse
8 injunction or under s. 813.125 of the Wisconsin statutes for a harassment
9 injunction.”

10 5. The law enforcement officer’s option to arrange transportation for a victim,
11 at the request of the victim to the hospital for treatment of injuries or to a place of
12 safety or a shelter.

13 **SECTION 7.** 165.93 (4) of the statutes is renumbered 165.93 (4) (a).

14 **SECTION 8.** 165.93 (4) (b) of the statutes is created to read:

15 165.93 (4) (b) The department shall make available to law enforcement
16 agencies a current list containing the name and address of each organization that is
17 eligible to receive grants under sub. (2).

18 **SECTION 9.** 950.01 of the statutes is amended to read:

19 **950.01 Legislative intent.** In recognition of the civic and moral duty of
20 victims and witnesses of crime to fully and voluntarily cooperate with law
21 enforcement and prosecutorial agencies, and in further recognition of the continuing
22 importance of such citizen cooperation to state and local law enforcement efforts and
23 the general effectiveness and well-being of the criminal justice system of this state,
24 the legislature declares its intent, in this chapter, to ensure that all victims and
25 witnesses of crime are treated with dignity, respect, courtesy and sensitivity; and

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1 that the rights extended in this chapter to victims and witnesses of crime are honored
2 and protected by law enforcement agencies, prosecutors and judges in a manner no
3 less vigorous than the protections afforded criminal defendants. This chapter does
4 not prohibit a public official, employee, or agency from sharing information with
5 victim service organizations that are eligible to receive grants under s. 49.165 (2) or
6 165.93 (2). Nothing in this chapter shall be construed to impair the exercise of
7 prosecutorial discretion.

8 **SECTION 10.** 968.075 (4) (title) of the statutes is amended to read:

9 968.075 (4) (title) REPORT AND ACTION REQUIRED WHERE NO ARREST.

10 **SECTION 11.** 968.075 (4) of the statutes is renumbered 968.075 (4) (a) 1. and
11 amended to read:

12 968.075 (4) (a) 1. If a law enforcement officer does not make an arrest under
13 this section when the officer has reasonable grounds to believe that a person is
14 committing or has committed domestic abuse and that person's acts constitute the
15 commission of a crime, the officer shall ~~prepare a written report stating~~ state in the
16 report why the person was not arrested. The

17 (b) A report under par. (a) shall be sent to the district attorney's office, in the
18 county where the acts took place, immediately after investigation of the incident has
19 been completed. The district attorney shall review the report to determine whether
20 the person involved in the incident should be charged with the commission of a crime.

21 **SECTION 12.** 968.075 (4) (a) (intro.) of the statutes is created to read:

22 968.075 (4) (a) (intro.) If a law enforcement officer responds to a situation in
23 which domestic abuse was reported or the law enforcement officer knew, or should
24 have known, that domestic abuse was involved, and does not make an arrest under
25 this section, the law enforcement officer shall prepare a written report as follows:

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1 **SECTION 13.** 968.075 (4) (a) 2. of the statutes is created to read:

2 968.075 (4) (a) 2. If a law enforcement officer does not make an arrest under
3 this section because he or she did not have reasonable grounds to believe that a
4 person is committing or has committed domestic abuse or that the person's acts
5 constitute the commission of a crime, the officer shall state in the report why the
6 officer did not have reasonable grounds to believe one of those factors.

7 **SECTION 14.** 968.075 (8) of the statutes is amended to read:

8 968.075 (8) EDUCATION AND TRAINING. Any education and training by the law
9 enforcement agency relating to the handling of domestic abuse incidents and
10 complaints shall stress enforcement of criminal laws in domestic abuse incidents and
11 protection of the alleged victim conform to the standards established under s. 165.85
12 (4) (cp). Law enforcement agencies and community organizations with expertise in
13 the recognition and handling of domestic abuse incidents shall cooperate in all
14 aspects of the training.

15 **SECTION 15.** 968.075 (9) (a) 1m. of the statutes is created to read:

16 968.075 (9) (a) 1m. The number of responses law enforcement made that
17 involved a domestic abuse incident that did not result in an arrest.

18 **SECTION 16.** 968.075 (9) (a) 2. and (b) of the statutes are amended to read:

19 968.075 (9) (a) 2. The number of subsequent prosecutions and convictions of
20 the persons arrested for domestic abuse incidents, and the number of subsequent
21 prosecutions and convictions of the persons not initially arrested for domestic abuse
22 incidents as reported under sub. (4) (a) 2.

Barman, Mike

From: - Punches, Derek
Sent: Friday, April 19, 2013 11:22 AM
To: LRB.Legal
Subject: Draft Review: LRB -2120/1 Topic: Domestic violence reports and training

Please Jacket LRB -2120/1 for the SENATE.