

State of Wisconsin



2009 Senate Bill 148

Date of enactment: **May 5, 2010**
Date of publication*: **May 19, 2010**

2009 WISCONSIN ACT 232

AN ACT to repeal 165.92 (3) (b) 2.; to renumber and amend 165.92 (3) (a) and 165.92 (3) (b) 1.; and to create 165.92 (3m) (a) (intro.), 165.92 (3m) (a) 2. and 165.92 (3m) (b) of the statutes; relating to: liability for actions of tribal law enforcement officers when enforcing state laws.

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

SECTION 1. 165.92 (3) (a) of the statutes is renumbered 165.92 (3) and amended to read:

165.92 (3) LIABILITY. Unless Except as provided in s. 175.40 (6m) (c) 1. and unless otherwise provided in a joint program plan under s. 165.90 (2) or an agreement between a political subdivision of this state and a tribe, the tribe that employs a tribal law enforcement officer is liable for all acts and omissions of the officer while acting within the scope of his or her employment, and neither the state nor any political subdivision of the state may be held liable for any action of the officer taken under the authority of sub. (2) (a).

SECTION 2c. 165.92 (3) (b) 1. of the statutes is renumbered 165.92 (3m) (intro.) and amended to read:

165.92 (3m) REQUIREMENTS. (intro.) No tribal law enforcement officer may exercise or perform the powers or duties described under sub. (2) (a) unless all of the following apply:

(a) 1. The governing body of the tribe that employs the officer adopts and has in effect a resolution under this paragraph. Except as provided in subd. 2., a resolution under this paragraph shall include that includes a statement that the tribe waives its sovereign immunity to the extent necessary to allow the enforcement in the courts of

this state of its liability under ~~par. (a) sub. (3) or another resolution that the department of justice determines will reasonably allow the enforcement in the courts of this state of the tribe's liability under sub. (3).~~

SECTION 2g. 165.92 (3) (b) 2. of the statutes is repealed.

SECTION 2r. 165.92 (3m) (a) (intro.) of the statutes is created to read:

165.92 (3m) (a) (intro.) One of the following:

SECTION 3g. 165.92 (3m) (a) 2. of the statutes is created to read:

165.92 (3m) (a) 2. The tribe or tribal law enforcement agency that employs the officer maintains liability insurance that does all of the following:

- Covers the tribal law enforcement agency for its liability under sub. (2) and s. 66.0513.
- Has a limit of coverage not less than \$2,000,000 for any occurrence.
- Provides that the insurer, in defending a claim against the policy, may not raise the defense of sovereign immunity of the insured up to the limits of the policy.

SECTION 4g. 165.92 (3m) (b) of the statutes is created to read:

165.92 (3m) (b) The tribe or tribal law enforcement agency that employs the officer has provided to the department of justice a copy of the resolution under par. (a) 1. or proof of insurance under par. (a) 2., and the

* Section 991.11, WISCONSIN STATUTES 2007-08 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

department of justice has posted either a copy of the document or notice of the document on the Internet site it

maintains for exchanging information with law enforcement agencies.

