



PATRICK TESTIN

STATE SENATOR

DATE: March 11th, 2021
RE: Testimony on 2021 Senate Bill 165
TO: The Senate Committee on Judiciary and Public Safety
FROM: Senator Patrick Testin

I would like to thank Chairman Wanggaard and the members of the Senate Committee on Judiciary and Public Safety for allowing me to testify today on Senate Bill 165 (SB165).

The purpose of this bill is to provide law enforcement agencies across the state with better resources to help recruit, hire, and retain the best and brightest.

Currently, law enforcement agencies are permitted to enter into non-disclosure agreements, which prevents a hiring agency from seeing all of the information in a candidate's file. Thus, these agencies are not able to receive all of the information they might need on a candidate to make a hiring decision. This bill honors current nondisclosure agreements but prohibits their use going forward. From this point forward, SB 165 creates an employment file that is required to be transferred to any potential new law enforcement agency employer.

This file would include performance reviews, files related to job performance, internal affairs investigative files, administrative files, previous personnel applications, personnel-related claims, disciplinary actions, and all substantiated complaints and commendations. It would not include pay or benefit information, administrative data or information that does not relate to performance or conduct, or medical files unless the medical file relates to mental competency issues bearing on the person's suitability for a job in this field.

In Wisconsin, the Law Enforcement Standards Board already regulates the training of law enforcement officers. This bill expands their scope to include jail and juvenile detention officer training standards and the regulation of recruitment standards for new law enforcement, jail, and juvenile detention officers. Additionally, the bill gives the LESB the authority to decertify an officer for a variety of reasons including failure to comply with LESB rules, falsifying information, engaging in domestic abuse, and failure to pay child support.

Thank you again Chairman and members of the committee for hearing my testimony. I hope you will join the Wisconsin Association of Police Chiefs, Badger State Sheriff's Association, Wisconsin Sheriffs and Deputy Sheriffs Association, the Wisconsin Professional Police Association, and the Wisconsin DOJ in support of this bill.

Senate Committee on Judiciary and Public Safety
Public Hearing SB 165
Testimony of State Senator Lena C. Taylor
March 11, 2021

Chairman Wanggaard, Vice-Chair Wimberger and Members of the Committee, thank you for the opportunity to provide testimony on SB 165, relating to the responsibilities of the Law Enforcement Standards Board and disclosure of employment files when recruiting former or current officers.

We are in a climate of increased public scrutiny and calls for transparency in policing. While some may see this demand for increased information as an attack on law enforcement and those working in departments, agencies and correctional facilities, I believe this is an opportunity to improve public trust, reduce the risk of questionable interactions with the community and law enforcement, and protect officers by providing continuity in training standards across varying sectors of law enforcement.

SB 165 is a common-sense next step. It seeks to broaden the responsibility of the Law Enforcement Standards Board to regulate training standards for current jail and juvenile detention officers. When we consider the incidents that have plagued facilities such as Lincoln Hills and Copper Lake, it makes sense both in terms of policy and fiscal implications that our officers and expectations of their training are in alignment.

As we sit here this morning, jury selection is underway in the case of former Minneapolis police officer Derek Chauvin, who was recorded kneeling on the neck of George Floyd, who died in police custody. Since joining the police force in 2001, Chauvin had 18 complaints filed against him, only two of which were "closed with discipline according to a database that documents instances of police brutality. Other reports documented his involvement in multiple violent, and deadly cases of police abuse.

Often officers, with questionable records, could transfer with ease between departments, agencies, or organizations with no ability of their employment file information to be known by the receiving department or agency.

SB 165 requires each law enforcement agency to maintain an employment file for each employee. Candidates, with previous employment files with a different agency, jail, or facility, would need to authorize their former employer to disclose his or her employment files to the recruiting law enforcement agency, jail, or juvenile detention facility.

With better information, agencies, jails, or other facilities, get a clearer picture of who they are considering for employment and or hiring. They will understand what training has been provided, what is needed, and that they maintain consistency in their workforce skills.

There is much we can disagree on, in terms of police reform and what may or may not be needed. However, I think that most employers want as complete picture as possible about individuals that will be taking on some

of the most stressful and consequential employment roles in our society. We must take more deliberative steps to minimize risk, for all involved.

I hope that you will see the value in the need for training consistency and to access previous employment files, to help ensure that we have the most prepared and responsive law enforcement professionals, as possible. I encourage your full support of SB 165 and thank you for your consideration.



**STATE OF WISCONSIN
DEPARTMENT OF JUSTICE**

Josh Kaul
Attorney General

Room 114 East, State Capitol
PO Box 7857
Madison WI 53707-7857
(608) 266-1221
TTY 1-800-947-3529

PREPARED TESTIMONY OF ATTORNEY GENERAL JOSH KAUL

Senate Committee on Judiciary and Public Safety

Thursday, March 11, 2021

Chairperson Wanggaard, Vice-Chair Wimberger, and Members of the Committee:

Thank you for holding a hearing today on Senate Bill 165, legislation that expands the Law Enforcement Standards Board's (LESB) oversight over the recruitment and training standards for law enforcement, jail, and juvenile detention officers and increases transparency in the hiring process by requiring the disclosure of employment files.

I would also like to thank Senators Testin and Taylor and Representatives Tusler and Cabral-Guevara for introducing this legislation, as well as the Badger State Sheriffs Association, the Wisconsin Sheriffs and Deputy Sheriffs Association, the Wisconsin Chiefs of Police Association, and the Wisconsin Professional Police Association for supporting it.

The LESB is tasked with overseeing the training and certification of sworn Wisconsin law enforcement personnel. In addition, the LESB has the power to decertify law enforcement officers in certain situations. This proposal would expand the authority of the LESB by providing it with authority to regulate training standards for jail and juvenile detention officers and to regulate standards for the recruitment of new law enforcement, jail, and juvenile detention officers.

This proposal also would promote a more complete and thorough background check process by requiring candidates for positions as law enforcement, jail, and juvenile detention officers to authorize their previous (or current) employer (if it is also a law enforcement agency, jail, or juvenile detention facility) to disclose their employment file to the recruiting agency, jail, or facility. If the candidate refuses to authorize this disclosure, he or she cannot be considered for employment or certification by the LESB. This simple change in the law will help employers make more informed hiring decisions regarding applicants for positions with important public safety functions and for which integrity is vital.

Prepared Testimony of Attorney General Josh Kaul
Senate Committee on Judiciary and Public Safety
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This proposal is not new. It was introduced in previous legislative sessions and has been supported by both my administration and the previous administration at the Wisconsin Department of Justice (DOJ). The last time it was introduced, this proposal passed the Senate Committee on Judiciary and Public Safety unanimously and ultimately passed in the Wisconsin State Senate on a voice vote. It also passed the Assembly Committee on Criminal Justice and Public Safety unanimously but unfortunately was not taken up by the Wisconsin State Assembly prior to the end of the legislative session. I hope this proposal will be signed into law this session.

Again, thank you for holding a hearing on this legislation. If you have any questions or require any additional information, please do not hesitate to contact Chris McKinny, DOJ's Government Affairs Director, at 608-224-9207 or McKinnyCJ@doj.state.wi.us.



**STATE OF WISCONSIN
LAW ENFORCEMENT STANDARDS BOARD**

**CHRISTOPHER DOMAGALSKI
CHAIRPERSON**

Tina Virgil
Secretary

17 West Main Street
P.O. Box 7070
Madison, WI 53707-7070
608/266-8800
FAX 608/266-7869

**WRITTEN COMMENTS OF THE WISCONSIN LAW ENFORCEMENT STANDARDS BOARD ON SENATE
BILL 165**

MARCH 11, 2021

Honorable Members of the Senate Committee on Judiciary and Public Safety,

My name is Christopher Domagalski, and I am the Chairperson of the Wisconsin Law Enforcement Standards Board as well as the Chief of the Sheboygan Police Department. I am here today to testify in support of Senate Bill ("SB") 165.

First, I would like to thank Chairperson Wanggaard and Vice Chair Wimberger for holding a public hearing on SB 165. I would also like to thank Senator Testin, and Representative Tusler as well as all of the other Senators and Representatives who have sponsored this bill including Senators Taylor, Darling, and Wanggaard.

The Wisconsin Legislature created the Law Enforcement Standards Board ("Board") in 1969, to provide uniformity in training standards for law enforcement in Wisconsin. Since then, the Board's jurisdiction has expanded to include all of the following Wisconsin Criminal Justice Professionals: law enforcement, tribal law enforcement, jail, and juvenile detention officers.

As the Chairperson of the Board, I appear today at the request of the Board to ask for your support of SB 165. This bill serves important public safety interests by modernizing the professional requirements and recruitment standards of Wisconsin's criminal justice professionals. The principle changes in the bill include:

- SB 165 expands the authority of the Board under Wisconsin Statute § 165.85. Under Wisconsin Statute § 165.85, the Board currently has the authority to establish minimum educational and training standards for law enforcement, tribal law enforcement, jail and juvenile detention officers. SB 165 permits the Board to establish minimum recruitment standards for law enforcement, tribal law enforcement, jail, and juvenile detention officers. The Board has already established minimum recruitment standards in Wisconsin Administrative Code Chapter LES 2, and SB 165 provides the Board with the legal authority to set these standards.
- SB 165 seeks to help agencies hire good officers and prevent officers who should not be in the profession from re-gaining law enforcement, tribal law enforcement, jail, or juvenile detention officer employment, by providing law enforcement agencies, tribal law enforcement agencies, jails and juvenile detention facilities recruiting for new officers, access to employment files for candidates maintained by current and past employers.

- SB 165 defines "Employment Files" as "all files relating to a person's employment, including performance reviews, files related to job performance, internal affairs investigative files, administrative files, previous personnel applications, personnel-related claims, disciplinary actions, and all substantiated complaints and commendations, but does not include pay or benefit information, similar administrative data or information that does not relate to performance or conduct, or medical files unless the medical file relates to mental competency issues bearing on the person's suitability for a law enforcement, tribal law enforcement, jail, or juvenile detention officer position."
- SB 165 requires law enforcement agencies, tribal law enforcement agencies, jail, and juvenile detention facilities recruiting new officers, to require of each candidate that it interviews for a law enforcement, tribal law enforcement, jail or juvenile detention position, who is, or has been employed by another law enforcement agency, tribal law enforcement agency, jail, juvenile detention facility, or government agency, to execute a written waiver that authorizes each law enforcement agency, tribal law enforcement agency, jail, juvenile detention facility, or government agency that currently employs or has employed the candidate, to disclose the candidate's employment files to the interviewing agency, and releases the interviewing agency and current or past employers from any liability related to the use and disclosure of the candidate's employment files.
- SB 165 requires candidates for law enforcement, tribal law enforcement, jail, or juvenile detention positions, to execute a written waiver permitting access to their current and past employment files. If a candidate refuses to execute the waiver, he or she will not be considered for employment by the interviewing agency and will not be considered for officer certification by the Law Enforcement Standards Board.
- After SB 165 becomes law, no law enforcement agency, tribal law enforcement agency, jail, juvenile detention facility, or government agency, will be permitted to enter into a nondisclosure agreement preventing an interviewing law enforcement agency, tribal law enforcement agency, jail or juvenile detention facility from viewing candidate employment files.

If SB 165 is passed, it will assist Wisconsin law enforcement agencies, tribal law enforcement agencies, jails, and juvenile detention facilities with their ability to hire good law enforcement, tribal law enforcement, jail and juvenile detention officers, and will go a long way toward keeping the wrong candidates out of Wisconsin's criminal justice professions.

I, along with the other members of the Law Enforcement Standards Board support SB 165, and I urge you to do so as well.



March 11, 2021

To: Chairman Wanggaard and Members of the Senate Committee on Judiciary and Public Safety

From: Aaron Chapin, Co-Chair Legislative Committee, Wisconsin Chiefs of Police Association (WCPA)

Re: Support SB 165, LESB minimum qualifications standards

Thank you Chairman Wanggaard, for your willingness to hold a hearing on this bill. We want to thank the Senate authors, Senators Testin and Taylor, for introducing this important bill. We also are grateful for our lead Assembly authors Representatives Tusler and Cabral-Guevara.

We urge support of Senate Bill 165.

This legislation requires the Law Enforcement Standards Board (LESB) to set minimum qualifications standards for recruitment of new LEOs, jail and juvenile detention officers and state-wide training standards for LEOs, jail and juvenile detention officers.

Senate Bill 165 creates an employment file to be maintained by an officer's current employer that will be transferred to any new law enforcement, jail or juvenile detention employer. The file often includes items such as, commendations, performance reviews, disciplinary actions, administrative files, etc.

Currently when an agency conducts a background investigation, there is the possibility that the investigator may run into a "sealed file" or something that the agency will not disclose due to a separation agreement with a former employee.

This legislation will allow a Chief/agency to disclose all relevant information without fear of liability and will allow the agency conducting the background investigation the ability to make a well-informed decision about those who protect our communities.

Simply stated, the WCPA believes that past performance is the best indication of future performance. This legislation will provide transparency in that review.

This legislation was previously introduced in 2017 and passed the Wisconsin State Assembly 99-0 and simply ran out of time before the State Senate adjourned. We are hoping this bipartisan legislation will be signed into law this session.

This legislation has the strong support of law enforcement throughout Wisconsin including the Wisconsin Chiefs of Police Association, the Wisconsin Department of Justice, Badger State Sheriff's Association, Wisconsin Sheriffs and Deputy Sheriffs Association and Wisconsin Professional Police Association.

We urge you to support Senate Bill 165.

Thank you in advance for your consideration.



To: Members, Senate Committee on Judiciary and Public Safety
From: Badger State Sheriffs' Association (BSSA)
Wisconsin Sheriffs and Deputy Sheriffs Association (WS&DSA)
Date: March 11, 2021
RE: Support for Senate Bill 165, relating to the responsibilities of the Law Enforcement Standards Board

Our organizations submit these comments in support for Senate Bill 165, which will update practices of the Law Enforcement Standards Board (LESB) and streamline hiring practices for law enforcement.

Badger State Sheriffs' Association (BSSA) is a statewide organization representing all of Wisconsin's 72 Sheriffs and Wisconsin Sheriffs and Deputy Sheriffs Association (WS&DSA) is a statewide organization representing over 1,000 members, including Sheriffs, Deputies, and jail officers. BSSA and WS&DSA have a joint legislative committee and work closely on public safety issues of concern to our members.

Under current law, the Wisconsin LESB sets standards for recruitment, education, and training for law enforcement. LESB also can certify and decertify law enforcement, tribal law enforcement, jail, or juvenile detention officers. LESB is an important regulatory body for law enforcement, ensuring minimum standards and developing valuable curriculum. SB 403 extends LESB oversight to also regulate jail and juvenile detention officer training standards, thereby further unifying minimum standards across law enforcement fields.

The bill also enhances the recruitment process for law enforcement. SB 403 will allow law enforcement hiring agencies to conduct more thorough background checks on candidates who currently hold, or have held law enforcement, jail, and/or juvenile detention officer positions elsewhere in the state.

The bill creates an "employment file" for each law enforcement officer and requires that files can be transferred after the interviewing candidate signs a written waiver authorization to disclose the candidate's employment files. Complete with job performance and disciplinary information, these files will ensure that the hiring agency has accurate information about the candidate. If the candidate refuses to sign the waiver authorizing access to their current or past employment files, they become ineligible for employment as a law enforcement or jail officer. This process ensures that information is shared and officers with a problematic history cannot hide behind non-disclosure agreements.

BSSA and WS&DSA fully support this legislation and encourage committee approval.