



2009 ASSEMBLY BILL 713

February 9, 2010 – Introduced by Representatives HRAYCHUCK, TURNER, SHERMAN, PASCH, HUBLER, BERCEAU, BALLWEG, MURSAU, MOLEPSKE JR. and VOS, cosponsored by Senators JAUCH, COGGS, TAYLOR, HARSDORF, HOLPERIN, VINEHOUT, SCHULTZ, LEHMAN, MILLER and GROTHMAN. Referred to Committee on Criminal Justice.

1 **AN ACT** *to renumber and amend* 66.0313 (1); *to amend* 66.0313 (2) and
2 66.0313 (3); and *to create* 66.0313 (1) (b) and 66.0313 (4) of the statutes;
3 **relating to:** mutual assistance between tribal and county or municipal law
4 enforcement agencies.

Analysis by the Legislative Reference Bureau

Under current law, one law enforcement agency may respond to a request for assistance from another law enforcement agency. The requesting agency is responsible for defending a responding officer in a civil action arising out of the officer's response and for indemnifying the officer for the amount of any civil penalties imposed or damages awarded in such an action. The responding agency is responsible for personnel costs (such as the salary and benefits of the responding officers) and other costs related to a response (such as damage to equipment), but may bill the requesting agency for these costs. Current law does not apply to tribal law enforcement agencies.

This bill authorizes tribal law enforcement agencies both to request assistance from state, county, and municipal law enforcement agencies and to respond to requests for assistance from such agencies. It assigns responsibility for defending and indemnifying officers in civil actions arising out of a response and responsibility for the costs associated with a response in the same manner as current law.

To ensure that a tribe's responsibility for the costs of a law enforcement agency that responds to its request for assistance can be enforced, however, the bill limits the authority of a state, county, or municipal law enforcement agency to respond to

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a request for assistance from a tribal law enforcement agency to cases in which one of the following applies:

1. The tribe has adopted a resolution waiving its sovereign immunity to the extent required to allow enforcement of this responsibility in state courts or a resolution that the Department of Justice (DOJ) determines has the same effect.

2. The tribe maintains insurance to cover these costs up to specified limits.

3. The responding law enforcement agency has an agreement with the tribal law enforcement agency under which the responding law enforcement agency accepts the responsibility for these costs.

The bill requires that, for one of the foregoing actions to have the effect of allowing a nontribal law enforcement agency to respond to a request for assistance from a tribal law enforcement agency, the tribal law enforcement agency must have provided a copy of the resolution, insurance policy, or agreement to DOJ, and DOJ must have posted the document or a notice of the document on the Internet site that it maintains for exchanging information with law enforcement agencies.

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.** 66.0313 (1) of the statutes is renumbered 66.0313 (1) (intro.) and
2 amended to read:

3 66.0313 (1) (intro.) In this section, “law:

4 (a) “Law enforcement agency” has the meaning given in s. 165.83 (1) (b) and
5 includes a tribal law enforcement agency.

6 **SECTION 2.** 66.0313 (1) (b) of the statutes is created to read:

7 66.0313 (1) (b) “Tribal law enforcement agency” has the meaning given in s.
8 165.83 (1) (e).

9 **SECTION 3.** 66.0313 (2) of the statutes is amended to read:

10 66.0313 (2) ~~Upon~~ Except as provided in sub. (4), upon the request of any law
11 enforcement agency, including county law enforcement agencies as provided in s.
12 59.28 (2), the law enforcement personnel of any other law enforcement agency may
13 assist the requesting agency within the latter’s jurisdiction, notwithstanding any

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1 other jurisdictional provision. For purposes of ss. 895.35 and 895.46, law
2 enforcement personnel, while acting in response to a request for assistance, shall be
3 deemed employees of the requesting agency and, to the extent that those sections
4 apply to law enforcement personnel and a law enforcement agency acting under or
5 affected by this section, ss. 895.35 and 895.46 shall apply to tribal law enforcement
6 personnel and a tribal law enforcement agency acting under or affected by this
7 section.

8 **SECTION 4.** 66.0313 (3) of the statutes is amended to read:

9 66.0313 (3) The provisions of s. 66.0513 apply to this section and, to the extent
10 that s. 66.0513 applies to law enforcement personnel and a law enforcement agency
11 acting under or affected by this section, it applies to tribal law enforcement personnel
12 and a tribal law enforcement agency acting under or affected by this section.

13 **SECTION 5.** 66.0313 (4) of the statutes is created to read:

14 66.0313 (4) A law enforcement agency, other than a tribal law enforcement
15 agency, may not respond to a request for assistance from a tribal law enforcement
16 agency at a location outside the law enforcement agency's territorial jurisdiction
17 unless all of the following apply:

18 (a) One of the following applies:

19 1. The governing body of the tribe that created the tribal law enforcement
20 agency adopts and has in effect a resolution that includes a statement that the tribe
21 waives its sovereign immunity to the extent necessary to allow the enforcement in
22 the courts of this state of its liability under sub. (2) and s. 66.0513 or another
23 resolution that the department of justice determines will reasonably allow the
24 enforcement in the courts of this state of the tribe's liability under sub. (2) and s.
25 66.0513.

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1 2. The tribal law enforcement agency or the tribe that created the tribal law
2 enforcement agency maintains liability insurance that does all of the following:

3 a. Covers the tribal law enforcement agency for its liability under sub. (2) and
4 s. 66.0513.

5 b. Has a limit of coverage not less than \$2,000,000 for any occurrence.

6 c. Provides that the insurer, in defending a claim against the policy, may not
7 raise the defense of sovereign immunity of the insured up to the limits of the policy.

8 3. The law enforcement agency and the tribal law enforcement agency have in
9 place an agreement under which the law enforcement agency accepts liability under
10 sub. (2) and s. 66.0513 for instances in which it responds to a request for assistance
11 from the tribal law enforcement agency.

12 (b) The tribal law enforcement agency requesting assistance has provided to
13 the department of justice a copy of the resolution under par. (a) 1., proof of insurance
14 under par. (a) 2., or a copy of the agreement under par. (a) 3., and the department of
15 justice has posted either a copy of the document or notice of the document on the
16 Internet site it maintains for exchanging information with law enforcement
17 agencies.

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(END)