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# Wisconsin Legislative Council

## ACT MEMO

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### **2021 Wisconsin Act 82** [2021 Assembly Bill 190]

### **Employment Records for Law Enforcement Officers**

The Law Enforcement Standards Board (LESB) regulates the training and certification of law enforcement officers, tribal law enforcement officers, and jail or juvenile detention officers (law enforcement employees). LESB approves training and educational programs for law enforcement personnel, certifies law enforcement employees, and may decertify law enforcement employees under certain circumstances.

## **AUTHORITY OF LESB**

2021 Wisconsin Act 82 broadens the authority of LESB to include the following:

- Establishing minimum qualification standards for admission to preparatory courses for law enforcement employees, except for correctional officers employed by the Department of Corrections.
- Establishing minimum educational, training, and recruitment standards for jail or juvenile detention officers. Under the act, the standards must relate to the competence and reliability of persons to assume and discharge duties.
- Requiring reports and information from jails, juvenile detention facilities, and training schools approved by LESB or operated by the state or any political subdivision.

## **DECERTIFICATION OF LAW ENFORCEMENT EMPLOYEES**

The act also amends the criteria for decertification of law enforcement employees as follows:

- Adds a definition for a misdemeanor crime of domestic violence. LESB may decertify a law enforcement employee who is convicted of a felony or of a misdemeanor crime of domestic violence; prior to the act, the misdemeanor crime was not defined.
- Allows LESB to decertify a law enforcement employee who has been charged with a felony or a misdemeanor crime of domestic violence and enters into a pretrial diversion, deferred judgment, or deferred prosecution agreement if LESB finds that certification is not in the best interests of the public.
- Requires law enforcement officers who are convicted of a felony or misdemeanor crime of domestic violence to report the conviction to LESB within 30 days after the conviction.
- Allows LESB to decertify a law enforcement employee who is terminated for cause or who resigns in lieu of termination. The act directs LESB to establish procedures for reviewing resignations in lieu of termination.

## **EMPLOYMENT FILES**

The act also requires law enforcement agencies and facilities to keep employment files for each law enforcement employee. Under the act:

- Employment files must include performance reviews, internal affairs investigative files, administrative files, previous personnel applications, personnel-related claims, disciplinary actions, and all substantiated complaints and commendations.
- A law enforcement agency or facility that wishes to hire a former or current law enforcement employee must require the candidate to sign a waiver allowing his or her former or current employer to let the interviewing agency or facility review the candidates' employment file, unless the law enforcement employee is a party to a non-disclosure agreement.
- Non-disclosure agreements are prohibited after the effective date of the act.
- A current or former employing agency or facility is not liable for providing an employee file to an interviewing agency or facility or for participating in an oral interview relating to a law enforcement employee.

**Effective date:** November 7, 2021

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