
Wisconsin Legislative Council

INFORMATION MEMORANDUM



IM-2020-10

LEGISLATION FOR SPECIAL SESSION ON USE OF FORCE BY LAW ENFORCEMENT

On August 24, 2020, Governor Tony Evers issued [Executive Order #84](#) to convene a [special session](#) of the Wisconsin Legislature to consider legislation relating to police accountability and transparency. The Governor's call for a special session comes in the wake of nationwide protests¹ over racial injustice and in response to certain incidents involving use of force by a law enforcement officer, including an officer-involved shooting in Kenosha one day prior.²

This information memorandum describes the [nine legislative proposals](#) identified in Governor Evers's special session call, and compares the provisions of these proposals to relevant current law or training standards. This information memorandum also provides general background on law enforcement in Wisconsin and outlines the sources of authority governing law enforcement use of force.³

BACKGROUND

Overview of Law Enforcement in Wisconsin

In Wisconsin, law enforcement is typically a service provided by local governments, though certain state law enforcement agencies are created under state law, such as State Patrol, Capitol Police, and University of Wisconsin System. Police departments in cities, villages, and towns are generally led by a chief of police, while county law enforcement is under the authority of an elected sheriff. In most cases, a police department is overseen by a police and fire commission and a sheriff's department is overseen by a county civil service commission. These commissions are essentially civil service bodies with reviewing authority over the hire, promotion, and discipline of law enforcement officers.⁴ [ss. 59.26 (8), 59.52 (8), 62.13, and 62.50, Stats.]

In the context of local law enforcement, disciplinary action taken against a law enforcement officer may only be authorized by an appropriate reviewing authority, such as a police and fire

¹ For more information about First Amendment rights in the context of protests, see Legislative Council, [Recent Protests and First Amendment Rights](#), Issue Brief (June 2020).

² The special session call also comes at the same time that Speaker Robin Vos [announced](#) the creation of a task force focusing on racial disparities, educational opportunities, public safety, and police policies and standards, and Senator Van Wanggaard [announced](#) a legislative package related to law enforcement.

³ A separate information memorandum provides greater detail about the sources of authority governing law enforcement use of force, as well as the potential employee discipline and civil and criminal consequences that may arise from an officer's use of force. [Legislative Council, [Law Enforcement Use of Force](#), Information Memorandum (June 2020).]

⁴ Commissions that have been granted certain optional powers may have additional supervisory authority over the law enforcement agency. [s. 62.13 (6), Stats.]

commission or county civil service commission.⁵ In the context of state-employed law enforcement officers, disciplinary action is typically handled through the state civil service system. For both state and local officers, a reviewing authority must determine if there is “just cause” to suspend, demote, or discipline a law enforcement officer.⁶ For a local law enforcement officer, this requires an analysis of seven factors, to the extent applicable, in determining whether there is “just cause” to impose disciplinary actions, including whether the chief or sheriff is applying a rule or order fairly and without discrimination against the law enforcement officer. For a state law enforcement officer, a progressive discipline process must be applied, unless conduct or performance is severe in its inadequacy, unsuitability, or inferiority, or the conduct is specifically identified in the statutes as establishing “just cause” for disciplinary action. [ss. 59.26 (8) (b) 5m., 59.52 (8) (b), 61.65 (1) (am), 62.13 (5) (em), 62.50 (17) (b), and 230.34, Stats.]

Overview of Sources of Authority Governing Use of Force

Several sources of authority set the parameters for appropriate use of force by a law enforcement officer. First, use of force by law enforcement is governed broadly by certain constitutional principles rooted in the Fourth Amendment of the U.S. Constitution, which generally protects a person’s right to be free from unreasonable searches and seizures. In addition, each law enforcement officer is subject to a use-of-force policy that has been adopted by an officer’s employing law enforcement agency, as required under state law. An officer is also trained on certain defensive and arrest tactics set by the Law Enforcement Standards Board (LESB).

Overview of Law Enforcement Standards Board

Very generally, a law enforcement officer is hired by a particular law enforcement agency and certified to serve as a law enforcement officer by the LESB, a 15-member board attached to and administratively supported by the Wisconsin Department of Justice (DOJ). The LESB’s objectives are to assist law enforcement by establishing minimum standards of recruitment and recruit training, and by encouraging and supporting other programs designed to improve law enforcement administration and performance. Current law grants the LESB various powers and duties related to those objectives, such as the authority to: certify or decertify law enforcement officers; establish minimum educational and training standards, including curriculum requirements; conduct research designed to improve law enforcement administration and performance; and make recommendations concerning any matter within its purview. [ss. 15.255, 165.85, and 165.86, Stats.; and s. LES 1.02, Wis. Adm. Code.]

An officer meets the LESB’s certification requirements if the officer: (1) meets the LESB’s minimum employment standards; (2) is employed as an officer with an agency; and (3) successfully completes the required preparatory training for each applicable certification within 12 months of hire.⁷ Current law requires the LESB to appoint a curriculum advisory committee

⁵ A hearing is not held by a reviewing authority for every disciplinary action taken by a chief or sheriff. For example, a law enforcement officer and chief or sheriff may agree to a penalty, such as a suspension, that does not require approval by a reviewing authority.

⁶ Depending on the circumstances, a collective bargaining agreement may also govern certain disciplinary actions. For example, a collective bargaining agreement may include particular requirements for providing notice of certain steps in the investigation, the conditions under which a union representative may be present or take other action regarding an investigation, and the conditions that may be applied to a suspension. However, the reviewing authority retains, as a management right, the right to take disciplinary action against an employee for just cause.

⁷ For more information regarding these requirements, and the LESB generally, see Wisconsin LESB, [Policy & Procedures Manual](#) (June 7, 2017).

to advise the LESB in establishing curriculum requirements. The statutes authorize the LESB to conduct training on specified subjects ranging from first aid, patrolling, statutory authority, techniques of arrest, and firearms, among several others, to subjects designed to provide a better understanding of complex problems in law enforcement, such as human relations, civil rights, and constitutional rights. A law enforcement recruit must successfully complete a minimum of 400 hours of preparatory training to be eligible for permanent appointment with a law enforcement agency. [s. 165.85 (3) (d); s. LES 3.01 (1) (a), Wis. Adm. Code.]

Pursuant to its training authority, the LESB's *Defensive and Arrest Tactics; a Training Guide for Law Enforcement Officers* ("DAAT guide") sets forth use-of-force and reporting standards on which officers are trained. In the context of other sources of authority relating to an officer's use of force, the DAAT guide states that "as a Wisconsin law enforcement officer, your legitimate use of force is limited by a hierarchy of laws and standards" and provides the following hierarchy of laws and standards: (1) the U.S. Constitution; (2) Wisconsin law; (3) an agency's policy; and (4) officer training. The DAAT guide states that an agency's policies and procedures "describe how officers are expected to carry out their duties" and officers are required to know and act within their employing agency's use-of-force policy. As acknowledged by the DAAT guide, the LESB's training standards rank lower than an agency's use-of-force policy in the hierarchy of laws and standards governing use of force. In other words, while the DAAT guide trains officers to perform their duties to certain standards, an officer's conduct must conform to the employing agency's use-of-force policy.

SUMMARY OF SPECIAL SESSION LEGISLATION

Law Enforcement Agency Use-of-Force Policies (LRB-6273/1 and LRB-6424/1)

The bill⁸ requires each law enforcement agency's use-of-force policy to include certain content, some of which is addressed in the current training standards adopted by the LESB; though, as explained above, an agency's use-of-force policy is distinct from officer training. The bill also requires the LESB to adopt a model use-of-force policy, a requirement that does not exist under current law. Finally, the bill would create whistleblower protections that differ in procedure and applicability from that which current law provides.

Reporting Requirements in Agency Use-of-Force Policies

Under **current law**, each person in charge of a law enforcement agency must prepare a written policy or standard regulating the use of force by law enforcement officers in the performance of their duties, but no specified content is required. In this context, a "law enforcement agency" includes both state and local agencies. [ss. 66.0511 and 165.83 (1) (b), Stats.]

The **bill** specifies certain reporting requirements that must be included in each law enforcement agency's use-of-force policy. Under the bill a use-of-force policy must provide:

- The instances in which a use of force must be reported.
- How to report a use of force.
- A requirement that officers who engage in or observe a reportable use of force report it.

⁸ Throughout this information memorandum, "the bill" refers to the relevant companion bill drafts specified in Governor Evers special session call, as identified by the preceding heading.

Principles Required in Agency Use-of-Force Policies

As previously stated, **current law** requires that each state and local law enforcement agency adopt a written use-of-force policy. [s. 66.0511 (2), Stats.]

The **bill** requires that each law enforcement agency's use-of-force policy include the following policy principles:⁹

- The primary duty of all law enforcement is to preserve the life of all individuals.
- Deadly force is to be used only as a last resort.
- Officers should use skills and tactics, including de-escalation tactics that minimize the likelihood that force will become necessary.
- If law enforcement officers must use physical force, it should be the least amount of force necessary to safely address the threat.
- Law enforcement officers must take reasonable action to stop or prevent any unreasonable use of force by their colleagues.

Model Use-of-Force Policy by the LESB

Current law requires the LESB to establish model standards for certain law enforcement topics, such as police pursuits and handgun proficiency. Under current law, the LESB is not required to adopt a model use-of-force policy. [s. 165.85 (4), Stats.]

The **bill** requires the LESB to develop a model use-of-force policy for law enforcement agencies that does all of the following:

- Incorporates the policy principles that must be included in all use-of-force policies, outlined above.
- Addresses interactions with individuals with mental disorders, alcohol or drug problems, dementia disorders, and developmental disabilities.
- Limits the use of force against vulnerable populations, including children, elderly individuals, pregnant women, individuals with physical or mental disabilities, and individuals with limited English proficiency.
- Includes other best practices that the LESB identifies.

Whistleblower Protections

Under **current law**, a state employee may receive employment protection from retaliatory action for disclosing certain workplace abuses. Commonly referred to as "whistleblower protections," the protections apply to most state employees, if certain steps are taken to disclose

⁹ By comparison, the LESB's DAAT guide trains officers on various "defensive and arrest tactics," including: (a) an officer's immediate goals are to stabilize the scene and preserve life and evidence; (b) before an officer may use deadly force, the officer must reasonably believe that all other options have been exhausted or would be ineffective – deadly force is always a last resort; (c) the purpose for use of force is to gain control in pursuit of a legitimate law enforcement objective – verbalization is always preferable to physical force; and (d) an officer may initially use the level and degree of force that is reasonably necessary to achieve control and need not escalate step-by-step through various force alternatives. [pp. 11, 31, 77, and 89.]

the information. The protections apply to a disclosure of information that the employee reasonably believes demonstrates any of the following:

- A violation of a state or federal law or regulation.
- Mismanagement or abuse of authority in state or local government.
- A substantial waste of public funds.
- A danger to public health and safety.

When appropriately reported, the employee is then protected from retaliatory action, or a threat of retaliatory action, including dismissal, demotion, transfer, removal of any duty, reassignment, suspension, reprimand, pay reduction, or a failure to increase base pay. If it is found that retaliatory action has been taken, a number of curative steps may be required. [ss. 230.80 to 230.89, Stats.; and ch. DWD 224, Wis. Adm. Code.]

The state employee whistleblower protections do not apply to employees in local units of government. A local law enforcement officer who believes he or she has been retaliated against by an employer for disclosing workplace abuses, however, may receive some protection from retaliation under the “just cause” standard that applies to disciplinary hearings for law enforcement officers. This standard prohibits suspension, demotion, or discharge of a law enforcement officer unless there is “just cause” to sustain the charges against the officer, based on a seven-factor analysis enumerated by statute. [ss. 59.26 (8) (b) 5m., 59.52 (8) (b), 61.65 (1) (am), 62.13 (5) (em), and 62.50 (17) (b), Stats.]

Additionally, state law grants local law enforcement officers protections for exercising certain rights granted under the “Law Enforcement Officers’ Bill of Rights.” For example, an officer has certain procedural protections when subject to interrogation in an investigation that could lead to disciplinary action, demotion, dismissal, or criminal charges. [ch. 164, Stats.]

The **bill** creates a new employment-related protection for local and state law enforcement officers. Specifically, under the bill, a law enforcement officer may not be discharged, disciplined, demoted, or denied promotion, transfer, or reassignment, or otherwise discriminated against in regard to employment, or threatened with any such treatment, because the law enforcement officer did any of the following:

- Reported, or is believed to have reported, any violation of an agency’s use-of-force policy.
- Initiated, participated in, or testified in, or is believed to have initiated, participated in, or testified in, any action or proceeding regarding a violation of an agency’s use-of-force policy.
- Provided any information, or is believed to have provided any information, about a violation of an agency’s use-of-force policy.

Law Enforcement Training on De-escalation **(LRB-6274/2 and LRB-6425/1)**

Under **current law**, a law enforcement officer must generally complete 24 hours of recertification training each year. In addition, a law enforcement officer must generally complete the following training, which counts towards the annual 24-hour recertification requirement:

- Biennially, complete at least four hours of training on police pursuit from curricula based upon model standards promulgated by the LESB.

- Annually, complete a handgun qualification course from curricula based upon model standards established by the LESB.

Current law also specifies that a law enforcement agency may set recruit training, employment, and recertification training standards that are higher than the minimum standards set by the LESB. [s. 165.85 (4), Stats.]

The **bill** requires a law enforcement officer subject to the 24-hour recertification requirement to annually complete at least eight hours of scenario-based training on use-of-force options, focusing on skills and tactics that minimize the likelihood of using force, including de-escalation tactics. These hours of training count towards the annual 24-hour recertification requirement.

The bill defines “de-escalation tactics” as actions and techniques used by law enforcement officers to slow down or stabilize a potentially unstable situation to allow for more time, options, and resources for resolution or prevention of an incident.

Violence Interruption Grant Program

[\(LRB-6275/1 and LRB-6426/1\)](#)

The **bill** appropriates \$1 million to a new “violence interruption grant program,” administered by DOJ. Under this program, DOJ must provide grants to community organizations that are utilizing evidence-based outreach and violence interruption strategies to mediate conflicts, prevent retaliation and other potentially violent situations, and connect individuals to community supports. The bill funds the violence interruption grant program by reducing the appropriation for school safety grants, also administered by DOJ, during fiscal year 2020-21.

Choke Holds

[\(LRB-6276/1 and LRB-6427/1\)](#)

Current law requires law enforcement agencies to adopt written use-of-force policies, but does not specify the content that must be included in these policies. [s. 66.0511 (2), Stats.]

The **bill** requires each law enforcement agency’s use-of-force policy to ban the use of choke holds by law enforcement officers, without exceptions.¹⁰ The bill defines a “choke hold” as the intentional and prolonged application of force to the throat or windpipe that prevents or hinders breathing or reduces the intake of air.

Public Access to Use-of-Force Policies

[\(LRB-6277/1 and LRB-6428/1\)](#)

Current law requires each law enforcement agency to make its written use-of-force policy available for public scrutiny. A law enforcement agency is not required to make its use-of-force policy available on a website. [s. 66.0511 (2), Stats.]

The **bill** requires a law enforcement agency to make its use-of-force policy available on its website or, if the agency does not maintain its own site, on a website maintained by the municipality in which the law enforcement agency has jurisdiction.

¹⁰ By comparison, while the LESB’s DAAT guide does not train law enforcement officers on using a choke hold, a choke hold may be an appropriate use of force, under the DAAT guide, if it is justifiable under the circumstances, such as acting in self-defense. [p. 3.]

Unnecessarily Summoning a Law Enforcement Officer (LRB-6281/1 and LRB-6429/1)

Under **current law**, a person may bring a civil cause of action against another person for various types of intentional torts (harm). Examples of intentional torts include defamation, intentional infliction of emotional distress, and invasion of privacy. The statutes also allow a person to bring a civil cause of action for employment discrimination under the state's Fair Employment Law or housing discrimination under the Fair Housing Law.

The types of damages and costs that a person may recover depend on the type of civil action being brought. By way of example, in a claim involving emotional distress, a successful plaintiff may be awarded the following damages and costs:

- Special and general damages, including damages for emotional distress.
- Punitive damages.¹¹
- Costs, including all reasonable attorney fees and other costs of the investigation and litigation which were reasonably incurred.

The **bill** creates a new civil cause of action, allowing a person to seek damages from another who knowingly causes a law enforcement officer to arrive at a location to contact the person, with the intent to do any of the following:

- Infringe upon a right of the person under the Wisconsin Constitution or the U.S. Constitution.
- Unlawfully discriminate against the person.
- Cause the person to feel harassed, humiliated, or embarrassed.
- Cause the person to be expelled from a place in which the person is lawfully located.
- Damage the person's reputation or standing within the community.
- Damage the person's financial, economic, consumer, or business prospects or interests.

The types of damages and costs that a person may recover under the bill's new civil cause of action include the following:

- Special and general damages, including damages for emotional distress, or an amount equal to \$250 from each defendant found liable, whichever is greater.
- Punitive damages.
- Costs, including all reasonable attorney fees and other costs of the investigation and litigation that were reasonably incurred.

Collection of Use-of-Force Data (LRB-6283/2 and LRB-6430/1)

Current law requires DOJ to collect information concerning the number and nature of offenses known to have been committed in this state, along with other information that may be

¹¹ Punitive damages may be awarded if the defendant acted maliciously toward the person bringing the claim (plaintiff) or in an intentional disregard of the rights of the plaintiff. Punitive damages may not exceed twice the amount of compensatory damages or \$200,000, whichever is greater. [s. 895.043 (6), Stats.]

useful in the study of crime and the administration of justice. The information must include data requested by the Federal Bureau of Investigation (FBI) under its uniform crime reports (UCR) program.¹² DOJ may determine any other information to be obtained regarding crime and justice system statistics.¹³ All persons in charge of law enforcement agencies must supply DOJ with information based on forms provided by DOJ. [s. 165.845, Stats.]

The **bill** maintains the current-law data collection and reporting requirements and further requires law enforcement agencies to report, and DOJ to collect, specified information about the people involved in, and the circumstances surrounding, the following types of incidents:

- The shooting of a civilian by a law enforcement officer or the shooting of a law enforcement officer by a civilian.
- The discharge of a firearm by a law enforcement officer at, or in the direction of, a civilian or the discharge of a firearm by a civilian at, or in the direction of, a law enforcement officer.
- An action taken by a law enforcement officer, as a response to an act of resistance, that results in serious bodily harm or death, or an act of resistance taken by a civilian against a law enforcement officer that results in serious bodily harm or death.

Specifically, for each of these types of incidents, the bill requires DOJ to collect the following information:

- The gender, race, ethnicity, and age of each person who was shot at, injured, or killed.
- The date, time, and location of the incident.
- Whether any civilian involved in the incident was armed and, if armed, the type of weapon.
- The type of resistance used against the law enforcement officer by the civilian, the type of action taken in response by the officer, and if applicable, the types of weapons used.
- The number of law enforcement officers involved in the incident.
- The number of civilians involved in the incident.
- A brief description regarding the circumstances surrounding the incident, including perceptions on behavior or mental disorders.

Finally, the bill requires DOJ to publish an annual report that includes, at a minimum, all of the information that DOJ is required to collect, and that local law enforcement agencies are required to report to DOJ, on the types of incidents described above. DOJ may publish the annual reports electronically on its website in an interactive format.

¹² DOJ publishes the collected UCR program data on its website in an interactive format, which is available at: <https://www.doj.state.wi.us/dles/bjia/bureau-justice-information-and-analysis>.

¹³ On January 1, 2019, the FBI's UCR program launched an effort to collect data on officer-involved use-of-force incidents, referred to as the [National Use-of-Force Data Collection Program](#). According to DOJ, it began collecting use-of-force data in early 2020, and hopes to have statewide data available by 2021. DOJ's data collection is modeled on the FBI's UCR use-of-force data collection program, as well as the federal [Arrest-Related Deaths Program](#), which collects data from states on persons who died during the process of arrest or while in custody of state or local law enforcement officials, as a condition of receiving federal funds under the Byrne Justice Assistance Grant.

No-Knock Search Warrants (LRB-6289/1 and LRB-6431/1)

Under **current law**, law enforcement officers executing a search warrant must generally follow the rule of announcement, which requires an officer to do all of the following before forcibly entering a home to execute a search warrant:

- Announce their identity.
- Announce their purpose.
- Wait for either the occupants to refuse their admittance or allow the occupants time to open the door.

However, as an exception to this general “knock and announce” rule, an officer may obtain a “no-knock” search warrant if there is reasonable suspicion that an announcement would be dangerous, futile, or inhibit the investigation of the crime, such as allowing suspects to destroy evidence.¹⁴ [*State v. Eason*, 2001 WI 98 (citing *Richards v. Wisconsin*, 520 U.S. 385 (1997)).]

The **bill** generally prohibits use of “no-knock” search warrants. Specifically, the bill prohibits a law enforcement officer, when executing a search warrant, from entering the premises subject to the warrant without first identifying that he or she is a law enforcement officer and announcing the authority and purpose of the entry.

LESB Responsibilities and Disclosure of Employment Files (LRB-6292/2 and LRB-6432/1)

Employment Files

Current law does not explicitly require an employer to maintain a personnel file for each employee. However, state law specifies that for a state law enforcement officer, a disciplinary record generally may not be removed from an officer’s personnel file unless ordered by a court, ordered by the reviewing authority during the grievance process, or otherwise agreed to in a settlement agreement. Additionally, a state employee’s personnel file must be provided to another state agency that is considering making an offer of employment. Current law does not provide comparable requirements for local governmental employee files. [ss. 230.06 (4) and 230.13 (3) (c), Stats.]

LESB currently requires all state and local law enforcement agencies to report a separation from employment, including a resignation in lieu of termination, resignation prior to completion of an internal investigation, and termination for cause. The information does not include a record of other disciplinary measures, such as a suspension or written reprimand. An employing agency may contact the LESB while conducting a background investigation to determine if an applicant has previously separated for those reasons, or, if an officer gains new employment, LESB will notify the new employing agency of the officer’s flagged status.¹⁵

The **bill** requires a law enforcement agency to maintain an “employment file” for each employee, which must include all files relating to performance reviews, internal affairs investigations, personnel-related claims, disciplinary actions, substantiated complaints and

¹⁴ For more information about “no-knock” search warrants, see Legislative Council, [No-Knock Search Warrants](#), Information Memorandum (August 2020).

¹⁵ For more information on the LESB’s reporting requirements, see LESB, [Policy & Procedures Manual](#), pp. 29-31 (June 7, 2017).

commendations, and previous personnel applications. Pay or benefit information, or similar administrative information, is not included. A medical file is also not included, unless it relates to mental competency issues bearing on the person's suitability for a law enforcement agency, tribal law enforcement agency, jail, or juvenile detention officer position.

The bill further requires that a state or local employing agency be given access to a candidate's employment files. To obtain access, a candidate who has been selected to interview must execute a written waiver authorizing access to employment files maintained by a current or prior employer. The employing agency must submit the waiver to each current or prior employer at least 30 days before making its hiring decision, and the current or prior employer must provide access to the file within 21 days of receiving the waiver. Also, in addition to receiving access to a file, an employing agency may talk with individuals from the current or prior employer. A candidate who refuses to sign a waiver may not be hired, and may not be certified by LESB.

Finally, the bill specifies that a nondisclosure agreement entered into after the bill's enactment cannot prevent access to an employment file by an employing agency. The bill specifies that an employment file may exclude information that is subject to a nondisclosure agreement that was entered into before the bill's enactment.

Decertification

Under **current law**, the LESB has the authority to certify a person as being qualified to be a law enforcement officer in Wisconsin, as well as the authority to decertify a law enforcement officer for certain reasons, including a conviction of a felony or a misdemeanor crime of domestic violence. [s. 165.85 (3) (c) and (cm), Stats.]

The **bill** creates additional grounds for decertification by the LESB. Specifically, under the bill, the LESB may decertify a law enforcement officer who does any of the following:

- Violates or fails to comply with a LESB rule, policy, or order relating to recruitment.
- Is convicted of a misdemeanor crime of domestic violence, as defined under federal law.
- Is convicted of domestic abuse, as defined under state law.
- Is convicted of a crime that is subject to the imposition of Wisconsin's domestic abuse surcharge, regardless of whether any part of the surcharge was waived by the court.
- Enters into one of the following, whether pending or successfully completed, for any of the crimes listed above, and the LESB determines that certification is not in the public's best interest: a deferred judgment and sentencing agreement or deferred sentencing agreement; a deferred prosecution agreement; or a pretrial diversion agreement.

Minimum Standards Established by the LESB

Current law grants the LESB authority to establish minimum educational and training standards for admission to employment as a law enforcement or tribal law enforcement officer. [s. 165.85 (3) (b), Stats.]

The **bill** expands the LESB's authority to allow the LESB to establish minimum recruitment standards, as well. The bill also expands the types of officers to whom the minimum educational, training, and recruitment standards apply, by applying those standards to jail and juvenile detention officers.

Finally, the bill creates new authority for the LESB to establish minimum qualification standards for admission to preparatory law enforcement, jail, or juvenile detention officer

training for preservice students and recruits. However, this authority does not apply to correctional officers employed by the Department of Corrections.

Nature and Fulfillment of Minimum Standards Established by the LESB

Current law does not specify the nature of the minimum standards that must be established by the LESB, nor does current law describe the means by which those standards will be met.

The **bill** requires that educational and training standards established by the LESB, as well as the recruitment and qualification standards newly authorized by the bill, relate to the competence and reliability of persons to assume and discharge the responsibilities of the particular types of law enforcement officers to whom the respective standards apply. The bill also requires that the LESB prescribe the means for presenting evidence of fulfillment of these requirements.

Marquette University Police Officers

For purposes of the LESB's powers and duties, **current law** defines "law enforcement officer" to include an officer employed by the Marquette University police department. Separately, for purposes of the crime of battery to a law enforcement officer, a "law enforcement officer" generally means any person who currently is or was employed by the state, by any political subdivision, or as a tribal law enforcement officer. [ss. 165.85 (2) (c) and 940.203 (1) (c), Stats.]

The **bill** clarifies that, for purposes of the LESB's powers and duties, the definition of "law enforcement agency" includes the Marquette University police department. In addition, the bill expands the crime of battery to a law enforcement officer to also apply to a Marquette University police officer.

LESB Rulemaking Authority

Current law grants the LESB authority to promulgate rules to administer s. 165.85, Stats., the statute governing the LESB. Such rule-making authority includes the authority to require law enforcement and tribal law enforcement agencies to submit reports and information to the LESB. [s. 165.85 (3) (a), Stats.]

The **bill** expands the LESB's rulemaking authority to include the authority to require the submission of reports and information by jails, juvenile detention facilities, and training schools approved by the LESB that are operated by or for the state or any political subdivision of the state.

This information memorandum was prepared by Amber Otis, Staff Attorney; and Margit Kelley and Melissa Schmidt, Senior Staff Attorneys, on August 27, 2020 (updated January 6, 2021).