

DLL:tlu

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1 **AN ACT** *to amend* 165.90 (4) (intro.) and 165.90 (4) (b); and *to create* 165.90 (3m)
2 (d), 165.90 (4g) and 165.90 (4r) of the statutes; **relating to:** cooperative
3 county–tribal law enforcement programs.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This draft was prepared for the special committee on state–tribal relations. It makes a number of changes to the cooperative county–tribal law enforcement program. Under this program, administered by the department of justice (DOJ), a county and a tribe located in that county may develop a joint program plan for the enhancement of law enforcement on the tribe’s reservation and submit the plan to DOJ for funding.

The draft requires that DOJ disburse the aid directly to the tribe if the tribe operates a police department. It does not specify how the aid must be distributed if the tribe does *not* operate a police department.

The draft prohibits DOJ from approving aid to a county if the program in which that county is a partner received aid in the prior year and DOJ determines that the sheriff of that county has not maintained or increased his or her law enforcement effort on the reservation during that year.

The draft requires that the county and tribe meet at least [twice] [three times] [four times] over the course of a year to evaluate the program and adjust the program as necessary to achieve its purpose.

Under current law, prior to receiving aid for a second or subsequent year, the county and tribe must submit a report to DOJ regarding the performance of law enforcement activities on the reservation during the prior year. The draft requires that the annual report specify how the recipients complied with the two preceding requirements and that DOJ consider this information in determining whether to approve a program plan.

4 **SECTION 1.** 165.90 (3m) (d) of the statutes is created to read:
5 165.90 (**3m**) (d) Whether the the county and the tribe have complied with sub. (4r) and
6 the sheriff of the county has complied with sub. (4g).

1 **SECTION 2.** 165.90 (4) (intro.) of the statutes is amended to read:

2 165.90 (4) (intro.) If the department approves a plan, the department shall certify the
3 program as eligible to receive aid under s. 20.455 (2) (kt). Prior to January 15, of the year for
4 which funding is sought, the department shall distribute from the appropriations under s.
5 20.455 (2) (kt) to each eligible program the amount necessary to implement the plan. If the
6 tribe operates a police department, the department shall disburse the aid to the tribe.
7 Disbursement of aid shall be subject to the following limitations:

COMMENT: This provision does not specify how DOJ must disburse aid if the tribe does *not* operate a police department. An alternative the committee may wish to consider is to require that the joint program plan specify how aid funds are to be distributed between the tribe and county and that DOJ disburse aid directly to the tribe or county, or both, according to the plan (unless sub. (4g) prohibits aid to a county; see SECTION 4, below).

 Note that current s. 165.90 (2) (c) requires that the joint program plan specify the unit of government that will administer aid received and the method by which aid will be disbursed. Whichever option the committee chooses, it will be necessary to change s. 165.90 (2) (c) accordingly.

8 **SECTION 3.** 165.90 (4) (b) of the statutes is amended to read:

9 165.90 (4) (b) A program shall, prior to the receipt of funds under s. 20.455 (2) (kt) for
10 the 2nd and any subsequent year, submit a report to the department regarding the performance
11 of law enforcement activities on the reservation in the previous fiscal year. The report shall
12 describe the meetings held under sub. (4r) and any adjustments to the joint project plan that
13 resulted from those meetings, and how the sheriff of the county complied with sub. (4g).

14 **SECTION 4.** 165.90 (4g) of the statutes is created to read:

15 165.90 (4g) In approving a joint program plan under sub. (3m), the department may not
16 approve aid for a county if the program received aid under sub. (4) in the prior year and the

1 department determines that the sheriff of that county did not maintain or increase his or her
2 law enforcement effort on the reservation during that year.

COMMENT: This provision potentially penalizes a county under this program if the sheriff does not maintain law enforcement effort on the reservation. However, it would appear that such a penalty would remove any incentive for the county to cooperate with the tribe, which is the purpose of the program. As an alternative, this could be written as a requirement without a penalty. That would make the maintenance of effort a requirement of the program and a subject for review in the negotiation with the tribe and the approval by DOJ of joint program plans.

Note also that this provision does not address any reductions in the sheriff's law enforcement effort on the reservation that may have occurred prior to enactment of this provision.

3 **SECTION 5.** 165.90 (4r) of the statutes is created to read:

4 165.90 **(4r)** Not less than [twice] [three times] [four times] in each year that a program
5 receives aid under sub. (4), the county and tribe shall meet to evaluate the implementation of
6 the joint program plan and make any adjustments to the program that are necessary to
7 accomplish the purposes of the plan.

COMMENT: The committee will need to decide how many times during a year it wants the tribe and county to meet.

8 **(END)**