



**LAWS RELATING TO DOMESTIC ABUSE: ARREST AND PROSECUTION,
TEMPORARY RESTRAINING ORDERS AND INJUNCTIONS, AND OTHER LAWS**

Information Memorandum 96-19

**Wisconsin Legislative Council Staff
One East Main Street, Suite 401
Madison, Wisconsin
Telephone: (608) 266-1304**

July 12, 1996

*Information Memorandum 96-19**

**LAWS RELATING TO DOMESTIC ABUSE: ARREST AND PROSECUTION,
TEMPORARY RESTRAINING ORDERS AND INJUNCTIONS, AND OTHER LAWS**

INTRODUCTION

This Information Memorandum describes Wisconsin laws relating to domestic abuse, concentrating on laws relating to: (a) arrest and prosecution in domestic abuse incidents; and (b) domestic abuse temporary restraining orders (TROs) and injunctions. This Information Memorandum replaces Information Memorandum 90-16, *Law on Arrest and Prosecution in Domestic Abuse Incidents, as Affected by 1989 Wisconsin Act 293*, dated June 11, 1990.

All citations in this Information Memorandum are to the Wisconsin statutes, as affected by laws enacted during the 1995-96 Legislative Session.

Copies of all acts referred to in this Information Memorandum may be obtained from the Documents Room, Lower Level, One East Main Street, Madison, Wisconsin 53702; telephone: (608) 266-2400.

This Information Memorandum is divided into the following parts:

	<u>Page</u>
I. DESCRIPTION OF THE DOMESTIC ABUSE ARREST AND PROSECUTION LAW	3
A. Background	3
B. Legislative Intent and Purpose of Law	4
C. Definition of Domestic Abuse	5
D. Circumstances Requiring Arrest for Domestic Abuse	5
E. Law Enforcement Policies	5
F. Written Report Required Where No Arrest	7
G. Contact Prohibition; Waiver	7

* This Information Memorandum was prepared by Don Salm, Senior Staff Attorney, Legislative Council Staff.

	<u>Page</u>
H. Conditional Release of Person Arrested	8
I. Increased Penalty for Certain Domestic Abuse Offenses	9
J. Law Enforcement Officer Immunity	9
K. Prosecution Policies	9
L. Education And Training	10
M. Annual Report by District Attorney	10
II. DESCRIPTION OF DOMESTIC ABUSE TEMPORARY RESTRAINING ORDERS AND INJUNCTIONS LAW	11
A. Definitions	11
B. Commencement of Action and Response	11
C. Two-Part Procedure	12
D. Temporary Restraining Order	12
E. Injunction	13
F. Notice of Restriction on Firearm Possession; Surrender of Firearms	14
G. Petition	15
H. Enforcement Assistance	16
I. Arrest	17
J. Transcripts	17
K. Penalty	17
L. Notice of Full Faith and Credit	18
III. OTHER STATUTES RELATING TO DOMESTIC ABUSE	19
APPENDIX A - Criminal Victimization in the United States, 1993	21
APPENDIX B - Sections 165.83 (1) (b), 175.35 (2g) (c), 806.247, 940.225 (1), (2) and (3) and 941.29, Stats.	25
APPENDIX C - Other Statutes Relating to Domestic Abuse; Sections 46.95, 165.85 (4) (b) and 940.19, Stats.	31

I. DESCRIPTION OF THE DOMESTIC ABUSE ARREST AND PROSECUTION LAW

A. BACKGROUND

A 1986 report noted the following statistics relating to domestic abuse:

- Each year an estimated **200,000** Wisconsin women are battered.
- Nationally, **30%** of female homicide victims are killed by family members or boyfriends.
- Nationally, **70%** of all emergency room assault cases are wife beatings; **20%** of all emergency room visits by women are attributed to domestic abuse.
- Nationally, **75%** of metropolitan police time is expended to respond to domestic abuse incidents; rural police and sheriff's departments estimate that more than **35%** of their time is devoted to responding to such incidents [from *Choices for Battered Women in Wisconsin: The Next Five Years*, prepared by the Governor's Council on Domestic Abuse, Wisconsin Coalition Against Woman Abuse and the Office for Children, Youth and Families (June 1986)].

As a partial response to this problem, the domestic abuse arrest and prosecution law [ss. 939.621 and 968.075, Stats.] was created by 1987 Wisconsin Act 346. Legislation was introduced in the 1989 and 1995 Legislative Sessions in response to suggestions for improving the administration and operation of the law. This legislation (1989 Assembly Bill 249 and 1995 Assembly Bill 229) was enacted as 1989 Wisconsin Act 293 (effective May 8, 1990) and 1995 Wisconsin Act 304 (effective May 16, 1996), respectively.

The domestic abuse arrest and prosecution law requires arrest for domestic abuse under certain circumstances and requires law enforcement agencies to develop pro-arrest policies for other domestic abuse incidents. Representative Shirley Krug, the author of the legislation creating and revising the domestic abuse arrest law, noted in committee testimony that:

A great deal of recent evidence points to **arrest** as being the course of action most likely to **reduce repeat (domestic abuse offenses)**....

Don't the police **always** arrest people suspected of violent assaults? The answer is that, sadly, they don't, especially when the assault takes place in the home/family setting. **A man's home is his castle** has been the rule of tradition. In many places, this tradition takes

precedence when a law enforcement officer is deciding whether or not to arrest the perpetrator of a violent assault.

The traditional alternatives to arrest, counseling the parties or separating them temporarily have been shown to be *far less effective* in reducing *repeat assaults*. The argument that arresting an abuser increases the chance that violent retribution will be directed at the victim is simply not supported by the evidence.

Recent national statistics relating to domestic and family violence are attached as *Appendix A*.

B. LEGISLATIVE INTENT AND PURPOSE OF LAW

1987 Wisconsin Act 346, the original domestic abuse arrest and prosecution law, contains the following statement of legislative intent and purpose:

1. The Legislature *finds* that societal attitudes have been reflected in policies and practices of law enforcement agencies, prosecutions and courts. Under these policies and practices, the treatment of a crime may vary widely depending on the relationship between the criminal offender and the victim of the crime. Only recently has public perception of the serious consequences of domestic violence to society and to individual victims led to the recognition of the necessity for early intervention by the criminal justice system.
2. The Legislature *intends*, by passage of [Act 346], that:
 - a. The official response to cases of domestic violence stress the enforcement of the laws, protect the victim and communicate the attitude that violent behavior is neither excused nor tolerated.
 - b. Criminal laws be enforced without regard to the relationship of the persons involved.
 - c. District attorneys document the extent of domestic violence incidents requiring the intervention of law enforcement agencies.
 - d. Law enforcement agencies be encouraged to provide adequate training to officers handling domestic violence incidents.
3. The *purpose* of [Act 346] is to recognize domestic violence as involving serious criminal offenses and to provide increased protection for the victims of domestic violence (emphasis added).

C. DEFINITION OF DOMESTIC ABUSE

As defined under the domestic abuse arrest and prosecution law, “domestic abuse” is defined to mean *any* of the following engaged in by an adult person against his or her spouse or former spouse, against an adult with whom the person resides or formerly resided or against an adult with whom the person has a child in common:

1. Intentional infliction of physical pain, physical injury or illness.
2. Intentional impairment of physical condition.
3. A violation of s. 940.225 (1), (2) or (3), Stats., relating to first-, second- and third-degree sexual assault. Copies of these provisions are attached as part of **Appendix B**.
4. A physical act that may cause the other person reasonably to fear imminent engagement in the conduct described under item 1, 2 or 3 [s. 968.075 (1) (a), Stats.].

D. CIRCUMSTANCES REQUIRING ARREST FOR DOMESTIC ABUSE

Under the domestic abuse arrest and prosecution law, a law enforcement officer must arrest and take a person into custody if:

1. The officer has *reasonable grounds* to believe that the person is committing or has committed *domestic abuse* and that the person’s actions constitute the commission of a crime; *and*
2. *Either or both* of the following circumstances are present:
 - a. The officer has a reasonable basis for believing that *continued domestic abuse* against the alleged victim *is likely*.
 - b. There is evidence of *physical injury* to the alleged victim [s. 968.075 (2) (a), Stats.].

If the officer’s reasonable grounds for belief that domestic abuse has been committed is based on a report of an alleged domestic abuse incident, the officer is required to make an arrest under the domestic abuse arrest law only if the report is received *within 28 days* after the incident is alleged to have occurred by the officer or the “law enforcement agency” (as defined in s. 165.83 (1) (b), Stats., a copy of which is attached as part of **Appendix B**, that employs the officer [s. 968.075, Stats.].

E. LAW ENFORCEMENT POLICIES

Under the domestic abuse arrest and prosecution law, each law enforcement agency is required to develop, adopt and implement *written* policies regarding arrest procedures for

domestic abuse incidents. The policies must include, but not be limited to, statements emphasizing that:

1. In most circumstances, other than those in Section D, above (i.e., where arrest is required), a law enforcement officer “*should* arrest” and take a person into custody if the officer has reasonable grounds to believe: (a) that the person is committing or has committed domestic abuse; *and* (b) that the person’s actions constitute the commission of a crime.

2. When the officer has *reasonable grounds* to believe that spouses, former spouses or other persons who reside together or formerly resided together are committing or have committed domestic abuse against each other, the officer does not have to arrest both persons, but should arrest the person whom the officer believes to be the “*primary physical aggressor*.” In determining who is the primary physical aggressor, an officer should consider: (a) the intent of this statutory section to protect victims of domestic violence; (b) the relative degree of injury or fear inflicted on the persons involved; and (c) any history of domestic abuse between these persons, if that history can reasonably be ascertained by the officer.

3. A law enforcement officer’s decision as to whether or not to arrest may not be based on either: (a) the *consent of the victim* to any *subsequent prosecution*; or (b) the *relationship* of the persons involved in the incident.

4. A law enforcement officer’s decision not to arrest may *not* be based solely upon the absence of *visible indications* of injury or impairment [s. 968.075 (3) (a) 1., Stats.].

The policies must also include:

1. A *procedure* for the *written report and referral* required where no arrest is made (see Section F, on page 7, below);

2. A *procedure* for *notifying* the alleged victim of the domestic incident of the “no contact” and waiver provisions described in Section G, 3, on page 8, below; and

3. A *procedure* for *notifying* the alleged victim of the domestic abuse incident of the procedure for releasing the arrested person and the likelihood and probable time of the arrested person’s release [s. 968.075 (a) 2. and 3., Stats.].

In the development of these policies, each law enforcement agency is encouraged to consult with community organizations and other law enforcement agencies with expertise in the recognition and handling of domestic abuse incidents [s. 968.075 (3) (b), Stats.].

The domestic abuse arrest and prosecution law specifies that these policy provisions do not limit the authority of a law enforcement agency to establish policies that require arrests under more circumstances than the statutorily prescribed circumstances described in Section D, on page 5, above [s. 968.075 (3) (c), Stats.].

F. WRITTEN REPORT REQUIRED WHERE NO ARREST

The domestic abuse arrest and prosecution law requires a law enforcement officer, who does **not** make an arrest in a domestic abuse incident, to prepare a **written report** stating why the person was not arrested. A report is required only in cases where the officer has reasonable grounds to believe that: (1) a person is committing or has committed domestic abuse; and (2) the person's acts constitute the commission of a crime.

The report must be sent to the district attorney's office, in the county where the acts took place, immediately after investigation of the incident has been completed. The district attorney must review the report to determine whether the person involved in the incident should be charged with the commission of a crime [s. 968.075 (4), Stats.].

G. CONTACT PROHIBITION; WAIVER

1. "No Contact" Requirement; Penalty

Under the domestic abuse arrest and prosecution law, unless there is a waiver by the alleged victim (see item 2, below), during the **72 hours immediately following** an arrest for a domestic abuse incident, the arrested person is required to:

- a. Avoid the residence of the alleged victim of the domestic abuse incident and, if applicable, any premises temporarily occupied by the alleged victim; and
- b. Avoid contacting or causing any person, other than law enforcement officers and attorneys for the arrested person and alleged victim, to contact the alleged victim [s. 968.075 (5) (a) 1., Stats.].

A law enforcement officer is **required** to arrest and take a person into custody, if the officer has reasonable grounds to believe that the person has violated the "no contact" requirements. An arrested person who intentionally violates this "no contact" provision is required to **forfeit not more than \$1,000** [s. 968.075 (5) (a) 2., Stats.].

2. Waiver

At any time during the 72-hour period, the alleged victim may sign a **written waiver** of the "no contact" provision. The law enforcement agency must have a waiver form available [s. 968.075 (5) (c), Stats.].

3. Notice Requirements

a. Notice to Arrested Person if There Is no Waiver

Unless there is a waiver, a law enforcement officer or other person who releases a person for a domestic abuse incident from custody less than 72 hours after the arrest must inform the arrested person orally and in writing of:

- (1) The “no contact” provision requirements;
- (2) The consequences of violating the requirements; and
- (3) The possibility of an increased penalty under s. 939.621, Stats., for domestic abuse crimes committed during the 72 hours after arrest (see Section I, on page 9, below).

The arrested person must sign an *acknowledgment* on the written notice that he or she has received the notice and understands the “no contact” requirements, the consequences of violating the requirements and the increased penalty provisions under s. 939.621, Stats. If the arrested person *refuses to sign* an acknowledgment on the notice, he or she may not be released from custody.

Failure to give this notice to an arrested person who is lawfully released from custody *bars* prosecution for violation of the “no contact” requirements (see item 1, on page 7, above). However, failure to give the notice to the arrested person does *not* prevent application of the increased penalty provisions under s. 939.621, Stats., to domestic abuse crimes committed by the person within 72 hours after his or her arrest [s. 968.075 (5) (b) 1. and 3., Stats.].

b. Notice to Arrested Person if There Is a Waiver

If there is a waiver and the person is released, the law enforcement officer or other person who releases the arrested person must inform the arrested person orally and in writing of the waiver and the increased penalty provisions under s. 939.621, Stats. [s. 968.075 (5) (b) 2., Stats.].

c. Notice to Alleged Victim

The law enforcement agency responsible for the arrest of a person for a domestic abuse incident must notify the alleged victim of the “no contact” requirements and the possibility of, procedure for and effect of a *waiver* of these requirements [s. 968.075 (5) (d), Stats.].

H. CONDITIONAL RELEASE OF PERSON ARRESTED

Under the domestic abuse arrest and prosecution law, a person arrested and taken into custody for a domestic abuse incident is eligible for conditional release. As part of the conditions of any such release that occurs during the 72 hours immediately following arrest, the person must be required to: (1) comply with the “no contact” provisions; and (2) sign an

acknowledgment that he or she has received notice of the “no contact” provisions and the increased penalty provisions. These requirements do not apply if there is a written waiver of the “no contact” provisions.

The arrested person’s release must be conditioned upon his or her *signed agreement* to refrain from any threats or acts of domestic abuse against the alleged victim or other person [s. 968.075 (6), Stats.].

I. INCREASED PENALTY FOR CERTAIN DOMESTIC ABUSE OFFENSES

A separate statutory section of the domestic abuse arrest and prosecution law specifies that, if a person commits an act of domestic abuse and the act constitutes the commission of a crime, the maximum term of imprisonment for that crime *may* be increased by *not more than two years*, if the crime is committed *during the 72 hours immediately following* an arrest for a domestic abuse incident. The 72-hour period applies *whether or not* there has been a *waiver* by the victim.

The victim of the domestic abuse crime does *not* have to be the same as the victim of the domestic abuse incident that resulted in the arrest (i.e., the victim could be a spouse, former spouse, an adult with whom the person resides or formerly resided or against an adult with whom the person has a common child). For example, the increased penalty is applicable to a person who is arrested for abusing his or her spouse and then, within the 72-hour period following the arrest, abuses his or her parent who also resides with the person.

If the domestic abuse offense is a misdemeanor, the increased penalty changes the status of the offense from a misdemeanor to a felony [s. 939.621, Stats.].

J. LAW ENFORCEMENT OFFICER IMMUNITY

Under the domestic abuse arrest and prosecution law, a law enforcement officer is immune from *civil and criminal liability* arising out of a decision by the officer to arrest or not arrest an alleged domestic abuse offender, if the officer’s decision is made in a *good faith* effort to comply with the law [s. 968.075 (6m), Stats.].

K. PROSECUTION POLICIES

Under the domestic abuse arrest and prosecution law, each district attorney’s office is required to develop, adopt and implement written policies encouraging the prosecution of domestic abuse offenses. The policies must include, but not be limited to, the following:

1. A policy indicating that a prosecutor’s decision not to prosecute a domestic abuse incident *should not be based*:
 - a. Solely upon the absence of *visible indications* of injury or impairment;

b. Upon the victim's *consent* to any *subsequent* prosecution of the other person involved in the incident; or

c. Upon the *relationship* of the persons involved in the incident [s. 968.075 (7) (a), Stats.].

2. A policy indicating that when any domestic abuse incident is reported to the district attorney's office, including an officer's report where no arrest is made (see Section F, on page 7, above), a charging decision by the district attorney should, absent extraordinary circumstances, be made *not later than two weeks* after the district attorney has received notice of the incident [s. 968.075 (7) (b), Stats.].

L. EDUCATION AND TRAINING

The domestic abuse arrest and prosecution law specifies that any education and training by a law enforcement agency on the handling of domestic abuse complaints must stress enforcement of criminal laws in domestic abuse incidents and protection of the alleged victim. Law enforcement agencies and community organizations with expertise in the recognition and handling of domestic abuse incidents are required, under the law, to cooperate in all aspects of the training [s. 968.075 (8), Stats.].

M. ANNUAL REPORT BY DISTRICT ATTORNEY

Under the domestic abuse arrest and prosecution law, each district attorney is required to submit an annual report to the Department of Justice (DOJ) listing all of the following:

1. The number of *arrests* for domestic abuse incidents in his or her county as compiled and furnished by the law enforcement agencies within the county.

2. The number of *subsequent prosecutions* and convictions of the persons arrested for domestic abuse incidents.

The listing of the number of arrests, prosecutions and convictions must include categories by statutory reference to the offense involved and include totals for all categories [s. 968.075 (9), Stats.].

II. DESCRIPTION OF DOMESTIC ABUSE TEMPORARY RESTRAINING ORDERS AND INJUNCTIONS LAW

A. DEFINITIONS

Section 813.12, Stats., the domestic abuse temporary restraining orders and injunction statute, defines the following terms:

1. “*Domestic abuse*” means any of the following engaged in by an adult family member or adult household member against another adult family member or adult household member, by an adult against his or her adult former spouse or by an adult against an adult with whom the person has a child in common:

- a. Intentional infliction of physical pain, physical injury or illness.
- b. Intentional impairment of physical condition.
- c. A violation of s. 940.225 (1), (2) or (3), Stats.
- d. A threat to engage in the conduct under item 1., 2. or 3.

2. “Family member” means a spouse, a parent, a child or a person related by consanguinity to another person.

3. “Household member” means a person currently or formerly residing in a place of abode with another person.

4. “Tribal court” means a court established by any federally recognized Wisconsin Indian tribe or band, except the Menominee Indian Tribe of Wisconsin.

5. “Tribal order or injunction” means a TRO or injunction issued by a tribal court under a tribal domestic abuse ordinance adopted in conformity with this statute [s. 813.12 (1), Stats.].

B. COMMENCEMENT OF ACTION AND RESPONSE

No action under this statute may be commenced by complaint and summons. An action may be commenced only by a petition described under Section G, below. The action commences with service of the petition upon the respondent if a copy of the petition is filed before service or promptly after service. If the judge or family court commissioner (FCC) extends the time for a hearing under Section D, 4, below, and the petitioner files an affidavit with the court stating that personal service by the sheriff or a private server under s. 801.11 (1) (a) or (b), Stats., was unsuccessful because the respondent is avoiding service by concealment or otherwise, the petitioner may serve the respondent: (1) by publication of the petition as a Class 1 notice,

under ch. 985, Stats.; **and** (2) by mailing if the respondent's post office address is known or can with due diligence be ascertained. The mailing may be omitted if the post office address cannot be ascertained with due diligence.

A petition may be filed in conjunction with an action affecting the family commenced under ch. 767, Stats., but commencement of an action affecting the family or any other action is **not necessary** for the filing of a petition or the issuance of a TRO or an injunction. A judge or FCC may not make findings or issue orders under s. 767.23 or 767.24, Stats. (temporary orders and orders relating to final legal custody and physical placement of a child), while granting relief requested only under s. 813.12, Stats. Section 813.06, Stats. (security for damages), does not apply to an action under this section. The respondent may respond to the petition either in writing before or at the hearing on the issuance of the injunction or orally at that hearing [s. 813.12 (2), Stats.].

C. TWO-PART PROCEDURE

Procedure for an action under s. 813.12, Stats., is in two parts. First, if the petitioner requests a TRO, the court must issue or refuse to issue that order (see Section D, below). Second, the court must hold a hearing under Section E, below, on whether to issue an injunction, which is the final relief. If the court issues a TRO, the order must set forth the date for the hearing on an injunction. If the court does not issue a TRO, the date for the hearing must be set upon motion by either party [s. 813.12 (2m), Stats.].

D. TEMPORARY RESTRAINING ORDER

Section 813.12 (3), Stats., provides that:

1. A judge or FCC must issue a TRO ordering the respondent to refrain from committing acts of domestic abuse against the petitioner, to avoid the petitioner's residence, except as provided in item 2, below, or any premises temporarily occupied by the petitioner or both, or to avoid contacting or causing any person other than a party's attorney to contact the petitioner **unless the petitioner consents in writing**, or any combination of these remedies requested in the petition, **if all of the following occur**:

a. The petitioner submits to the judge or FCC a petition alleging the elements set forth under Section G, 1, below.

b. The judge or FCC finds **reasonable grounds** to believe that the respondent has engaged in, or based on prior conduct of the petitioner and the respondent may engage in, domestic abuse of the petitioner. In determining whether to issue a TRO, the judge or FCC is required to consider the potential danger posed to the petitioner and the pattern of abusive conduct of the respondent. However, the judge or FCC may not base his or her decision solely on the length of time since the last domestic abuse or the length of time since the relationship ended. The judge or FCC may grant only the remedies requested or approved by the petitioner.

2. If the petitioner and the respondent are not married, the respondent owns the premises where the petitioner resides and the petitioner has no legal interest in the premises, in lieu of ordering the respondent to avoid the petitioner's residence under item 1, above, the judge or FCC *may* order the respondent to ***avoid the premises for a reasonable time until the petitioner relocates*** and must order the respondent to avoid the new residence for the duration of that order.

3. Notice need not be given to the respondent before issuing a TRO under this provision. A TRO may be entered only against the respondent named in the petition.

4. The TRO is in effect until a hearing is held on issuance of an injunction under Section E, below. The TRO is not voided if the respondent is admitted into a dwelling that the order directs him or her to avoid. A judge or FCC is required to hold a hearing on issuance of an injunction within seven days after the TRO is issued, ***unless*** the time is extended upon the written consent of the parties or extended once for 14 days upon a finding that the respondent has not been served with a copy of the TRO although the petitioner has exercised due diligence.

5. The judge or FCC must advise the petitioner of the right to serve the respondent the petition by published notice if with due diligence the respondent cannot be served as provided under s. 801.11 (1) (a) or (b), Stats. The ***clerk of circuit court is required to assist the petitioner*** with the preparation of the notice and filing of the affidavit of printing [s. 813.12 (3), Stats.].

E. INJUNCTION

1. A judge or FCC ***may grant*** an injunction ordering the respondent to refrain from committing acts of domestic abuse against the petitioner, to avoid the petitioner's residence, except as provided in item 2, below, or any premises temporarily occupied by the petitioner or both, or to avoid contacting or causing any person other than a party's attorney to contact the petitioner ***unless the petitioner consents to that contact in writing***, or any combination of these remedies requested in the petition, ***if all of the following occur***:

a. The petitioner files a petition alleging the elements set forth under Section G, 1, below.

b. The petitioner serves upon the respondent a copy of the petition and notice of the time for hearing on the issuance of the injunction, or the respondent serves upon the petitioner notice of the time for hearing on the issuance of the injunction.

c. After hearing, the judge or FCC finds ***reasonable grounds*** to believe that the respondent has engaged in, or based upon prior conduct of the petitioner and the respondent may engage in, domestic abuse of the petitioner. In determining whether to issue an injunction, the judge or FCC must consider the potential danger posed to the petitioner and the pattern of abusive conduct of the respondent. However, the judge or FCC may not base his or her decision solely on the length of time since the last domestic abuse or the length of time since the relationship ended. The judge or FCC may grant only the remedies requested by the petitioner.

2. If the petitioner and the respondent are not married, the respondent owns the premises where the petitioner resides and the petitioner has no legal interest in the premises, in lieu of ordering the respondent to avoid the petitioner's residence under item 1, above, the judge or FCC *may* order the respondent to avoid the premises for a reasonable time until the petitioner relocates and *must* order the respondent to avoid the new residence for the duration of that order.

3. The judge or FCC may enter an injunction only against the respondent named in the petition. No injunction may be issued under this provision under the same case number against the person petitioning for the injunction. The judge or FCC may not modify an order restraining the respondent based solely on the request of the respondent.

4. An injunction under this provision is effective according to its terms, for the period of time that the petitioner requests, *but not more than two years*. Such an injunction granted is *not voided* by the admittance of the respondent into a dwelling that the injunction directs him or her to avoid.

When an injunction granted *for less than two years* expires, the court must *extend* the injunction if the petitioner states that an extension is necessary to protect him or her. This extension must remain in effect *until two years after the date the court first entered the injunction*. Notice need not be given to the respondent before extending an injunction under this provision. Also, the petitioner is required to notify the respondent after the court extends an injunction [s. 813.12 (4), Stats.].

F. NOTICE OF RESTRICTION ON FIREARM POSSESSION; SURRENDER OF FIREARMS

1. An injunction issued under Section E, above, *must do all of the following*:

a. Inform the respondent named in the petition of the requirements and penalties under s. 941.29, Stats. [a copy of which is attached as part of *Appendix B*].

b. *Except as provided in item 3, below*, require the respondent to surrender any firearms that he or she owns or has in his or her possession to the sheriff of the county in which the action under s. 813.12, Stats., was commenced, to the sheriff of the county in which the respondent resides or to another person designated by the respondent and approved by the judge or FCC. The judge or FCC is required to approve the person designated by the respondent unless the judge or FCC finds that the person is inappropriate and places the reasons for the finding on the record. If a firearm is surrendered to a person designated by the respondent and approved by the judge or FCC, the judge or FCC is required to inform the person to whom the firearm is surrendered of the requirements and penalties under s. 941.29 (4), Stats.

2. If the respondent is a *peace officer*, an injunction issued under Section E, above, may not require the respondent to surrender a firearm that he or she is required, *as a condition* of employment, to possess whether or not he or she is *on duty*.

3. When a respondent surrenders a firearm under item 1, b, above, to a sheriff, the sheriff who is receiving the firearm is required to prepare a *receipt* for each firearm surrendered to him or her. The receipt must include the manufacturer, model and serial number of the firearm surrendered to the sheriff and must be signed by the respondent and by the sheriff to whom the firearm is surrendered. The sheriff must keep the original of a receipt and must provide an exact copy of the receipt to the respondent. When the firearm covered by the receipt is returned to the respondent under item 5, below, the sheriff is required to surrender to the respondent the original receipt and all of his or her copies of the receipt. A receipt is conclusive proof that the respondent owns the firearm for purposes of returning the firearm covered by the receipt to the respondent under item 5, below. The sheriff may not enter any information contained on a receipt into any computerized or direct electronic data transfer system in order to store the information or disseminate or provide access to the information.

4. A sheriff may *store* a firearm surrendered to him or her under item 1, b, above, in a warehouse that is operated by a public warehouse keeper licensed under ch. 99, Stats. If a sheriff stores a firearm at a warehouse under this provision, the respondent must pay the costs charged by the warehouse for storing that firearm.

5. A firearm surrendered under item 1, b, above may not be returned to the respondent *until a judge or FCC determines all of the following:*

a. That the injunction issued under Section E, above, has been vacated or has expired and not been extended.

b. That the person is not prohibited from possessing a firearm under any state or federal law or by the order of any federal court or state court, other than an order from which the judge or FCC is competent to grant relief.

6. If a respondent surrenders a firearm under item 1, b, above, that is owned by a person other than the respondent, the person who owns the firearm may apply for its return to the circuit court for the county in which the person to whom the firearm was surrendered is located. The court is required to order such notice as it considers adequate to be given to all persons who have or may have an interest in the firearm and shall hold a hearing to hear all claims to its true ownership. If the right to possession is proved to the court's satisfaction, it must order the firearm returned. If the court returns a firearm under this provision, the court must inform the person to whom the firearm is returned of the requirements and penalties under s. 941.29 (4), Stats. [s. 813.12 (4m), Stats.].

G. PETITION

1. The petition must allege facts sufficient to show the following:

a. The name of the petitioner and that the petitioner is the alleged victim.

b. The name of the respondent and that the respondent is an adult.

c. That the respondent engaged in, or based on prior conduct of the petitioner and the respondent may engage in, domestic abuse of the petitioner.

2. The petition must request that the respondent be restrained from committing acts of domestic abuse against the petitioner, that the respondent be ordered to avoid the petitioner's residence, or that the respondent be ordered to avoid contacting the petitioner or causing any person other than the respondent's attorney to contact the petitioner ***unless the petitioner consents to the contact in writing***, or any combination of these requests.

3. The clerk of circuit court must provide the simplified forms provided under s. 46.95 (3) (c), Stats. (developed by the Council on Domestic Abuse and the Judicial Council), to help a person file a petition.

4. A judge or FCC is required to accept ***any legible petition*** for a TRO or injunction [s. 813.12 (5), Stats.].

H. ENFORCEMENT ASSISTANCE

1. If an order is issued under s. 813.12, Stats., upon request by the petitioner, the court or FCC is required to order the sheriff to ***accompany the petitioner*** and ***assist*** in placing him or her in physical possession of his or her residence or to otherwise assist in executing or serving the TRO or injunction. The petitioner may, at the petitioner's expense, use a ***private process server*** to serve papers on the respondent.

a. If an injunction is issued or extended under Section E, above, or if a tribal injunction is filed under s. 806.247 (3), Stats. (a copy of s. 806.247, Stats., relating to full faith and credit for foreign protection orders, is attached as part of ***Appendix B***), the clerk of the circuit court must notify the DOJ of the injunction and must provide the DOJ with information concerning the period during which the injunction is in effect and information necessary to identify the respondent for purposes of a firearms restrictions record search under s. 175.35 (2g) (c), Stats. (a copy of which is attached as part of ***Appendix B***).

b. Except as provided in item c, below, the DOJ may disclose information that it receives under item a, above, only as part of a firearms restrictions record search under s. 175.35 (2g) (c), Stats.

c. The DOJ must disclose any information that it receives under item a, above, to a law enforcement agency when the information is needed for law enforcement purposes.

2. Within one business day after an order or injunction is issued, extended, modified or vacated under s. 813.12, Stats., the clerk of the circuit court is required to send a copy of the order or injunction, or of the order extending, modifying or vacating an order or injunction, to the sheriff or to any other local law enforcement agency which is the central repository for orders and injunctions and which has jurisdiction over the petitioner's premises.

3. *No later than 24 hours* after receiving the information under item 2, above, the sheriff or other appropriate local law enforcement agency under item 2, above, must enter the information concerning an order or injunction issued, extended, modified or vacated under s. 813.12, Stats., into the Transaction Information for Management of Enforcement System. The sheriff or other appropriate local law enforcement agency must also make available to other law enforcement agencies, through a verification system, information on the existence and status of any order or injunction issued under s. 813.12, Stats. The information need not be maintained after the order or injunction is no longer in effect [s. 813.12 (6), Stats.].

I. ARREST

A law enforcement officer must arrest and take a person into custody *if all of the following occur*:

1. A petitioner under Section G, above, presents the law enforcement officer with a copy of a court order issued under Section D (TRO) or Section E (injunction), above, or the law enforcement officer determines that such an order exists through communication with appropriate authorities.

2. The law enforcement officer has probable cause to believe that the person has violated the court order issued under Section D (TRO) or Section E (injunction), above, by any circuit court in this state [s. 813.12 (7), Stats.].

J. TRANSCRIPTS

The judge or FCC must record the TRO or injunction hearing upon the request of the petitioner [s. 813.12 (7m), Stats.].

K. PENALTY

Whoever knowingly violates a TRO or injunction issued under Section D or Section E, above, must be fined not more than \$1,000 *or* imprisoned for not more than nine months, or both.

The *petitioner does not violate the court order* under Section D or Section E, above, if he or she admits into his or her residence a person ordered under Section D or Section E, above, to avoid that residence [s. 813.12 (8), Stats.].

L. NOTICE OF FULL FAITH AND CREDIT

An order or injunction issued under Section D or Section E, above, must include a statement that the order or injunction may be accorded full faith and credit in every civil or criminal court of the United States, civil or criminal courts of any other state and Indian tribal courts to the extent that such courts may have personal jurisdiction over nontribal members [s. 813.12 (9), Stats.].

III. OTHER STATUTES RELATING TO DOMESTIC ABUSE

In addition to the statutory provisions described in this Information Memorandum, other statutes (copies of which are attached as *Appendix C*) directed at controlling domestic abuse include:

a. Section 46.95, Stats., which provides for* the distribution of *grants* to nonprofit corporations or public agencies providing, or proposing to provide, domestic abuse services (e.g., shelter facilities, advocacy and counseling or a 34-hour telephone service).

b. Section 165.85 (4) (b), Stats., which requires that law enforcement officer recruits receive “an adequate amount of *training*” in dealing with domestic abuse incidents.

3. Section 940.19, Stats., which sets forth the criminal penalties for various degrees of *battery*. The penalties in that statute are as follows: under the Criminal Code [chs. 939 to 951, Stats.], a *Class A misdemeanor* is punishable by a fine not to exceed \$10,000 or imprisonment not to exceed nine months, or both; a *Class E felony* is punishable by a fine not to exceed \$10,000 or imprisonment not to exceed two years, or both; a *Class D felony* is punishable by a fine not to exceed \$10,000 or imprisonment not to exceed five years, or both; and a *Class C felony* is punishable by a fine not to exceed \$10,000 or imprisonment not to exceed 10 years, or both.

In addition to these, s. 971.37, Stats., permits a district attorney to enter into a *deferred prosecution* agreement with a domestic abuse violator.

DLS:rjl;kjf

U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Statistics



Criminal Victimization in the United States, 1993

A National Crime Victimization Survey Report

By Craig A. Perkins,
Patsy A. Klaus,
Lisa D. Bastian,
and Robyn L. Cohen
Statisticians, Bureau of Justice Statistics

May 1996, N CJ-151657

This report presents information on criminal victimization in the United States during 1993. This edition, the 21st in a series of annual reports, is the first that presents data from the redesigned National Crime Victimization Survey (NCVS).

For the past 20 years data have been presented in a series of annual reports prepared under the National Crime Survey (NCS). The survey name was changed to the National Crime Victimization Survey in conjunction with changes introduced as a result of the survey redesign. The Bureau of the Census has administered the National Crime Victimization Survey for the Bureau of Justice Statistics (formerly the National Criminal Justice Information and Statistics Service of the Law Enforcement Assistance Administration) since the program began in 1972.

All of the data presented in this report were derived from a continuing survey of the occupants of a representative sample of housing units in the United States. About 100,000 persons age 12 or older living in 50,000 housing units were interviewed. Ninety-six percent of the households selected to participate did so; 93% of persons in these selected households were interviewed.

The redesign of the survey was a decade-long effort to improve its ability to measure victimization, particularly certain difficult-to-measure crimes like rape and sexual assault. As a reflection of this survey redesign the format of the criminal victimization report series has changed as well.

Appendix II provides a comparison of certain items on the questionnaire that have changed as a result of the redesign. Improvements and other fundamental changes introduced by the redesign make comparisons to earlier data inappropriate.

Appendix III contains a crosswalk chart so that tables which readers may have referenced in previous editions can be easily found in this report. However, readers should be cautioned that the data from the redesigned survey are not directly comparable with data published in previous years.

Characteristics of offenders

Victims were also asked to describe the offenders. The following description of drug use, age, sex, and race are based on the victim's perception of the offender.

Family violence

Family violence includes crimes committed by a relative against a family member. These tables combine victimizations committed by single and multiple offenders. When classifying the multiple-offender crimes, the relationship of the offender who was closest to the victim is used.

(See *Appendix VI: Glossary* for the definition of *multiple offenders*.)

- About 88% of the violent crimes committed by relatives were assaults — 68% simple assaults and 20% aggravated assaults (table 33).
- Family violence accounted for 9% of all violent crimes, including 14% of completed crimes and 8% of attempted crimes. Victims' relatives committed 14% of all rapes/sexual assaults, 4% of all robberies, and 10% of all assaults (table 34).
- Fifty-four percent of the 1 million violent crimes occurring between relatives involved the spouse or the ex-spouse of the victim. Family violence was more likely to involve the victim's spouse than ex-spouse, parents, or children. Violence between parents and children combined accounted for 17% of the crimes between relatives, while violence from other relatives accounted for 29% (tables 33 and 34).
- The rate of violent crimes against women committed by relatives was 8 per 1,000, while the rate for men was 2 per 1,000. Men and women had comparable victimization rates when the offenders were well known but not related to the victims. Males, however, were significantly more likely than females to be victimized by a casual acquaintance (table 35).
- Blacks were more likely than whites to be victims of violent crimes by unrelated persons whom they knew well. There was no significant difference between whites and blacks in the rates of violent victimizations committed by relatives or casual acquaintances.
- People who were married or widowed were the least likely to be victims of violence from well known offenders, and persons who had never married were the most likely. Persons who had never married were also most likely to be victimized by a casual acquaintance.
- Divorced or separated persons had the highest rate of violent crimes committed by relatives.

Sections 165.83 (1) (b), 175.35 (2g) (c), 806.247, 940.225 (1), (2) and (3) and 941.29, Stats.

165.83 (1) (b) “Law enforcement agency” means a governmental unit of one or more persons employed full time by the state or a political subdivision of the state for the purpose of preventing and detecting crime and enforcing state laws or local ordinances, employes of which unit are authorized to make arrests for crimes while acting within the scope of their authority.

175.35 (2g) (c) The department of justice shall promulgate rules for firearms restrictions record searches regarding transferees under sub. (2), including procedures for all of the following:

1. A firearms dealer to convey the information from a completed notification form to the department using a toll-free telephone number provided by the department.

2. The department to provide the firearms dealer with a confirmation number confirming the receipt of the information under subd. 1.

3. The department to conduct the firearms restrictions record search regarding the transferee. The rules shall include, but not be limited to, a requirement that the department use the transaction information for management of enforcement system and the national crime information center system.

4. The department to notify the dealer, either during the initial telephone call or as soon thereafter as practicable, of the results of the firearms restrictions record search as follows:

a. If the search indicates that the transferee is prohibited from possessing a firearm under s. 941.29, the department shall provide the firearms dealer with a unique nonapproval number. The department may not disclose to the firearms dealer the reason the transferee is prohibited from possessing a firearm under s. 941.29.

b. If the search indicates that the transferee is not prohibited from possessing a firearm under s. 941.29, the department shall provide the firearms dealer with a unique approval number.

c. If the search indicates a felony charge without a recorded disposition, the deadline under sub. (2) (d) is extended to the end of the 3rd complete working day commencing after the day on which the finding is made. The department shall notify the firearms dealer of the extension as soon as practicable. During the extended period, the department shall make every reasonable effort to determine the disposition of the charge and notify the firearms dealer of the results as soon as practicable.

806.247 Full faith and credit for foreign protection orders. (1) DEFINITIONS. In this section:

(a) “Bodily harm” has the meaning given in s. 939.22 (4).

(b) “Foreign protection order” means any temporary or permanent injunction or order of a civil or criminal court of the United States, of an Indian tribe or of any other state issued for preventing abuse, bodily harm, communication, contact, harassment, physical proximity, threatening acts or violence by or to a person, other than support or custody orders.

(2) STATUS OF A FOREIGN PROTECTION ORDER. (a) A foreign protection order shall be accorded full faith and credit by the courts in this state and shall be enforced as if the order were an order of a court of this state if the order meets all of the following conditions:

1. The foreign protection order was obtained after providing the person against whom the protection order was sought a reasonable notice and opportunity to be heard sufficient to protect his or her right to due process. If the foreign protection order is an ex parte injunction or order, the person against whom the order was obtained shall have been given notice and an opportunity to be heard within a reasonable time after the order was issued sufficient to protect his or her right to due process.

2. The court that issued the order had jurisdiction over the parties and over the subject matter.

(b) A foreign protection order issued against the person who filed a written pleading with a court for a protection order is not entitled to full faith and credit under this subsection if any of the following occurred:

1. No written pleading was filed seeking the foreign protection order against that person.

2. A cross or counter petition was filed but the court did not make a specific finding that each party was entitled to a foreign protection order.

(3) FILING OF A FOREIGN PROTECTION ORDER. (a) A copy of any foreign protection order, or of a modification of a foreign protection order that is on file with the circuit court, that is authenticated in accordance with an act of congress, an Indian tribal legislative body or the statutes of another state may be filed in the office of the clerk of circuit court of any county of this state. The clerk shall treat any foreign protection order or modification so filed in the same manner as a judgment of the circuit court.

(b) Within one business day after a foreign protection order or a modification of a foreign protection order is filed under this subsection, the clerk of circuit court shall send a copy of the foreign protection order or modification of the order to the sheriff in that circuit or to the local law enforcement agency that is the central repository for orders and injunctions in that circuit.

(c) The sheriff or law enforcement agency that receives a copy of a foreign protection order or of a modification of an order from the clerk under par. (b) shall enter the information received concerning the order or modification of an order into the transaction information for management of enforcement system no later than 24 hours after receiving the information. The sheriff or law enforcement agency shall make available to other law enforcement agencies, through a verification system, information on the existence and status of any order or modification of an order filed under this subsection. The information need not be maintained after the order or modification is no longer in effect.

940.225 (1) FIRST DEGREE SEXUAL ASSAULT. Whoever does any of the following is guilty of a Class B felony:

(a) Has sexual contact or sexual intercourse with another person without consent of that person and causes pregnancy or great bodily harm to that person.

(b) Has sexual contact or sexual intercourse with another person without consent of that person by use or threat of use of a dangerous weapon or any article used or fashioned in a manner to lead the victim reasonably to believe it to be a dangerous weapon.

(c) Is aided or abetted by one or more other persons and has sexual contact or sexual intercourse with another person without consent of that person by use or threat of force or violence.

(2) SECOND DEGREE SEXUAL ASSAULT. Whoever does any of the following is guilty of a Class BC felony:

(a) Has sexual contact or sexual intercourse with another person without consent of that person by use or threat of force or violence.

(b) Has sexual contact or sexual intercourse with another person without consent of that person and causes injury, illness, disease or impairment of a sexual or reproductive organ, or mental anguish requiring psychiatric care for the victim.

(c) Has sexual contact or sexual intercourse with a person who suffers from a mental illness or deficiency which renders that person temporarily or permanently incapable of appraising the person's conduct, and the defendant knows of such condition.

(d) Has sexual contact or sexual intercourse with a person who the defendant knows is unconscious.

(f) Is aided or abetted by one or more other persons and has sexual contact or sexual intercourse with another person without the consent of that person.

(g) Is an employe of a facility or program under s. 940.295 (2) (b), (c), (h) or (k) and has sexual contact or sexual intercourse with a person who is a patient or resident of the facility or program.

(3) THIRD DEGREE SEXUAL ASSAULT. Whoever has sexual intercourse with a person without the consent of that person is guilty of a Class D felony. Whoever has sexual contact in the manner described in sub. (5) (b) 2. with a person without the consent of that person is guilty of a Class D felony.

941.29 Possession of a firearm. (1) A person is subject to the requirements and penalties of this section if he or she has been:

(a) Convicted of a felony in this state.

(b) Convicted of a crime elsewhere that would be a felony if committed in this state.

(bm) Adjudicated delinquent for an act committed on or after April 21, 1994, that if committed by an adult in this state would be a felony.

(c) Found not guilty of a felony in this state by reason of mental disease or defect.

(d) Found not guilty of or not responsible for a crime elsewhere that would be a felony in this state by reason of insanity or mental disease, defect or illness.

(e) Committed for treatment under s. 51.20 (13) (a) and ordered not to possess a firearm under s. 51.20 (13) (cv).

(f) Enjoined under an injunction issued under s. 813.12 or 813.122, or under a tribal injunction, as defined in s. 813.12 (1) (e), issued by a court established by any federally recognized Wisconsin Indian tribe or band, except the Menominee Indian tribe of Wisconsin, that includes notice to the respondent that he or she is subject to the requirements and penalties under s. 941.29 and that has been filed under s. 806.247 (3).

(g) Ordered not to possess a firearm under s. 813.125 (4m).

(2) A person specified in sub. (1) is guilty of a Class E felony if he or she possesses a firearm under any of the following circumstances:

(a) The person possesses a firearm subsequent to the conviction for the felony or other crime, as specified in sub. (1) (a) or (b).

(b) The person possesses a firearm subsequent to the adjudication, as specified in sub. (1) (bm).

(c) The person possesses a firearm subsequent to the finding of not guilty or not responsible by reason of insanity or mental disease, defect or illness as specified in sub. (1) (c) or (d).

(d) The person possesses a firearm while subject to the court order, as specified in sub. (1) (e) or (g).

(e) The person possesses a firearm while the injunction, as specified in sub. (1) (f), is in effect.

(2m) Whoever violates this section after being convicted under this section is guilty of a Class D felony.

(3) Any firearm involved in an offense under sub. (2) is subject to s. 968.20 (3).

(4) A person is concerned with the commission of a crime, as specified in s. 939.05 (2) (b), in violation of this section if he or she knowingly furnishes a person with a firearm in violation of sub. (2).

(5) This section does not apply to any person specified in sub. (1) who:

(a) Has received a pardon with respect to the crime or felony specified in sub. (1) and has been expressly authorized to possess a firearm under 18 USC app. 1203; or

(b) Has obtained relief from disabilities under 18 USC 925 (c).

(6) The prohibition against firearm possession under this section does not apply to any correctional officer employed before May 1, 1982, who is required to possess a firearm as a condition of employment. This exemption applies if the officer is eligible to possess a firearm under any federal law and applies while the officer is acting in an official capacity.

(7) This section does not apply to any person who has been found not guilty or not responsible by reason of insanity or mental disease, defect or illness if a court subsequently determines both of the following:

(a) The person is no longer insane or no longer has a mental disease, defect or illness.

(b) The person is not likely to act in a manner dangerous to public safety.

(8) This section does not apply to any person specified in sub. (1) (bm) if a court subsequently determines that the person is not likely to act in a manner dangerous to public safety. In any action or proceeding regarding this determination, the person has the burden of proving by a preponderance of the evidence that he or she is not likely to act in a manner dangerous to public safety.

(9) This section does not apply to a person specified in sub. (1) (e) if the prohibition under s. 51.20 (13) (cv) 1. has been canceled under s. 51.20 (13) (cv) 2. or (16) (gm).

(10) The prohibition against firearm possession under this section does not apply to a person specified in sub. (1) (f) if the person satisfies any of the following:

(a) The person is a peace officer and the person possesses a firearm while in the line of duty or, if required to do so as a condition of employment, while off duty.

(b) The person is a member of the U.S. armed forces or national guard and the person possesses a firearm while in the line of duty.

OTHER STATUTES RELATING TO DOMESTIC ABUSE
Sections 46.95, 165.85 (4) (b) and 940.19, Stats.

46.95 Domestic abuse grants. (1) DEFINITIONS. In this section:

(a) “Domestic abuse” means physical abuse, including a violation of s. 940.225 (1), (2) or (3), or any threat of physical abuse between adult family or adult household members, by a minor family or minor household member against an adult family or adult household member, by an adult against his or her adult former spouse or by an adult against an adult with whom the person has a child in common.

(b) “Family member” means a spouse, a parent, a child or a person related by consanguinity to another person.

(c) “Household member” means a person currently or formerly residing in a place of abode with another person.

(d) “Organization” means a nonprofit corporation, a public agency or a federally recognized American Indian tribe or band that provides or proposes to provide any of the following domestic abuse services:

1. Shelter facilities or private home shelter care.
2. Advocacy and counseling for victims.
3. A 24-hour telephone service.
4. Community education.

(2) DISTRIBUTION OF FUNDS. (a) The secretary shall make grants from the appropriations under s. 20.435 (7) (cb) and (hh) to organizations for the provision of any of the services specified in sub. (1) (d). Grants may be made to organizations which have provided those domestic abuse services in the past or to organizations which propose to provide those services in the future. No grant may be made to fund services for child abuse or abuse of elderly persons.

(b) In reviewing applications for grants, the department shall consider:

1. The need for domestic abuse services in the specific community in which the applicant provides services or proposes to provide services.

2. Coordination of the organization's services with other resources in the community and the state.

3. The need for domestic abuse services in the areas of the state served by each health systems agency, as defined in s. 140.83 (1), 1985 stats.

4. The needs of both urban and rural communities.

5. Maintenance of effort, by a city, village, town or county.

(c) No grant may be made to an organization which provides or will provide shelter facilities unless the department of commerce determines that the physical plant of the facility will not be dangerous to the health or safety of the residents when the facility is in operation. No grant may be given to an organization which provides or will provide shelter facilities or private home shelter care unless the organization ensures that the following services will be provided either by that organization or by another organization, person or agency:

1. A 24-hour telephone service.

2. Temporary housing and food.

3. Advocacy and counseling for victims.

4. Referral and follow-up services.

5. Arrangements for education of school-age children.

6. Emergency transportation to the shelter.

7. Community education.

(d) 1. No organization may receive more than 70% of its operating budget from grants under this section.

2. Not more than 33 1/3% of the 30% of an organization's operating budget not funded by grants under this section may consist of the value of in-kind contributions. The department shall establish guidelines regarding which contributions qualify as in-kind contributions.

(e) In funding new domestic abuse services, the department shall give preference to services in areas of the state where these services are not otherwise available.

(f) From the appropriations under s. 20.435 (1) (cd) and (hh), the department shall do all of the following:

1. Award \$95,000 in grants each fiscal year to organizations for domestic abuse services that are targeted to children. In awarding the grants, the department shall use a competitive

request-for-proposals process and, to the extent possible, shall ensure that the grants are equally distributed on a statewide basis.

5. Expend \$20,700 each fiscal year to contract with a nonstate agency to do all of the following:

- a. Act as liaison among local, state, federal and private housing agencies.
- b. Identify capital resources for housing initiatives.
- c. Coordinate and disseminate information on job training programs.
- d. Circulate information on successful transitional living programs.

6. Expend \$69,700 each fiscal year to provide ongoing training and technical assistance to do all of the following:

- a. Educate organizations and advocates for victims of domestic abuse about the judicial system.
- b. Organize pro bono legal services on a regional basis.

(2m) REPORTING REQUIREMENTS. Any organization that receives a grant under this section shall report all of the following information to the department by February 15 annually:

- (a) The total expenditures that the organization made on domestic abuse services in the period for which the grant was provided.
- (b) The expenditures specified in par. (a) by general category of domestic abuse services provided.
- (c) The number of persons served in the period for which the grant was provided by general type of domestic abuse service.
- (d) The number of persons who were in need of domestic abuse services in the period for which the grant was provided but who did not receive the domestic abuse services that they needed.

(3) COUNCIL ON DOMESTIC ABUSE. The council on domestic abuse shall:

- (a) Review applications for grants under this section and advise the secretary as to whether the applications should be approved or denied. The council shall consider the criteria under sub. (2) (b) when reviewing the applications.
- (b) Advise the secretary and the legislature on matters of domestic abuse policy.

(c) Develop with the judicial conference and provide without cost simplified forms for filing petitions for domestic abuse restraining orders and injunctions under s. 813.12.

165.85 (4) (b) 1. No person may be appointed as a law enforcement or tribal law enforcement officer, except on a temporary or probationary basis, unless the person has satisfactorily completed a preparatory program of law enforcement training approved by the board and has been certified by the board as being qualified to be a law enforcement or tribal law enforcement officer. The program shall include 400 hours of training, except the program for law enforcement officers who serve as rangers for the department of natural resources includes 240 hours of training. The board shall promulgate a rule under ch. 227 providing a specific curriculum for a 400-hour conventional program and a 240-hour ranger program. The rule shall ensure that there is an adequate amount of training for each program to enable the person to deal effectively with domestic abuse incidents. The training under this subdivision shall include training on emergency detention standards and procedures under s. 51.15, emergency protective placement standards and procedures under s. 55.06 (11) and information on mental health and developmental disabilities agencies and other resources that may be available to assist the officer in interpreting the emergency detention and emergency protective placement standards, making emergency detentions and emergency protective placements and locating appropriate facilities for the emergency detentions and emergency protective placements of persons. The period of temporary or probationary employment established at the time of initial employment shall not be extended by more than one year for an officer lacking the training qualifications required by the board. The total period during which a person may serve as a law enforcement and tribal law enforcement officer on a temporary or probationary basis without completing a preparatory program of law enforcement training approved by the board shall not exceed 2 years, except that the board shall permit part-time law enforcement and tribal law enforcement officers to serve on a temporary or probationary basis without completing a program of law enforcement training approved by the board to a period not exceeding 3 years. For purposes of this section, a part-time law enforcement or tribal law enforcement officer is a law enforcement or tribal law enforcement officer who routinely works not more than one-half the normal annual work hours of a full-time employe of the employing agency or unit of government. Law enforcement training programs including municipal, county and state programs meeting standards of the board are acceptable as meeting these training requirements.

2. No person may be appointed as a jail officer, except on a temporary or probationary basis, unless the person has satisfactorily completed a preparatory program of jail officer training approved by the board and has been certified by the board as being qualified to be a jail officer. The program shall include at least 120 hours of training. The training program shall devote at least 16 hours to methods of supervision of special needs inmates, including inmates who may be emotionally distressed, mentally ill, suicidal, developmentally disabled or alcohol or drug abusers. The period of temporary or probationary employment established at the time of initial employment shall not be extended by more than one year for an officer lacking the training qualifications required by the board. Jail officer training programs including municipal, county and state programs meeting standards of the board shall be acceptable as meeting these training requirements.

3. No person may be appointed as a secure detention officer, except on a temporary or probationary basis, unless the person has satisfactorily completed a preparatory program of secure detention officer training approved by the board and has been certified by the board as being qualified to be a secure detention officer. The program shall include at least 120 hours of training. The training program shall devote at least 16 hours to methods of supervision of special needs inmates, including inmates who may be emotionally distressed, mentally ill, suicidal, developmentally disabled or alcohol or drug abusers. The period of temporary or probationary employment established at the time of initial employment shall not be extended by more than one year for an officer lacking the training qualifications required by the board. Secure detention officer training programs including municipal, county and state programs meeting standards of the board shall be acceptable as meeting these training requirements.

940.19 Battery; substantial battery; aggravated battery. (1) Whoever causes bodily harm to another by an act done with intent to cause bodily harm to that person or another without the consent of the person so harmed is guilty of a Class A misdemeanor.

(2) Whoever causes substantial bodily harm to another by an act done with intent to cause bodily harm to that person or another is guilty of a Class E felony.

(3) Whoever causes substantial bodily harm to another by an act done with intent to cause substantial bodily harm to that person or another is guilty of a Class D felony.

(4) Whoever causes great bodily harm to another by an act done with intent to cause bodily harm to that person or another is guilty of a Class D felony.

(5) Whoever causes great bodily harm to another by an act done with intent to cause either substantial bodily harm or great bodily harm to that person or another is guilty of a Class C felony.

(6) Whoever intentionally causes bodily harm to another by conduct that creates a substantial risk of great bodily harm is guilty of a Class D felony. A rebuttable presumption of conduct creating a substantial risk of great bodily harm arises:

(a) If the person harmed is 62 years of age or older; or

(b) If the person harmed has a physical disability, whether congenital or acquired by accident, injury or disease, that is discernible by an ordinary person viewing the physically disabled person, or that is actually known by the actor.