

## 2009 DRAFTING REQUEST

### Bill

Received: 11/13/2008

Received By: rnelson2

Wanted: As time permits

Identical to LRB:

For: Marlin Schneider (608) 266-0215

By/Representing:

This file may be shown to any legislator: NO

Drafter: phurley

May Contact:

Addl. Drafters:

Subject: Courts - miscellaneous

Extra Copies:

Submit via email: YES

Requester's email: Rep.Schneider@legis.wisconsin.gov

Carbon copy (CC:) to:

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### Pre Topic:

No specific pre topic given

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### Topic:

Public access to appellate court conferences

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### Instructions:

See attached 07-3464 (AB934)

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### Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rnelson2 11/14/2008			_____			
/1	phurley 11/14/2008	jdye 11/20/2008	jfrantze 11/20/2008	_____	lparisi 11/20/2008	cduerst 11/25/2008	cduerst 11/25/2008
				_____			
				_____			

FE Sent For: NONE

re-print label - didn't print 1st time

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/?	rnelson2 11/14/2008 phurley	1/11/2008		Self 11/20			

FE Sent For:

<END>

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3464/P1dn  
RPN:kjfrs

December 7, 2007

This draft may be challenged as a violation of the constitution's separation of powers doctrine.

This doctrine does two things: 1) it prohibits one branch of government from exercising the powers granted to another branch; and 2) in cases where branches of government share power, it prohibits one branch from unduly burdening or substantially interfering with another branch's essential role and powers. With respect to a power that is shared between branches, a statute may not unduly burden or substantially interfere with another branch's essential role and powers. *State v. Unnamed Defendant*, 150 Wis. 2d 352, 360 (1989).

The Wisconsin Supreme Court has recognized that in specific cases it is difficult to classify an action as exclusively legislative, executive, or judicial. The court has said that the doctrine of separation of powers must be viewed as a general principle to be applied to maintain the balance between the three branches of government, to preserve their respective independence and integrity, and to prevent concentration of unchecked power in the hands of any one branch. *State v. Washington*, 83 Wis. 2d 808, 825-826 (1978). The Wisconsin Constitution permits a blending or sharing of powers among the three branches of government." *Ahern Co. v. Building Commission*, 114 Wis. 2d 69, 103 (Ct. App. 1983).

Robert P. Nelson  
Senior Legislative Attorney  
Phone: (608) 267-7511  
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0759/1  
1m  
jld

# 2007 ASSEMBLY BILL 934

D-note  
11-14-08

March 11, 2008 - Introduced by Representatives SCHNEIDER and ALBERS. Referred to Committee on Judiciary and Ethics.

Gen

1 AN ACT *to create* 751.16 and 752.42 of the statutes; **relating to:** public access  
2 to appellate court conferences. ✓

Court  
administration  
and

### *Analysis by the Legislative Reference Bureau*

Currently, the supreme court and court of appeals conduct various conferences related to cases that are before those courts. Most of the conferences are closed to the public. This bill requires that all conferences held by the supreme court or court of appeals be open to the public. ✓

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

3 SECTION 1. 751.16 ✓ of the statutes is created to read:

4 **751.16 Public access to court conferences.** ✓ All supreme court conferences,  
5 including preargument ✓ conferences, postargument ✓ decision conferences, opinion  
6 conferences, decision conferences, and administrative conferences shall be open to  
7 the public. ✓

8 SECTION 2. 752.42 ✓ of the statutes is created to read:

**ASSEMBLY BILL 934**

1           **752.42 Public access to court conferences.**✓ All court of appeals  
2 conferences,✓ including screening conferences, preargument conferences, tentative  
3 decision conferences, motion conferences, opinion conferences, publication  
4 conferences, and decision conferences shall be open to the public.✓

5

(END)

d-note

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-0759/3dn

FJH:...

date

Jld

Representative Schneider:

2007 LRB-3464

Please review this draft carefully to ensure that it is consistent with your intent. As noted in the drafter's note accompanying ~~07-3646~~, this draft may be challenged as a violation of the separation of powers doctrine. If you would like to discuss this further, or if you have any questions, please let me know.

Peggy Hurley  
Legislative Attorney  
Phone: (608) 266-8906  
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**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-0759/1dn  
PJH:jld:jf

November 20, 2008

Representative Schneider:

Please review this draft carefully to ensure that it is consistent with your intent. As noted in the drafter's note accompanying 2007 LRB-3646, this draft may be challenged as a violation of the separation of powers doctrine. If you would like to discuss this further, or if you have any questions, please let me know.

Peggy Hurley  
Legislative Attorney  
Phone: (608) 266-8906  
E-mail: [peggy.hurley@legis.wisconsin.gov](mailto:peggy.hurley@legis.wisconsin.gov)

**Duerst, Christina**

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**From:** Schneider, Marlin  
**Sent:** Tuesday, November 25, 2008 8:44 AM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 09-0759/1 Topic: Public access to appellate court conferences

Please Jacket LRB 09-0759/1 for the ASSEMBLY.