

2009 DRAFTING REQUEST

Assembly Amendment (AA-AB171)

Received: **06/01/2009**

Received By: **phurley**

Wanted: **As time permits**

Identical to LRB:

For: **Frederick Kessler (608) 266-5813**

By/Representing:

This file may be shown to any legislator: **NO**

Drafter: **phurley**

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Subject: **Criminal Law - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Kessler@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Warrant required for global positioning system

Instructions:

Same amendment BUT with exclusionary rule and probable cause requirement

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>
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FE Sent For:

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For: Frederick Kessler (608) 266-5813

By/Representing: Andy

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/?	phurley	1/3 jld	ph 6/3	26/md 6/3			

FE Sent For:

<END>



State of Wisconsin
2009 - 2010 LEGISLATURE

LRBa 04081

PJH:jld:ph

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stays

ASSEMBLY AMENDMENT ,
TO 2009 ASSEMBLY BILL 171

by
6-3-09

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 2, line 4: after "capacity" insert "and pursuant to a warrant issued
3 under s. 968.365,".

4 **2.** Page 2, line 6: after that line insert:

5 "SECTION 1m. 968.355^x of the statutes is created to read:

6 **968.355 Application for an order for global positioning device.** (1) The
7 attorney general or a district attorney may make application for an order or an
8 extension of an order under s. 968.365 authorizing or approving the installation and
9 use of a global positioning device, in writing under oath or equivalent affirmation,
10 to a circuit court for the county where the device is to be located.

11 **(2)** An application under sub. (1) shall include all of the following:

12 (a) The identity of the person making the application and the identity of the law
13 enforcement agency conducting the investigation.

1 ~~(b)~~ ^{Insert 2.1 ✓} A certification by the applicant that the information likely to be obtained
 2 is relevant to ~~an~~ ^{the} ongoing criminal investigation being conducted by that agency. ✓

3 SECTION 1r. 968.365 of the statutes is created to read:

4 **968.365 Issuance of an order for a global positioning device.** (1) Upon
 5 an application made under s. 968.355, the court shall enter an ex parte order
 6 authorizing the installation and use of a global positioning device within the
 7 jurisdiction of the court if the court finds that the applicant has certified to the court ^{Insert 2.7 ✓}
 8 that the information likely to be obtained by the installation and use is relevant to
 9 an ongoing criminal investigation.

10 (2) An order issued under this section shall do all of the following:

11 (a) Specify the identity, if known, of the person who owns the vehicle to which
 12 the global positioning device is to be attached.

13 (b) Specify the identity, if known, of the person who is the subject of the criminal
 14 investigation.

15 (c) Specify, if known, the registration plate numbers and the color, make, model,
 16 and year of any motor vehicle to which the global positioning device is to be attached.

17 (d) Provide a statement of the offense to which the information likely to be
 18 obtained by the global positioning device relates.

19 (3) An order issued under this section shall authorize the installation and use
 20 of a global positioning device for a period not to exceed 60 days.

21 (4) Extensions of the order may be granted, but only upon an application for
 22 an order under s. 968.355 and upon the judicial finding required by sub. (1). The
 23 period of extension shall be for a period not to exceed 60 days.

1 (5) An order authorizing or approving the installation and use of a global
2 positioning device shall direct that the order be sealed until otherwise ordered by the

3

✓
court. ^e

4

↑
insert 3.3 ✓

(END)

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

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.....

1 INSERT 2.1:

2 (b) A full and complete statement of the facts and circumstances relied upon
3 by the applicant, ✓ to justify the applicant's belief that an order should be issued or
4 extended, including:

5 1. Details of the particular offense that the applicant ✓ has probable cause to
6 believe has been, is being, or is about to be committed by the person who owns the
7 vehicle to which the global positioning device is to be attached. ✓

8

9 INSERT 2.7:

10 (NO) ✓ proved to the court that there is probable cause to believe that the person who
11 owns the vehicle to which the global positioning device is to be attached ✓ has, is, or
12 will commit an offense and that the applicant has (NO) ✓

13

14 INSERT 3.3:

15 (6) ✓ Evidence obtained by placing a global positioning ✓ device on a vehicle in
16 contravention of this section ✓ or of s. 940.315 ✓ may not be introduced in a criminal
17 trial." (NO) ✓