

**2009 DRAFTING REQUEST**

**Bill**

Received: **09/25/2009**

Received By: **phurley**

Wanted: **As time permits**

Identical to LRB:

For: **Justice**

By/Representing: **Cindy Polzin**

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

Drafter: **phurley**

May Contact:

Addl. Drafters:

Subject: **Criminal Law - procedure**

Extra Copies:

Submit via email: **YES**

Requester's email: **polzinm@doj.state.wi.us**

Carbon copy (CC:) to:

**Pre Topic:**

No specific pre topic given

**Topic:**

Electronic signatures

**Instructions:**

See attached

**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>
/?							S&L
/1	phurley 09/28/2009	jdye 10/01/2009	jfrantze 10/02/2009		mbarman 10/02/2009 mbarman 10/02/2009	cduerst 10/05/2009	

Sent To Rep. Hebl  
Per Cindy Polzin  
10-29-2009

FE Sent For:

↳ At Intro

<END>

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				_____	mbarman 10/02/2009		
				_____			

*e-mail sent*

FE Sent For:

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/?	phurley	1 10/1 jld	10/2	10/2			

FE Sent For:

<END>

**Hurley, Peggy**

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**From:** Ryan, Robin  
**Sent:** Friday, September 25, 2009 8:34 AM  
**To:** Hanaman, Cathlene; Hurley, Peggy  
**Subject:** FW: e-signature draft  
**Attachments:** Electronic Signature Project - Final2.doc

New request.

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**From:** Polzin, Cindy M. [mailto:polzinm@doj.state.wi.us]  
**Sent:** Friday, September 25, 2009 8:27 AM  
**To:** Ryan, Robin  
**Subject:** e-signature draft

Hi Robin -

Attached is a draft related to allowing an e-signature to be used to sign criminal complaints. The goal is to save cops the need to drive to the DA's office every time they need to sign a complaint. You will note the yellow highlights on this document are changes to statute. Let me know if you have any questions. My direct line is 6-7563.

Thank you!  
Cindy

Cindy Polzin  
Policy Advisor  
Office of the Attorney General  
608.266.1221  
[polzinm@doj.state.wi.us](mailto:polzinm@doj.state.wi.us)

## 968.01 Complaint

### (1) Definitions

- (a) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.<sup>1</sup>
- (b) "Electronic signature" has the meaning given in s. 801.17(1)(e).
- (c) "Facsimile machine" has the meaning given in s. 134.72(1)(a).

(2) The complaint is a written statement of the essential facts constituting the offense charged. A person may make a complaint on information and belief. Except as provided in sub. (3) or (4), the complaint shall be made upon oath before a district attorney or judge as provided in this chapter.

(3) A person may comply with sub. (2) if he or she makes the oath by telephone contact with the district attorney or judge, signs the statement and immediately thereafter transmits a copy of the signed statement to the district attorney or judge using a facsimile machine. The person shall also transmit the original signed statement, without using a facsimile machine, to the district attorney or judge. If the complaint is filed, both the original and the copy shall be filed under s.968.02(2).

(4)<sup>2</sup> A person may comply with sub. (2) if he or she makes the oath by telephone<sup>3</sup> contact with the district attorney or judge and immediately thereafter electronically transmits the statement, accompanied by an electronic signature of the person, to the district attorney or judge. If the complaint is filed, the electronically transmitted statement shall be incorporated with a criminal complaint filed in either an electronic or paper format under s.968.02(2).

t/c: stick w/ "telephone" and  
no need to send a  
printed copy.

<sup>1</sup> This definition is copied from sec. 137.11(5), stats.

<sup>2</sup> This section is drafted to roughly mirror sub. (3). The two most significant changes are replacing facsimile machine with electronically submit and not requiring original paper copies to be submitted.

<sup>3</sup> Thinking ahead, limiting this to telephone contact will likely require a later amendment to include internet based communication, e.g. Skype type communication.



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-3547/1

PJH:...

JL

2009 BILL

9.28.09

Gen

✓

1

AN ACT ...; relating to: using an electronic signature on a criminal complaint. ✓

*Analysis by the Legislative Reference Bureau*

Under current law, a criminal prosecution is begun when a criminal complaint is filed with a court. The complaint is a written statement of the essential facts constituting the offense charged. The person who provides the information contained in the complaint swears to the truth of the information before the district attorney or a judge.

Current law allows the person to swear to the truth of the statements in the complaint by telephone contact with the district attorney or judge if the person signs the statement, sends the original signed statement to the district attorney or judge and sends a copy of the signed statement to the district attorney or judge via a facsimile machine. Subsequently, if the complaint is filed, both the original and the facsimile copy of the signed statement are filed with the court.

Under this bill, a person may swear to the truth of the statement by telephone contact with a district attorney or judge and may transmit a copy of the statement electronically, accompanied by an electronic signature, to the district attorney or judge. Under the bill, a statement that has been signed and transmitted electronically may be incorporated into a complaint that is filed with the court electronically or in paper form.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

\*  
\*

BILL

SECTION #. CR; 968.01(1)(intro.)

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

move

renumbered 968.01(1)(c).

1 Fix component

SECTION 1. 968.01 (1) of the statutes is repealed and recreated to read:

2 968.01 (1) In this section:

3 SECTION 2. 968.01 (1) (a) of the statutes is created to read:

4 968.01 (1) (a) "Electronic" has the meaning given in s. 137.11 (5)

5 SECTION 3. 968.01 (1) (b) of the statutes is created to read:

6 968.01 (1) (b) "Electronic signature" has the meaning given in s. 801.17 (1) (e).

7 SECTION 4. 968.01 (1) (c) of the statutes is created to read:

8 968.01 (1) (c) "Facsimile machine" has the meaning given in s. 134.72 (1) (a).

9 SECTION 5. 968.01 (2) of the statutes is amended to read:

10 968.01 (2) The complaint is a written statement of the essential facts  
11 constituting the offense charged. A person may make a complaint on information  
12 and belief. Except as provided in sub. (3) or (4), the complaint shall be made upon  
13 oath before a district attorney or judge as provided in this chapter.

History: 1989 a. 336; 1995 a. 351.

14 SECTION 6. 968.01 (4) of the statutes is created to read:

15 968.01 (4) A person may comply with sub. (2) if he or she makes the oath by  
16 telephone contact with the district attorney or judge and immediately thereafter  
17 electronically transmits the statement, accompanied by the person's electronic  
18 signature, to the district attorney or judge. If the complaint is filed, the electronically  
19 transmitted statement shall be incorporated into a criminal complaint filed in either  
20 an electronic or paper format under s. 968.02 (2).

21 (END)

**Duerst, Christina**

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**From:** Polzin, Cindy M. [polzinm@doj.state.wi.us]  
**Sent:** Monday, October 05, 2009 3:42 PM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 09-3547/1 Topic: Electronic signatures

Please Jacket LRB 09-3547/1 for the ASSEMBLY.