

2019 DRAFTING REQUEST

Bill

For: **Ron Tusler (608) 266-5831** Drafter: **swalkenh**
 By: **Evan** Secondary Drafters:
 Date: **1/10/2019** May Contact:
 Same as LRB: **-1855**

Submit via email: **YES**
 Requester's email: **Rep.Tusler@legis.wisconsin.gov**
 Carbon copy (CC) to: **sarah.walkenhorstbarber@legis.wisconsin.gov**
melinda.johns@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Service upon the attorney general for purposes of notice of claim for suit against a state officer, employee, or agent

Instructions:

See attached--redraft 2017 AB 519

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	swalkenh 1/14/2019	ccarmich 1/15/2019			
/P1			mbarman 1/15/2019		
/1			dwalker 2/7/2019	dwalker 2/7/2019	

FE Sent For:

<END>

2
Not Needed



1/10/19

Per Evan, pls redraft 2017 AB 519



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-2197/1
SWB:ja cdc

1338/P1

IN 1/13/19
Requested by
1/15/19 PLS

2017 ASSEMBLY BILL 519

September 29, 2017 - Introduced by Representatives TUSLER, CROWLEY, MURPHY, HORLACHER, C. TAYLOR, ANDERSON, BERCEAU, JACQUE, KOLSTE, KREMER, POPE, SPIROS, SPREITZER and THIESFELDT, cosponsored by Senator RISSER. Referred to Committee on Judiciary.

SLA ✓
X-ref ✓
SLC

1 **AN ACT** ^{reger} *to amend* 893.82 (5) of the statutes; **relating to:** service of notice of claim
2 against state officer, employee, or agent.

Analysis by the Legislative Reference Bureau

INSERT
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This bill changes the requirements for service of a notice of claim against a state officer, employee, or agent. Under current law, with certain exceptions, in order to bring an action against a state officer, employee, or agent, a person must serve on the attorney general a written notice of claim within 120 days of the event causing the injury, damage, or death. Current law requires that the notice be served upon the attorney general at his or her office in the capitol by certified mail. In *Sorenson v. Batchelder*, 2016 WI 34, 368 Wis. 2d 140, 885 N.W.2d 362, the Wisconsin Supreme Court held that the notice of claim statute requires strict and literal compliance and that, accordingly, under current law, a notice of claim against a state employee must be served by certified mail upon the attorney general at his or her office at the capitol. The court held that personal service does not comply with the requirements of the statute because the statute requires service by certified mail. This bill changes the requirements for service of a notice of claim against a state officer, employee, or agent to allow personal service or service by certified mail upon the attorney general at the attorney general's office either in the capitol or at the Department of Justice.

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

**2019-2020 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1338/P1ins

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ANALYSIS INSERT

This bill changes the requirements for service of a notice of claim against a state officer, employee, or agent. Under current law, with certain exceptions, in order to bring an action against a state officer, employee, or agent, a person must serve on the attorney general a written notice of claim within 120 days at his or her office in the capitol by certified mail. In *Sorenson v. Batchelder*, 2016 WI 34, 368 Wis. 2d 140, 885 N.W.2d 362, the Wisconsin Supreme Court held that the notice of claim statute requires strict and literal compliance and that personal service of a notice of claim does not comply with the statute. This bill changes the requirements for service of a notice of claim against a state officer, employee, or agent to allow personal service or service by certified mail upon the attorney general at the attorney general's office either in the capitol or at the Department of Justice.



2/7

LRB 19-1338

Per Evan, please make 1 and check
for Assembly



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-1338/P1
SWB:cdc

11

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT to amend** 893.82 (5) of the statutes; **relating to:** service of notice of claim
2 against state officer, employee, or agent.

Analysis by the Legislative Reference Bureau

This bill changes the requirements for service of a notice of claim against a state officer, employee, or agent. Under current law, with certain exceptions, in order to bring an action against a state officer, employee, or agent, a person must serve on the attorney general a written notice of claim within 120 days at his or her office in the capitol by certified mail. In *Sorenson v. Batchelder*, 2016 WI 34, 368 Wis. 2d 140, 885 N.W.2d 362, the Wisconsin Supreme Court held that the notice of claim statute requires strict and literal compliance and that personal service of a notice of claim does not comply with the statute. This bill changes the requirements for service of a notice of claim against a state officer, employee, or agent to allow personal service or service by certified mail upon the attorney general at the attorney general's office either in the capitol or at the Department of Justice.

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

3 **SECTION 1.** 893.82 (5) of the statutes is amended to read:
4 893.82 (5) The notice under sub. (3) shall be sworn to by the claimant and shall
5 be served upon the attorney general at his or her office in the capitol or at the

1 department of justice by personal service or by certified mail. Notice If served by
2 certified mail, notice shall be considered to be given upon mailing for the purpose of
3 computing the time of giving notice.

4 (END)