



State of Wisconsin
2015 - 2016 LEGISLATURE

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2015 SENATE BILL 639

January 22, 2016 – Introduced by Senators WANGGAARD and KAPENGA, cosponsored by Representatives CRAIG, JARCHOW, HUTTON, KNUDSON and SANFELIPPO. Referred to Committee on Judiciary and Public Safety.

1 **AN ACT** *to amend* 13.36; and *to create* 13.59, 175.45 and 968.26 (4) (am) of the
2 statutes; **relating to:** creating a legislative committee on the oversight of law
3 enforcement and investigation.

Analysis by the Legislative Reference Bureau

This bill creates a legislative committee on the oversight of law enforcement and investigation to study issues related to law enforcement technology and investigation of crimes and to report its findings and recommendations to the legislature. The bill lays out the duties and authority of the committee as follows:

1. The committee may review, for appropriate execution of legislative intent and proper conduct, an acquisition by a law enforcement agency of technology services or electronic devices that may be used to surveil a person. If the acquisition is of such services or devices that are not currently used by a Wisconsin law enforcement agency, the law enforcement agency must notify the committee of the proposed acquisition before executing it.

2. The committee may review a proposed transfer of military weapons, surveillance equipment, or armaments from a federal military unit to a Wisconsin law enforcement agency. A law enforcement agency that is to receive such weapons, equipment, or armaments must notify the committee of the proposed transfer before the transfer takes place.

This bill also provides the committee with subpoena power and access to investigatory records from secret John Doe proceedings at the close of such proceedings if such access is necessary or convenient to carry out the duties and powers of the committee.

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

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

1 **SECTION 1.** 13.36 of the statutes is amended to read:

2 **13.36 Witness fees.** The compensation of all witnesses who are subpoenaed
3 and appear pursuant to s. 13.31 or 13.59 (3) shall be \$2 for each day's attendance and
4 10 cents per mile, one way, for travel to attend as such witness. The department of
5 administration shall audit the accounts of such witnesses upon the certificate of the
6 chairperson of the committee before which any such witness has attended, stating
7 the number of days' attendance and the distance the witness has traveled, and the
8 accounts so audited shall be paid out of the state treasury and charged to the
9 appropriation for the legislature.

10 **SECTION 2.** 13.59 of the statutes is created to read:

11 **13.59 Committee on the oversight of law enforcement and**
12 **investigation. (1) CREATION.** (a) There is created a joint standing committee on
13 the oversight of law enforcement and investigation that shall comprise the following:

- 14 1. Two legislators, appointed by the speaker of the assembly.
15 2. One legislator, appointed by the assembly minority leader.
16 3. Two legislators, appointed by the senate majority leader.
17 4. One legislator, appointed by the senate minority leader.

18 (b) The committee shall select from among its members a chairperson, a vice
19 chairperson, and a secretary.

20 **(2) POWERS AND DUTIES.** (a) The committee shall do all of the following:

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1 1. Study issues related to law enforcement technology and investigation of
2 crimes.

3 2. Report, from time to time, its findings and its legislative and other
4 recommendations to the legislature.

5 3. Report, from time to time, or as the committee finds appropriate, a summary
6 of a review conducted under par. (b) 2., 3., or 4.

7 (b) The committee may do all of the following:

8 1. Develop specific recommendations and legislative proposals relating to the
9 issues studied under par. (a) 1.

10 2. Review, for appropriate execution of legislative intent and proper conduct,
11 any acquisition, including by purchase, contract, or agreement, by a law enforcement
12 agency in this state if the acquisition is of technology services or electronic devices
13 that may be used to monitor, track, detect, intercept, or electronically surveil a
14 person and that are currently used in Wisconsin by a law enforcement agency and
15 may review any use of such technology services and electronic devices by a law
16 enforcement agency.

17 3. Review, for appropriate execution of legislative intent and proper conduct,
18 any proposed acquisition, including by purchase, contract, or agreement, by a law
19 enforcement agency in this state if the proposed acquisition is of technology services
20 or electronic devices that may be used to monitor, track, detect, intercept, or
21 electronically surveil a person and that are not currently used in Wisconsin by a law
22 enforcement agency. A law enforcement agency that will be party to such a proposed
23 acquisition shall notify the committee of the proposed acquisition before executing
24 the acquisition.

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1 4. Review for appropriateness any proposed transfer of military weapons,
2 surveillance equipment, or armaments directly or indirectly from a federal military
3 unit to a law enforcement agency in this state. A law enforcement agency that is to
4 receive such weapons, equipment, or armaments shall notify the committee of the
5 proposed transfer before the transfer takes place.

6 (c) The committee shall have access to investigatory records under s. 19.36 (2)
7 and, as provided in s. 968.26 (4) (am), s. 968.26 to the extent that such records are
8 necessary or convenient to carry out the committee's powers and duties.

9 **(3) SUBPOENA POWER.** (a) The committee, by subpoena signed by the
10 chairperson, may summon and compel, as necessary or convenient for the committee
11 in carrying out its functions under this section, any of the following:

12 1. The attendance and testimony as a witness of a public official, government
13 employee, or private person working as an investigator on behalf of a public entity.

14 2. The production of evidence or material, regardless of physical form or
15 characteristics, on which is written, drawn, printed, spoken, visual, or
16 electromagnetic information or on which are recorded or preserved electronically
17 generated or stored data, that is being kept by an authority, as defined in s. 19.32 (1),
18 a public official, a government employee, or a private person working as an
19 investigator on behalf of a public entity.

20 (b) A subpoena issued under this subsection that compels the attendance and
21 testimony of a witness shall state when, where, and before whom the witness is
22 required to appear.

23 (c) A subpoena issued under this subsection does not require the signature of
24 the presiding officer or a chief clerk. A subpoena issued under this subsection may
25 be served by any person and shall be returned to the committee chairperson.

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1 Subpoenas shall be served and returned as subpoenas from the circuit court are
2 served and returned.

3 (d) 1. Summary process to compel the attendance of a person shall be issued
4 upon the return of a subpoena issued under this subsection if the committee
5 chairperson certifies that any person named in the subpoena failed or neglected to
6 appear before the committee as provided in the subpoena.

7 2. The committee chairperson shall sign the summary process under subd. 1.
8 and shall direct the process to the sergeant at arms of the house of the committee
9 chairperson and command the sergeant at arms “in the name of the state of
10 Wisconsin” to arrest and bring the person before the committee. When the arrested
11 person is brought before the committee, the person shall testify.

12 3. When the person arrested under subd. 2. is not testifying before the
13 committee, the person shall remain in the custody of the sergeant at arms until the
14 committee chairperson certifies that the committee does not wish to examine the
15 person further. The legislature may proceed to punish the witness for any contempt
16 in not complying with a requirement of this section.

17 4. The committee chairperson, when ordering any summary process, may also
18 direct the sergeant at arms to depute a competent person to execute actions under
19 this subsection as provided in s. 13.33.

20 5. The committee chairperson shall certify every refusal to comply with a
21 subpoena issued under this subsection and transmit the certification to his or her
22 house. The sergeant at arms shall take the person before the house to be dealt with
23 according to law.

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1 (e) A subpoena issued under this subsection may not summon or compel
2 production or disclosure of personal identifying information of uncharged persons or
3 organizations or of trade secrets.

4 (4) MEETINGS. The committee shall hold each meeting that is for the purpose
5 of conducting a review under sub. (2) (b) 2., 3., or 4., or for the purpose of deliberating
6 matters concerning records accessed under sub. (2) (c), as provided under s. 19.85 (1)
7 except that the committee is not required to record in any minutes the motion or the
8 vote to convene in closed session. The committee may not conduct any business in
9 a closed session except as provided under this subsection.

10 **SECTION 3.** 175.45 of the statutes is created to read:

11 **175.45 Contracts or agreements entered into by law enforcement**
12 **agencies.** If a law enforcement agency enters into a contract or agreement for a
13 purchase that is subject to review under s. 13.59 (2) (b) 2. or 3., the contract or
14 agreement shall contain a provision that allows the committee on the oversight of
15 law enforcement and investigation to review the contract or agreement and the use
16 of technology services or devices. A law enforcement agency shall provide a contract
17 or agreement to the committee on the oversight of law enforcement and investigation
18 as required under s. 13.59 (2) (b) 2. and shall provide a proposed contract or
19 agreement to the committee on the oversight of law enforcement and investigation
20 as required under s. 13.59 (2) (b) 3.

21 **SECTION 4.** 968.26 (4) (am) of the statutes is created to read:

22 968.26 (4) (am) If a judge enters a secrecy order under par. (a), at the conclusion
23 of the proceeding, the clerk of circuit court shall notify the committee on the oversight
24 of law enforcement and investigation of the proceeding and the record and the
25 testimony taken shall then be open to that committee, except that all personal

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1 identifying information of uncharged persons or organizations and trade secrets
2 shall be redacted.

3 **SECTION 5. Initial applicability.**

4 (1) The treatment of section 175.45 of the statutes first applies to a contract or
5 agreement proposed, or a modification, renewal, or extension of a contract or
6 agreement proposed, on the effective date of this subsection.

7 (2) The treatment of section 968.26 (4) (am) of the statutes first applies to a
8 proceeding that is concluded on the effective date of this subsection.

9 (END)