



1995 SENATE BILL 537

February 9, 1996 - Introduced by Senators DRZEWIECKI, PANZER and SCHULTZ, cosponsored by Representatives SERATTI, LORGE, KREIBICH, KLUSMAN, GUNDERSON and SILBAUGH, by request of the Reinhold Deering Family. Referred to Committee on Judiciary.

1 **AN ACT to amend** 968.07 (1) (a), 968.07 (1) (b) and 968.09 (1); and **to create**
2 968.04 (3) (a) 5m. and 968.04 (4) (cm) of the statutes; **relating to:** service of
3 arrest warrants.

Analysis by the Legislative Reference Bureau

Under current law, a law enforcement officer may arrest a person when: a) the law enforcement officer has an arrest warrant for that person; b) the law enforcement officer believes, on reasonable grounds, that an arrest warrant for that person has been issued in this state; c) the law enforcement officer believes, on reasonable grounds, that an arrest warrant for that person for a felony offense has been issued in another state; or d) there are reasonable grounds to believe that the person is committing or has committed a crime. Currently, a judge may issue an arrest warrant if a defendant fails to appear before the court as required or violates a term of his or her bond or probation. In addition, a judge must issue an arrest warrant or a summons in lieu of a warrant if, based on the criminal complaint, affidavits filed with the complaint or an examination under oath of the complainant or witnesses, the judge determines that there is probable cause to believe that an offense has been committed and that the accused has committed it. An arrest warrant based on a criminal complaint must satisfy all of the following requirements: a) it must be in writing and be signed by the judge; b) it must state the name of the person to be arrested, the crime charged and the statute alleged to have been violated; c) it must have attached to it a copy of the complaint; d) it must state the date when it was issued and the name of the judge who issued it; and e) it must command that the person against whom the complaint was made be arrested and brought before the judge issuing the warrant, or, if the judge is absent or unable to act, before some other judge in the same county. Current law allows a judge to specify geographical limits for enforcement of an arrest warrant.

This bill prohibits a law enforcement officer from serving an arrest warrant for a misdemeanor (a crime that is punishable by imprisonment of less than one year or

by a fine only) at the residence of the defendant during nighttime hours unless the judge issuing the warrant specifies, based on a showing of good cause, that the warrant may be served during nighttime hours. "Nighttime" means the time between 7:00 p.m. or one hour after sunset, whichever is later, on one day and one hour before sunrise on the following day.

For further information see the *state and local* 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.** 968.04 (3) (a) 5m. of the statutes is created to read:

2 968.04 (3) (a) 5m. State that the warrant may be served at the residence of the
3 defendant during nighttime hours, if sub. (4) (cm) 2. applies.

4 **SECTION 2.** 968.04 (4) (cm) of the statutes is created to read:

5 968.04 (4) (cm) 1. In this paragraph, "nighttime" means the time between 7:00
6 p.m. or one hour after sunset, whichever is later, on one day and one hour before
7 sunrise on the following day. The time of sunset and sunrise shall be ascertained
8 according to the mean solar time of the ninetieth meridian west from Greenwich,
9 commonly known as central time, as given in any almanac.

10 1m. Except as provided in subd. 2., a law enforcement officer may not serve an
11 arrest warrant under par. (b) or (c) at the residence of the defendant during nighttime
12 hours if the complaint on which the arrest warrant is based charges the defendant
13 with a misdemeanor.

14 2. A law enforcement officer may serve an arrest warrant to which subd. 1m.
15 applies at the residence of the defendant during nighttime hours if the judge who
16 issues the warrant specifies, based on a showing of good cause, that the warrant may
17 be served at the residence of the defendant during nighttime hours.

18 **SECTION 3.** 968.07 (1) (a) of the statutes is amended to read:

1 968.07 (1) (a) The Subject to s. 968.04 (4) (cm), the law enforcement officer has
2 a warrant commanding that such person be arrested; or

3 **SECTION 4.** 968.07 (1) (b) of the statutes is amended to read:

4 968.07 (1) (b) The Subject to s. 968.04 (4) (cm), the law enforcement officer
5 believes, on reasonable grounds, that a warrant for the person's arrest has been
6 issued in this state; or

7 **SECTION 5.** 968.09 (1) of the statutes is amended to read:

8 968.09 (1) When a defendant or a witness fails to appear before the court as
9 required, or violates a term of the defendant's or witness's bond or the defendant's
10 or witness's probation, if any, the court may issue a bench warrant for the defendant's
11 or witness's arrest which shall direct, subject to s. 968.04 (4) (cm), that the defendant
12 or witness be brought before the court without unreasonable delay. The court shall
13 state on the record at the time of issuance of the bench warrant the reason therefor.

14 **SECTION 6. Initial applicability.**

15 (1) This act first applies to arrest warrants issued on the effective date of this
16 subsection.

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(END)