

**1999 DRAFTING REQUEST**

**Bill**

Received: **10/23/98**

Received By: **kuesejt**

Wanted: **As time permits**

Identical to LRB:

For: **Marlin Schneider (608) 266-0215**

By/Representing: **him**

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

Drafter: **kuesejt**

May Contact:

Alt. Drafters:

Subject: **State Government - miscellaneous**

Extra Copies:

**Pre Topic:**

No specific pre topic given

**Topic:**

Privacy council and privacy advocate restored.

**Instructions:**

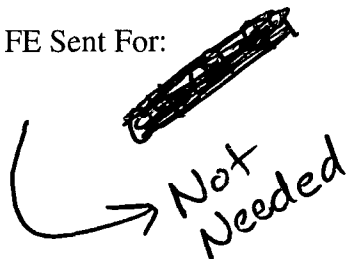
Per 1997 AB-231

**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>
/?	kuesejt 02/18/99	wjackson 02/22/99		_____			
/1			jfrantze 02/23/99	_____	lrb_docadmin 02/23/99	lrb_docadmin 02/23/99	

FE Sent For:

<END>



Not Needed

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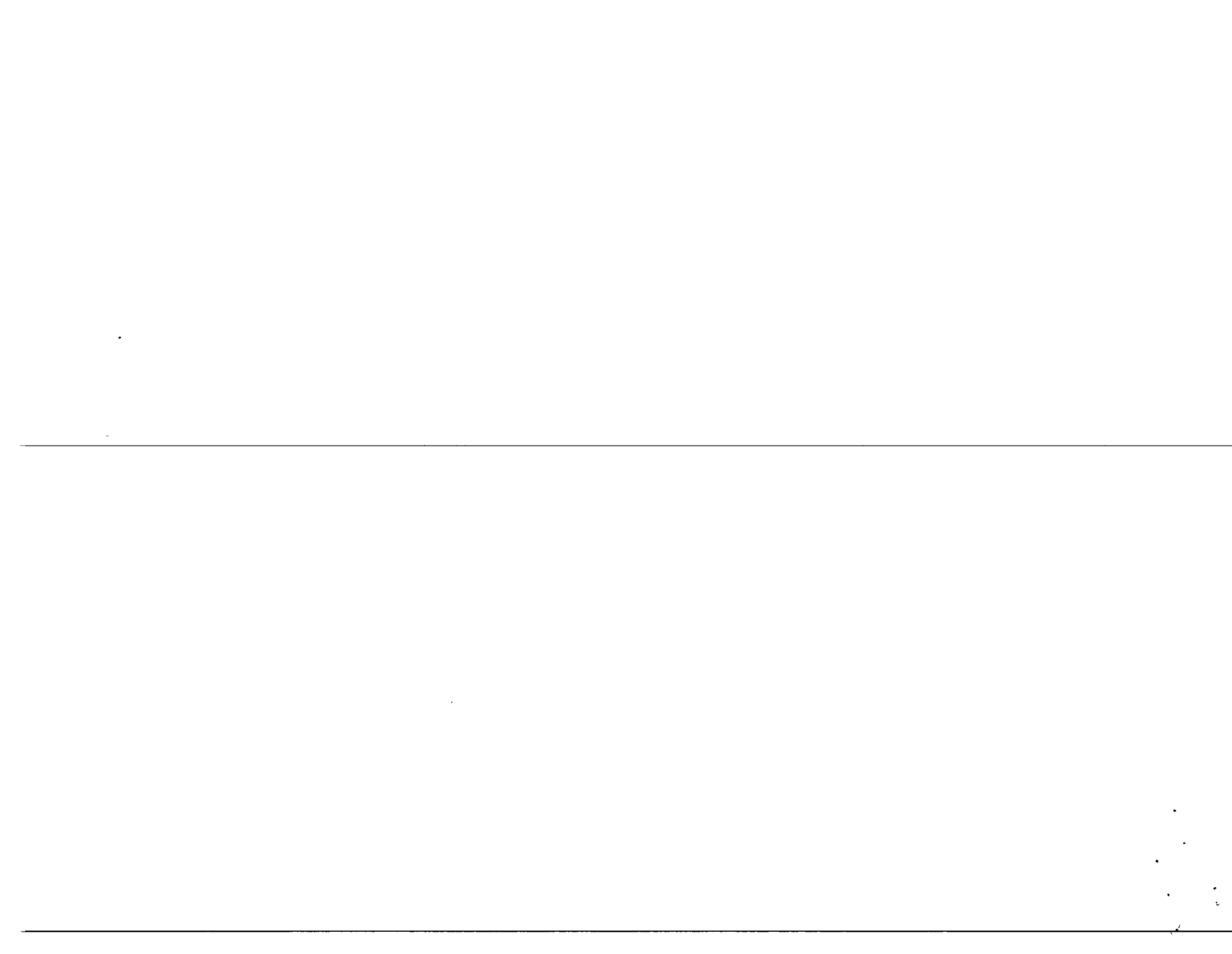
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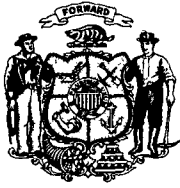
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1? / 1	kuesejt	2/18	1	2/22	WLJ	Jf	lp
						2	23

FE Sent For:

<END>





State of Wisconsin  
1997 - 1998 LEGISLATURE

-0660/1  
LRB-1065/2

JTK:km

WJ

## 1997 ASSEMBLY BILL 231

March 27, 1997 - Introduced by Representatives SCHNEIDER, BLACK, KREUSER, HASENOHRL, R. YOUNG, BOCK, ~~MURAT~~ ZIEGELBAUER, NOTESTEIN, R. POTTER, DUEHOLM, MEYER, REYNOLDS, RYBA, BOYLE, ~~GRONEMUS~~ and BALDWIN, cosponsored by Senators RISSER, GROBSCHMIDT and WIRCH. Referred to Committee on Government Operations.

1 AN ACT to <sup>Reger</sup> ~~amend~~ 13.58 (5) (b) 1., 15.01 (4) and 196.209 (5) (a); and to create  
2 13.58 (5) (a) 4., 15.107 (13), 16.61 (2) (ao), 16.61 (3) (v), 19.62 (5m), 19.625, 19.63,  
3 19.75, 20.505 (4) (fz), 20.923 (6) (ai) and 230.08 (2) (zm) of the statutes; relating  
4 to: creation of a privacy council and position of privacy advocate.

### *Analysis by the Legislative Reference Bureau*

This bill creates a privacy council attached to the department of administration consisting of <sup>nine</sup> ~~5~~ members appointed by the governor to serve for <sup>three</sup> ~~2~~-year terms. One member must be nominated by each of the following persons: the chief justice of the supreme court, the president of the senate, the senate minority leader, the speaker of the assembly and the assembly minority leader. The council appoints a privacy advocate to serve outside the classified service, advises the advocate and suggests legislation concerning personal privacy protection policies relating to personally identifiable information. Under the bill, the privacy advocate advocates for state and local government policies that protect personal privacy relating to personally identifiable information collected or maintained by state agencies or local governments. The advocate provides information to individuals, state agencies and local governments and assists individuals in exercising their rights to ensure compliance with laws governing personal information practices. The advocate may advocate on behalf of any individual before any state agency or local government with respect to exercise of the individual's rights relating to personal information practices; review any personally identifiable information policies established by a



**ASSEMBLY BILL 231**

state agency or local government; and gain access, under certain conditions, to certain confidential information in the custody of a state agency or local government.

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

1           **SECTION 1.** 13.58 (5) (a) 4. <sup>✓</sup> of the statutes is created to read:

2           13.58 (5) (a) 4. Review any proposed statutory changes recommended by the  
3           privacy advocate under s. 19.63 (1) (f). <sup>✓</sup>

4           **SECTION 2.** 13.58 (5) (b) 1. <sup>✓</sup> of the statutes is amended to read:

5           13.58 (5) (b) 1. Direct ~~the privacy advocate, the council on information~~  
6           ~~technology~~ ~~at~~ the subunit in the department of administration with policy-making  
7           responsibility related to information technology to conduct studies or prepare  
8           reports on items related to the committee's duties under par. (a).

9           **SECTION 3.** 15.01 (4) <sup>✓</sup> of the statutes is amended to read:

10          15.01 (4) "Council" means a part-time body appointed to function on a  
11          continuing basis for the study, and recommendation of solutions and policy  
12          alternatives, of the problems arising in a specified functional area of state  
13          government, except the Milwaukee river revitalization council has the powers and  
14          duties specified in s. 23.18, the council on physical disabilities has the powers and  
15          duties specified in s. 46.29 (1) and (2), the state council on alcohol and other drug  
16          abuse has the powers and duties specified in s. 14.24, the privacy council has the  
17          powers specified in s. 19.625 <sup>✓</sup> and, before January 1, 2001, the council on health care  
18          fraud and abuse has the powers and duties specified in s. 146.36.

19          **SECTION 4.** 15.107 (13) <sup>✓</sup> of the statutes is created to read:

Please proof w/stats.

**ASSEMBLY BILL 231**

1           15.107 (13) PRIVACY COUNCIL. There is created a privacy council attached to the  
2 department of administration under s. 15.03<sup>✓</sup> consisting of the following members  
3 appointed to serve for 3-year terms:

4           (a) Four members appointed by the governor.

5           (b) Five members appointed by the governor, one of whom shall be nominated  
6 by each of the following:

7           1. The chief justice of the supreme court.

8           2. The president of the senate.

9           3. The senate minority leader.

10          4. The speaker of the assembly.

11          5. The assembly minority leader.

12          **SECTION 5.** 16.61 (2) (ao)<sup>✓</sup> of the statutes is created to read:

13          16.61 (2) (ao) "Privacy advocate" means the person designated under s. 19.625<sup>✓</sup>

14          (1).

15          **SECTION 6.** 16.61 (3) (v)<sup>✓</sup> of the statutes is created to read:

16          16.61 (3) (v) Shall provide the privacy advocate direct access via a computer  
17 terminal to the registry created under par. (u).<sup>✓</sup>

18          **SECTION 7.** 19.62 (5m)<sup>✓</sup> of the statutes is created to read:

19          19.62 (5m) "Privacy advocate" means the person designated under s. 19.625<sup>(1)</sup>

20          **SECTION 8.** 19.625<sup>✓</sup> of the statutes is created to read:

21          **19.625 Powers and duties of privacy council.** (1) The privacy council shall  
22 appoint the privacy advocate outside the classified service.

23          (2) The council shall advise the privacy advocate on the implementation of this  
24 subchapter.

## ASSEMBLY BILL 231

1           (3) The council may recommend to the governor or legislature legislation  
2 concerning personal privacy protection policies relating to personally identifiable  
3 information.

4           SECTION 9. 19.63<sup>✓</sup> of the statutes is created to read:

5           **19.63 Powers and duties of the privacy advocate.** (1) The privacy  
6 advocate shall:

7           (a) Be an advocate for the development and implementation of state and local  
8 government policies that protect personal privacy relating to personally identifiable  
9 information collected or maintained by authorities.

10           (b) Provide information on an individual's rights under this subchapter to any  
11 individual requesting the information.

12           (c) Assist, as the advocate deems appropriate, an individual in the exercise of  
13 his or her rights under this subchapter. This assistance may include:

14           1. Obtaining information on an authority's policies, procedures or practices for  
15 collecting and managing personally identifiable information and providing access to  
16 the information to the individual.

17           2. Arranging a meeting between the individual and the staff of an authority to  
18 obtain information on the authority's policies, procedures or practices for managing  
19 personally identifiable information or to discuss a complaint that the individual has  
20 made regarding these policies, procedures or practices.

21           (d) Publicize the registry of records series created under s. 16.61 (3) (u)<sup>✓</sup> and,  
22 upon request, assist with record retrieval any person requesting additional  
23 information on a records series in the registry that is provided by a state agency, or  
24 requesting from the registry information to which access is provided by a state  
25 agency.

## ASSEMBLY BILL 231

1 (e) Inform authorities and the public of the availability of the summary of case  
2 law and opinions of the attorney general prepared under s. 19.77.✓

3 (f) Review the adequacy of state and local government policies that protect  
4 personal privacy relating to personally identifiable information collected or  
5 maintained by authorities and recommend, as appropriate, changes in statutes,  
6 ordinances and policies to the governor, the legislature and local units of  
7 government.

8 (2) The privacy advocate may:

9 (a) Advocate on behalf of an individual before any authority any matter  
10 relating to the exercise of the individual's rights under this subchapter.

11 (b) Review an authority's policies, procedures or practices for collecting and  
12 managing personally identifiable information and providing access to the  
13 information and recommend changes in those policies, procedures or practices to the  
14 authority or the unit of government of which the authority is a part.

15 (c) Inspect records in the custody of an authority under s. 19.75.✓

16 SECTION 10. 19.75✓ of the statutes is created to read:

17 **19.75 Access to confidential records.** Unless federal law or regulations  
18 require or as a condition to receipt of federal aids by this state require that the right  
19 of inspection under this section be denied or unless inspection is specifically  
20 prohibited by law, the privacy advocate may inspect any record in the custody of an  
21 authority that is not otherwise open to inspection under ss. 19.35 (1) (a)✓ and 19.36✓  
22 if all of the following apply:

23 (1) The inspection is necessary for the privacy advocate to discharge his or her  
24 duties prescribed by law.

**ASSEMBLY BILL 231**

1 (2) No person other than the privacy advocate is permitted to be present at the  
2 inspection site.

3 (3) The privacy advocate has entered into an agreement with the authority that  
4 specifies the content of the record to be disclosed and the terms of the disclosure,  
5 which may include reasonable requirements placed on the privacy advocate to  
6 maintain the confidentiality of the information contained in the record.

7 **SECTION 11.** 20.005 (3) (schedule) of the statutes: at the appropriate place,  
8 insert the following amounts for the purposes indicated:

1999-00	2000-01
<del>1995-96</del>	<del>1996-97</del>

9  
10 **20.505 Administration, department of**

11 (4) ATTACHED DIVISIONS, BOARDS, COUNCILS AND  
12 COMMISSIONS

13 (fz) Privacy council and privacy  
14 advocate

GPR A -0- -0-

15 **SECTION 12.** 20.505 (4) (fz) of the statutes is created to read:

16 20.505 (4) (fz) *Privacy council and privacy advocate.* The amounts in the  
17 schedule for the general program operations of the privacy council and privacy  
18 advocate under subch. IV of ch. 19.

19 **SECTION 13.** 20.923 (6) (ai) of the statutes is created to read:

20 20.923 (6) (ai) Administration, department of: privacy advocate.

21 **SECTION 14.** 196.209 (5) (a) of the statutes is amended to read:

22 196.209 (5) (a) The commission shall appoint a telecommunications privacy  
23 council under s. 15.04 (1) (c) consisting of representatives of telecommunications  
24 providers and of consumers of telecommunications services, including this state.

## ASSEMBLY BILL 231

1 The privacy advocate designated under s. 19.625 (1) shall be a member of the  
2 telecommunications privacy council.

3 **SECTION 15.** 230.08 (2) (zm) of the statutes is created to read:

4 230.08 (2) (zm) The privacy advocate.

5 **SECTION 16. Nonstatutory provisions.**

6 (1) INITIAL TERMS. Notwithstanding section 15.107 (13) (intro.) of the statutes,  
7 as created by this act, of the members who are initially appointed to the privacy  
8 council, as created by this act:

9 (a) The members who are appointed under section 15.107 (13) (a) of the  
10 statutes, as created by this act, shall serve for terms expiring on July 1, 2001.

11 (b) The members who are appointed under section 15.107 (13) (b) 1. to 3. of the  
12 statutes, as created by this act, shall serve for terms expiring on July 1, 2002.

13 (c) The members who are appointed under section 15.107 (13) (b) 4. and 5. of  
14 the statutes, as created by this act, shall serve for terms expiring on July 1, 2003.

15 (2) POSITION AUTHORIZATIONS. The authorized FTE positions for the department  
16 of administration, funded from the appropriation under section 20.505 (4) (fz) of the  
17 statutes, as created by this act, are increased by 2.0 GPR positions to provide for the  
18 position of privacy advocate, as created by this act, and to provide support services  
19 to the privacy advocate and privacy council, as created by this act.

20

(END)

!



**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-0660/1

JTK.../.....

Wlj

This draft provides a blank appropriation to fund the activities of the privacy council and privacy advocate for the 1999–2001 fiscal biennium. When you know the amount you need to appropriate for this purpose, please contact me and I will either redraft this draft or draft an amendment, as appropriate. For the purpose of obtaining the necessary information, you may wish to request the fiscal estimate prior to introduction. Because the biennial budget act repeals and recreates the appropriation schedule under s. 20.005 (3), stats., if this draft becomes an act before the budget act is enacted, the budget act will eliminate any appropriation contained in this draft. Therefore, you may wish to seek passage of an appropriation by means of a budget amendment.

Jeffery T. Kuesel  
Managing Attorney  
Phone: (608) 266–6778



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FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-0660/1  
JTK:wlj:jf

February 23, 1999

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Jeffery T. Kuesel  
Managing Attorney  
Phone: (608) 266-6778



**SUBMITTAL  
FORM**

**LEGISLATIVE REFERENCE BUREAU  
Legal Section Telephone: 266-3561  
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

**Date:** 2/23/99

**To:** Representative Schneider

**Relating to LRB drafting number:** LRB-0660

**Topic**

Privacy council and privacy advocate restored.

**Subject(s)**

State Government - miscellaneous

1. **JACKET** the draft for introduction \_\_\_\_\_ *MDS*

in the **Senate** \_\_\_\_ or the **Assembly** \_\_\_\_ (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT**. See the changes indicated or attached \_\_\_\_\_.

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction \_\_\_\_\_.

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Jeffery T. Kuesel, Managing Attorney  
Telephone: (608) 266-6778

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