

1999 DRAFTING REQUEST

Bill

Received: **03/17/1999**

Received By: **smiller**

Wanted: **As time permits**

Identical to LRB:

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

By/Representing:

This file may be shown to any legislator: NO

Drafter: **mdsida**

May Contact:

Alt. Drafters:

Subject: **Criminal Law - procedure**

Extra Copies: **jeo**

Pre Topic:

No specific pre topic given

Topic:

Venue for certain crimes

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>Reaured</u>
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/1	mdsida 10/15/1999	kgeller 10/15/1999	jfrantze 10/15/1999	_____	lrb-docadmin 10/15/1999	lrb-docadmin 10/15/1999	

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/?	mdsida	Al 10/1 jlg	MRC 10/1	MRC/CJS 10/1			

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COURT OF APPEALS OF WISCONSIN

DISTRICT II
2727 N. GRANDVIEW BLVD.
WAUKESHA, WISCONSIN 53188-1672

Chambers of
DANIEL P. ANDERSON, Judge

Telephone: (414) 521-5372
Fax: (414) 521-5419
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February 10, 1999

Representative Marlin D. Schneider
Room 204 North
State Capitol
P. O. Box 8953
Madison 53708-8953

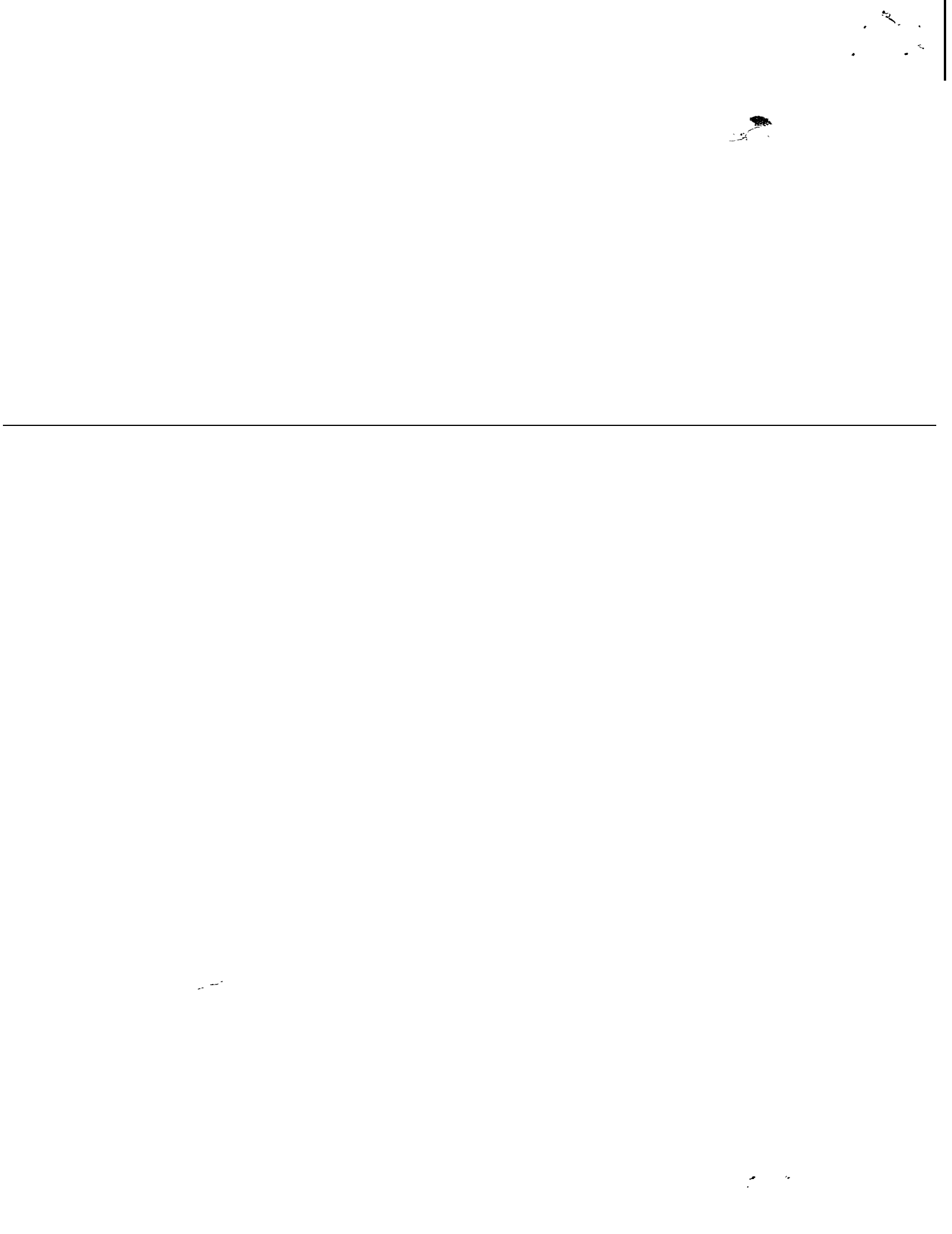
Dear Representative Schneider;

I read with interest the story in the February 10 edition of the **JOURNAL-SENTINEL** concerning the Governor's privacy proposals and your comments that they did not go far enough. I found a comment by a DOC official to be interesting. The article quoted officials as saying, "having prisoners do telemarketing and data entry has caused no problems and that security precautions are in place to protect the public."

I beg to differ with DOC. On October 23, 1998, I received a call **from** East Bay Merchants, a Wausau based catalog merchant. The caller told me that an order for \$501.78 in shoes was made using my VISA card. Because this was the first order in my name and was being shipped to Lamont Perkins at the Winnebago Resource Center, East Bay Merchants' policy was to confirm the order with the credit card holder. I told the caller that I did not place the order and immediately canceled the VISA card.

Three days later, J. C. Penny Credit Department called to confirm a charge to my MASTERCARD for a 13-inch black & white television to be shipped to Lamont Perkins, 4300 Sherman Road, Winnebago, Wisconsin. The caller told me that it is J. C. Penny's practice to confirm all orders being shipped to known prison addresses. Again, I told the caller that I did not place the order. I then canceled every credit card issued in my name or my wife's name.

The two credit cards used in this scam were the only two cards I used to place catalog orders over the telephone. I am convinced that catalog orders I placed were taken by Wisconsin prisoners and, despite the safeguards DOC claims are in place, my credit card numbers, and home address were fraudulently used by a prisoner to place orders. It was the policies of the merchants



and not **DOC's** safeguards that prevented these charges from going through. I found that these two incidents did have a negative impact upon me. Being a judge of more than 20 years did not prepare me for devastation you feel when your privacy is violated.

I reported both incidents to the Town of Pewaukee Police Department. A detective declined to investigate because the crimes did not happen in the Town. Of course, he was wrong; but, I had no desire to deliver a lecture on venue in credit card fraud cases to someone who, obviously, did not want to do the investigative work. Because of my position as a Judge and increased awareness of security issues for the judiciary, I reported the incidents to the Director of State Courts, J. **Denis** Moran. Haven't heard **from** him yet.

I would recommend an amendment to § 97 1.19 "Place of trial." Venue for violations of § 943.201, "Misappropriation of personal identifying information or personal identification **documents**" and § 943.4 1, "Financial transaction card crimes" should be in the county of the victim's residence; the county of the defendant's residence; or, the county in which the offense is **consummated**. ~~In reviewing ch. 943, it appears to me that there are several other crimes against property~~ that should have venue clarified.

Please continue your campaign to provide increased protection for the personal identifying information of Wisconsin's citizens. If you **need any further** information feel free to contact **me**:

Sincerely yours,


Daniel P. Anderson
Judge



6 April 1999

Hi Steve:

I am enclosing yet another draft request for Marlin., I do not know who you gave the other one to, but I do know that we had another request which would change S.971 .19 "Place of trial, S.943.201 and S.943.41. Anyway, this is a continuation of that whole thing, If you or the drafter have any questions please give me a call at 6-0215. Judy



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DISTRICT II

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Chambers of
DANIEL P. ANDERSON, Judge

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February 22, 1999

Representative Marlin D. Schneider
Room 204 North
State Capitol
P. O. Box 8953
Madison 537088953

Dear Representative Schneider;

Thank you for your prompt response to my letter of February 10, 1999.

In thinking about what crimes should be included in any expansion of § 917.19, "Place of Trial," I have limited myself to crimes that impact on personal **privacy** issues. I would suggest that it would be appropriate to expand venue for the following crimes:

\$942.01	"Defamation"
\$942.03	"Giving false information for publication"
§ 943.201	"Misappropriation of personal identifying information or personal identifi-
cation documents"	
§ 943.205	"Theft of trade secrets"
§ 943.30	"Threats to injure or accuse of crime"
§ 943.31	"Threat to communicate derogatory information"
\$943.31	"Financial transaction card crimes"
§ 943.70	"Computer crimes"
§ 946.72	"Tampering with public records and notices"
§ 947.0125	"Unlawful use of computerized communication systems"

All of these crimes are on the list because, I believe, they can be committed using telecommunication technology available to any person. Because technology gives the perpetrator the choice of committing crimes throughout the state from any location the current definition of the place of trial in § 971.19(1) is inadequate. If the place of trial is expanded - to include the county of residence of the victim or the defendant or the county in which the crime was consummated - protracted legal battles over the venue of a multi-county crime will be avoided.



SOON

Jan

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 AN Act ^{6^{en} cat} relating to: place of trial for persons charged with certain crimes. ✓

Analysis by the Legislative Reference Bureau

Under current law, a defendant charged with a crime must generally be tried in the county in which the crime is committed. Current law also provides a number of exceptions to this general rule. For example, if a crime entails the commission of two or more acts, the defendant may be tried in any county in which any of the acts occurred.

Under this bill, a defendant charged with any of the following crimes may be tried in the defendant's county of residence, the victim's county of residence or in any other county where the trial may be held under current law: 1) defamation; 2) giving false information for publication; 3) misappropriation of personal identifying information or personal identification documents; 4) theft of trade secrets; 5) threats to injure or accuse of crime; 6) threats to communicate derogatory information; 7) financial transaction card crimes; 8) computer crimes; 9) tampering with public records and notices; 10) unlawful use of telephone; and 11) unlawful use of computerized communication systems.

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

2 SECTION 1. 971.19 (11) ^X of the statutes is created to read:
3 971.19 (11) In an action under s. 942.01, ✓ 942.03, ✓ 943.201, ✓ 943.205, ✓ 943.30, ✓
4 943.31, ✓ 943.41, ✓ 943.70, ✓ 946.72, ✓ 947.012 ✓ or 947.0125, the defendant may be tried in

1 the defendant's county of residence, in the victim's county of residence or in any other
2 county in which the trial may be conducted under this section. ✓

3 **SECTION 2. Initial applicability.**

4 (1) ~~The treatment of section 971.19 (11) of the statutes~~ first applies to criminal
5 actions commenced on the effective date of this subsection. ✓

This act

6 (END)



State of Wisconsin
1999 - 2000 LEGISLATURE

LRE2579(1)

MGD:jlj:mrc

SOON

RMR

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Regen

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