

1999 SENATE BILL 259

October 20, 1999 – Introduced by Senators ERPENBACH, DECKER, BAUMGART, ROSENZWEIG, RISSER, PLACHE and GROBSCHMIDT, cosponsored by Representatives SCHNEIDER, LA FAVE, BOCK, BLACK, TRAVIS, MUSSER, BOYLE, RYBA, LASSA, HEBL, J. LEHMAN, HASENOHRL, SCHOOFF, RICHARDS and COGGS. Referred to Committee on Privacy, Electronic Commerce and Financial Institutions.

1 **AN ACT** *to amend* 814.245 (2) (d); and *to create* 18.13 (4), 165.06, 165.061 and
 2 165.062 of the statutes; **relating to:** creating a consumer privacy advocate in
 3 the department of justice and making an appropriation.

Analysis by the Legislative Reference Bureau

This bill creates a consumer privacy advocate in the department of justice. Under the bill, the department of justice is given an additional attorney position and the attorney general is required to designate an assistant attorney general as the consumer privacy advocate. The advocate, under the bill, is required to represent the consumer's interest in issues concerning consumer privacy, such as the purchase of products on the Internet and the prevention of theft of a consumer's personal identification information. The advocate may intervene in civil actions related to information technology services provided by the state, misappropriation of personal identifying information, data alteration, financial card misuse and computer program and data misuse, if necessary to protect the consumer's right to privacy. The bill requires the department of administration to make investigations, studies and reports at the advocate's request related to these proceedings. Other state agencies are required by the bill to cooperate with the advocate in carrying out his or her functions.

The bill gives the consumer privacy advocate the authority to appeal from administrative rulings to the courts. In addition, the advocate may initiate actions before any agency or court related to consumer privacy issues and may present evidence and make arguments in those actions. The bill requires the attorney

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general to appoint a consumer privacy advisory committee to advise the consumer privacy advocate regarding his or her duties.

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

1 **SECTION 1.** 18.13 (4) of the statutes is created to read:

2 18.13 (4) CONSUMER PRIVACY ADVOCATE. Notwithstanding s. 165.061, the
3 consumer privacy advocate does not have authority to initiate any action or
4 proceeding concerning the issuance of obligations by the building commission under
5 this chapter.

6 **SECTION 2.** 165.06 of the statutes is created to read:

7 **165.06 Assistant attorney general — consumer privacy advocate. (1)**

8 The attorney general shall designate an assistant attorney general on the attorney
9 general's staff as the consumer privacy advocate. The consumer privacy advocate
10 shall represent the consumers' interests in issues concerning consumer privacy,
11 including the purchase of products on the Internet and the prevention of theft of the
12 consumer's personal identifying information. The secretary of administration shall
13 give the consumer privacy advocate written notices of all proceedings under subch.
14 VII of ch. 16. The prosecutor of any action under s. 943.201, 943.392, 943.41 or 943.70
15 shall give the consumer privacy advocate written notices of all proceedings under
16 those sections. The consumer privacy advocate shall be provided the minutes,
17 reports, recommendations and any documents provided by or to the joint committee
18 on information policy and the standing committees of the assembly and senate
19 dealing with privacy matters. Annually, the consumer privacy advocate shall report
20 to the appropriate standing committees of the assembly and senate on the status of
21 consumer privacy in this state.

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1 **(2)** The consumer privacy advocate may, on his or her own initiative or upon
2 request of any committee of the legislature, formally intervene in all civil
3 proceedings described in sub. (1) whenever such intervention is needed for the
4 protection of consumers' rights to privacy, including the restriction of access to the
5 consumer's personal identifying information and the prevention of fraudulent use of
6 the consumer's personal identifying information on the Internet.

7 **(3)** Personnel of the department of administration shall, upon the request of
8 the consumer privacy advocate, make such investigations, studies and reports as the
9 consumer may request in connection with proceedings described in sub. (1), either
10 before or after formal intervention. Personnel of state agencies shall, at the
11 consumer privacy advocate's request, provide information, serve as witnesses in civil
12 proceedings described in sub. (1) and otherwise cooperate in the carrying out of the
13 consumer privacy advocate's functions. Formal intervention shall be by filing a
14 statement to that effect with the examiner or other person immediately in charge of
15 the proceeding. Upon filing the statement, the consumer privacy advocate shall be
16 considered a party in interest with full power to present evidence, subpoena and
17 cross-examine witnesses, submit proof, file briefs or do any other acts appropriate
18 for a party to the proceedings.

19 **(4)** The consumer privacy advocate may appeal from administrative rulings to
20 the courts. In all administrative proceedings and judicial review proceedings the
21 consumer privacy advocate shall be identified as "consumer privacy advocate". This
22 section does not preclude or prevent any division of any department or independent
23 agency from appearing by its staff as a party in those proceedings.

24 **SECTION 3.** 165.061 of the statutes is created to read:

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1 **165.061 Assistant attorney general; consumer privacy advocate;**
2 **authority.** In carrying out his or her duty to protect the consumers' right to privacy,
3 the consumer privacy advocate has the authority to initiate actions and proceedings
4 before any agency or court related to consumer privacy, including issues concerning
5 constitutionality, to present evidence and testimony and to make arguments.

6 **SECTION 4.** 165.062 of the statutes is created to read:

7 **165.062 Assistant attorney general; consumer privacy advocate;**
8 **advisory committee.** The attorney general shall appoint a consumer privacy
9 advisory committee under s. 15.04 (1) (c). The consumer privacy advisory committee
10 shall consist of not less than 7 nor more than 9 members. The members shall have
11 backgrounds in or demonstrated experience or records relating to privacy protection,
12 record security or information technology. The consumer privacy advisory
13 committee shall advise the consumer privacy advocate consistent with his or her
14 duty to protect the consumers' right to privacy. The consumer privacy advisory
15 committee shall conduct meetings consistent with subch. V of ch. 19 and shall permit
16 public participation and public comment on consumer privacy advocate activities.

17 **SECTION 5.** 814.245 (2) (d) of the statutes is amended to read:

18 814.245 (2) (d) "State agency" does not include the consumer privacy advocate
19 or citizens utility board.

20 **SECTION 6. Appropriation changes.**

21 (1) DEPARTMENT OF JUSTICE. In the schedule under section 20.005 (3) of the
22 statutes for the appropriation to the department of justice under section 20.455 (1)
23 (a) of the statutes, as affected by the acts of 1999, the dollar amount is increased by
24 \$120,700 for fiscal year 1999–00 and the dollar amount is increased by \$120,700 for
25 fiscal year 2000–01 to increase the authorized FTE positions for the department by

