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(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

1999-00

(session year)

Assembly

(Assembly, Senate or Joint)

**Committee on ... Judiciary and Personal Privacy
(AC-JPP)**

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
 - (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
 - (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Mike Barman (LRB) (May/2012)

Assembly

Record of Committee Proceedings

Committee on Judiciary and Personal Privacy

Assembly Bill 729

Relating to: personal information contained in garbage or trash, the theft of garbage or trash and providing a penalty.

By Representatives Travis, Huebsch, Schneider, Kestell, Albers, Urban, J. Lehman, Stone, Ward, Kelso, Berceau, Musser, Black, Boyle, Freese, Williams and Plale; cosponsored by Senators Erpenbach and Welch.

February 8, 2000 Referred to committee on Judiciary and Personal Privacy.

February 15, 2000 **PUBLIC HEARING HELD**

Present: (8) Representatives Huebsch, Gundrum, Suder,
Grothman, Sherman, Colon, Hebl and
Staskunas.

Excused: (1) Representative Walker.

Appearances for

- Representative David Travis, 18th Assembly District

Appearances against

- Paul Bucher, Wisconsin District Attorneys Association

Appearances for Information Only

- Kenneth Mueller, City of Milwaukee Police

Registrations for

- None.

Registrations against

- Gary Mikulec, WI Chiefs of Police Association
- Erick Slamka, Milwaukee H.I.D.T.A.

March 1, 2000 **EXECUTIVE SESSION**

Present: (9) Representatives Huebsch, Gundrum, Walker,
Suder, Grothman, Sherman, Colon, Hebl and
Staskunas.

Excused: (0) None.

Moved by Representative Hebl, seconded by Representative Walker, that **Assembly Amendment 1 to Assembly Bill 729** be recommended for introduction and adoption.

Ayes: (9) Representatives Huebsch, Gundrum, Walker, Suder, Grothman, Sherman, Colon, Hebl and Staskunas.

Noes: (0) None.

Excused:(0) None.

INTRODUCTION AND ADOPTION RECOMMENDED, Ayes 9,
Noes 0, Excused 0

Moved by Representative Staskunas, seconded by Representative Walker, that **Assembly Amendment 2 (offered by committee) which would delete lines 15-18 on page 4 of the bill** be recommended for introduction and adoption.

Ayes: (9) Representatives Huebsch, Gundrum, Walker, Suder, Grothman, Sherman, Colon, Hebl and Staskunas.

Noes: (0) None.

Excused:(0) None.

INTRODUCTION AND ADOPTION RECOMMENDED, Ayes 9,
Noes 0, Excused 0

Moved by Representative Huebsch, seconded by Representative Hebl, that **Assembly Bill 729** be recommended for passage as amended.

Ayes: (6) Representatives Huebsch, Walker, Suder, Colon, Hebl and Staskunas.

Noes: (3) Representatives Gundrum, Grothman and Sherman.

Excused:(0) None.

PASSAGE AS AMENDED RECOMMENDED, Ayes 6, Noes 3,
Excused 0

A handwritten signature in black ink, appearing to read 'Robert Delaporte', written in a cursive style.

Robert Delaporte
Committee Clerk

Vote Record

Assembly Committee on Judiciary and Personal Privacy

Date: 3-1-00
 Moved by: HUEBSCH Seconded by: Hebl
 AB: 729 Clearinghouse Rule: _____
 AB: _____ Appointment: _____
 AJR: _____ SR: _____ Other: _____
 A: _____ SR: _____

A/S Amdt: _____
 A/S Amdt: _____ to A/S Amdt: _____
 A/S Sub Amdt: _____
 A/S Amdt: _____ to A/S Sub Amdt: _____
 A/S Amdt: _____ to A/S Amdt: _____ to A/S Sub Amdt: _____

Be recommended for:

- Passage *a s amend*
- Introduction
- Adoption
- Rejection

- Indefinite Postponement
- Tabling
- Concurrence
- Nonconcurrence
- Confirmation

Committee Member

Rep. Michael Huebsch, Chair
 Rep. Mark Gundrum
 Rep. Scott Walker
 Rep. Scott Suder
 Rep. Glenn Grothman
 Rep. Gary Sherman
 Rep. Pedro Colon
 Rep. Tom Hebl
 Rep. Tony Staskunas

<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
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Totals: 6 3 _____ _____

Motion Carried

Motion Failed

Vote Record

Assembly Committee on Judiciary and Personal Privacy

Date: 3-1-00
Moved by: Hebl Seconded by: Walker
AB: 729 Clearinghouse Rule: _____
AB: _____ SB: _____ Appointment: _____
AJR: _____ SJR: _____ Other: _____
A: _____ SR: _____

A/S Amdt: _____
A/S Amdt: _____ to A/S Amdt: _____
A/S Sub Amdt: _____
A/S Amdt: _____ to A/S Sub Amdt: _____
A/S Amdt: _____ to A/S Amdt: _____ to A/S Sub Amdt: _____

Be recommended for:

- Passage
- Introduction
- Adoption
- Rejection

- Indefinite Postponement
- Tabling
- Concurrence
- Nonconcurrence
- Confirmation

Committee Member

Rep. Michael Huebsch, Chair
Rep. Mark Gundrum
Rep. Scott Walker
Rep. Scott Suder
Rep. Glenn Grothman
Rep. Gary Sherman
Rep. Pedro Colon
Rep. Tom Hebl
Rep. Tony Staskunas

<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
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Totals: 9

Motion Carried

Motion Failed

Vote Record

Assembly Committee on Judiciary and Personal Privacy

Date: 3-1-00 Executive Session Public Hearing

Bill Number: 729

Moved by: ~~Lucretia~~ Stask Seconded by: Walker

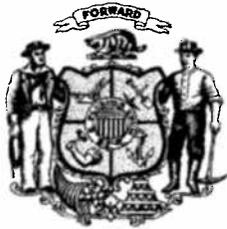
Motion: Remove Lines 15-18 on Pg 4
AA 2 to AB 729

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>
Rep. Michael Huebsch, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Mark Gundrum	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Scott Walker	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Scott Suder	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Glenn Grothman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Gary Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Pedro Colon	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Tom Hebl	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Tony Staskunas	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>9</u>	<u> </u>	<u> </u>

Motion Carried Motion Failed



WISCONSIN STATE LEGISLATURE





Village of Whitefish Bay Police Department

5300 N. Marlborough Drive • Whitefish Bay, Wisconsin 53217 • (414) 962-3830

GARY J. MIKULEC • Chief of Police • FAX (414) 962-3497

February 14, 2000

TO: Members of the Judiciary and Personal Privacy Committee of the Assembly
Rep. Michael Huebsch
Rep. Mark Gundrum
Rep. Glenn Grothman
Rep. Scott Suder
Rep. Scott Walker
Rep. Gary Sherman
Rep. Pedro Colon
Rep. Tom Hebl
Rep. Tony Staskunas

RE: **Wisconsin Chiefs of Police Association Opposition to AB 729 Theft of Garbage**

FROM: Chief Gary J. Mikulec, Legislative Co-Chair, WCPA

I am here today to present the collective voice of 600 police chiefs in the State of Wisconsin who are opposed to AB 729 and the proposed creation of Wis. §968.132. The very essence of this bill regulates the constitutionality of behavior; a province embraced by our courts. The United States Supreme Court as well as the Wisconsin Supreme Court has already ruled that there is no reasonable expectation of privacy in trash. By its very definition garbage is "any worthless, unnecessary matter" disposed of by the owner because it holds no practical value. Wisconsin Courts have regularly held that there is no expectation of privacy when one gives up their right to property. The search and seizure of trash is constitutionally approved in this State and in this country.

Over the years "garbage pulls" have proven to be an effective and critical crime fighting strategy used by police often resulting in countless arrests for crimes ranging from drug violations to sexual assault to robbery and so on. Law enforcement has regularly removed and inspected disposed garbage from suspected criminals in situations where good citizens in our communities come forward to report wrong doing but lack sufficient tangible evidence to help law enforcement proceed with prosecution. This bill protects a single person, the criminal. This bill

does not and cannot help eliminate drug dealers and sexual predators living in our neighborhoods.

An expectation of privacy is and should be the responsibility of every citizen. Should a citizen decide to discard personally identifiable information it is a calculated risk entirely assumed by the citizen. Criminals regularly discard personally identifiable information along with evidence of crimes and it is these items that law enforcement targets during a garbage search. Why not get a search warrant? A search warrant requires probable cause, a standard of proof that may typically follow a garbage search but seldom, if ever does it precede a garbage search. If law enforcement had probable cause to obtain a search warrant you can believe we would not be sifting through garbage. A garbage search has its legal tenets in "suspicion or belief" but mere suspicion falls far short of probable cause and therefore a search warrant is not a possibility.

The Wisconsin Chiefs of Police Association respectfully opposes this bill and we request this respected Committee vote to oppose this proposal because, by its very nature it provides a legal umbrella for criminals while restraining law enforcement from carrying out constitutionally approved methods of the fourth amendment of our United States Constitution.

Respectfully submitted,



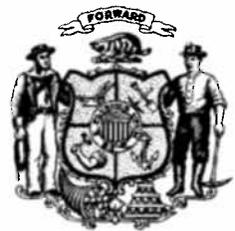
Gary J. Mikulec
Chief of Police
Co-Chair Legislative Committee of Wisconsin Chiefs of Police Association

See: *State v. Stevens*, 123 W (2d) 303, 358 NW (2d) 788 (1985) *There is no reasonable expectation of privacy in garbage once it has been routinely collected by garbage collectors.*

California v. Greenwood, 486 US 106 (1986) *Defendants have no reasonable privacy interest in trash left on curb for pick-up therefore, warrantless search is not prohibited under federal law.*



WISCONSIN STATE LEGISLATURE



DAVE TRAVIS
STATE REPRESENTATIVE



STATE CAPITOL
P.O. BOX 8953
MADISON, WISCONSIN 53708
266-5340

M E M O

TO: Members of the Assembly Judiciary & Personal
Privacy Committee

FROM: Representative Dave Travis

DATE: February 29, 2000

RE: Amendment to Assembly Bill 729

The attached amendment to Assembly Bill 729 will be introduced at the executive session tomorrow, March 1, 2000.

Please feel free to contact me if you have any questions.

Bob - 2/28
For Wednesday's
Exec. Session.
Dor



WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

One East Main Street, Suite 401; P.O. Box 2536; Madison, WI 53701-2536

Telephone: (608) 266-1304

Fax: (608) 266-3830

Email: leg.council@legis.state.wi.us

DATE: February 29, 2000

TO: REPRESENTATIVES DAVID TRAVIS AND MICHAEL HUEBSCH

FROM: Mark C. Patronsky, Senior Staff Attorney

SUBJECT: 1999 Assembly Bill 729, Relating to Privacy of Information Contained in Trash

This memorandum is in response to your request for a brief description of 1999 Assembly Bill 729, relating to personal information contained in trash, and the theft of trash. You have also requested a brief description of LRBa1513/1, an amendment to Assembly Bill 729. A copy of the amendment is included as an attachment to this memorandum.

Assembly Bill 729 creates four new statutes, all of which relate to "trash," as defined in the bill. "Trash" is defined as anything placed in an opaque bag or an opaque container with a lid, if the bag or the contents of the container are disposed in any of the normal ways for collection and disposal of garbage. Each of the four provisions of the bill uses this definition. The bill:

- Creates a new element of the definition of "invasion of privacy," so that any possession of personal information from trash constitutes an invasion of privacy. Under current statutes, a person whose privacy is unreasonably invaded is entitled to an injunction to prevent and restrain the invasion, compensatory damages and reasonable attorneys fees.
- Imposes a criminal penalty on anyone who intentionally takes away another person's trash, other than for disposal, without the other person's consent. The penalty for a violation is a forfeiture not to exceed \$1,000.
- Imposes a criminal penalty on anyone who possesses personal information about another individual, knowing that it was derived from trash, without the consent of the individual. The penalty for a violation is a fine not to exceed \$1,000 or imprisonment not to exceed 90 days, or both.

- Declares that an individual has a reasonable expectation of privacy with respect to trash for purposes of Wis. Const. art. I, s. 11. This provision is a legislative declaration that searches or seizures of trash should be subject to the warrant requirements of the Wisconsin Constitution.

LRBa1513/1 makes two changes to the bill, as follows:

- The definition of "trash" is modified to exclude the recyclable materials that are included in the prohibition on landfilling under s. 287.07 (3), Stats., with the exception of office paper.
- The two criminal statutes created by the bill regarding theft of trash and possession of personal information derived from trash are made inapplicable to a law enforcement officer, or to a person acting at the direction of a law enforcement officer, if the law enforcement agency employing the officer has a public, written policy regarding the disposition of materials obtained from trash.

If I can provide further information on this subject, please feel free to contact me.

MCP:ksm;jal

Attachment

AA1
- AB 729