

2003 DRAFTING REQUEST**Assembly Amendment (AA-AB288)**Received: **04/25/2003**Received By: **mdsida**Wanted: **As time permits**

Identical to LRB:

For: **Mark Gundrum (608) 267-5158**By/Representing: **Don Dyke**This file may be shown to any legislator: **NO**Drafter: **mdsida**

May Contact:

Addl. Drafters:

Subject: **Criminal Law - miscellaneous
Criminal Law - procedure**Extra Copies: **rlr**Submit via email: **YES**Requester's email: **Rep.Gundrum@legis.state.wi.us**Carbon copy (CC:) to: **Don.dyke@legis.state.wi.us**

Pre Topic:

No specific pre topic given

Topic:

Venue in identity theft cases

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>Required</u>
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FE Sent For:

<END>

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/1	mdsida	1 cjs 4/28/03	6/4/03	6/1/03			

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COUNTY OF MILWAUKEE
DISTRICT ATTORNEY'S OFFICE
Inter-Office Communication

DATE : April 24, 2003

TO : Don Dyke
VIA FAX: 608/266-3830

FROM : Robert D. Donohoo
Chief Deputy District Attorney

SUBJECT : 2003 Assembly Bill 288

Last night I was looking over this Bill and I have one question. It was my impression (although I may be incorrect) that it was the intent of the committee in some identity theft cases to change the jurisdiction and venue law to grant jurisdiction and venue in cases where the victim at the time of the commission of the crime lives in the State of Wisconsin.

Accompanying this memorandum is part of the letter that I sent to the legislature awhile ago addressing this issue. When I was reading Assembly Bill 288 last night, it dawned on me that the changes to 939.03 and 971.19 do not have the limitation that they only apply to the place where the victim lives at the time of the commission of the crime. As I read those sections as drafted, the victim could live in Iowa at the time of the commission of the crime, but if the person moves to Wisconsin and reports the crime in Wisconsin and lives in Wisconsin when we try the case, arguably the county under 971.19(11) where the victim lives has venue and an argument could be made that the state has jurisdiction under 939.03 although I see the bigger problem being with 971.19(11). I looked back through the committee notes and I don't see that we ever said point blank that we intended the law to be that Wisconsin has jurisdiction if the victim at the time of the commission of the crime lives in Wisconsin. As I stated, I think it's a bigger problem with 971.19 than 939.03 since you could argue by inference that 939.03 applies at the time of the commission of the crime.

Should some phrase like "at the time of the commission of the crime" or some other language be added to those statutory sections especially 971.19?

RDD:lmh

Att.

September 5, 2001

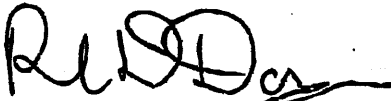
Page 2

over the phone from a company in Illinois. The victim later learns that the credit card was issued by a company in New Jersey (based on a written or telephone application) and the company has no ability to state exactly where the information was received from. The item that was purchased was delivered to an address in Iowa. Under the present Wisconsin law, no "crime" occurred in the state of Wisconsin. For the victim to report this crime to the appropriate law enforcement agencies in either Illinois, New Jersey, or Iowa is a daunting and almost impossible task. The natural reaction of the victim is to report the crime to the law enforcement agency where the victim resides. Unfortunately, the present law, because no crime occurred in the jurisdiction where the victim resides, makes the reporting and subsequent police investigation very difficult. Further, under the present law the Milwaukee County District Attorney's Office could not prosecute anyone for the crime because there is no venue to try the case in Milwaukee County. See sec. 971.19, Stats.

Both the "jurisdiction" deficiency and the "venue" deficiency need to be corrected. Assembly Bill 406 addresses the "jurisdiction" deficiency but it does not address the "venue" deficiency. One of the easiest ways, in my opinion, to correct the "venue" deficiency would be to create a new subsection of sec. 971.19. That new subsection would provide that "In an action for a violation of sec. 943.201, the defendant may be tried in the county of lawful residence at the time of the commission of the crime of the individual whose personal identifying information or personal identification document is used or attempted to be used or in the county under any other applicable subsection of this section" or some other wording that reflects this concept..

If you have any questions concerning the above, I can be reached at 821 West State Street, Room 405, Milwaukee, Wisconsin 53233-1485. My fax number is 414-223-1955 and my telephone number is 414-278-4674.

Sincerely,



ROBERT D. DONOHOO
Chief Deputy District Attorney

RDD/kl

2003

Date (time) needed 4/28 5PM

LRBa 0487, 1

AMENDMENT

mgd : cjs :

See form AMENDMENTS — COMPONENTS & ITEMS.

S A AMENDMENT

bill hist ✓

TO S A AMENDMENT _____ (LRBa /),

TO S A SUBSTITUTE AMENDMENT _____ (LRBs /),

TO 2003 SB SJR SR AB AJR AR 288 (LRB- /)

At the locations indicated, amend the _____ as follows:

(fill ONLY if "engrossed" or "as shown by")

#. Page 15, line 21: delete "resides" and substitute "resided at the time of the offense". ✓

#. Page 15, line 23: delete "is located" and substitute "was located at the time of the offense". ✓

#. Page 8, line 4: after "victim" insert "at the time of the violation". ✓

#. Page ..., line ...:

#. Page ..., line ...: