

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2005/P1dn
BAB:lmk:nwn

April 13, 2007

ATTN: Representative Schneider

The attached draft has been prepared in preliminary form. Please review the draft carefully to ensure that it is consistent with your intent. Your request specified that business persons and landlords could have limited access to CCAP if, in the discretion of the clerk of courts or district attorney, they show sufficient need for the information. There may be potential constitutional challenges to the bill under the equal protection clause if it favors certain groups of persons yet excludes others with arguably equivalent needs for the information. I have not restricted requests for information to business persons and landlords, as there may be other persons with equally legitimate reasons to access CCAP. Is that acceptable?

There are government employees who work in local and state government agencies, including the Department of Corrections, the Department of Health and Family Services, the Department of Regulation and Licensing, and various municipal agencies dealing with children, who regularly access information from CCAP as part of their job duties. Do you wish to include any of those individuals within the scope of the persons allowed unlimited access to CCAP?

I have specified that the request for CCAP information must be filed with the clerk of courts or district attorney in the county where the requester resides, in the county where the subject of the request resides, or in the county in whose circuit court the subject of the request is or was a party. Is this acceptable?

You specified that the bill should not provide any standards for a clerk of courts or district attorney to consider in making the discretionary decision on whether a person may have limited CCAP access. There is a significant possibility that such a provision may be challenged by an applicant for CCAP information whose request is denied and a court reviewing the statute may find that requiring a showing of "reasonable need" for the request is vague and overbroad.

You may want to consult with the Director of State Courts office to determine what means, such as using a password, will best allow unlimited CCAP access to authorized persons but exclude access for unauthorized persons.

Additionally, I have not specifically addressed the means of providing access to CCAP information for those limited access individuals whose requests are granted. Do you

want to provide them with a hard-copy printout of the records for each search they are permitted or do you want to provide them with limited online access to particular searches? Should there be a fee for the limited access use of CCAP and if so, will there be a fee for both requesting the information and for accessing it, or only for accessing it if the request is approved?

Do you want to allow access to files in CCAP to individuals or representatives of entities who are named as parties in those cases?

I have included federal court personnel and law enforcement personnel located in Wisconsin among the persons allowed unlimited access to CCAP — is this acceptable? Would you like to include any law enforcement or court personnel from outside of Wisconsin?

Your request specified that members of an accredited Wisconsin media association be allowed unlimited access to CCAP. A quick online search revealed the Wisconsin Newspaper Association, which I have specifically named in the draft but are there any other media organizations that you would like to include expressly rather than leaving the selection to the discretion of the Director of State Courts, as I have drafted?

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