

2007 DRAFTING REQUEST

Bill

Received: **02/19/2007**

Received By: **bbalinsk**

Wanted: **As time permits**

Identical to LRB:

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

By/Representing: **Mike Schoenfield**

This file may be shown to any legislator: **NO**

Drafter: **bbalinsk**

May Contact:

Addl. Drafters:

Subject: **Courts - miscellaneous**

Extra Copies: **RPN**

Submit via email: **YES**

Requester's email: **Rep.Schneider@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Restricting public access to the Consolidated Court Automation Program (CCAP)

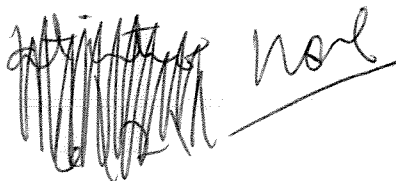
Instructions:

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>
/P1	bbalinsk 04/05/2007	lkunkel 04/12/2007	nmatzke 04/13/2007	_____	cduerst 04/13/2007		
/1	bbalinsk 04/26/2007	lkunkel 04/27/2007	pgreensl 04/27/2007	_____	cduerst 04/27/2007	cduerst 04/27/2007	

FE Sent For:



<END>

2007 DRAFTING REQUEST

Bill

Received: **02/19/2007**

Received By: **bbalinsk**

Wanted: **As time permits**

Identical to LRB:

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

By/Representing: **Mike Schoenfield**

This file may be shown to any legislator: **NO**

Drafter: **bbalinsk**

May Contact:

Addl. Drafters:

Subject: **Courts - miscellaneous**

Extra Copies: **RPN**

Submit via email: **YES**

Requester's email: **Rep.Schneider@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Restricting public access to the Consolidated Court Automation Program (CCAP)

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>
/P1	bbalinsk 04/05/2007	lkunkel 04/12/2007	nmatzke 04/13/2007	_____	cduerst 04/13/2007		
/1	bbalinsk 04/26/2007	lkunkel 04/27/2007	pgreensl 04/27/2007	_____	cduerst 04/27/2007		

FE Sent For:

<END>

2007 DRAFTING REQUEST

Bill

Received: **02/19/2007**

Received By: **bbalinsk**

Wanted: **As time permits**

Identical to LRB:

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

By/Representing: **Mike Schoenfield**

This file may be shown to any legislator: **NO**

Drafter: **bbalinsk**

May Contact:

Addl. Drafters:

Subject: **Courts - miscellaneous**

Extra Copies: **RPN**

Submit via email: **YES**

Requester's email: **Rep.Schneider@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given


Topic:

Restricting public access to the Consolidated Court Automation Program (CCAP)

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>
/P1	bbalinsk 04/05/2007	lkunkel 04/12/2007	nmatzke 04/13/2007		cduerst 04/13/2007		

FE Sent For:



<END>

2007 DRAFTING REQUEST

Bill

Received: 02/19/2007

Received By: bbalinsk

Wanted: As time permits

Identical to LRB:

For: Marlin Schneider (608) 266-0215

By/Representing: Mike Schoenfield

This file may be shown to any legislator: NO

Drafter: bbalinsk

May Contact:

Addl. Drafters:

Subject: Courts - miscellaneous

Extra Copies: RPN

Submit via email: YES

Requester's email: Rep.Schneider@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Restricting public access to the Consolidated Court Automation Program (CCAP)

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>
/P1	bbalinsk	/pl/mk 4/25	nwn 4/12	nwn/jf 4/13			

FE Sent For:

<END>

2/16/07

T/C by BAB with Rep. Schneider and Mike Schoenfield 6-0215

DRAFTING REQUEST:

Limit access to CCAP to the following persons

- 1) Court officials
- 2) Law enforcement and prosecutors
- 3) Attorneys
- 4) Journalists (must be certified by the Wisconsin Press Association)

Allow limited access for businesses and landlords, but with the following restrictions:

- 1) Requests must be made through either the county clerk of court's office or through the DA's office (no standards in the bill – leave it up to their discretion).
- 2) Requests must clearly state the identity of the requester and the purpose for the request.
- 3) CCAP information is not subject to the open records laws and must be maintained with higher levels of confidentiality.

Purpose: Prevent employers from using CCAP to unfairly screen out potential employees and prevent access to lawsuit and prosecution information for people seeking information merely for the sake of curiosity.

Background: A constituent who went through a highly contentious divorce has a criminal case on his CCAP records arising from a spurious claim of abuse and harassment by his ex-wife made out of spite and/or for strategic reasons in their divorce case. Although the allegations were found to be groundless and the charges were dismissed, the criminal case is still on his record and he was rejected from several jobs by potential employers who researched his CCAP records and declined to hire him because of that criminal case.

Note: Rep. Schneider does not want any less restrictive means of achieving any of these objectives, such as allowing for expungement from CCAP of criminal cases that were resolved by dismissal or acquittal, or of limiting disclosure of dismissed and acquittal criminal cases to courts and law enforcement officers, which he claims is not possible in light of the system's technical limitations. He wants to restrict access to all of CCAP.

prob



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-2005/P1

BAB:.....

lmk

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D. NOTE

IN 4/5/07

SOON

CCAP

✓

1 AN ACT ...; relating to: restricting access to the consolidated court automated
2 programs. ✓

Analysis by the Legislative Reference Bureau

Under current law, the director of state courts has established a consolidated electronic system that contains information about cases filed in the circuit courts in the state, including both civil cases and criminal cases. ✓ This system, known as the Consolidated Court Automation Programs ("CCAP") contains a variety of information about the parties to circuit court cases, their attorneys, documents filed with the court, and deadlines, decisions, and outcomes of cases. ✓ The information contained on the CCAP system is available in an Internet website that presently has no limitations on who can access the information in the system, although information in certain types of cases is not available to the public. ✓ The CCAP system allows a person accessing it to search for all cases, civil and criminal, in which a person or entity who is the subject of the search has been a party. ✓

* Currently, the initial CCAP webpage displayed in each criminal case and in each traffic and other civil forfeiture case contains a statement that employers may not discriminate against persons because of arrest and conviction records except in certain circumstances. ✓ The initial CCAP webpage for each criminal case and in each traffic and other civil forfeiture case that did not result in a conviction also contains a statement that the charges were not proven, have no legal effect, and the defendant in that case is presumed innocent. ✓ The initial CCAP webpage for each case in which there was a conviction for a traffic or other civil forfeiture offense, but no criminal conviction, contains a statement that the charge or charges in the case are not criminal offenses. ✓

This bill restricts public access to the CCAP system from the Internet while permitting unlimited access to information in the CCAP system to Wisconsin judges or other court officials, law enforcement personnel, attorneys, and accredited journalists, as well as persons who regularly deal with court documents in the course of their job duties. ✓ The bill allows limited access to CCAP information for other persons, who must submit to either the clerk of courts or district attorney in the county where the request for CCAP information is filed a written request for information that includes their full names and addresses, the full name and address of the person or entity subject to the request, the relationship, if any, between the requester and the subject of the request, and the purpose for the request. If the requester shows, subject to the discretion of the clerk of courts or district attorney, a reasonable purpose for the request, the requester will be granted limited access to CCAP for viewing information on the person or entity that is the subject of the request. ✓

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

✓

1 SECTION 1. 758.20 of the statutes is created to read:

In this section

2 **758.20 Consolidated court automation programs.** (1) "Consolidated
 3 court automation programs" means the statewide electronic circuit court case
 4 management system maintained by the director of ^{state} courts at the Wisconsin Circuit
 5 Court Access Internet website established pursuant to s. 758.19 (4).

6 (2) (a) The following persons shall have unlimited access to the information
 7 contained in the consolidated court automation programs systems:

8 1. Justices, judges, magistrates, court commissioners, and other employees of
 9 state, federal, and municipal courts in Wisconsin who require access to court
 10 documents and records in the course of their employment. ✓

11 2. Law enforcement officers as defined in s. 941.299 (1) (c) and other employees
 12 of state, federal and municipal law enforcement agencies in Wisconsin who require
 13 access to court documents and records in the course of their employment.

1 3. Attorneys licensed to practice law in Wisconsin and their employees who
2 require access to court documents and records in the course of their employment. ✓

3 4. Members of the Wisconsin Newspaper Association and any other Wisconsin
4 media organization designated by the director of ^{STATE} courts. ✓

5 (b) A person who meets all of the following requirements shall have access to
6 the consolidated court automation programs systems files regarding the subject of
7 the request: ✓

8 1. The person submits a written application for information to the clerk of
9 courts or district attorney of one of the following counties:

10 a. The county where the person resides. ✓

11 b. The county where the subject of the information request resides. ✓

12 c. A county that is the venue for a circuit court case in which the subject of the
13 information request is currently or formerly was a party. ✓

14 2. The written application submitted under subd. 1. shall contain all of the
15 following: ✓

16 a. The full name and address of the person. ✓

17 b. The full name and address of the person that is the subject of the request or
18 alternatively, the name or case number of the particular case involving the subject
19 of the request. ✓

20 c. The relationship, affiliation, or connection, if any, between the requester and
21 the subject of the request. ✓

22 d. A detailed statement of the purpose for the request for consolidated court
23 automation programs systems information. ✓

24 (c) If, in the discretion of the clerk of courts or district attorney to whom the
25 request was submitted, the request for consolidated court automation programs

1 systems information shows a reasonable need for disclosure, the requester shall be
2 allowed access to the consolidated court automation programs files on the subject of
3 the request.

4 (3) The director of courts shall create and update forms for consolidated court
5 automation programs systems information requests and shall undertake all actions
6 necessary to remove the consolidated court automation programs from general
7 Internet access and to implement restrictions on accessing that information that are
8 consistent with this section. ✓

9 **SECTION 2. Initial applicability.**

10 (1) This act first applies to requests for court automation programs systems
11 information made on the effective day of this draft. ✓

12 **SECTION 3. Effective dates.** (1) This act takes effect on the first day of the fifth
13 month after publication.

14 (END)

D-NOTE

LPS:chg
comp

beginning

state

system
consistent with this section

system

5th

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2005/P1dn

BAB:.....

Imk

(date)

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 we favor certain groups of persons yet exclude 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 ^{em dash} 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? ✓

Brett A. Balinsky
Legislative Attorney
Phone: (608) 267-7380
E-mail: brett.balinsky@legis.wisconsin.gov

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?

Brett A. Balinsky
Legislative Attorney
Phone: (608) 267-7380
E-mail: brett.balinsky@legis.wisconsin.gov

Balinsky, Brett

From: Duerst, Christina
Sent: Thursday, April 26, 2007 11:25 AM
To: Balinsky, Brett
Subject: FW: Draft review: LRB 07-2005/P1 Topic: Restricting public access to the Consolidated Court Automation Program (CCAP)

From: Schneider, Marlin
Sent: Thursday, April 26, 2007 11:11 AM
To: Duerst, Christina
Subject: RE: Draft review: LRB 07-2005/P1 Topic: Restricting public access to the Consolidated Court Automation Program (CCAP)

The other group allowed access could be the Wisconsin Broadcasters not just the newspapers.

From: Duerst, Christina
Sent: Friday, April 13, 2007 10:15 AM
To: Rep.Schneider
Subject: Draft review: LRB 07-2005/P1 Topic: Restricting public access to the Consolidated Court Automation Program (CCAP)

Following is the PDF version of draft LRB 07-2005/P1 and drafter's note.



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-2005/BI

BAB:lmk:nwn

1/1
SAYS RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

IN 4/26/07

soon

ReGen

✓

- 1 AN ACT *to create* 758.20 of the statutes; **relating to:** restricting access to the
- 2 consolidated court automated programs.

Analysis by the Legislative Reference Bureau

Under current law, the director of state courts has established a consolidated electronic system that contains information about cases filed in the circuit courts in the state, including both civil cases and criminal cases. This system, known as the Consolidated Court Automation Programs ("CCAP") contains a variety of information about the parties to circuit court cases, their attorneys, documents filed with the court, and deadlines, decisions, and outcomes of cases. The information contained on the CCAP system is available in an Internet Web site that presently has no limitations on who can access the information in the system, although information in certain types of cases is not available to the public. The CCAP system allows a person accessing it to search for all cases, civil and criminal, in which a person or entity who is the subject of the search has been a party.

Currently, the initial CCAP Web page displayed in each criminal case and in each traffic and other civil forfeiture case contains a statement that employers may not discriminate against persons because of arrest and conviction records except in certain circumstances. The initial CCAP Web page for each criminal case and in each traffic and other civil forfeiture case that did not result in a conviction also contains a statement that the charges were not proven, have no legal effect, and the defendant in that case is presumed innocent. The initial CCAP Web page for each case in which there was a conviction for a traffic or other civil forfeiture offense, but no criminal conviction, contains a statement that the charge or charges in the case are not criminal offenses.

This bill restricts public access to the CCAP system from the Internet while permitting unlimited access to information in the CCAP system to Wisconsin judges or other court officials, law enforcement personnel, attorneys, and accredited journalists, as well as persons who regularly deal with court documents in the course of their job duties. The bill allows limited access to CCAP information for other persons, who must submit to either the clerk of courts or district attorney in the county where the request for CCAP information is filed a written request for information that includes their full name and address, the full name and address of the person or entity subject to the request, the relationship, if any, between the requester and the subject of the request, and the purpose for the request. If the requester shows, subject to the discretion of the clerk of courts or district attorney, a reasonable purpose for the request, the requester will be granted limited access to CCAP for viewing information on the person or entity that is the subject of the request.

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

1 **SECTION 1.** 758.20 of the statutes is created to read:

2 **758.20 Consolidated court automation programs.** (1) In this section,
3 “consolidated court automation programs” means the statewide electronic circuit
4 court case management system maintained by the director of state courts at the
5 Wisconsin Circuit Court Access Internet Web site established pursuant to s. 758.19
6 (4).

7 (2) (a) The following persons shall have unlimited access to the information
8 contained in the consolidated court automation programs system:

9 1. Justices, judges, magistrates, court commissioners, and other employees of
10 state, federal, and municipal courts in Wisconsin who require access to court
11 documents and records in the course of their employment.

12 2. Law enforcement officers as defined in s. 941.299 (1) (c) and other employees
13 of state, federal, and municipal law enforcement agencies in Wisconsin who require
14 access to court documents and records in the course of their employment.

1 3. Attorneys licensed to practice law in Wisconsin and their employees who
2 require access to court documents and records in the course of their employment.

3 4. Members of the Wisconsin Newspaper Association and any other Wisconsin
4 media organization designated by the director of state courts.

5 (b) A person who meets all of the following requirements shall have access to
6 the consolidated court automation programs system files regarding the subject of the
7 request:

8 1. The person submits a written application for information to the clerk of
9 courts or district attorney of one of the following counties:

10 a. The county where the person resides.

11 b. The county where the subject of the information request resides.

12 c. A county that is the venue for a circuit court case in which the subject of the
13 information request is currently or formerly was a party.

14 2. The written application submitted under subd. 1. shall contain all of the
15 following:

16 a. The full name and address of the person.

17 b. The full name and address of the person that is the subject of the request or
18 alternatively, the name or case number of the particular case involving the subject
19 of the request.

20 c. The relationship, affiliation, or connection, if any, between the requester and
21 the subject of the request.

22 d. A detailed statement of the purpose for the request for consolidated court
23 automation programs system information.

24 (c) If, in the discretion of the clerk of courts or district attorney to whom the
25 request was submitted, the request for consolidated court automation programs

1 system information shows a reasonable need for disclosure, the requester shall be
2 allowed access to the consolidated court automation programs system files on the
3 subject of the request.

4 (3) The director of state courts shall create and update forms for consolidated
5 court automation programs system information requests and, consistent with this
6 section, shall undertake all actions necessary to remove the consolidated court
7 automation programs system from general Internet access and to implement
8 restrictions on accessing that information.

9 **SECTION 2. Initial applicability.**

10 (1) This act first applies to requests for court automation programs systems
11 information made on the effective day of this draft.

12 **SECTION 3. Effective date.**

13 (1) This act takes effect on the first day of the 5th month beginning after
14 publication.

15 (END)

Duerst, Christina

From: Schneider, Marlin
Sent: Friday, April 27, 2007 4:24 PM
To: LRB.Legal
Subject: Draft Review: LRB 07-2005/1 Topic: Restricting public access to the Consolidated Court Automation Program (CCAP)

Please Jacket LRB 07-2005/1 for the ASSEMBLY.

Basford, Sarah

From: Basford, Sarah
Sent: Tuesday, May 15, 2007 10:55 AM
To: Schoenfield, Mike
Subject: LRB -2005/1 (attached)

Attachments: 07-2005/1



07-20051.pdf (19
KB)