



# State of Wisconsin


LEGISLATIVE REFERENCE BUREAU

## **RESEARCH APPENDIX -** **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 09/18/2007 (Per: JTK)





### Appendix A

 The 2007 drafting file for LRB-3091/1

has been copied/added to the drafting file for

**2007 LRB-3179**

 The attached 2007 draft was incorporated into the new 2007 draft listed above. For research purposes, this cover sheet and the attached drafting file were copied, and added, as a appendix, to the new 2007 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

 This cover sheet was added to rear of the original 2007 drafting file. The drafting file was then returned, intact, to its folder and filed.

2007 DRAFTING REQUEST

Bill

Received: 08/22/2007

Wanted: As time permits

For: Joseph Parisi (608) 266-5342

This file may be shown to any legislator: NO

May Contact: Russ Whitesel, LCS

Subject: Criminal Law - miscellaneous

Submit via email: YES

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

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

False representation of views of legislators

Instructions:

Per attached E mail, 8/20/07.

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>
1/?	jkuesel 09/07/2007	bkraft 09/07/2007					Crime
1/1 XA	<del>jkuesel</del> 09/10/07		rschluet 09/10/2007		lparisi 09/10/2007		

FE Sent For:

X2/jk 9/10/07

<END>

Received By: jkuesel

Identical to LRB:

By/Representing: John Vander Meer

Drafter: jkuesel

Addl. Drafters:

Extra Copies: RLR - 1  
RAC - 1

2007 DRAFTING REQUEST

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1/1	jkuesel 09/07/2007	lrb_editor					Crime

1 bjk 9/7

9/10/07

FE Sent For:

<END>

**Kuesel, Jeffery**

---

**To:** Sundberg, Christopher  
**Subject:** RE: RE: The Truth in Petitions Act

Chris,  
I'll take it since he wants the Govt Accountability Board to enforce, even though the request does not actually relate to elections.

Jeff

---

**From:** Sundberg, Christopher  
**Sent:** Monday, August 20, 2007 12:10 PM  
**To:** Kuesel, Jeffery  
**Subject:** FW: RE: The Truth in Petitions Act

This message outlines a drafting request for Rep. Parisi. Would this be your draft?

CS

---

**From:** Vander Meer2, John  
**Sent:** Monday, August 20, 2007 12:09 PM  
**To:** Sundberg, Christopher  
**Subject:** RE: The Truth in Petitions Act

Dear Chris:

Here is a brief summary of the legislation we discussed this morning...

Thanks for your help on this.  
John

---

**John J. Vander Meer**  
Legislative Aide  
Office of Representative Joe Parisi

---

### **The Truth in Petitions Act**

Proposed Legislation by Representative Joe Parisi

**RELATING TO:** establishing penalties for organizations and individuals who falsely represent the views of constituents to their elected representatives and authorizes the Government Accountability Board the power of oversight to investigate any claims.

**POLICY IMPETUS:** In July, Representatives Joe Parisi and SONDY POPE-ROBERTS called on Wisconsin Attorney General J.B. Van Hollen in a letter to investigate claims of TV4US, an industry group set up to lobby for cable deregulation legislation. Van Hollen's response delivered to the legislators last week stated TV4US violated no Wisconsin law. It is the opinion of Representative Parisi that because of the fact that TV4US didn't technically violate any laws, this points to the need for legislation to address this matter. Special interest groups should not be able to contact a person's elected representatives, misrepresent that person's position on an issue and suffer no consequence. In this particular case, the request for an investigation came after large binders purportedly filled with the names and addresses of constituents in favor of Assembly Bill 207/Senate Bill 107, commonly referred to as the "Cable Franchise Bill" were received by the two legislators' offices in April. The

legislators – both of whom voted against the legislation – were surprised to find their own names listed in the binders as supporters of the bill. A recent newspaper investigation found that numerous other Wisconsinites had their names erroneously submitted as supporters of this legislation when in fact they were not.

**DETAILS:** The initial details of this legislation were worked out with Russ Whitesel, staff attorney for Legislative Council, who said he could be contacted for any further clarification:

- ENFORCEMENT AGENCY: Government Accountability Board
- The legislation would mirror Chapter 100.26 in terms of the false advertising language, particularly with regard to the “false, misleading or deceptive” component.
- Would require full disclosure of petition language and to the person signing the petition.
- Established penalties that mirror those outlined for those regarding false advertising.
- The criminal penalty would be a misdemeanor
- There could also be a component allowing a judge to enjoin an organization or individual from further distribution of the petition if there is found to be grounds for a case to be made.



State of Wisconsin  
2007-2008 LEGISLATURE

LRB-3091

*wanted by Tue 9/11*

*JTK bjk*

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

2007 Bill

*D-note*

*SA ✓  
X-ref ✓*

*gen. cat.*

AN ACT ...; relating to: false representations in petitions to the legislature,  
providing a penalty, and making an appropriation.

\*

**Analysis by the Legislative Reference Bureau**

This bill prohibits any person from circulating a petition for the signature of a constituent of a named member of the legislature which represents that the member who represents that constituent supports or opposes a specific numbered introduced proposal unless the person has a written or electronic document which proves that the named member has taken a position in support of or in opposition to the proposal identified in the petition. Violators are guilty of a misdemeanor and may be fined not more than \$10,000, or imprisoned for not more than nine months, or both. Each day of violation constitutes a separate offense.

\*

\*

\*

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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

SECTION 1. 5.05 (2m) (c) 2. a. of the statutes, as created by 2007 Wisconsin Act

1, is amended to read:

## SECTION 1

- \* ✓ 5.05 (2m) (c) 2. a. Any person may file a complaint with the board alleging a violation of chs. 5 to 12, subch. III of ch. 13, ~~or~~ subch. III of ch. 19, or s. 13.42. If the board finds, by a preponderance of the evidence, that a complaint is frivolous, the board may order the complainant to forfeit not more than the greater of \$500 or the expenses incurred by the division in investigating the complaint.

**History:** 1973 c. 334; 1975 c. 85, 93, 199; 1977 c. 29; 1977 c. 196 s. 131; 1977 c. 418, 427, 447; 1979 c. 32 s. 92 (8); 1979 c. 89, 154, 328; 1983 a. 27, 484, 524, 538; 1985 a. 303; 1985 a. 304 ss. 3, 155; 1989 a. 31, 192; 1999 a. 182; 2001 a. 109; 2003 a. 35, 265, 266, 327; 2005 a. 177; 2007 a. 1 ss. 2 to 19, 94, 99, 100, 103, 104, 107, 109, 111, 112, 114, 116, 127, 128.

SECTION 2. 5.05 (2m) (i) of the statutes, as created by 2007 Wisconsin Act 1, is amended to read:

✓ 5.05 (2m) (i) If the defendant in an action for a criminal violation of chs. 5 to 12, subch. III of ch. 13, ~~or~~ subch. III of ch. 19, or s. 13.42 is a district attorney or a circuit judge or a candidate for either such office, the action shall be brought by the attorney general. If the defendant in an action for a criminal violation of chs. 5 to 12, subch. III of ch. 13, ~~or~~ subch. III of ch. 19, or s. 13.42 is the attorney general or a candidate for that office, the board may appoint a special prosecutor to conduct the prosecution on behalf of the state.

**History:** 1973 c. 334; 1975 c. 85, 93, 199; 1977 c. 29; 1977 c. 196 s. 131; 1977 c. 418, 427, 447; 1979 c. 32 s. 92 (8); 1979 c. 89, 154, 328; 1983 a. 27, 484, 524, 538; 1985 a. 303; 1985 a. 304 ss. 3, 155; 1989 a. 31, 192; 1999 a. 182; 2001 a. 109; 2003 a. 35, 265, 266, 327; 2005 a. 177; 2007 a. 1 ss. 2 to 19, 94, 99, 100, 103, 104, 107, 109, 111, 112, 114, 116, 127, 128.

SECTION 3. 5.05 (2s) of the statutes, as created by 2007 Wisconsin Act 1, is amended to read:

✓ 5.05 (2s) ETHICS AND ACCOUNTABILITY DIVISION. The ethics and accountability division has the responsibility for administration of ch. 11, subch. III of ch. 13, and subch. III of ch. 19, and s. 13.42.

**History:** 1973 c. 334; 1975 c. 85, 93, 199; 1977 c. 29; 1977 c. 196 s. 131; 1977 c. 418, 427, 447; 1979 c. 32 s. 92 (8); 1979 c. 89, 154, 328; 1983 a. 27, 484, 524, 538; 1985 a. 303; 1985 a. 304 ss. 3, 155; 1989 a. 31, 192; 1999 a. 182; 2001 a. 109; 2003 a. 35, 265, 266, 327; 2005 a. 177; 2007 a. 1 ss. 2 to 19, 94, 99, 100, 103, 104, 107, 109, 111, 112, 114, 116, 127, 128.

SECTION 4. 5.05 (5s) (b) of the statutes, as affected by 2007 Wisconsin Act 1, is amended to read:

✓ 5.05 (5s) (b) Investigatory records of the board may be made public in the course of a prosecution initiated under chs. 5 to 12, subch. III of ch. 13, ~~or~~ subch. III of ch. 19, or s. 13.42. ✓

History: 1973 c. 334; 1975 c. 85, 93, 199; 1977 c. 29, 1977 c. 196 s. 131; 1977 c. 418, 427, 447; 1979 c. 32 s. 92 (8); 1979 c. 89, 154, 328; 1983 a. 27, 484, 524, 538; 1985 a. 303; 1985 a. 304 ss. 3, 155; 1989 a. 31, 192; 1999 a. 82; 2001 a. 109; 2003 a. 35, 265, 266, 327; 2005 a. 177; 2007 a. 1 ss. 2 to 19, 94, 99, 100, 103, 104, 107, 109, 111, 112, 114, 116, 127, 128.

SECTION 5. 5.05 (6a) of the statutes, as affected by 2007 Wisconsin Act 1, is amended to read:

✓ 5.05 (6a) ADVISORY OPINIONS. Any individual, either personally or on behalf of an organization or governmental body, may make a written or electronic request of the board for an advisory opinion regarding the propriety under chs. 5 to 12, subch. III of ch. 13, ~~or~~ subch. III of ch. 19, or s. 13.42 of any matter to which the person is or may become a party; and any appointing officer, with the consent of a prospective appointee, may request of the board an advisory opinion regarding the propriety under chs. 5 to 12, subch. III of ch. 13, ~~or~~ subch. III of ch. 19, or s. 13.42 of any matter to which the prospective appointee is or may become a party. The board shall review a request for an advisory opinion and may issue a formal written or electronic advisory opinion to the person making the request. Except as authorized or required for opinions specified in sub. (5s) (f) 2., the board's deliberations and actions upon such requests shall be in meetings not open to the public. No person acting in good faith upon an advisory opinion issued by the board is subject to criminal or civil prosecution for so acting, if the material facts are as stated in the opinion request. To have legal force and effect, each advisory opinion issued by the board must be supported by specific legal authority under a statute or other law, or by specific case or common law authority. Each advisory opinion shall include a citation to each statute or other law and each case or common law authority upon which the opinion is based, and shall specifically articulate or explain which parts of the cited authority



are relevant to the board's conclusion and why they are relevant. The board may authorize its legal counsel to issue an informal written advisory opinion or to transmit an informal advisory opinion electronically on behalf of the board, subject to such limitations as the board deems appropriate. Every informal advisory opinion shall be consistent with applicable formal advisory opinions issued by the board. If the board disagrees with an informal advisory opinion that has been issued on behalf of the board, the board may withdraw the opinion or issue a revised advisory opinion and no person acting after the date of the withdrawal or issuance of the revised advisory opinion is exempted from prosecution under this subsection if the opinion upon which the person's action is based has been withdrawn or revised in relevant degree. Except as authorized or required under sub. (5s) (f) 2., no member or employee of the board may make public the identity of the individual requesting a formal or informal advisory opinion or of individuals or organizations mentioned in the opinion. Any person receiving a formal or informal advisory opinion under this subsection who disagrees with the opinion may request a public or private hearing before the board to discuss the opinion. The board shall grant a request for a public or private hearing under this subsection. After hearing the matter, the board may reconsider its opinion and may issue a revised opinion to the person. Promptly upon issuance of each formal advisory opinion that is not open to public access, the board shall publish a summary of the opinion that is consistent with applicable requirements under sub. (5s) (f).

**History:** 1973 c. 334; 1975 c. 85, 93, 199; 1977 c. 29; 1977 c. 196 s. 131; 1977 c. 418, 427, 447; 1979 c. 32 s. 92 (8); 1979 c. 89, 154, 328; 1983 a. 27, 484, 524, 538; 1985 a. 303; 1985 a. 304 ss. 3, 155; 1989 a. 31, 192; 1999 a. 18; 2001 a. 109; 2003 a. 35, 265, 266, 327; 2005 a. 177; 2007 a. 1 ss. 2 to 19, 94, 99, 100, 103, 104, 107, 109, 111, 112, 114, 116, 127, 128.

**SECTION 6.** 12.13 (5) (a) of the statutes, as created by 2007 Wisconsin Act 1, is amended to read:

✓ 12.13 (5) (a) Except as specifically authorized by law and except as provided in par. (b), no investigator, prosecutor, employee of an investigator or prosecutor, or member or employee of the board may disclose information related to an investigation or prosecution under chs. 5 to 12, subch. III of ch. 13, ~~or~~ subch. III of ✓ ch. 19 <sup>✓</sup> or s. 13.42 or any other law specified in s. 978.05 (1) or (2) or provide access \* to any record of the investigator, prosecutor, or the board that is not subject to access under s. 5.05 (5s) to any person other than an employee or agent of the prosecutor or investigator or a member, employee, or agent of the board prior to presentation of the information or record in a court of law.

History: 1973 c. 334; 1975 c. 85, 93, 199; 1977 ~~c. 427, 447~~; 1979 c. 89, 249, 260, 311, 357; 1983 a. 183 s. 45; 1983 a. 192 s. 304; 1983 a. 484 ss. 135, 172 (3), 174; 1983 a. 491; 1985 a. 304; 1987 a. 391; 1989 a. 192; 1991 ~~a. 16~~; 1999 a. 49; 2001 a. 16; 2003 a. 265; ~~2005 a. 451~~; 2007 a. 1.

**SECTION 7. 13.42 of the statutes is created to read:**

✓ 13.42 **False representations in petitions to legislature.** (1) In this section, "petition" means any petition that is delivered or transmitted to either house ✓ of the legislature, ✓ any member of the legislature, ✓ or any legislative committee.

(2) No person may circulate a petition for the signature of a constituent of a named member of the legislature which represents that the member who represents that constituent supports or opposes a specific numbered introduced proposal unless the person has a written or electronic document which proves that the named member has taken a position in support of or in opposition to the proposal that is identified in the petition.

(3) Any person who violates sub. (2) may be fined not more than \$10,000, or imprisoned for not more than 9 months, or both. Each day of violation constitutes a separate offense. ✓

History: 1977 c. 277; 1981 c. 335 s. 26; 1983 a. 166 ss. 15, 16; 1985 a. 164; 1989 a. 31, 338; 1997 a. 191, 237; 1999 a. 32; 2007 a. 1.

**SECTION 8. 20.511 (1) (be) of the statutes, as affected by 2007 Wisconsin Act 1,** is amended to read:

✓ 20.511 (1) (be) *Investigations*. A sum sufficient for the purpose of financing the costs of investigations authorized by the board of potential violations of chs. 5 to 12, subch. III of ch. 13, and subch. III of ch. 19, and s. 13.42. ✓

NOTE: NOTE: Par. (be) is shown as renumbered from s. 20.521 (1) (b) and amended by 2007 Wis. Act 1 eff. the initiation date as set forth in section 209 (1) of that Act. NOTE:

History: 2007 a. 1 ss. 141 to 145, 149 to 155, 159, 161.

SECTION 9. 971.19 (12) of the statutes, as created by 2007 Wisconsin Act 1, is amended to read:

✓ 971.19 (12) Except as provided in s. 971.223, in an action for a violation of chs. \* 5 to 12, subch. III of ch. 13, or subch. III of ch. 19, or s. 13.42, or for a violation of any other law arising from or in relation to the official functions of the subject of the investigation or any matter that involves elections, ethics, or lobbying regulation \* under subch. 5 to 12, (chs. 5 to 12) subch. III of ch. 13, or subch. III of ch. 19 a defendant who is a resident of this state shall be tried in circuit court for the county where the defendant resides. For purposes of this subsection, a person other than a natural person resides within a county if the person's principal place of operation is located within that county. ✓

NOTE: NOTE: Sub. (12) is created by 2007 Wis. Act 1 eff. the initiation date as set forth in section 209 (1) of that Act. The bracketed language indicates the correct cross-reference. Corrective legislation is pending. NOTE:

History: 1987 a. 332; 1993 a. 98, 486; 1995 a. 440; 1997 a. 198; 1999 a. 89; 2003 a. 36; 2007 a. 1.

SECTION 10. 971.223 (1) of the statutes, as created by 2007 Wisconsin Act 1, is amended to read:

\* 971.223 (1) In an action for a violation of chs. 5 to 12, subch. III of ch. 13, or \* subch. III of ch. 19, or s. 13.42, or for a violation of any other law arising from or in relation to the official functions of the subject of the investigation or any matter that involves elections, ethics, or lobbying regulation under chs. 5 to 12, subch. III of ch. \* 13, or subch. III of ch. 19, a defendant who is a resident of this state may move to change the place of trial to the county where the offense was committed. The motion shall be in writing. ✓

or s. 13.42

**NOTE: NOTE:** This section is created by 2007 Wis. Act 1 eff. the initiation date as set forth in section 209 (1) of that Act. **NOTE:**

History: 2007 a. 1.

**SECTION 11. 978.05 (1)** of the statutes, as affected by 2007 Wisconsin Act 1, is amended to read:

978.05 (1) **CRIMINAL ACTIONS.** Except as otherwise provided by law, prosecute all criminal actions before any court within his or her prosecutorial unit and have sole responsibility for prosecution of all criminal actions arising from violations of chs. 5 to 12, subch. III of ch. 13, ~~or~~ subch. III of ch. 19, or s. 13.42 and from violations of other laws arising from or in relation to the official functions of the subject of the investigation or any matter that involves elections, ethics, or lobbying regulation under chs. 5 to 12, subch. III of ch. 13, ~~or~~ subch. III of ch. 19, or s. 13.42, that are alleged to be committed by a resident of his or her prosecutorial unit, or if alleged to be committed by a nonresident of this state, that are alleged to occur in his or her prosecutorial unit unless another prosecutor is substituted under s. 5.05 (2m) (i) or this chapter or by referral of the government accountability board under s. 5.05 (2m) (c) 15. or 16. For purposes of this subsection, a person other than a natural person is a resident of a prosecutorial unit if the person's principal place of operation is located in that prosecutorial unit.

**NOTE: NOTE:** Sub. (1) is shown as amended by 2007 Wis. Act 1 eff. the initiation date as set forth in section 209 (1) of that Act. Prior to that date it reads:**NOTE:**

**(1) CRIMINAL ACTIONS.** Except as otherwise provided by law, prosecute all criminal actions before any court within his or her prosecutorial unit.

History: 1989 a. 31, 117, 336; 1991 a. 16, 32, 39; 1993 a. 98; 1995 a. 27 ss. 7291, 7292, 9116 (5), 9130 (4); 1995 a. 77, 201, 448; Sup. Ct. Order No. 96-08, 207 Wis. 2d xv (1997); 1997 a. 3, 35, 73; 1999 a. 9; 2001 a. 16; 2005 a. 25, 434; 2007 a. 1.

(END)

D-note

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-3091/1dn

JTK.....

elbjk

Date

Representative Parisi:

1. The penalty in proposed s. 13.42 (3) is the same as the penalty provided for violations of s. 100.18 (9), stats., which relates to making fraudulent representations. ✓
2. As we discussed, the prohibition created by this draft, while accepted in the commercial context, affects an area of activity that is difficult to regulate because of the considerable latitude afforded by the federal courts to public discourse. The fact that this proposal is limited to a specific fact situation and requires relatively little interpretation is of some benefit, but to convict an alleged violator, the courts will need to conclude that the harm to the public interest resulting from a violation outweighs the First Amendment right to engage in robust debate. ✓

Jeffery T. Kuesel  
Managing Attorney  
Phone: (608) 266-6778

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-3091/1dn  
JTK:bjk:rs

September 10, 2007

Representative Parisi:

1. The penalty in proposed s. 13.42 (3) is the same as the penalty provided for violations of s. 100.18 (9), stats., which relates to making fraudulent representations.
2. As we discussed, the prohibition created by this draft, while accepted in the commercial context, affects an area of activity that is difficult to regulate because of the considerable latitude afforded by the federal courts to public discourse. The fact that this proposal is limited to a specific fact situation and requires relatively little interpretation is of some benefit, but to convict an alleged violator, the courts will need to conclude that the harm to the public interest resulting from a violation outweighs the First Amendment right to engage in robust debate.

Jeffery T. Kuesel  
Managing Attorney  
Phone: (608) 266-6778

## 2007 BILL

1 **AN ACT to amend** 5.05 (2m) (c) 2. a., 5.05 (2m) (i), 5.05 (2s), 5.05 (5s) (b), 5.05 (6a),  
2 12.13 (5) (a), 20.511 (1) (be), 971.19 (12), 971.223 (1) and 978.05 (1); and **to**  
3 **create** 13.42 of the statutes; **relating to:** false representations in petitions to  
4 the legislature, providing a penalty, and making an appropriation.

---

### *Analysis by the Legislative Reference Bureau*

This bill prohibits any person from circulating a petition for the signature of a constituent of a named member of the legislature which represents that the member supports or opposes a specific numbered introduced proposal unless the person has a written or electronic document which proves that the named member has taken a position in support of or in opposition to the proposal identified in the petition. Violators are guilty of a misdemeanor and may be fined not more than \$10,000, or imprisoned for not more than nine months, or both. Each day of violation constitutes a separate offense.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

---

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

**BILL**

1           **SECTION 1.** 5.05 (2m) (c) 2. a. of the statutes, as created by 2007 Wisconsin Act  
2 1, is amended to read:

3           5.05 (2m) (c) 2. a. Any person may file a complaint with the board alleging a  
4 violation of chs. 5 to 12, subch. III of ch. 13, ~~or~~ subch. III of ch. 19, or s. 13.42. If the  
5 board finds, by a preponderance of the evidence, that a complaint is frivolous, the  
6 board may order the complainant to forfeit not more than the greater of \$500 or the  
7 expenses incurred by the division in investigating the complaint.

8           **SECTION 2.** 5.05 (2m) (i) of the statutes, as created by 2007 Wisconsin Act 1, is  
9 amended to read:

10           5.05 (2m) (i) If the defendant in an action for a criminal violation of chs. 5 to  
11 12, subch. III of ch. 13, ~~or~~ subch. III of ch. 19, or s. 13.42 is a district attorney or a  
12 circuit judge or a candidate for either such office, the action shall be brought by the  
13 attorney general. If the defendant in an action for a criminal violation of chs. 5 to  
14 12, subch. III of ch. 13, ~~or~~ subch. III of ch. 19, or s. 13.42 is the attorney general or  
15 a candidate for that office, the board may appoint a special prosecutor to conduct the  
16 prosecution on behalf of the state.

17           **SECTION 3.** 5.05 (2s) of the statutes, as created by 2007 Wisconsin Act 1, is  
18 amended to read:

19           5.05 (2s) ETHICS AND ACCOUNTABILITY DIVISION. The ethics and accountability  
20 division has the responsibility for administration of ch. 11, subch. III of ch. 13, ~~and~~  
21 subch. III of ch. 19, and s. 13.42.

22           **SECTION 4.** 5.05 (5s) (b) of the statutes, as affected by 2007 Wisconsin Act 1, is  
23 amended to read:



**BILL**

1           5.05 (5s) (b) Investigatory records of the board may be made public in the  
2 course of a prosecution initiated under chs. 5 to 12, subch. III of ch. 13, ~~or~~ subch. III  
3 of ch. 19, or s. 13.42.

4           **SECTION 5.** 5.05 (6a) of the statutes, as affected by 2007 Wisconsin Act 1, is  
5 amended to read:

6           5.05 (6a) ADVISORY OPINIONS. Any individual, either personally or on behalf of  
7 an organization or governmental body, may make a written or electronic request of  
8 the board for an advisory opinion regarding the propriety under chs. 5 to 12, subch.  
9 III of ch. 13, ~~or~~ subch. III of ch. 19, or s. 13.42 of any matter to which the person is  
10 or may become a party; and any appointing officer, with the consent of a prospective  
11 appointee, may request of the board an advisory opinion regarding the propriety  
12 under chs. 5 to 12, subch. III of ch. 13, ~~or~~ subch. III of ch. 19, or s. 13.42 of any matter  
13 to which the prospective appointee is or may become a party. The board shall review  
14 a request for an advisory opinion and may issue a formal written or electronic  
15 advisory opinion to the person making the request. Except as authorized or required  
16 for opinions specified in sub. (5s) (f) 2., the board's deliberations and actions upon  
17 such requests shall be in meetings not open to the public. No person acting in good  
18 faith upon an advisory opinion issued by the board is subject to criminal or civil  
19 prosecution for so acting, if the material facts are as stated in the opinion request.  
20 To have legal force and effect, each advisory opinion issued by the board must be  
21 supported by specific legal authority under a statute or other law, or by specific case  
22 or common law authority. Each advisory opinion shall include a citation to each  
23 statute or other law and each case or common law authority upon which the opinion  
24 is based, and shall specifically articulate or explain which parts of the cited authority  
25 are relevant to the board's conclusion and why they are relevant. The board may

**BILL**

1 authorize its legal counsel to issue an informal written advisory opinion or to  
2 transmit an informal advisory opinion electronically on behalf of the board, subject  
3 to such limitations as the board deems appropriate. Every informal advisory opinion  
4 shall be consistent with applicable formal advisory opinions issued by the board. If  
5 the board disagrees with an informal advisory opinion that has been issued on behalf  
6 of the board, the board may withdraw the opinion or issue a revised advisory opinion  
7 and no person acting after the date of the withdrawal or issuance of the revised  
8 advisory opinion is exempted from prosecution under this subsection if the opinion  
9 upon which the person's action is based has been withdrawn or revised in relevant  
10 degree. Except as authorized or required under sub. (5s) (f) 2., no member or  
11 employee of the board may make public the identity of the individual requesting a  
12 formal or informal advisory opinion or of individuals or organizations mentioned in  
13 the opinion. Any person receiving a formal or informal advisory opinion under this  
14 subsection who disagrees with the opinion may request a public or private hearing  
15 before the board to discuss the opinion. The board shall grant a request for a public  
16 or private hearing under this subsection. After hearing the matter, the board may  
17 reconsider its opinion and may issue a revised opinion to the person. Promptly upon  
18 issuance of each formal advisory opinion that is not open to public access, the board  
19 shall publish a summary of the opinion that is consistent with applicable  
20 requirements under sub. (5s) (f).

21 **SECTION 6.** 12.13 (5) (a) of the statutes, as created by 2007 Wisconsin Act 1, is  
22 amended to read:

23 12.13 (5) (a) Except as specifically authorized by law and except as provided  
24 in par. (b), no investigator, prosecutor, employee of an investigator or prosecutor, or  
25 member or employee of the board may disclose information related to an

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1 investigation or prosecution under chs. 5 to 12, subch. III of ch. 13, ~~or~~ subch. III of  
2 ch. 19, or s. 13.42 or any other law specified in s. 978.05 (1) or (2) or provide access  
3 to any record of the investigator, prosecutor, or the board that is not subject to access  
4 under s. 5.05 (5s) to any person other than an employee or agent of the prosecutor  
5 or investigator or a member, employee, or agent of the board prior to presentation of  
6 the information or record in a court of law.

7 **SECTION 7.** 13.42 of the statutes is created to read:

8 **13.42 False representations in petitions to legislature.** (1) In this  
9 section, “petition” means any petition that is delivered or transmitted to either house  
10 of the legislature, any member of the legislature, or any legislative committee.

11 (2) No person may circulate a petition for the signature of a constituent of a  
12 named member of the legislature which represents that the member who represents  
13 that constituent supports or opposes a specific numbered introduced proposal unless  
14 the person has a written or electronic document which proves that the named  
15 member has taken a position in support of or in opposition to the proposal that is  
16 identified in the petition.

17 (3) Any person who violates sub. (2) may be fined not more than \$10,000, or  
18 imprisoned for not more than 9 months, or both. Each day of violation constitutes  
19 a separate offense.

20 **SECTION 8.** 20.511 (1) (be) of the statutes, as affected by 2007 Wisconsin Act 1,  
21 is amended to read:

22 20.511 (1) (be) *Investigations.* A sum sufficient for the purpose of financing the  
23 costs of investigations authorized by the board of potential violations of chs. 5 to 12,  
24 subch. III of ch. 13, ~~and~~ subch. III of ch. 19, and s. 13.42.

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1           **SECTION 9.** 971.19 (12) of the statutes, as created by 2007 Wisconsin Act 1, is  
2 amended to read:

3           971.19 (12) Except as provided in s. 971.223, in an action for a violation of chs.  
4 5 to 12, subch. III of ch. 13, ~~or~~ subch. III of ch. 19, or s. 13.42, or for a violation of any  
5 other law arising from or in relation to the official functions of the subject of the  
6 investigation or any matter that involves elections, ethics, or lobbying regulation  
7 under ~~subch. chs.~~ 5 to 12, subch. III of ch. 13, or subch. III of ch. 19 a defendant who  
8 is a resident of this state shall be tried in circuit court for the county where the  
9 defendant resides. For purposes of this subsection, a person other than a natural  
10 person resides within a county if the person's principal place of operation is located  
11 within that county.

12           **SECTION 10.** 971.223 (1) of the statutes, as created by 2007 Wisconsin Act 1, is  
13 amended to read:

14           971.223 (1) In an action for a violation of chs. 5 to 12, subch. III of ch. 13, ~~or~~  
15 subch. III of ch. 19, or s. 13.42, or for a violation of any other law arising from or in  
16 relation to the official functions of the subject of the investigation or any matter that  
17 involves elections, ethics, or lobbying regulation under chs. 5 to 12, subch. III of ch.  
18 13, or subch. III of ch. 19, a defendant who is a resident of this state may move to  
19 change the place of trial to the county where the offense was committed. The motion  
20 shall be in writing.

21           **SECTION 11.** 978.05 (1) of the statutes, as affected by 2007 Wisconsin Act 1, is  
22 amended to read:

23           978.05 (1) **CRIMINAL ACTIONS.** Except as otherwise provided by law, prosecute  
24 all criminal actions before any court within his or her prosecutorial unit and have  
25 sole responsibility for prosecution of all criminal actions arising from violations of

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1 chs. 5 to 12, subch. III of ch. 13, ~~or~~ subch. III of ch. 19, or s. 13.42 and from violations  
2 of other laws arising from or in relation to the official functions of the subject of the  
3 investigation or any matter that involves elections, ethics, or lobbying regulation  
4 under chs. 5 to 12, subch. III of ch. 13, ~~or~~ subch. III of ch. 19, or s. 13.42, that are  
5 alleged to be committed by a resident of his or her prosecutorial unit, or if alleged to  
6 be committed by a nonresident of this state, that are alleged to occur in his or her  
7 prosecutorial unit unless another prosecutor is substituted under s. 5.05 (2m) (i) or  
8 this chapter or by referral of the government accountability board under s. 5.05 (2m)  
9 (c) 15. or 16. For purposes of this subsection, a person other than a natural person  
10 is a resident of a prosecutorial unit if the person's principal place of operation is  
11 located in that prosecutorial unit.

12

(END)