

**2009 DRAFTING REQUEST**

**Bill**

Received: **01/09/2009**

Received By: **jkuesel**

Wanted: **As time permits**

Identical to LRB:

For: **Garey Bies (608) 266-5350**

By/Representing: **Andrew Nolan**

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

Drafter: **jkuesel**

May Contact:

Addl. Drafters:

Subject: **Public Records**

Extra Copies:

Submit via email: **YES**

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

Carbon copy (CC:) to:

---

**Pre Topic:**

No specific pre topic given

---

**Topic:**

Access to certain law enforcement records in multiple custodianship

---

**Instructions:**

Per DOJ memo attached, 1/9/08.

---

**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>
/?	jkuesel 04/30/2009	nmatzke 05/01/2009		_____			
/1			rschluet 05/01/2009	_____	sbasford 05/01/2009	lparisi 09/28/2009	

FE Sent For:

↳ Not Needed

<END>

**2009 DRAFTING REQUEST**

**Bill**

Received: 01/09/2009

Received By: **jkuesel**

Wanted: **As time permits**

Identical to LRB:

For: **Garey Bies (608) 266-5350**

By/Representing: **Andrew Nolan**

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

Drafter: **jkuesel**

May Contact:

Addl. Drafters:

Subject: **Public Records**

Extra Copies:

Submit via email: **YES**

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

Carbon copy (CC:) to:

---

**Pre Topic:**

No specific pre topic given

---

**Topic:**

Access to certain law enforcement records in multiple custodianship

---

**Instructions:**

Per DOJ memo attached, 1/9/08.

---

**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>
/?	jkuesel 04/30/2009	nmatzke 05/01/2009		_____			
/1			rschluet 05/01/2009	_____	sbasford 05/01/2009		

FE Sent For:

<END>

**2009 DRAFTING REQUEST**

**Bill**

Received: **01/09/2009**

Received By: **jkuesel**

Wanted: **As time permits**

Identical to LRB:

For: **Garey Bies (608) 266-5350**

By/Representing: **Andrew Nolan**

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

Drafter: **jkuesel**

May Contact:

Addl. Drafters:

Subject: **Public Records**

Extra Copies:

Submit via email: **YES**

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

Carbon copy (CC:) to:

---

**Pre Topic:**

No specific pre topic given

---

**Topic:**

Access to certain law enforcement records in multiple custodianship


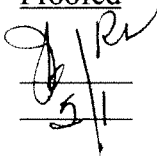
---

**Instructions:**

Per DOJ memo attached, 1/9/08.

---

**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>
12/1	jkuesel 4/30/09						

FE Sent For:

<END>

**Kuesel, Jeffery**

---

**From:** Nowlan, Andrew  
**Sent:** Friday, January 09, 2009 1:54 PM  
**To:** Kuesel, Jeffery  
**Subject:** Rep. Bies Records legislation

**Attachments:** Records\_Legislation.doc

Jeff,

Here is the new language from DOJ. We'd like to draft a bill with this language.



Records\_Legislation  
.doc (25 KB...

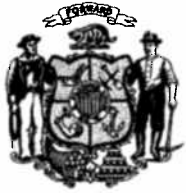
Andrew Nowlan  
Research Assistant  
Office of Rep. Garey Bies

*Compare 07-1146/1*

Section 1. 19.32(1dc) "Information technology authority" means a local public office or local governmental unit whose primary purpose is information storage, information technology processing, or other information technology purpose.

Section 2. 19.35 (7) INFORMATION TECHNOLOGY AUTHORITY RESPONSIBILITIES FOR LAW ENFORCEMENT RECORDS

- (a) An information technology authority in possession of a record described in subsection (c) for the primary purpose of information storage, information technology processing, or other information technology purpose is not considered the custodian of the record. The custodian of such record shall be the authority for whom the record is stored or maintained.
- (b) An information technology authority who receives a request seeking a record described in subsection (c) shall deny any portion of the request relating to such a record.
- (c) For the purposes of this subsection, material is a record if it:
  - 1. was created by or received by a law enforcement agency, as defined in s.165.83(1)(b); and
  - 2. relates to an investigation conducted by the law enforcement agency or a request for a law enforcement agency to provide law enforcement services.



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-14377

1

JTK...:....

nwn

MON 5/4

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

SA ✓  
X-ref ✓

Gen.

1 AN ACT ...; relating to: public access to certain local government law enforcement  
2 records. ✓ must

*Analysis by the Legislative Reference Bureau*

FWS A

Information technology unit

This bill provides that if a local governmental unit whose primary function is information storage, information technology processing, or other information technology usage receives a request for access to information in a law enforcement record, the information technology unit shall deny any portion of the request that relates to information in a law enforcement record. Under the bill, for purposes of access to public records, the information technology unit is not considered to be the custodian of the law enforcement record. For purposes of such access, the custodian is the local governmental unit for which the record is stored, processed or otherwise used. The bill defines a law enforcement record as any record that is created or received by a law enforcement agency relating to an investigation conducted by a law enforcement agency or a request for a law enforcement agency to provide law enforcement services. No similar provisions exist currently.

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

③

SECTION 1. <sup>19.35</sup> ~~19.36~~ (7) of the statutes is created to read:

④

<sup>19.35</sup> ~~19.36~~ (7) LOCAL INFORMATION TECHNOLOGY AUTHORITY RESPONSIBILITY FOR LAW

5

ENFORCEMENT RECORDS. (a) In this subsection:

1 1. "Law enforcement agency" has the meaning given s. 165.83 (1) (b).✓

2 2. "Law enforcement record" means a record that is created or received by a law  
3 enforcement agency and that relates to an investigation conducted by a law  
4 enforcement agency or a request for a law enforcement agency to provide law  
5 enforcement services.✓

6 3. "Local information technology authority" means a local public office✓ or local  
7 governmental unit✓ whose primary function is information storage, information  
8 technology processing, or other information technology usage.✓

9 (b) For purposes of requests for access to records under (s. 19.35) (1)✓, a local  
10 information technology authority that has custody of a law enforcement record for  
11 the primary purpose of information storage, information technology processing, or  
12 other information technology usage is not ~~considered to be~~ the legal custodian of the  
13 record. For such purposes, the legal custodian of a law enforcement record is the  
14 authority for which the record is stored, processed<sup>or</sup> otherwise used.✓

15 (c) A local information technology authority that receives a request under (s.)<sup>a sub.</sup>  
16 19.35 (1)✓ for access to information in a law enforcement record shall deny any portion  
17 of the request that relates to information in a local law enforcement record.✓

18 (END)

D-note

# 2007 ASSEMBLY BILL 522

October 4, 2007 - Introduced by Representatives BIES, ALBERS, HAHN, MURSAU, OWENS, PETROWSKI and TOWNSEND, cosponsored by Senators LEHMAN, LASSA and OLSEN. Referred to Committee on Judiciary and Ethics.

1 AN ACT *to renumber and amend* 19.32 (2); and *to create* 19.32 (2) (b) and 19.35  
 2 (7) of the statutes; **relating to:** access to local law enforcement service requests  
 3 and investigative records in multiple custodianship and redirection of certain  
 4 records access requests.

### *Analysis by the Legislative Reference Bureau*

JWS  
A

Currently, local governmental records are available for public inspection and copying except as specifically authorized or required by law, and except that if the custodian of a record demonstrates that the public interest in withholding access to information contained in a record outweighs the public interest in providing access to that information, access may be denied. Applying this test, the courts have permitted access to some law enforcement investigative records to be denied. In addition, under current law, law enforcement investigative records are exempted from the right of access whenever federal law or regulations so require or as a condition to receipt of aids by this state so require.

~~This bill provides that if a record that relates to a request to provide service or a law enforcement investigation by a local law enforcement officer or agency is in the custody of a local government officer or agency, and an officer or agency that performed the service or conducted the investigation also has custody of the record, the record may only be requested or obtained from an officer or agency that performed the service or conducted the investigation.~~

The bill also provides that if a local government officer or agency has custody of material relating to a request to provide service or a law enforcement investigation



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

LRB-1437/1dn

JTK...f:....

nwn

Date

Representative Bies:

Concerning proposed s. 19.35 (7) (c),<sup>✓</sup> generally, in drafting records access provisions, we refer to access to "information in a record" rather than access to "a record" because many requests do not identify particular records but instead simply request information and because many records contain accessible as well as nonaccessible information.<sup>✓</sup>

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

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

LRB-1437/1dn  
JTK:nwn:rs

May 1, 2009

Representative Bies:

Concerning proposed s. 19.35 (7) (c), generally, in drafting records access provisions, we refer to access to "information in a record" rather than access to "a record" because many requests do not identify particular records but instead simply request information and because many records contain accessible as well as nonaccessible information.

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

**Barman, Mike**

---

**From:** Nowlan, Andrew  
**Sent:** Monday, September 28, 2009 9:30 AM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 09-1437/1 Topic: Access to certain law enforcement records in multiple custodianship

Please Jacket LRB 09-1437/1 for the ASSEMBLY.