

**2011 DRAFTING REQUEST**

**Assembly Amendment (AA-AB379)**

Received: **03/02/2012**

Received By: **phurley**

Wanted: **As time permits**

Companion to LRB: **a2582**

For: **Keith Ripp (608) 266-3404**

By/Representing:

May Contact:

Drafter: **phurley**

Subject: **Courts - miscellaneous**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

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

Carbon copy (CC:) to:

**Pre Topic:**

No specific pre topic given

**Topic:**

Confidentiality of name change records

**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>
/1	phurley 03/02/2012	csicilia 03/02/2012	jmurphy 03/02/2012	_____	lparisi 03/02/2012	lparisi 03/02/2012	
	phurley 03/02/2012	kfollett 03/02/2012		_____			
/2			jmurphy 03/02/2012	_____	lparisi 03/02/2012	lparisi 03/02/2012	

FE Sent For:

<END>

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/1	phurley 03/02/2012	csicilia 03/02/2012	jmurphy 03/02/2012	_____	lparisi 03/02/2012	lparisi 03/02/2012	

FE Sent For:

12/5/11  
3/2  
jm  
3/2  
SELF  
3/2  
<END>

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/1	phurley	1 gjs 3/2 12	mu 3/2	mu 3/2			

FE Sent For:

<END>

**Schmidt, Melissa**

---

**From:** Schmidt, Melissa  
**Sent:** Wednesday, February 29, 2012 11:01 AM  
**To:** Wenzlaff, Tyler; Rep.Ripp  
**Subject:** AB 379 Confidentiality of Names

**Importance:** High

*On proposed  
calendar  
for  
3-6-12*

Tyler,

I am preparing drafting instructions to give LRB regarding an amendment to AB 379. There are a couple of questions I have on how to proceed with solving a couple of the problems related to the confidentiality of birth certificates and marriage records. My biggest concern is that in cases of marriage or divorce, there are two parties with their names on the documents. Would you please discuss the following questions with Representative Ripp and let me know how you want to proceed?

1. Under current law, the state registrar of vital statistics can give confidential birth records, marriage records, divorce records, etc. to someone who has a "direct and tangible interest." This includes the subject of the record as well as immediate family members.
  - a. For birth certificates: do you want only the subject of the record to be able to access the record? This would be the adult "victim" of domestic violence that is changing his or her name.
  - b. For marriage records: these records still exist after a divorce occurs. Is it ok to have only the spouse have access to the original marriage record, not the updated marriage record? For example, if the wife changes her name under the bill, the state registrar of vital statistics could update the marriage certificate with her new name, keep that updated one confidential, accessible only by the wife, and allow only the husband to obtain a copy of his original marriage certificate.
  - c. For divorce records: the bill is silent on how to handle divorce records. Whatever you decide to do about marriages should be the same for divorces.
2. On page 3, lines 9-11 discuss the state registrar of vital statistics communicating with local records offices to inform them that the various documents are now confidential. The best way to make sure that these records are confidential is to require the state registrar impound these documents and hold the documents in the state office. This way there aren't confidential documents floating around in offices around the state

You may want to run these questions by WCADV to see what their thoughts are on these questions.

*Melissa Schmidt*  
Staff Attorney  
Wisconsin Legislative Council  
Ph: (608) 266-2298  
Fax: (608) 266-3830



## 2011 ASSEMBLY BILL 379

November 16, 2011 – Introduced by Representatives RIPP, JACQUE, KERKMAN, PASCH, C. TAYLOR, JORGENSEN, RINGHAND, BROOKS, STASKUNAS, MARKLEIN, WYNN, A. OTT, ENDSLEY, KRUG, SPANBAUER, TRANEL, SINICKI, THIESFELDT, BALLWEG and BERCEAU, cosponsored by Senators HARSDORF, OLSEN, SHILLING, TAYLOR, LASSA and KING. Referred to Committee on Consumer Protection and Personal Privacy.

1 AN ACT *to amend* 786.36 (2); and *to create* 786.36 (2m) and 786.37 (4) of the  
2 statutes; **relating to:** keeping certain name changes confidential.

---

### *Analysis by the Legislative Reference Bureau*

Under current law, a person who wishes to change his or her name may petition the circuit court in the county where he or she resides for the name change. Current law requires publication in a newspaper of the person's petition for a name change. After the court grants the person's name change, the order for the name change is entered in the records of the court and a certified copy of the record is recorded in the office of the county register of deeds. If the person whose name was changed was born or married in this state, records of the name change are forwarded to the state registrar of vital statistics (state registrar) so that the records kept by the state registrar can be amended to reflect the name change. The state registrar directs the register of deeds and the local registrar to amend their records as well.

Under this bill, a person who wishes to change his or her name is exempt from the requirement to publish the petition for a name change in a newspaper if the person who wishes to change his or her name demonstrates to the court that publication of his or her petition could endanger him or her and that he or she is not seeking a name change in order to avoid a debt or conceal a criminal record. If the court determines that publication in a newspaper is not required for that reason, all records of the name change are confidential. Under the bill, the court that orders the name change forwards to the register of deeds a form that states the petitioner's former name and states that the new name is confidential. If the person whose name was changed was born or married in this state, records of the name change are

**ASSEMBLY BILL 379**

forwarded to the state registrar so that the records kept by the state registrar can be amended to reflect the name change, but the state registrar forwards to the register of deeds and the local registrar a form that states the petitioner's former name and states that the new name is confidential. Under the bill, records of an otherwise confidential name change may be inspected by another person if that person demonstrates to the court that there is good cause for the person to inspect the records and that the safety of the petitioner is not jeopardized.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

---

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

1           **SECTION 1.** 786.36 (2) of the statutes is amended to read:

2           786.36 (2) The Except as provided in sub. (2m), the order shall be entered at  
3 length upon the records of the court and a certified copy of the record shall be  
4 recorded in the office of the register of deeds of the county, who shall make an entry  
5 in a book to be kept by the register. The fee for recording a certified copy is the fee  
6 specified under s. 59.43 (2) (ag). If the person whose name is changed or established  
7 was born or married in this state, the clerk of the court shall send to the state  
8 registrar of vital statistics, on a form designed by the state registrar of vital statistics,  
9 an abstract of the record, duly certified, accompanied by the fee prescribed in s. 69.22,  
10 which fee the clerk of court shall charge to and collect from the petitioner. The state  
11 registrar of vital statistics shall then correct the birth record, marriage record or  
12 both, and direct the register of deeds and local registrar to make similar corrections  
13 on their records.

14           **SECTION 2.** 786.36 (2m) of the statutes is created to read:

15           786.36 (2m) (a) Except as provided in par. (b), if the court determines that,  
16 pursuant to s. 786.37 (4), publication of the petition is not required, all records  
17 related to the petitioner's name change shall be confidential and are exempt from

**ASSEMBLY BILL 379**

*6920  
local  
etc*

1 disclosure under s. 19.35 (1). The court shall transmit to the register of deeds a form  
 2 that states the petitioner's former name and states that the new name is confidential.  
 3 The fee for recording a certified copy is the fee specified under s. 59.43 (2) (ag). If the  
 4 person whose name is changed or established was born or married in this state, the  
 5 clerk of the court shall send to the state registrar of vital statistics, on a form designed  
 6 by the state registrar of vital statistics, an abstract of the record, duly certified,  
 7 accompanied by the fee prescribed in s. 69.22, which fee the clerk of court shall charge  
 8 to and collect from the petitioner. The state registrar of vital statistics shall then  
 9 correct the ~~birth~~ record, ~~marriage~~ record, or both, and shall transmit to the register  
 10 of deeds and the local registrar a form that states the petitioner's former name and  
 11 states that the new name is confidential.

*of annulment*  
*for annulment*

[Handwritten bracket on the left side of lines 9-11]

12 (b) The court may, upon good cause shown by a person and upon determining  
 13 that the safety of the petitioner is not jeopardized, allow the person to inspect a record  
 14 that is confidential under par. (a).

**SECTION 3.** 786.37 (4) of the statutes is created to read:

16 786.37 (4) Subsection (1) does not apply if the petitioner shows, by a  
 17 preponderance of the evidence, that publication of his or her petition could endanger  
 18 him or her and that he or she is not seeking a name change in order to avoid a debt  
 19 or conceal a criminal record.

**SECTION 4. Initial applicability.**

21 (1) This act first applies to petitions that are filed on the effective date of this  
 22 subsection.

(END)

23 *Maybe for S.C.S. create a new one,  
 impound old one. for div/marriage/annul/dom  
 part, or new one <sup>impound</sup> ~~no~~ access to new one but  
 access to the old one (impounded one) pursuant to  
 §69.21*

## Hurley, Peggy

---

**From:** Schmidt, Melissa  
**Sent:** Thursday, March 01, 2012 9:53 AM  
**To:** Wenzlaff, Tyler  
**Cc:** Rep.Ripp  
**Subject:** Amendment for AB 379

Tyler,

After talking with you about an amendment for AB 379, I had another conversation with the State Registrar. The State Registrar has a lot of concerns and the ideas we discussed yesterday still have problems. The biggest issue is that changes to the marriage certificate may have an impact on one's ability to obtain social security benefits. There may also be additional concerns from the register of deeds organization as I was told they are also just now reviewing this bill.

Since time is of the essence now at this point for this bill to be ready next week, I think you need to talk directly with the State Registrar to hash out a solution. I also think it would be helpful to have the drafter, Peggy Hurley to sit in on that meeting, as well as WCADV if you want them. Peggy is unavailable today to work on an amendment but has time tomorrow. I'm thinking that if you schedule a meeting for tomorrow, everyone might be able to attend. I am available to sit in on this meeting too any time after 9:00.

To talk with the State Registrar, contact the DHS legislative liaison, Kevin Moore at 266-9622. Please let me know how you want to proceed.

Sincerely,

*Melissa Schmidt*

Staff Attorney  
Wisconsin Legislative Council  
Ph: (608) 266-2298  
Fax: (608) 266-3830



## Hurley, Peggy

---

**From:** Schmidt, Melissa  
**Sent:** Wednesday, February 29, 2012 3:44 PM  
**To:** Hurley, Peggy  
**Subject:** Amendment for AB 379

Peggy,

I have talked with Representative Ripp and he is in agreement about the instructions we discussed this morning (where the original document (birth, marriage, etc.) is public and the new one is confidential. However, I just talked with the State Registrar, John Kiessow, again and he is mentioned that it is illegal to have two birth certificates, so the original would have to be impounded. I think he also said that you also can't have two marriage certificates. He explained that any impounded document can only be disclosed by court order.

Not being able to get access to the original marriage certificate is a problem when it comes to applying for social security benefits. He also mentioned that there may be some additional concerns about the register of deeds issues. I am not sure what these are yet and will do some research to find out more information.

I asked both Representative Ripp and John Kiessow if it was ok for you to talk with John. I think it might be better for you to talk directly with him as neither he nor I are able to figure out how to handle marriage/divorce documents at this point. John's number is: **266-0997**.

Thank you,

*Melissa Schmidt*  
Staff Attorney  
Wisconsin Legislative Council  
Ph: (608) 266-2298  
Fax: (608) 266-3830

## Hurley, Peggy

---

**From:** Wenzlaff, Tyler  
**Sent:** Tuesday, October 18, 2011 4:07 PM  
**To:** Hurley, Peggy  
**Subject:** RE: Draft review: LRB 11-2736/P1 Topic: Keeping name changes confidential

Peggy,

Thanks. Yeah Rep. Ripp wants the state registrar's office to have both the former name and new name but we are concerned about local registrar's office. Rep. Ripp knows some of the local clerks so he can check with them if that's information that they need.

Tyler

---

**From:** Hurley, Peggy  
**Sent:** Tuesday, October 18, 2011 3:59 PM  
**To:** Wenzlaff, Tyler  
**Subject:** RE: Draft review: LRB 11-2736/P1 Topic: Keeping name changes confidential

Hi Tyler,

That language was lifted from current law and follows the same procedure as regular, non-confidential name changes. I think it would make sense to send the information (if the person was born or married in this state) to the state registrar of information, but then have that office send to the register of deeds and the local registrar the person's former name and a statement that the new name is confidential. I do believe that the state registrar of information would have to have both the new and old names, but I can draft it so that the information held by the state registrar is confidential and not available to the public except under circumstances set forth in the draft.

I can make that change for you in a redraft, but you may want to have someone from the state registrar and/or a county register of deeds review that change in case there are reasons they would have to have the new name. I am not terribly familiar with the process of name changes or of recording vital information/statistics for the state, so it might be helpful to have someone who is more of an expert in those areas take a look.

Peggy

---

**From:** Wenzlaff, Tyler  
**Sent:** Tuesday, October 18, 2011 3:36 PM  
**To:** Hurley, Peggy  
**Subject:** RE: Draft review: LRB 11-2736/P1 Topic: Keeping name changes confidential

Peggy,

I have a question about Page 2, line 19-20.

Do we have to notify the local registrar's office and register of deeds? Rep. Ripp has concerns that the local registrar's office cannot guarantee the confidentiality of the name change.

Instead of notifying the local registrar's office, could we just ask that the court transmit a form to the local registrar's office a form that states the petitioner's former name and states that the new name is confidential.

Thanks.

Tyler Wenzlaff  
Office of Wisconsin State Representative Keith Ripp  
47<sup>th</sup> Assembly District

3/2/2012

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Thanks.

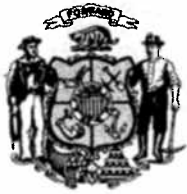
Tyler Wenzlaff  
Office of Wisconsin State Representative Keith Ripp  
47<sup>th</sup> Assembly District

maybe replace (b) with this?

for C 786.36 (2m) (xxxx) to say something like

"Notwithstanding" s. 69.20<sup>p69.21,</sup> ~~a record that is~~  
~~confid may~~

information that is confid under this subsection may ~~only~~ not be disclosed by the <sup>state</sup> registrar ~~of~~ vital statistics, the register of deeds, or the local registrar except pursuant to a ct order. A ct may order disclosure upon determining...



## 2011 ASSEMBLY BILL 379

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**ASSEMBLY BILL 379**

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13 on their records.

14           **SECTION 2.** 786.36 (2m) of the statutes is created to read:

15           786.36 (2m) (a) Except as provided in par. (b), if the court determines that,  
16 pursuant to s. 786.37 (4), publication of the petition is not required, all records  
17 related to the petitioner's name change shall be confidential and are exempt from

**ASSEMBLY BILL 379**

*and may not be used  
to disclose  
or  
present  
(5)*

1 disclosure under s. 19.35 (1). The court shall transmit to the register of deeds a form  
2 that states the petitioner's former name and states that the new name is confidential  
3 The fee for recording a certified copy is the fee specified under s. 59.43 (2) (ag). If the  
4 person whose name is changed or established was born [or married] in this state, the  
5 clerk of the court shall send to the state registrar of vital statistics, on a form designed  
6 by the state registrar of vital statistics, an abstract of the record, duly certified,  
7 accompanied by the fee prescribed in s. 69.22, which fee the clerk of court shall charge  
8 to and collect from the petitioner. The state registrar of vital statistics shall then  
9 correct the birth record, [marriage record, or both, and shall transmit to the register  
10 of deeds and the local registrar a form that states the petitioner's former name and  
11 states that the new name is confidential

*and upon request of  
payment by the petitioner of  
the fees  
req. under  
s. 69.22,  
issue a*

*replace*

12 (b) The court may, upon good cause shown by a person and upon determining  
13 that the safety of the petitioner is not jeopardized, allow the person to inspect a record  
14 that is confidential under par. (a).

15 **SECTION 3.** 786.37 (4) of the statutes is created to read:

16 786.37 (4) Subsection (1) does not apply if the petitioner shows, by a  
17 preponderance of the evidence, that publication of his or her petition could endanger  
18 him or her and that he or she is not seeking a name change in order to avoid a debt  
19 or conceal a criminal record.

*certified copy  
of the corrected  
birth  
record.*

20 **SECTION 4. Initial applicability.**

21 (1) This act first applies to petitions that are filed on the effective date of this  
22 subsection.

23 (END)



gs

**ASSEMBLY AMENDMENT ,  
TO 2011 ASSEMBLY BILL 379**

now place

*[Handwritten signature]*

1 ✓ At the locations indicated, amend the bill as follows:

2 **1.** Page 3, line 2: after "confidential" insert "and may not be disclosed except  
3 pursuant to par. (b)".

4 **2.** Page 3, line 4: delete "or married".

5 **3.** Page 3, line 9: delete lines 9 to 14 and substitute:

no #

6 "correct the birth record and, upon request by the petitioner and payment by  
7 the petitioner of the fees required under s. 69.22, issue a certified copy of the  
8 corrected birth record. ✓ ✓ ✓

to the petitioner

9 (H) (b) Notwithstanding ss. 69.20 and 69.21, information that is confidential under  
10 this subsection may not be disclosed by the state registrar of vital statistics, the  
11 register of deeds, or a local registrar except pursuant to a court order. A court may

(H) #. Page 3, line 12: delete lines 12 to 14 and substitute:



1 order disclosure of confidential information upon good cause shown and upon  
2 determining that the safety of the petitioner is not jeopardized by disclosure.”

3 (END)

## Hurley, Peggy

---

**To:** Schmidt, Melissa  
**Subject:** RE: Amendment to AB 379

-----Original Message-----

From: Schmidt, Melissa  
Sent: Friday, March 02, 2012 12:50 PM  
To: Hurley, Peggy; Kiesow, John A - DHS; 'Gibert, Tony'; Wenzlaff, Tyler  
Subject: RE: Amendment to AB 379

That sounds great!

Melissa Schmidt  
Staff Attorney  
Wisconsin Legislative Council  
Ph: (608) 266-2298  
Fax: (608) 266-3830

-----Original Message-----

From: Hurley, Peggy  
Sent: Friday, March 02, 2012 12:48 PM  
To: Schmidt, Melissa; Kiesow, John A - DHS; 'Gibert, Tony'; Wenzlaff, Tyler  
Subject: RE: Amendment to AB 379

How about on page 1, line 7, state "issue to the petitioner the number of certified copies of the corrected birth record requested by the petitioner."

-----Original Message-----

From: Schmidt, Melissa  
Sent: Friday, March 02, 2012 12:44 PM  
To: Kiesow, John A - DHS; Hurley, Peggy; Gibert, Tony; Wenzlaff, Tyler  
Subject: RE: Amendment to AB 379

Peggy,

I don't really care what language is used as long as the petitioner can get more than one copy at the time of the order. Section 69.22 (1) (a), Stats., actually says, "\$20 for issuing one certified copy of a vital record and \$3 for any additional certified copy of the same vital record issued at the same time." The State Registrar uses this language as a fee reduction for additional copies requested at the same time as the first record is requested. Does some of this language help limit the time frame we are looking at?

Melissa Schmidt  
Staff Attorney  
Wisconsin Legislative Council  
Ph: (608) 266-2298  
Fax: (608) 266-3830

-----Original Message-----

From: Kiesow, John A - DHS [mailto:John.Kiesow@dhs.wisconsin.gov]  
Sent: Friday, March 02, 2012 12:40 PM  
To: Hurley, Peggy; Schmidt, Melissa; Gibert, Tony; Wenzlaff, Tyler  
Subject: RE: Amendment to AB 379

The form the Registrar creates for the court, when signed and embossed by the court, is the court order we follow. At the bottom of the form is a place to order a copy or multiple copies. The only time the petitioner should be able to order is via that court order, or a subsequent order.

Peggy, I hope that gives you an idea.

John

-----Original Message-----

From: Hurley, Peggy [mailto:Peggy.Hurley@legis.wisconsin.gov]  
Sent: Friday, March 02, 2012 12:32 PM  
To: Schmidt, Melissa - LEGIS; Gibert, Tony; Kiesow, John A - DHS; Wenzlaff, Tyler - LEGIS  
Subject: RE: Amendment to AB 379

Thanks, Melissa. I have no objections to drafting it that way, except that it might create a bit of ambiguity as to when the petitioner can get the copies. If the petitioner requests the extra copies months after the initial docs are forwarded to the registrar, does this apply, or does (b) apply (i.e., does the petitioner need to go back to court)?

Let me know your thoughts.  
Peggy

-----Original Message-----

From: Schmidt, Melissa  
Sent: Friday, March 02, 2012 12:16 PM  
To: 'Tony Gibart'; Kiesow, John A - DHS; Wenzlaff, Tyler; Hurley, Peggy  
Subject: RE: Amendment to AB 379

This looks great. The only thing I would change is on line 8 of the amendment, after "record" insert, "and any additional certified copy of the corrected birth record requested by the petitioner."

This change will allow the petitioner to get more than one copy. (Peggy, I got this language from s. 69.22 (1) (a), Stats.)

Melissa Schmidt  
Staff Attorney  
Wisconsin Legislative Council  
Ph: (608) 266-2298  
Fax: (608) 266-3830

-----Original Message-----

From: Tony Gibart [mailto:tonyg@wcadv.org]  
Sent: Friday, March 02, 2012 11:58 AM  
To: Kiesow, John A - DHS; Wenzlaff, Tyler; Schmidt, Melissa; Hurley, Peggy  
Subject: RE: Amendment to AB 379

Okay, thanks. That was why I was confused. The amendment looks good to you, John?

-----Original Message-----

From: Kiesow, John A - DHS [mailto:John.Kiesow@dhs.wisconsin.gov]  
Sent: Friday, March 02, 2012 11:57 AM  
To: Tony Gibart; Wenzlaff, Tyler - LEGIS; Schmidt, Melissa - LEGIS; Hurley, Peggy - LEGIS  
Subject: RE: Amendment to AB 379

The 2 local offices are not involved with real estate

-----Original Message-----

From: Tony Gibart [mailto:tonyg@wcadv.org]  
Sent: Friday, March 02, 2012 11:56 AM  
To: Wenzlaff, Tyler - LEGIS; Schmidt, Melissa - LEGIS; Hurley, Peggy - LEGIS; Kiesow, John A - DHS  
Subject: RE: Amendment to AB 379

Should the amendment explicitly state that the court is transmitting the new name to the registrar of deeds and local registrar?

Other than the question, it looks good to me.

-----Original Message-----

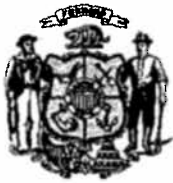
From: Wenzlaff, Tyler [mailto:Tyler.Wenzlaff@legis.wisconsin.gov]  
Sent: Friday, March 02, 2012 11:36 AM  
To: Schmidt, Melissa; Hurley, Peggy; Kiesow, John A - DHS; Tony Gibart  
Subject: Amendment to AB 379  
Importance: High

Amendment to AB 379.

If anyone has any concerns please contact Rep. Ripp's office ASAP.

Thank you for everyone's work on this.

Tyler Wenzlaff  
Office of Wisconsin State Representative Keith Ripp 47th Assembly District



*in stays*

**ASSEMBLY AMENDMENT ,  
TO 2011 ASSEMBLY BILL 379**

*today*

*the number of certified copies*

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 3, line 2: after “confidential” insert “and may not be disclosed except  
3 pursuant to par. (b)”.

4 **2.** Page 3, line 4: delete “or married”.

5 **3.** Page 3, line 9: delete lines 9 to 11 and substitute “correct the birth record  
6 and, upon request by the petitioner and payment by the petitioner of the fees

7 required under s. 69.22, issue to the petitioner a certified copy of the corrected birth  
8 record.” requested by the petitioner

9 **4.** Page 3, line 12: delete lines 12 to 14 and substitute:

10 “(b) Notwithstanding ss. 69.20 and 69.21, information that is confidential  
11 under this subsection may not be disclosed by the state registrar of vital statistics,  
12 the register of deeds, or a local registrar except pursuant to a court order. A court

1 may order disclosure of confidential information upon good cause shown and upon  
2 determining that the safety of the petitioner is not jeopardized by disclosure.”

3 (END)