

2019 DRAFTING REQUEST

Bill

For: **Rick Gundrum (608) 264-8486** Drafter: **mjohns**
 By: **Mark** Secondary Drafters:
 Date: **1/17/2020** May Contact:

Same as LRB:

Submit via email: **YES**
 Requester's email: **Rep.Gundrum@legis.wisconsin.gov**
 Carbon copy (CC) to: **Melinda.Johns@legis.wisconsin.gov**
sarah.walkenhorstbarber@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Recording of search warrant request

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mjohns 1/22/2020	csicilia 1/22/2020			
/P1			jmurphy 1/22/2020		
/1			mbarman 1/24/2020	mbarman 1/24/2020	

FE Sent For: *Not Needed* <END>

Johns, Melinda

From: Radcliffe, Mark
Sent: Friday, January 17, 2020 1:58 PM
To: Johns, Melinda
Subject: Bill Draft Request regarding Search Warrant Records

Hi Melinda,

Rep. Gundrum would like to have a bill drafted that deletes the last sentence in s. 968.12(3)(d), Stats., which relates to the recording and certification of search warrant requests. We were hoping to have the /P1 turned around by the end of Tuesday at the latest. I have provided some background information below on the rationale for the request. Here is what we are effectively seeking to put into drafting:

(d) Recording and certification of testimony. When a caller informs the judge that the purpose of the call is to request a warrant, the judge shall place under oath each person whose testimony forms a basis of the application and each person applying for the warrant. The judge or requesting person shall arrange for all sworn testimony to be recorded either by a court reporter or by means of a voice recording device. The judge shall have the record transcribed. The transcript, certified as accurate by the judge or reporter, as appropriate, shall be filed with the court. ~~If the testimony was recorded by means of a voice recording device, the judge shall also file the original recording with the court.~~

Please let me know if you have any questions or need any additional information before you are able to proceed.

Thank you in advance,

Mark Radcliffe
Office of Rep. Rick Gundrum
58th Assembly District | Room 304 North
608.264.8486

Earlier this week, Washington County Clerk of Courts Theresa Russell and Washington County Circuit Court Judge James Muehlbauer reached out to our office to see if we would entertain a potential statutory change. The statute in question in s. 968.12(3)(d), Stats., which relates to the recording and certification of search warrant requests. The county is in the process of updating their procedure for handling search warrants, which is what sparked their interest in this issue.

Under the new procedure, a judge will be on a recorded line with the deputy/officer requesting the warrant through the Sheriff's dispatch. The judge will then have the recording transcribed and filed in the office of the clerk of courts, as required by the statute. However, Ms. Russell and Judge Muehlbauer are concerned with the last sentence in s. 968.12(3)(d), which reads "If the testimony was recorded by means of a voice recording device, **the judge shall also file the original recording with the court.**"

As a matter of practice, Washington County's Sheriff serves as the custodian of the original recording, often retaining the record in excess of the minimum requirement of seven years. However, Ms. Russell and Judge Muehlbauer believe it's unnecessary to require both the original recording **and** the certified transcript of the recording to be filed with the clerk of courts office. They are concerned with the storage issues that will result from having to file all of the duplicate CDs/thumb drives containing the original recordings. Since the Washington County clerk of courts office works in an electronic environment, they believe it would make more sense for the statute to require only the transcript of the

recording to be filed with the clerk of courts office. Judge Muehlbauer and Ms. Russell are effectively proposing the repeal of the last sentence of the statute ("If the testimony was recorded by means of a voice recording device, the judge shall also file the original recording with the court.").



State of Wisconsin
2019 - 2020 LEGISLATURE

DUE 1/22/20

LRB-5395/? P1
MLJ:
js

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SA
SC

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was affected
by 2019
Supreme
Court Order
19-01 ↑

1 AN ACT ...; **relating to:** voice recordings of testimony that forms the basis of an
2 application for a search warrant.

Analysis by the Legislative Reference Bureau

Under current law, when a person places a phone call to a judge to request a search warrant, the judge must place the caller under oath to take any testimony that may form the basis of a search warrant. The testimony must be recorded either by a court reporter or by means of a voice recording device. If recorded by a recording device, the recording must be transcribed, the transcript must be certified as accurate by the judge or court reporter, and both the certified transcript and the original voice recording must be filed with the court.

This bill removes the requirement that the original recording be filed along with the certified transcript of the testimony that forms the basis of an application for a search warrant.

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

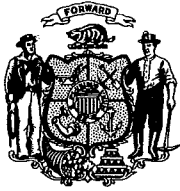
X

3 SECTION 1. 968.12 (3) (d) of the statutes is amended to read:
4 968.12 (3) (d) *Recording and certification of testimony.* When a caller informs
5 the judge that the purpose of the call is to request a warrant, the judge shall place

1 under oath each person whose testimony forms a basis of the application and each
2 person applying for the warrant. The judge or requesting person shall arrange for
3 all sworn testimony to be recorded either by a court reporter or by means of a voice
4 recording device. The judge shall have the record transcribed. The transcript,
5 certified as accurate by the judge or reporter, as appropriate, shall be filed with the
6 court. ~~If the testimony was recorded by means of a voice recording device, the judge~~
7 ~~shall also file the original recording with the court.~~

8

(END)



No
change

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT to amend** 968.12 (3) (d) of the statutes; **relating to:** voice recordings of
2 testimony that forms the basis of an application for a search warrant.

Analysis by the Legislative Reference Bureau

Under current law, when a person places a phone call to a judge to request a search warrant, the judge must place the caller under oath to take any testimony that may form the basis of a search warrant. The testimony must be recorded either by a court reporter or by means of a voice recording device. If recorded by a recording device, the recording must be transcribed, the transcript must be certified as accurate by the judge or court reporter, and both the certified transcript and the original voice recording must be filed with the court.

This bill removes the requirement that the original recording be filed along with the certified transcript of the testimony that forms the basis of an application for a search warrant.

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

3 **SECTION 1.** 968.12 (3) (d) of the statutes, as affected by 2019 Supreme Court
4 Order 19-01, is amended to read:
5 968.12 (3) (d) *Recording and certification of testimony.* When a caller informs
6 the judge that the purpose of the call is to request a warrant, the judge shall place

1 under oath each person whose testimony forms a basis of the application and each
2 person applying for the warrant. The judge or requesting person shall arrange for
3 all sworn testimony to be recorded either by a court reporter or by means of a voice
4 recording device. The judge shall have the record transcribed. The transcript,
5 certified as accurate by the judge or reporter, as appropriate, shall be filed with the
6 court. ~~If the testimony was recorded by means of a voice recording device, the judge~~
7 ~~shall also file the original recording with the court.~~

8 (END)

Barman, Mike

From: Radcliffe, Mark
Sent: Friday, January 24, 2020 1:40 PM
To: LRB.Legal
Subject: Draft Review: LRB -5395/1

Please Jacket LRB -5395/1 for the ASSEMBLY.