



Van H. Wanggaard

Wisconsin State Senator

TESTIMONY ON ASSEMBLY BILL 118

Thank you committee members for hearing my testimony on Assembly Bill 118, relating to public records identifying confidential law enforcements.

As you know, confidential informants are a vital tool for police in investigating a wide range of crimes, from drug dealing and gang activity to homicide and battery and everything in between. Without confidential informants many crimes would be unsolved, fewer criminals would be prosecuted and more criminals would be on the street. Unfortunately, a loophole has been discovered in Wisconsin's Open Records law that can lead to the confidential informants' identities being discovered prior to arrest and/or trial.

This bill comes to us from conversations with Kenosha County District Attorney Michael Graveley and the Kenosha Police Department. Under Wisconsin's Open Records Law, only law enforcement records of confidential informants and their identities are to be kept confidential. If, for example, Andre Jacque is a confidential informant, and says to the police that Eric Wimberger is operating a drug house, it's protected. If that same information is used in a search warrant, courts must release the information, including the informant's identity.

When a search warrant is filed with the court, Kenosha County courts receive open records requests for any information related to the warrant. When that occurs, the confidential informant is identified and can be targeted by the alleged criminal or his or her associates. Because Wisconsin's Open Records law is so broad, the request can be made anonymously, leaving informants at even greater risk.

Assembly Bill 118 cleans up this loophole by stating that any record identifying the identity of a confidential informant is exempt from the open records law. Senate Amendment 1 is largely technical, ensuring other public records that do not identify confidential informants remain public.

Thank you for your time and support of AB 118.

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Assembly Committee on Government Accountability and Oversight
Testimony on Assembly Bill 118

Thank you Chairman Steffen and committee members for holding a public hearing on Assembly Bill 118, which relates to public records identifying confidential informants.

Information provided to law enforcement through confidential informants is often a critical aspect to solving criminal cases. With the protections of confidentiality, an informant may partner with law enforcement to provide information to investigators that they may not otherwise be able to obtain. In discussion with Kenosha County District Attorney Michael Graveley and the Kenosha Police Department, Sen. Wanggaard and I became aware of a loophole in which non-police agencies are required to turn over a confidential informant's personally identifying information if it that information is a part of an open records request.

Under Wisconsin's Open Records Law, only law enforcement agencies can deny records if they contain any information that pertains to the identity a confidential informant. For example, a confidential informant is assisting the police in a criminal investigation. An open records request is made to a local government agency that has the confidential informant's identifying information. Per the current open records law, that agency would have to release the informant's information. The release of personally identifying information about a confidential informant has the potential to place the informant at significant risk for harm.

Assembly Bill 118 closes this loophole by prohibiting the release of any record identifying a confidential informant by any official body or body subject to open records law. Assembly Amendment 1 ensures that other public records that do not identify confidential informants remain public so as to remain as transparent as possible while doing no harm to our police and investigators. SB 119, AB 118's companion has passed the Senate Chamber unanimously.

Thank you for your consideration, and I am happy to answer any questions.