

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

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

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by a local law enforcement officer or agency solely for the purpose of information technology storage or processing, and the officer or agency receives a request to inspect to copy the material, the officer or agency shall transmit the request to the officer or agency that performed the service or conducted the investigation, or if more than one officer or agency performed the service or conducted the investigation, to each such officer or agency. If the material is in the custody of that officer or agency, that officer or agency must then respond to the request. Currently, there is no similar requirement.

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

1 **SECTION 1.** 19.32 (2) of the statutes is renumbered 19.32 (2) (a) and amended
2 to read:

3 19.32 **(2)** (a) “Record” Except as provided in par. (b), “record” means any
4 material on which written, drawn, printed, spoken, visual or electromagnetic
5 information is recorded or preserved, regardless of physical form or characteristics,
6 which has been created or is being kept by an authority. “Record” includes, but is not
7 limited to, handwritten, typed or printed pages, maps, charts, photographs, films,
8 recordings, tapes (including computer tapes), computer printouts and optical disks.
9 “Record” does not include drafts, notes, preliminary computations and like materials
10 prepared for the originator’s personal use or prepared by the originator in the name
11 of a person for whom the originator is working; materials which are purely the
12 personal property of the custodian and have no relation to his or her office; materials
13 to which access is limited by copyright, patent or bequest; and published materials
14 in the possession of an authority other than a public library which are available for
15 sale, or which are available for inspection at a public library.

16 **SECTION 2.** 19.32 (2) (b) of the statutes is created to read:

17 19.32 **(2)** (b) If material that relates to a request to provide service or a law
18 enforcement investigation by a law enforcement agency, as defined in s. 165.83 (1)

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1 (b), other than a state officer or agency, is in the custody of an authority other than
2 a state authority, as defined in s. 19.62 (8), and an authority that performed the
3 service or conducted the investigation also has custody of the material, the material
4 is a “record” only if it is in the custody of an authority that performed the service or
5 conducted the investigation.

6 **SECTION 3.** 19.35 (7) of the statutes is created to read:

7 **19.35 (7) LOCAL LAW ENFORCEMENT SERVICE REQUEST OR INVESTIGATIVE MATERIAL.**

8 If an authority other than a state authority, as defined s. 19.62 (8), has custody of
9 material relating to a request to provide service or a law enforcement investigation
10 solely for the purpose of information technology storage or processing, and the
11 authority receives a request to inspect or copy the material, the authority shall
12 transmit the request to the authority that performed the service or conducted the
13 investigation or if more than one authority performed the service or conducted the
14 investigation, to each such authority. If the material is a record that is in the custody
15 of the authority that receives the request, that authority shall respond to the request.

16 (END)