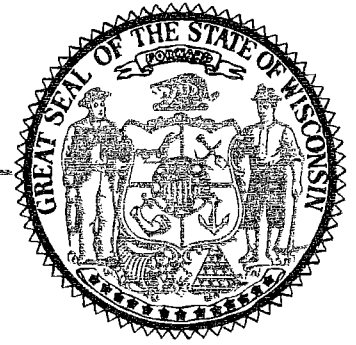


FRED A. RISSER
Wisconsin State Senator



July 16, 2019

TO: Chairman Senator David Craig and members of the Senate Committee on Insurance, Financial Services, Government Oversight and Courts,

Thank you for holding this public hearing on Senate Bills 62 and 63, which are bipartisan versions of Assembly Bills 58 and 59 introduced in the Assembly by Representative Tusler.

These bills presented today are necessary in order to clarify two legal processes that citizens of Wisconsin use when dealing with courts and state government.

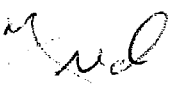
Senate Bill 62 would change the requirement for service of a notice of claim against a state officer, employee or agent from solely by certified mail to either personal service or certified mail. Adding personal service of a notice of claim is a stricter form of service than that of certified mail and is used most often for service of legal documents.

Senate Bill 63 would allow service of certain legal documents and pleadings that do not require personal service to be served by e-mail, if the parties have consented to accepting e-mail service in writing. It would also require that documents submitted to the court require an e-mail address as part of the required signature information, as well as requiring that the e-mail address be kept up-to-date.

The Assembly versions of both bills have been unanimously approved in the Assembly Committee on Judiciary.

As the Senate author of these bipartisan bills, I appreciate the Committee's consideration of SB 62 and SB 63 and would be happy to answer any questions you may have.

Most sincerely,


FRED A. RISSER
Wisconsin State Senator

FAR:ks



RON TUSLER

STATE REPRESENTATIVE • 3rd ASSEMBLY DISTRICT

**Testimony Before the
Senate Committee
on**

**Insurance, Financial Services, Government Oversight and Courts
Senate Bill 63 & Assembly Bill 59**

July 16, 2019

Mr. Chairman and members of the committee, thank you for the opportunity for a public hearing on SB 63/AB 59. This bill is straightforward and codifies common practice by many attorneys.

Current law allows service of pleadings and other documents personally, through mail or fax, but not e-mail.¹ Email is commonly used by attorneys to communicate with clients and other attorneys. Electronic service is allowed under the Federal Rules of Civil Procedure.² Numerous states, including Tennessee, Florida, South Dakota, Illinois, Michigan and Oregon already allow electronic service. In Wisconsin, the law lags behind technology.

Under this proposal electronic service is *completely voluntary*; attorneys are not required to consent to electronic service. Opting-in requires written consent by an attorney, or party if appropriate. Electronic service is complete upon transmission, except if the sender receives notification or indication that the message was not delivered. Further, the bill does not allow electronic service for initial pleadings,³ which still must be served via personal service.⁴

Thank you for your time. I am open to answering any questions you may have.

¹ Wis. Stat. 801.14(2).

² Fed. R. Civ. Pro. 5(b)(2)(E) (“sending it by electronic means if the person consented in writing—in which event service is complete upon transmission, but is not effective if the serving party learns that it did not reach the person to be served”).

³ See *Sacotte v. Ideal-Werk Krug & Priester Maschinen-Fabrik*, 121 Wis.2d 401, 408 (1984) (“Section 801.14 (2), is applicable only after the action has been commenced and an attorney has appeared in the action on behalf of a party.”).

⁴ Wis. Stat. 801.13(1).

LITIGATION SECTION

To: Senate Committee on Insurance, Financial Services, Government Oversight and Courts
From: Litigation Section, State Bar of Wisconsin
Date: July 16, 2019
Re: AB 59/SB 63 – service of pleadings

The Litigation Section of the State Bar of Wisconsin supports the introduction Assembly Bill 59 and Senate Bill 63, Representative Ron Tusler and Senator Fred Risser's legislation allowing email as an alternative method to serve certain documents in ongoing litigation.

With the change to e-filing for all communications with the courts, this bill is a common-sense update that allows service of other documents, such as discovery, to be made by electronic means, with consent of counsel, in addition to mail or facsimile.

AB 59 and SB 63 have appropriate safeguards, including the requirement that participants agree to receive documents by email and addresses notification of non-delivery. This change will allow for more consistency in the legal profession and recognizes the technological updates of the modern office.

For these reasons, the Litigation Section respectfully requests your support in this common-sense legislation.

For more information, please do not hesitate to contact our Government Relations Coordinator, Lynne Davis, ldavis@wisbar.org or 608.852.3603.

The State Bar of Wisconsin establishes and maintains sections for carrying on the work of the association, each within its proper field of study defined in its bylaws. Each section consists of members who voluntarily enroll in the section because of a special interest in the particular field of law to which the section is dedicated. Section positions are taken on behalf of the section only.

The views expressed on this issue have not been approved by the Board of Governors of the State Bar of Wisconsin and are not the views of the State Bar as a whole. These views are those of the Section alone.



STATE BAR OF WISCONSIN