



ANDRÉ JACQUE

STATE SENATOR • 1ST SENATE DISTRICT

Phone: (608) 266-3512

Fax: (608) 282-3541

Sen.Jacque@legis.wi.gov

State Capitol · P.O. Box 7882

Madison, WI 53707-7882

*Testimony before the Senate Committee on Judiciary and Public Safety
State Senator André Jacque
June 2, 2021*

Chairman Wanggaard and Colleagues,

Thank you for the opportunity to testify as the author of Senate Bill 241, which will align state and federal warrant requirements for pen registers and trap and trace devices. I first became aware of the need for this legislation after discussions with DOJ, the Wisconsin District Attorneys' Association, and local law enforcement, and I am pleased to have Rep. Mursau, Rep. Baldeh and others join me in this effort.

Under current law, a "pen register" is defined as a device that records or decodes electronic or other impulses that identify the numbers dialed or transmitted on a telephone line, and the attorney general or a district attorney can apply for a court order to install a pen register or a trap and trace device for the purpose of furthering a criminal investigation. However, with the current definition and evolving technology, state law enforcement and prosecutors are struggling with enforceability and applicability of warrants for the placement of pen registers when it comes to modern electronic devices' interactions with social media. With the growing popularity of social media for carrying out criminal activity, this has been a major hurdle for successful investigations.

Senate Bill 241 expands our current statutory definition to achieve parity with federal law, which has already adapted to the times. By mirroring the federal definition of a "pen register" it will include a device *or process* that records or decodes dialing, *routing, addressing, or signaling information* transmitted on a telephone line *or by an instrument or facility from which a wire or electronic communication is transmitted*. These updates will provide clarity in light of technological advances to ensure social media communications are made available within the Wisconsin legal system when the existing standards for a warrant are met and aid members of law enforcement in successfully investigating crimes.

Thank you for your consideration of Senate Bill 241.