

2011 DRAFTING REQUEST

Assembly Amendment (AA-AB232)

Received: 09/20/2011

Received By: **chanaman**

Wanted: As time permits

Companion to LRB:

For: **Frederick Kessler (608) 266-5813**

By/Representing: **himself**

May Contact:

Drafter: **chanaman**

Subject: **Criminal Law - procedure**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Kessler@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Delete material about victim enforcement and allowing victim to make a written statement

Instructions:

See attached--a1508 but encourage victim to make written statement

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	chanaman 09/20/2011	kfollett 09/20/2011		_____			
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FE Sent For:

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/?	chanaman	11/gf 9/20		_____			

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kjf

TODAY please

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

**ASSEMBLY AMENDMENT ,
TO 2011 ASSEMBLY BILL 232**

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 2, line 13: after that line insert:

3 **"SECTION 3d.** 950.04 (1v) (g) of the statutes, as affected by 2011 Wisconsin Act
4 38, is amended to read:

5 950.04 (1v) (g) To have reasonable attempts made to notify the victim of
6 hearings or court proceedings, as provided under ss. 302.113 (9g) (g) 2., 302.114 (6),
7 938.27 (4m) and (6), 938.273 (2), and 971.095 (3) and 972.14 (3) (b).

History: 1979 c. 219; 1983 a. 102, 364; 1985 a. 311; 1987 a. 332 s. 64; 1989 a. 31; 1997 a. 181, 237, 283; 1999 a. 9, 32, 188; 2001 a. 16, 109; 2003 a. 224; 2005 a. 155, 277, 434, 447; 2007 a. 20 ss. 3863, 9121 (6) (a); 2007 a. 97; 2009 a. 28, 138; 2011 a. 38.

8 **SECTION 3h.** 950.04 (1v) (L) of the statutes is amended to read:

9 950.04 (1v) (L) To have the district attorney or corporation counsel, whichever
10 is applicable, make a reasonable attempt to contact the victim concerning the

1 victim's right to make a statement, as provided under ss. 938.32 (1) (b) 2., 938.335
2 (3m) (b), 971.095 (2m), and 972.14 (3) (b).

History: 1979 c. 219; 1983 a. 102, 364; 1985 a. 311; 1987 a. 332 s. 64; 1989 a. 31; 1997 a. 181, 237, 283; 1999 a. 9, 32, 188; 2001 a. 16, 109; 2003 a. 224; 2005 a. 155, 277, 434, 447; 2007 a. 20 ss. 3863, 9121 (6) (a); 2007 a. 97; 2009 a. 28, 138; 2011 a. 38.

3 **SECTION 3f.** 950.04 (1v) (m) of the statutes is amended to read:

4 950.04 (1v) (m) To provide statements concerning sentencing, disposition, or
5 parole, as provided under ss. 304.06 (1) (e), 938.32 (1) (b) 1g., 938.335 (3m) (ag),
6 971.095 (2m), and 972.14 (3) (a).

History: 1979 c. 219; 1983 a. 102, 364; 1985 a. 311; 1987 a. 332 s. 64; 1989 a. 31; 1997 a. 181, 237, 283; 1999 a. 9, 32, 188; 2001 a. 16, 109; 2003 a. 224; 2005 a. 155, 277, 434, 447; 2007 a. 20 ss. 3863, 9121 (6) (a); 2007 a. 97; 2009 a. 28, 138; 2011 a. 38.

7 **SECTION 3i.** 950.08 (2g) (c) of the statutes is amended to read:

8 950.08 (2g) (c) The address and telephone number of the intake worker,
9 corporation counsel or district attorney whom the victim may contact to obtain
10 information concerning the rights of victims and to request notice of court
11 proceedings under ~~ss. s.~~ s. 938.27 (4m) and or (6), 938.273 (2), 938.299 (1) (am) and
12 938.335 (3m) (b), ~~or~~ for ss. 971.095 (3) and 972.14 (3) (b), whichever is applicable, ~~and;~~
13 to request the opportunity to confer under ~~ss. s.~~ s. 938.245 (1m), 938.265 ~~or~~, 938.32 (1)
14 (am), ~~or s.~~ 971.095 (2), whichever is applicable; and to request the opportunity to
15 provide a written statement to the court under s. 971.095 (2m).

No change

History: 1991 a. 39; 1997 a. 181; 2007 a. 20; 2009 a. 309.

16 **SECTION 3k.** 971.095 (2m) of the statutes is created to read:

17 971.095 (2m) In any case in which a defendant has been charged with a crime,
18 the district attorney shall, as soon as practicable, ask all of the victims in the case
19 who want to make a statement to the court to provide a written statement to the
20 court. The district attorney shall ensure that any statement is available, as soon as
21 practicable, to any party involved in prosecuting the crime.”

22 **2.** Page 2, line 14: delete lines 14 to 21.

23 **3.** Page 2, line 21: after that line insert:

1 “**SECTION 4b.** 971.08 (1) (d) of the statutes is amended to read:
2 971.08 (1) (d) Inquire of the district attorney whether he or she has complied
3 with s. 971.095 (2) and (2m).

4 History: 1983 a. 219; 1985 a. 252; 1997 a. 181.

4 **SECTION 4d.** 971.315 of the statutes is amended to read:
5 **971.315 Inquiry upon dismissal.** Before a court dismisses a criminal charge
6 against a person, the court shall inquire of the district attorney whether he or she
7 has complied with s. 971.095 (2) and (2m).

8 History: 1997 a. 181.

8 **SECTION 4g.** 972.14 (2m) of the statutes is amended to read:
9 972.14 (2m) Before pronouncing sentence, the court shall inquire of the district
10 attorney whether he or she has complied with s. 971.095 (2) and (2m) and with sub.
11 (3) (b), whether any of the victims of a crime considered at sentencing requested
12 notice of the date, time and place of the sentencing hearing and, if so, whether the
13 district attorney provided to the victim notice of the date, time and place of the
14 sentencing hearing.

15 History: 1987 a. 27; 1989 a. 31; 1995 a. 77; 1997 a. 73, 181, 205; 1999 a. 32.

15 **SECTION 4i.** 972.14 (3) (a) of the statutes is amended to read:
16 972.14 (3) (a) Before pronouncing sentence, the court shall determine whether
17 a victim of a crime considered at sentencing wants to make a statement to the court.
18 If a victim provided a written statement under s. 971.095 (2m), the court shall have
19 the written statement read in court. If a victim was not asked under s. 971.095 (2m)
20 to provide a written statement and wants to make a statement, the court shall allow
21 the victim to make a statement in court or to submit a written statement to be read
22 in court. If a victim was asked under s. 971.095 (2m) to provide a written statement
23 and wants to make an additional statement, the court shall allow the victim to make
24 a statement in court or to submit a written statement to be read in court if the

1 allowance does not delay the sentence pronouncement. The court may allow any
2 other person to make or submit a statement under this paragraph. Any statement
3 under this paragraph must be relevant to the sentence.

4 History: 1987 a. 27; 1989 a. 31; 1995 a. 77; 1997 a. 73, 181, 205; 1999 a. 32.

4 **SECTION 4k.** 972.14 (3) (b) of the statutes is amended to read:

5 972.14 (3) (b) ~~After a conviction, if~~ If the district attorney knows becomes aware
6 of a victim of a crime to be considered at sentencing and the district attorney did not
7 ask the victim to provide a written statement under s. 971.095 (2m), the district
8 attorney shall make a reasonable attempt to contact that person to inform him or her
9 of the right to make or provide a statement under par. (a). Any failure to comply with
10 this paragraph is not a ground for an appeal of a judgment of conviction or for any
11 court to reverse or modify a judgment of conviction.”.

12 History: 1987 a. 27; 1989 a. 31; 1995 a. 77; 1997 a. 73, 181, 205; 1999 a. 32.

(END)