



State of Wisconsin
2011 – 2012 LEGISLATURE



LRB-2870/1
PJH:wlj:ph

2011 SENATE BILL 399

January 25, 2012 – Introduced by Senators GROTHMAN and LAZICH, cosponsored by Representatives JACQUE, BIES, CRAIG, KRUG and LEMAHIEU. Referred to Committee on Judiciary, Utilities, Commerce, and Government Operations.

1 **AN ACT** *to repeal* 908.07 and 970.03 (11); and *to create* 970.038 of the statutes;
2 **relating to:** the admissibility of hearsay evidence at a preliminary
3 examination.

Analysis by the Legislative Reference Bureau

Under current law, if an adult is charged with a felony (or, under certain circumstances, if a juvenile is charged with a violation that would be a crime if committed by an adult), a preliminary examination is conducted to determine whether there is probable cause to believe that the person committed the crime as charged. In the case of a juvenile, the preliminary examination is also used to determine whether the juvenile should be tried in adult court or referred to juvenile court.

Under current law, hearsay evidence (a statement, other than one made by a person who is testifying in court, that is offered to prove the truth of the matter asserted) is generally inadmissible in court proceedings, including in a preliminary examination. Current law offers some exceptions to the rule that hearsay is inadmissible, which generally require some indication that the hearsay is reliable or trustworthy. Current law also includes an exception at a preliminary examination to establish property ownership, a victim's lack of consent to entry upon or destruction of private property, and certain elements of identity theft crimes.

