



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-4672/1
CMH:amn

2017 ASSEMBLY BILL 642

November 14, 2017 - Introduced by Representatives HUTTON, KOOYENGA, ALLEN, BRANDTJEN, E. BROOKS, R. BROOKS, JACQUE, HORLACHER, LOUDENBECK, ROHRKASTE, SANFELIPPO, SKOWRONSKI, WEATHERSTON and OTT, cosponsored by Senators VUKMIR, CRAIG, NASS and WANGGAARD. Referred to Committee on Criminal Justice and Public Safety.

1 **AN ACT to amend** 969.035 (1), 969.08 (2), 969.08 (5) (a) 2., 969.08 (5) (a) 3., 969.08
2 (5) (b) 3., 969.08 (5) (b) 5. and 969.08 (7) of the statutes; **relating to:** pretrial
3 detention and denial and revocation of release.

Analysis by the Legislative Reference Bureau

Current law allows a court to deny pretrial release from custody to persons accused of first-degree intentional homicide, first-degree sexual assault, and sexual assault of a child or to persons accused of committing or attempting to commit a violent crime if the person had been previously convicted of committing or attempting to commit a violent crime. "Violent crime" is defined to include first-degree and second-degree intentional and reckless homicide, felony murder, aggravated battery, mayhem, first-degree sexual assault, and child abuse. This bill expands the definition of "violent crime" for this purpose to include taking hostages, kidnapping, arson, second-degree sexual assault, carjacking, robbery, abuse of individuals at risk under circumstances that cause death, child abduction, homicide by intoxicated use of a firearm or vehicle, strangulation and suffocation, and aggravated burglary.

Under current law, a court may revoke the release of a person who has been charged with a serious crime and released on bail if the person violates the conditions of the release and the alleged violation is also a serious crime. Under this bill, the court may revoke the release of the person if the alleged violation is any crime.

ASSEMBLY BILL 642

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 969.035 (1) of the statutes is amended to read:

2 969.035 (1) In this section, “violent crime” means any crime specified in s.
3 940.01, 940.02, 940.03, 940.05, 940.06, 940.07, 940.08, 940.09, 940.10, 940.19 (5),
4 940.195 (5), 940.21, 940.225 (1) or (2), 940.23, 940.235, 940.285 (2) (b) 1g., 940.305,
5 940.31, 941.327, 943.02, 943.10 (2), 943.23 (1g), 943.32, 943.87, 948.02 (1) or (2),
6 948.025, 948.03, ~~or 948.085~~, or 948.30 (2).

7 **SECTION 2.** 969.08 (2) of the statutes is amended to read:

8 969.08 (2) Violation of the conditions of release or the bail bond constitutes
9 grounds for the court to increase the amount of bail or otherwise alter the conditions
10 of release or, if the alleged violation is the commission of a ~~serious~~ crime, revoke
11 release under this section.

12 **SECTION 3.** 969.08 (5) (a) 2. of the statutes is amended to read:

13 969.08 (5) (a) 2. Alleges that the defendant has violated the conditions of
14 release by having committed a ~~serious~~ crime; and

15 **SECTION 4.** 969.08 (5) (a) 3. of the statutes is amended to read:

16 969.08 (5) (a) 3. Provides a copy of the complaint charging the commission of
17 the ~~serious~~ crime specified in subd. 2.

18 **SECTION 5.** 969.08 (5) (b) 3. of the statutes is amended to read:

19 969.08 (5) (b) 3. Upon a finding by the court that the state has established by
20 clear and convincing evidence that the defendant has committed a ~~serious~~ crime
21 while on conditional release, the court may revoke the release of the defendant and

ASSEMBLY BILL 642

1 hold the defendant for trial without setting conditions of release. No reference may
2 be made during the trial of the offense to the court's finding in the hearing. No
3 reference may be made in the trial to any testimony of the defendant at the hearing,
4 except if the testimony is used for impeachment purposes. If the court does not find
5 that the state has established by clear and convincing evidence that the defendant
6 has committed a serious crime while on conditional release, the defendant shall be
7 released on bail or other conditions deemed appropriate by the court.

8 **SECTION 6.** 969.08 (5) (b) 5. of the statutes is amended to read:

9 969.08 (5) (b) 5. The defendant may petition the court for reinstatement of
10 conditions of release if any of the circumstances authorizing the revocation of release
11 is altered. The altered conditions include, but are not limited to, the facts that the
12 original complaint is dismissed, or the defendant is found not guilty of that offense
13 ~~or the defendant is found guilty of a crime which is not a serious crime.~~

14 **SECTION 7.** 969.08 (7) of the statutes is amended to read:

15 969.08 (7) If a person is charged with the commission of a serious crime in a
16 county other than the county in which the person was released on conditions, the
17 district attorney and court may proceed under sub. (6) and certify the findings to the
18 circuit court for the county in which the person was released on conditions. That
19 circuit court shall make the release revocation decision based on the certified
20 findings.

21

(END)