



1995 SENATE BILL 660

March 27, 1996 – Introduced by Senator ANDREA, cosponsored by Representatives KREUSER, PORTER and WIRCH, by request of Robert Jambois, Kenosha County District Attorney. Referred to Committee on Judiciary.

- 1 **AN ACT to amend** 809.31 (1), 969.01 (2) (b) and 969.01 (2) (e) of the statutes; **re-**
2 **lating to:** release of a person convicted of a misdemeanor pending appeal.

Analysis by the Legislative Reference Bureau

Under current law, a person who has been convicted of a crime and sentenced to imprisonment and who is appealing his or her conviction may seek release from the sentence of imprisonment while his or her appeal is pending. If the person has been convicted of a felony, the trial court may allow the person to be released while the appeal is pending, but the trial court is not required to do so. If the court does order the person released while the appeal is pending, the court must set appropriate conditions of release, which may include monetary conditions of release (bail) if that is necessary to assure the appearance of the person. If the person has been convicted of a misdemeanor, the court must allow release under appropriate conditions. Because current law requires the release of a person convicted of a misdemeanor while the person's appeal is pending, the court of appeals has held that an indigent person who is appealing a misdemeanor conviction may not be required to post bail. *State v. Lipke*, 186 Wis. 2d 358 (Ct. App. 1994).

This bill eliminates the requirement under current law that a person who has been convicted of a misdemeanor and who is appealing that conviction must be released while his or her appeal is pending. Under the bill, a court may release a person who is appealing a misdemeanor conviction, but the court is not required to do so. If the court does order the person released while the appeal is pending, the court must set appropriate conditions of release, which may include bail if that is necessary to assure the appearance of the person.

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:

