



## 2019 ASSEMBLY BILL 28

February 22, 2019 - Introduced by Representatives HORLACHER, BRANDTJEN, DITTRICH, HUTTON, KULP, RAMTHUN, SKOWRONSKI, STEFFEN, TITTL, TUSLER, ZIMMERMAN and BROOKS, cosponsored by Senators JACQUE, OLSEN, WANGGAARD and DARLING. Referred to Committee on Criminal Justice and Public Safety.

- 1 **AN ACT to amend** 950.04 (1v) (m); and **to create** 971.097 of the statutes;  
2 **relating to:** crime victim impact statements.

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### *Analysis by the Legislative Reference Bureau*

Under current law, a crime victim may offer a statement regarding the impact of the crime on his or her life, which may be considered at sentencing, disposition, or parole hearings.

This bill names such a statement a “victim impact statement.” Under the bill, a victim impact statement is confidential, and unless the statement contains exculpatory information, the statement is not considered a witness statement that must be disclosed by the prosecuting attorney to the court and to the defendant at trial. The bill allows a victim to amend or retract a victim impact statement he or she has provided up until the time at which it is disclosed. Under the bill, a victim impact statement may not be disclosed until after a plea has been entered or a conviction has been obtained in a criminal case, at which time the statement must be disclosed to the court, the prosecuting attorney, and the defendant or the defendant’s attorney, and the judge must enter a protective order barring redisclosure of the statement. The bill requires that a disclosed statement be kept confidential and returned to the court at the conclusion of representation.

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

**ASSEMBLY BILL 28****SECTION 1**

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

2           950.04 (1v) (m) To provide statements a victim impact statement, as defined  
3 in s. 971.097 (1) (b), concerning sentencing, disposition, or parole, as provided under  
4 ss. 304.06 (1) (e), 938.32 (1) (b) 1g., 938.335 (3m) (ag), and 972.14 (3) (a).

5           **SECTION 2.** 971.097 of the statutes is created to read:

6           **971.097 Victim impact statements. (1) DEFINITIONS.** In this section:

7           (a) “Victim” has the meaning given in s. 950.02 (4).

8           (b) “Victim impact statement” means a statement provided by a victim  
9 concerning sentencing, disposition, or parole, as provided under ss. 304.06 (1) (e),  
10 938.32 (1) (b) 1g., 938.335 (3m) (ag), and 972.14 (3) (a).

11           **(2) VICTIM IMPACT STATEMENT CONFIDENTIALITY, DISCLOSURE.** (a) A victim impact  
12 statement provided to a prosecuting attorney or the court is confidential, is not  
13 subject to public inspection or copying under s. 19.35, and may not be disclosed or  
14 disseminated except as provided in par. (c). Unless a victim impact statement  
15 contains exculpatory information, it is not a witness statement for purposes of s.  
16 971.23 (1) (e) and may not be furnished to the court or to the defendant or the  
17 defendant’s attorney under s. 971.23 (1) (e).

18           (b) A victim may provide a victim impact statement to a prosecuting attorney  
19 or the court at any time, and the statement shall be kept confidential until it is  
20 disclosed under par. (c). At any time before disclosure of a victim impact statement  
21 under par. (c), the victim may change or retract his or her victim impact statement,  
22 and the original statement may not be disclosed.

23           (c) In a criminal case, a victim impact statement shall be disclosed to the court,  
24 the prosecuting attorney, and the defendant or the defendant’s attorney after a guilty  
25 plea has been entered or, if the defendant pleads not guilty, after a conviction has

**ASSEMBLY BILL 28**

1       been obtained in the case. If a victim impact statement is disclosed, the court shall  
2       enter a protective order under s. 971.23 (6) that provides that any statement  
3       provided to the court, the prosecuting attorney, and the defendant or the defendant's  
4       attorney shall be kept confidential and may not be redisclosed or disseminated  
5       unless specifically authorized by the court. Any statement provided in paper form  
6       shall be turned over to the court at the conclusion of representation. Any provided  
7       or stored electronic statement shall be deleted at the conclusion of representation by  
8       the prosecuting attorney and the defendant or the defendant's attorney, each of  
9       whom shall provide the court with an affidavit affirming that the statement has been  
10      deleted. The court shall retain any victim impact statement under seal as specified  
11      in SCR 72.01.

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**(END)**