

1999 DRAFTING REQUEST

Bill

Received: **10/02/1999**

Received By: **olsenje**

Wanted: **As time permits**

Identical to LRB:

For: **Mark Gundrum (608) 2674158**

By/Representing: **Don Dyke**

This file may be shown to any legislator: **NO**

Drafter: **olsenje**

May Contact:

Alt. Drafters:

Subject: **Criminal Law - procedure
Criminal Law - victims**

Extra Copies: **MGD**

Pre Topic:

No specific pre topic given

Topic:

Victim statements at bail hearings

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Reauired</u>
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/1	olsenje 03/07/2000	jpgeller 03/07/2000	martykr 03/07/2000	_____	lrb-docadmin 03/07/2000	lrb_docadminS&L 03/07/2000	

FE Sent For:

<END>

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FE Sent For:

1 3/7 jg
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Self 3/4

<END>

Jacket "1"
for Assembly

JED

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I?	olsenje	1/12/13 jlg	7/12/13	7/6/13	[Signature]		
				12/13			

FE Sent For:

<END>

*June 20
cc Tzor Dyke*

DD:rv;wu

5/20/99

3691

1 **AN ACT** to create 969.03 (2r) of the statutes; **relating to:** authorizing a judge to allow
2 a victim of a felony to make a statement related to the conditions of release of a
3 defendant charged with the felony.

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

4 **SECTION 1.** 969.03 (2r) of the statutes is created to read:

5 969.03 **(2r)** In determining whether to impose under this section any nonmonetary
6 condition of release deemed reasonably necessary to protect members of the community from
7 serious bodily harm or prevent intimidation of witnesses, the judge may allow a victim of a
8 felony for which the defendant is charged to make a statement to the court or to submit a
9 written statement to be read in court. Any statement under this subsection must be relevant
10 to the considerations in setting conditions of release under s. 969.01 (4). This subsection does
11 not require notice to a victim of any proceeding to establish bail or other conditions of release.

COMMENT: 1. Creates a new provision in s. 969.03, stats., which currently governs release before conviction of defendants charged with felonies. The new provision authorizes a judge to allow a victim of a felony to make a statement to the court or to submit a written statement to be read in court in connection with the court’s determination of the nonmonetary conditions of release of the defendant charged with the felony. The draft does not allow the victim to make a statement in relation to establishing the monetary conditions of release, i.e., bail, because the only purpose of bail is to assure the appearance of the defendant in court; in contrast, nonmonetary conditions of release may be imposed to protect members of the community from serious bodily harm or prevent the intimidation of witnesses.

2. If a victim is permitted by the judge to make a statement, the statement must be relevant to the considerations listed under s. 969.01 (4) for setting the nonmonetary conditions of release. That section provides as follows:

“969.01 (4) **CONSIDERATIONS IN SETTING CONDITIONS OF RELEASE.** If bail is imposed, it shall be only in the amount found necessary to assure the appearance of the defendant. Conditions of release, other than monetary conditions, may be imposed for the purpose of protecting members of the community from serious bodily harm or preventing intimidation of witnesses. Proper considerations in determining whether to release the defendant without bail, fixing a reasonable amount of bail or imposing other reasonable conditions of release are: the ability of the arrested person to give bail, the nature, number and gravity of the offenses and the potential penalty the defendant faces, whether the alleged acts were violent in nature, the defendant’s prior record of criminal convictions and delinquency adjudications, if any, the character, health, residence and reputation of the defendant, the character and strength of the evidence which has been presented to the judge, whether the defendant is currently on probation, extended supervision or parole, whether the defendant is already on bail or subject to other release conditions in other pending cases, whether the defendant has been bound over for trial after a preliminary examination, whether the defendant has in the past forfeited bail or violated a condition of release or was a fugitive from justice at the time of arrest, and the policy against unnecessary detention of the defendant’s pending trial.“.

3. Because under the draft a statement by the victim is discretionary with the judge, no definition of “victim” is provided. For a comprehensive definition of “victim”, see s. 950.02 (4), stats.

4. The draft expressly provides that the new provision does not require notice to a victim of any proceeding to establish bail or other conditions of release. It would appear that ordinarily the court would not have sufficient information to provide such notice. Under s. 971.095 (3), stats., requirements that district attorneys make a reasonable attempt to provide victims with notice of scheduled court proceedings do not apply to a proceeding held before the initial appearance to set conditions of release under ch. 969.

(END)



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-3691/P1

JEO: r:...

By 12/17

JG

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

gen cat

1 **AN ACT . . . relating to:** victim statements concerning conditions of release for a
 2 person charged with a felony. ✓

Analysis by the Legislative Reference Bureau

Current law provides various rights to victims of crime. The rights that a crime victim has under current law include the right to attend proceedings in a court case involving a crime of which he or she is a victim and the right to provide statements to the court concerning sentencing or disposition of the person convicted of the crime. Current law also provides that, at the request of a victim, a victim has a right to have a district attorney make a reasonable attempt to provide the victim with notice of scheduled court proceedings in a case involving a crime of which he or she is a victim. However, a victim does not have this right to notice of a proceeding to set bail or other conditions of release of a person if that proceeding occurs before the person's initial appearance in court, at which time the person is informed of and enters a plea to the criminal charges filed against him or her.

This bill provides that a judge who is setting conditions of release for a person charged with the felony offense may, in its discretion, allow a victim of the felony offense to provide the judge with an oral or written statement concerning conditions of release. Under the bill, the statement must relate to conditions of release designed to protect members of the community from serious bodily harm or prevent intimidation of witnesses and to the factors that a judge is required to consider in determining reasonable conditions of release, such as the nature and gravity of the alleged offense, whether the alleged offense was violent in nature, the character and reputation of the defendant, and the character and strength of the evidence that has

been presented to the judge. The bill does not change current law relating to providing victims with notices of court proceedings. Thus, under the bill, as under current law, a victim does not have a right to notice of a proceeding to set conditions of release if that proceeding occurs before the person’s initial appearance in court.

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.** 950.08 (2g) (dm) [✓] of the statutes is created to read:

2 950.08 (2g) (dm) The opportunity, subject to the discretion of the judge, to
3 provide a statement concerning conditions of release in a felony case, as provided
4 under s. 969.03 (2r) (b) [✓].

5 **SECTION 2.** 950.08 (2r) (bm) [✓] of the statutes is created to read:

6 950.08 (2r) (bm) The opportunity, subject to the discretion of the judge, to
7 provide a statement concerning conditions of release in a felony case, as provided
8 under s. 969.03 (2r) (b) [✓].

9 **SECTION 3.** 969.03 (2r) [✓] of the statutes is created to read:

10 969.03 (2r) (a) In this subsection, “victim” has the meaning given in s. [✓]950.02
11 (4).

12 (b) When determining what conditions of release, other than monetary
13 conditions, to impose on a defendant who is charged with a felony, a judge may allow
14 a victim of the felony with which the defendant is charged to make a statement in
15 court or to submit a written statement to be read in court. Any statement made or
16 submitted by a victim under this paragraph [✓] must be relevant to the purposes for
17 which conditions of release, other than monetary conditions, may be imposed and to
18 the considerations to be used in setting conditions of release, as provided under s.
19 969.01 (4) [✓].

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(c) Paragraph (b) [✓] does not affect the right of a victim to have a reasonable attempt made to provide the victim with notice of a hearing or proceeding to set conditions of release under this chapter, as provided under s. 971.095 (3).[✓]

SECTION 4. Initial applicability

(1) This act first applies to proceedings to set conditions of release under chapter 969[✓] of the statutes that occur on the effective date of this subsection.

(END)



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-3691/71

JEO:jlq:jf

R.M.R.

TODAY @ 1:00 PM

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

Regen

1 AN ACT to create 950.08 (2g) (dm), 950.08 (2r) (bm) and 969.03 (2r) of the
2 statutes; **relating to:** victim statements concerning conditions of release for a
3 person charged with a felony.

Analysis by the Legislative Reference Bureau

Current law provides various rights to victims of crime. The rights that a crime victim has under current law include the right to attend proceedings in a court case involving a crime of which he or she is a victim and the right to provide statements to the court concerning sentencing or disposition of the person convicted of the crime. Current law also provides that, at the request of a victim, a victim has a right to have a district attorney make a reasonable attempt to provide the victim with notice of scheduled court proceedings in a case involving a crime of which he or she is a victim. However, a victim does not have this right to notice of a proceeding to set bail or other conditions of release of a person if that proceeding occurs before the person's initial appearance in court, at which time the person is informed of and enters a plea to the criminal charges filed against him or her.

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

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10 969.03 (2r) (a) In this subsection, "victim" has the meaning given in s. 950.02
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13 conditions, to impose on a defendant who is charged with a felony, a judge may allow
14 a victim of the felony with which the defendant is charged to make a statement in
15 court or to submit a written statement to be read in court. Any statement made or
16 submitted by a victim under this paragraph must be relevant to the purposes for
17 which conditions of release, other than monetary conditions, may be imposed and to

1 the considerations to be used in setting conditions of release, as provided under s.
2 969.01 (4).

3 (c) Paragraph (b) does not affect the right of a victim to have a reasonable
4 attempt made to provide the victim with notice of a hearing or proceeding to set
5 conditions of release under this chapter, as provided under s. 971.095 (3).

6 **SECTION 4. Initial applicability.**

7 (1) This act first applies to proceedings to set conditions of release under
8 chapter 969 of the statutes that occur on the effective date of this subsection.

9 (END)

Smith, Irma

From: Churchill, Jolene
Sent: Tuesday, March 07, 2000 11:25 AM
To: Smith, Irma
Subject: Jacket Needed for LRB 3691

Dear Irma,

Please jacket LRB 3691 for Representative Mark Gundrum to introduce in the Assembly. Today is the deadline for us to submit this bill to the Chief Clerk's office. Thanks. -- Jolene (267-51 58)