

2005 DRAFTING REQUEST

Bill

Received: 12/08/2005

Received By: rryan

Wanted: As time permits

Identical to LRB:

For: Scott Suder (608) 267-0280

By/Representing:

This file may be shown to any legislator: NO

Drafter: rryan

May Contact:

Addl. Drafters:

Subject: Criminal Law - procedure

Extra Copies:

Submit via email: YES

Requester's email: Rep.Suder@legis.state.wi.us

Carbon copy (CC:) to: cathlene.hanaman@legis.state.wi.us
michael.dsida@legis.state.wi.us

Pre Topic:

No specific pre topic given

Topic:

Deadline for psychologist report in a criminal proceeding

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>Required</u>
/?							
/1	rryan 01/10/2006	jdye 01/13/2006	jfrantze 01/13/2006	_____	lnorthro 01/13/2006	lemery 01/23/2006	

FE Sent For:

<END>

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/?	rryan	1 1/3 jld	7 1/13	Sulb 1/13			

FE Sent For:

<END>

Barman, Mike

From: Emerson, Anne
Sent: Thursday, December 08, 2005 1:37 PM
To: LRB.Legal
Subject: Bill Draft Request

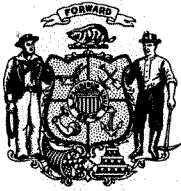
Representative Suder would like to draft legislation that would change the number of days from 3 to 15 in statute 971.16(4). So the statute would read as follows:

"4) If the defendant wishes to be examined by a physician, psychologist or other expert of his or her own choice, the examiner shall be permitted to have reasonable access to the defendant for the purposes of examination. No testimony regarding the mental condition of the defendant shall be received from a physician, psychologist or expert witness summoned by the defendant unless not less than 15 days before trial a report of the examination has been transmitted to the district attorney and unless the prosecution has been afforded an opportunity to examine and observe the defendant if the opportunity has been seasonably demanded. The state may summon a physician, psychologist or other expert to testify, but that witness shall not give testimony unless not less than 15 days before trial a written report of his or her examination of the defendant has been transmitted to counsel for the defendant."

It seems like it should be a pretty simple bill, but should you have any questions please do not hesitate to contact us.

Thank you!
Anne Emerson
Office of State Representative Scott Suder

from
MGD



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-42172

RLR:.....

In 1/10/06

JLD

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

RMR

DN

Gen. Cat.

- 1 AN ACT ...; relating to: deadline for distributing a physician's or psychologist's
- 2 report on a criminal defendant or a person committed upon a finding of not
- 3 guilty by reason of mental disease or defect.

Analysis by the Legislative Reference Bureau

Under current law, if the mental responsibility of the defendant is relevant in a criminal action, the court may appoint a physician or psychologist to examine the defendant and testify at trial. At least ten days before trial, unless another time is specified by the court, the court-appointed examiner must provide the court with a report on the defendant, which the court must distribute to defense counsel and to the prosecution. The defense or prosecution may also arrange for a physician or psychologist to examine the defendant. An examiner selected by the defense or prosecution may not testify at trial regarding the defendant's mental condition unless a copy of the examiner's report has been provided to opposing counsel at least three days before trial. The procedures governing examinations and testimony by physicians or psychologists selected by the defense or prosecution also apply at hearings regarding a person who is committed to the department of health and family services upon a finding of not guilty by reason of mental disease or defect, including hearings on conditional release, termination of custody, or competency to refuse medication or treatment.

(DHFS)

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*

This bill provides that a physician or psychologist selected by the defense or prosecution to examine a defendant in a criminal action may not testify at trial unless the examiner's report is provided to opposing counsel at least 15 days before trial. Under the bill, the 15-day deadline for providing a report of a defendant's or

△

DHFS

prosecution's examiner also applies to hearings regarding a person committed to the department of health and family services upon a finding of not guilty by reason of mental disease or defect.

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

1 SECTION 1. 971.16 (4) of the statutes is amended to read:

2 971.16 (4) If the defendant wishes to be examined by a physician, psychologist
3 or other expert of his or her own choice, the examiner shall be permitted to have
4 reasonable access to the defendant for the purposes of examination. No testimony
5 regarding the mental condition of the defendant shall be received from a physician,
6 psychologist or expert witness summoned by the defendant unless not less than 3 15
7 days before trial a report of the examination has been transmitted to the district
8 attorney and unless the prosecution has been afforded an opportunity to examine
9 and observe the defendant if the opportunity has been seasonably demanded. The
10 state may summon a physician, psychologist or other expert to testify, but that
11 witness shall not give testimony unless not less than 3 15 days before trial a written
12 report of his or her examination of the defendant has been transmitted to counsel for
13 the defendant.

History: 1989 a. 31, 359; 1991 a. 39; 1995 a. 268.

14 (END)

DN

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4217/1dn

RLR:.....

JLD

Anne:

Please note that s. 971.17 (7) (c) specifies that the procedures under s. 971.16 (4) for examinations by experts who are not appointed by the court apply to hearings concerning people who are found not guilty by reason of mental disease or defect and committed to the department of health and family services. Therefore, this bill, by cross-reference, changes the deadline for distributing an examiner's report in hearings on conditional release, termination of a custody order, and competency to refuse medication or treatment.

Robin Ryan
Legislative Attorney
Phone: (608) 261-6927
E-mail: robin.ryan@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4217/1dn
RLR:jld:jf

January 13, 2006

Anne:

Please note that s. 971.17 (7) (c) specifies that the procedures under s. 971.16 (4) for examinations by experts who are not appointed by the court apply to hearings concerning people who are found not guilty by reason of mental disease or defect and committed to the department of health and family services. Therefore, this bill, by cross-reference, changes the deadline for distributing an examiner's report in hearings on conditional release, termination of a custody order, and competency to refuse medication or treatment.

Robin Ryan
Legislative Attorney
Phone: (608) 261-6927
E-mail: robin.ryan@legis.state.wi.us



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX -
PLEASE DO NOT REMOVE FROM DRAFTING FILE

Date Transfer Requested: 01/19/2006 (Per: RLR)



Appendix A

The 2005 drafting file for LRB 05-4217/1
has been copied/added to the 2005 drafting file for
LRB 05-4450

☞ The attached 2005 draft was incorporated into the new 2005 draft listed above. For research purposes, this cover sheet and the attached drafting file were copied, and added, as an appendix, to the new 2005 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

☞ This cover sheet was added to rear of the original 2005 drafting file. The drafting file was then returned, intact, to its folder and filed.

Emery, Lynn

From: Emerson, Anne
Sent: Monday, January 23, 2006 1:26 PM
To: LRB.Legal
Subject: FW: Draft review: LRB 05-4217/1 Topic: Deadline for psychologist report in a criminal proceeding

It has been requested by <Emerson, Anne> that the following draft be jacketed for the ASSEMBLY:

FW: Draft review: LRB 05-4217/1 Topic: Deadline for psychologist report in a criminal proceeding