ASSEMBLY BILL 727 (LRB -3187)

An Act to amend 971.23 (8) (a) and 971.23 (8) (d) of the statutes; relating to: alibi witnesses in criminal cases. **2005**

10-06.	A.	Introduced by Representatives Gundrum, Hines, Lothian, Ott, Suder, Owens, Musser, Krawczyk,	
		Hahn, Lehman, Bies, Berceau, Albers, LeMahieu, Van Roy, Lamb, Ballweg and Pettis;	
		cosponsored by Senators Darling and Kedzie.	
10-03.	A.	Read first time and referred to committee on Judiciary	510
10-06.	A.	Public hearing held.	
10-20.	A.	Executive action taken.	
10-25.	A.	Report passage recommended by committee on Judiciary, Ayes 7, Noes 0	
10-25.	A.	Referred to committee on Rules	
10-25.	A.	Placed on calendar 10-27-2005 by committee on Rules.	
10-27.	A.	Read a second time	
10-27.	A.	Ordered to a third reading	
10-27.	A.	Rules suspended	
10-27.	A.	Read a third time and passed	553
10-27.	A.	Ordered immediately messaged	
11-01.	S.	Received from Assembly	
11-01.	S.	Read first time and referred to committee on Judiciary, Corrections and Privacy	
11-10.	S.	Public hearing held.	
11-22.	S.	Executive action taken.	
12-02.	S.	Report concurrence recommended by committee on Judiciary, Corrections and Privacy, Ayes 5, Noes 0 47	
12-02.	S.	Available for scheduling.	
2006			
02-16.	S.	Placed on calendar 2-21-2006 by committee on Senate Organization.	
02-21.	S.	Read a second time.	
02-21.	S.	Ordered to a third reading.	
02-21.	S.	Rules suspended.	
02-21.	S.	Read a third time and concurred in.	
02-21.	S.	Ordered immediately messaged.	
02-21.	A.	Received from Senate concurred in	823

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ADOPTED DOCUMENTS:	
Orig 🗆 Engr — SubA	mdt
Amendments to above (if none, write "N	ONE"): 1/8ne
Corrections – show date (if none, write	"NONE"): None
Topic Relating	
2/23/06	Rhille
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[rev: 1/13/05 2005enroll(fm)]

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2005 ASSEMBLY BILL 727

October 3, 2005 – Introduced by Representatives Gundrum, Hines, Lothian, Ott, Suder, Owens, Musser, Krawczyk, Hahn, Lehman, Bies, Berceau, Albers, Lemahieu, Van Roy, Lamb, Ballweg and Pettis, cosponsored by Senators Darling and Kedzie. Referred to Committee on Judiciary.

AN ACT *to amend* 971.23 (8) (a) and 971.23 (8) (d) of the statutes; **relating to:**

alibi witnesses in criminal cases.

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Analysis by the Legislative Reference Bureau

Under current law, if a criminal defendant intends to rely upon an alibi as a defense, he or she must notify the district attorney at the arraignment or at least 15 days before trial. The notice must indicate where the defendant claims to have been when the crime was allegedly committed and provide the names and addresses of known alibi witnesses. If the notice is not provided, the defendant may not present any evidence relating to the alibi unless the court has a reason to order otherwise. The court may also extend the deadline for filing a notice of alibi if it has a reason to do so.

Within ten days after receiving the alibi notice from the defendant, or when ordered to do so by the court, the district attorney must provide the defendant, in writing, the names and addresses of any known witnesses whom he or she proposes to use to discredit the defendant's alibi. If this notice is not provided, the district attorney may not present any rebuttal evidence relating to the alibi unless the court has a reason to order otherwise.

This bill requires the defendant to provide notice regarding any alibi at the arraignment or at least 30 days before trial and requires the district attorney to provide notice regarding any alibi rebuttal witnesses within 20 days after receiving the defendant's notice. The bill does not affect the power of the court under current

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law to extend the deadline for the defendant's alibi notice and to set an earlier or later deadline for the district attorney's response.

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

Section 1. 971.23 (8) (a) of the statutes is amended to read:

971.23 (8) (a) If the defendant intends to rely upon an alibi as a defense, the defendant shall give notice to the district attorney at the arraignment or at least 15 30 days before trial stating particularly the place where the defendant claims to have been when the crime is alleged to have been committed together with the names and addresses of witnesses to the alibi, if known. If at the close of the state's case the defendant withdraws the alibi or if at the close of the defendant's case the defendant does not call some or any of the alibi witnesses, the state shall not comment on the defendant's withdrawal or on the failure to call some or any of the alibi witnesses. The state shall not call any alibi witnesses not called by the defendant for the purpose of impeaching the defendant's credibility with regard to the alibi notice. Nothing in this section may prohibit the state from calling said alibi witnesses for any other purpose.

Section 2. 971.23 (8) (d) of the statutes is amended to read:

971.23 (8) (d) Within 10 20 days after receipt of the notice of alibi, or such other time as the court orders, the district attorney shall furnish the defendant notice in writing of the names and addresses, if known, of any witnesses whom the state proposes to offer in rebuttal to discredit the defendant's alibi. In default of such notice, no rebuttal evidence on the alibi issue shall be received unless the court, for cause, orders otherwise.

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