

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.

1 **AN ACT to amend** 971.23 (8) (a) and 971.23 (8) (d) of the statutes; **relating to:**
2 alibi witnesses in criminal cases.

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:

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

2 971.23 **(8)** (a) If the defendant intends to rely upon an alibi as a defense, the
3 defendant shall give notice to the district attorney at the arraignment or at least 15
4 30 days before trial stating particularly the place where the defendant claims to have
5 been when the crime is alleged to have been committed together with the names and
6 addresses of witnesses to the alibi, if known. If at the close of the state's case the
7 defendant withdraws the alibi or if at the close of the defendant's case the defendant
8 does not call some or any of the alibi witnesses, the state shall not comment on the
9 defendant's withdrawal or on the failure to call some or any of the alibi witnesses.
10 The state shall not call any alibi witnesses not called by the defendant for the purpose
11 of impeaching the defendant's credibility with regard to the alibi notice. Nothing in
12 this section may prohibit the state from calling said alibi witnesses for any other
13 purpose.

14 **SECTION 2.** 971.23 (8) (d) of the statutes is amended to read:

15 971.23 **(8)** (d) Within ~~10~~ 20 days after receipt of the notice of alibi, or such other
16 time as the court orders, the district attorney shall furnish the defendant notice in
17 writing of the names and addresses, if known, of any witnesses whom the state
18 proposes to offer in rebuttal to discredit the defendant's alibi. In default of such
19 notice, no rebuttal evidence on the alibi issue shall be received unless the court, for
20 cause, orders otherwise.

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(END)