

**2005 DRAFTING REQUEST**

**Bill**

Received: **06/09/2005**

Received By: **mdsida**

Wanted: **As time permits**

Identical to LRB:

For: **Mark Gundrum (608) 267-5158**

By/Representing:

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

Drafter: **mdsida**

May Contact:

Addl. Drafters:

Subject: **Criminal Law - procedure**

Extra Copies:

Submit via email: **YES**

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

Carbon copy (CC:) to: **robin.ryan@legis.state.wi.us**  
**cathlene.hanaman@legis.state.wi.us**

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Time for disclosing alibi witness

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**Instructions:**

Defendant must disclose at least 30 days before trial; state has 20 days for its response

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**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>
/?	mdsida 07/01/2005	lkunkel 08/01/2005		_____			
/1			rschlue 08/02/2005	_____	mbarman 08/02/2005	mbarman 10/03/2005	

FE Sent For:

*None  
needed*

<END>

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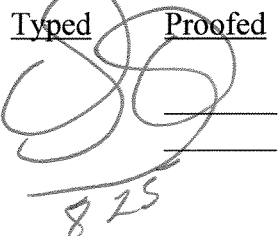
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1/?	mdsida	11mk8/1					

825

FE Sent For:

<END>



State of Wisconsin  
2005 - 2006 LEGISLATURE

LRB-3187/2

MGD:.....

IMK

8/2

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

GenCat

1 AN ACT ...; relating to: 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 grounds to order otherwise. The court may also extend the deadline for filing a notice of alibi if it has grounds 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 grounds 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

*alibi notice*

*an earlier or later deadline*

law to extend the deadline for the defendant and to set a different date 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.

History: 1973 c. 196; 1975 c. 378, 421; 1989 a. 121; 1991 a. 223; 1993 a. 16, 486; 1995 a. 27, 387; 2001 a. 16.

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

1 notice, no rebuttal evidence on the alibi issue shall be received unless the court, for  
2 cause, orders otherwise.

3 **History:** 1973 c. 196; 1975 c. 378, 421; 1989 a. 121; 1991 a. 223; 1993 a. 16, 486; 1995 a. 27, 387; 2001 a. 16.

**(END)**

**Emery, Lynn**

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**From:** Usealman, Kevin  
**Sent:** Monday, October 03, 2005 3:52 PM  
**To:** LRB.Legal  
**Subject:** Please send me a jacket for LRB 3187

thanks!

***Kevin Usealman***  
Communications Director  
State Rep. Mark Gundrum  
o: (608) 267-5158  
c: (608) 215-0776

10/03/2005