



## WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

**2005 Assembly Bill 37**

**Assembly Substitute  
Amendment 1**

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*Assembly Bill 37* expressly provides that a witness exclusion order under s. 906.15 (1), Stats., does not apply to a law enforcement investigator designated by the state in a criminal or delinquency proceeding. (In most counties, at least one of the current exceptions to a witness exclusion order that are found in sub. (2) of s. 906.15 is interpreted as applying to a state-designated law enforcement officer assisting the prosecution in a criminal proceeding. In these counties, a witness exclusion order is not a potential impediment for law enforcement assisting the prosecution at trial. However, in a few counties, current law is apparently not so interpreted and, consequently, in those counties there is no exception to a witness exclusion order for a law enforcement officer assisting the prosecution. This may result in the prosecution being without the assistance of a law enforcement officer at trial.)

*Assembly Substitute Amendment 1* revises the original bill in two respects:

1. It substitutes “law enforcement officer,” as defined in s. 165.85 (2) (c), Stats., for “law enforcement investigator.” The substituted term is broader than the term it replaces and reflects that the appropriate officer to assist the prosecution may not always be a law enforcement “investigator.”
2. It expressly provides that the court may determine when, in the order of witnesses for the state, the law enforcement officer may testify. (For example, this may be an issue if the law enforcement officer assisting the prosecution at the trial and another law enforcement officer both witness the alleged crime; in this situation, the court may choose to have the law enforcement officer assisting the prosecution testify before the other law enforcement officer so that the former’s testimony is not affected by the latter’s.)

### Legislative History

Assembly Substitute Amendment 1 was offered by Representative Gundrum. The Assembly Committee on Judiciary recommended adoption of Assembly Substitute Amendment 1 by a vote of Ayes, 8; Noes, 0.

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