$\begin{array}{c} LRB-4097/1 \\ RLR:jld:rs \end{array}$

2005 ASSEMBLY BILL 1136

March 21, 2006 – Introduced by Representatives Berceau, Albers and Kreuser, cosponsored by Senator Risser. Referred to Committee on Judiciary.

- 1 AN ACT to amend 971.04 (1) (intro.); and to create 969.03 (1m) and 971.04 (4)
- of the statutes; **relating to:** defendant's presence at a pretrial conference in a criminal case.

Analysis by the Legislative Reference Bureau

Under current law, a defendant in a criminal case must be present at specified court proceedings, such as the arraignment and trial, and at any other court proceeding for which the court orders the defendant's presence. In *State v. Dickson*, 53 Wis. 2d 532 (1972), the Wisconsin Supreme Court held that a court may not require a defendant to be present at a pretrial conference in a criminal case. Also under current law, a court may establish the conditions under which a person charged with a felony may be released on bail. The conditions must be reasonably necessary to assure the appearance of the defendant in court or to protect the community. A court may issue a warrant for the arrest of a defendant who fails to appear at a court proceeding for which his or her presence is required or for violation of a condition of release on bail.

This bill codifies the ruling in *Dickson* that a court may not require a defendant in a criminal proceeding to be present at a meeting or conference, the primary purpose of which is to facilitate negotiations between the state and the defendant, regardless of whether the meeting or conference is before the court. The bill further

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provides that a court may not require as a condition of release on bail that a defendant appear in person at such a meeting or conference.

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

| 1 | Section 1. 969.03 (1m) of the statutes is created to read: |
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| 2 | 969.03 (1m) A court may not require as a condition of release under this section |
| 3 | that a defendant appear personally at a meeting or conference described under s. |
| 4 | 971.04 (4). |
| 5 | Section 2. 971.04 (1) (intro.) of the statutes is amended to read: |
| 6 | 971.04(1) (intro.) Except as provided in subs. (2) and, (3), and (4), the defendant |
| 7 | shall be present: |
| 8 | Section 3. 971.04 (4) of the statutes is created to read: |
| 9 | 971.04 (4) The court may not require a defendant to be present at a meeting |
| 10 | or conference, the primary purpose of which is to facilitate negotiations between the |
| 11 | state and the defendant or to report on the status of negotiations between the parties, |
| 12 | regardless of whether the meeting or conference is before the court. |
| 13 | (END) |