



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-0545/1
MLJ:wlj

2021 ASSEMBLY BILL 43

February 10, 2021 - Introduced by Representatives MACCO, WITTKER, ARMSTRONG, CALLAHAN, DITTRICH, EDMING, GUNDRUM, HORLACHER, KERKMAN, KUGLITSCH, MAGNAFICI, MILROY, MURPHY, PETRYK, RAMTHUN, SKOWRONSKI, SNYDER, STEFFEN, SUMMERFIELD and ZIMMERMAN, cosponsored by Senators TESTIN, CARPENTER, BALLWEG, FELZKOWSKI, FEYEN, NASS and L. TAYLOR. Referred to Committee on Judiciary.

1 **AN ACT** *to create* 971.108 and 971.109 of the statutes; **relating to:** expediting
2 criminal proceedings when a victim or witness is an elder person and
3 preserving the testimony of a crime victim or witness who is an elder person.

Analysis by the Legislative Reference Bureau

This bill creates a requirement that a court expedite proceedings in criminal and delinquency cases and juvenile dispositional hearings involving a victim or witness who is an elder person. Under the bill, the court must take appropriate action to ensure a speedy trial in order to minimize the length of time the elder person must endure the stress of involvement in the proceedings.

This bill also creates a requirement that a court preserve certain testimony in criminal matters involving a victim or witness who is an elder person. Under the bill, in criminal and delinquency cases and juvenile dispositional hearings involving a victim or witness who is an elder person, the prosecuting attorney may file a motion to preserve the testimony of the elder person. If the prosecuting attorney files such a motion, the court must then hold a hearing to record the testimony of the elder person within 60 days. The bill requires the defendant to be present at the hearing and the witness to be subject to cross-examination at the hearing. The recorded testimony of the elder person from the hearing is admissible at later court

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proceedings in the case. Under the bill, an elder person is any person who is 60 years of age or older.

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

1 **SECTION 1.** 971.108 of the statutes is created to read:

2 **971.108 Elder person victims and witnesses; duty to expedite**
3 **proceedings.** (1) In this section, “elder person” means any individual who is 60
4 years of age or older.

5 (2) In all criminal and delinquency cases and juvenile dispositional hearings
6 involving a victim or witness who is an elder person, the court and the district
7 attorney shall take appropriate action to ensure a speedy trial in order to minimize
8 the length of time the elder person must endure the stress of the elder person’s
9 involvement in the proceeding. In ruling on any motion or other request for a delay
10 or continuance of proceedings, the court shall consider and give weight to any
11 adverse impact the delay or continuance may have on the well-being of a victim or
12 witness who is an elder person.

13 **SECTION 2.** 971.109 of the statutes is created to read:

14 **971.109 Elder person victims and witnesses; duty to preserve**
15 **testimony.** (1) In this section, “elder person” means any individual who is 60 years
16 of age or older.

17 (2) In all criminal and delinquency cases and juvenile dispositional hearings
18 involving a crime victim or witness who is an elder person, the court shall, upon the
19 motion of a district attorney, conduct a hearing within 60 days of the date the motion
20 was filed to preserve the testimony of the crime victim or witness. The hearing shall
21 be before the court. The defendant shall be present at the hearing. The crime victim

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1 or witness shall be sworn as a witness and shall be subject to cross-examination and
2 rebuttal if not unduly repetitious. The witness may testify in person, or, upon a
3 showing by the proponent of good cause under s. 807.13 (2) (c), testimony may be
4 received into the record of the hearing by telephone or live audiovisual means. The
5 hearing shall be recorded, and the recorded testimony of the witness shall be
6 admissible in evidence against the defendant in any court proceeding in the case.

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(END)