



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-0507/P2
MLJ:ahc

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT to renumber and amend** 969.01 (4); **to amend** 808.075 (4) (g) 2., 969.02
2 (5) and 969.08 (9m); and **to create** 969.095 of the statutes; **relating to:**
3 imposing bail in a criminal action.

Analysis by the Legislative Reference Bureau

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill draft was prepared for the Joint Legislative Council's Study Committee on Bail and Conditions of Pretrial Release. The draft requires a court to explain its reasons for imposing bail in a written order, and requires the court to review bail for a defendant who continues to be detained after 24 hours as a result of the defendant's inability to meet the bail. The draft also makes non-substantive formatting revisions.

4 **SECTION 1.** 808.075 (4) (g) 2. of the statutes is amended to read:
5 808.075 (4) (g) 2. Modification or revocation of ~~bond~~ under s. 969.01 (2) (e) ~~or~~,
6 969.08, or 969.095.

1 **SECTION 2.** 969.01 (4) of the statutes is renumbered 969.01 (4) (a) and amended
2 to read:

3 969.01 (4) (a) If bail is imposed, it shall be only in the amount found necessary
4 to assure the appearance of the defendant, and the reasons for imposing bail shall
5 be explained in a written order.

6 (b) Conditions of release, other than monetary conditions, may be imposed for
7 the purpose of protecting members of the community from serious bodily harm or
8 preventing intimidation of witnesses. ~~Proper considerations in~~

9 (c) In determining whether to release the defendant without bail, fixing a
10 reasonable amount of bail, or imposing other reasonable conditions of release ~~are:~~
11 the, the court may consider any of the following:

12 2. The ability of the arrested person to give bail, ~~the,~~

13 3. The nature, number, and gravity of the offenses and the potential penalty
14 the defendant faces, ~~whether,~~

15 4. Whether the alleged acts were violent in nature, ~~the,~~

16 5. The defendant's prior record of criminal convictions and delinquency
17 adjudications, if any, ~~the,~~

18 6. The character, health, residence, and reputation of the defendant, ~~the,~~

19 7. The character and strength of the evidence which has been presented to the
20 judge, ~~whether,~~

21 8. Whether the defendant is currently on probation, extended supervision, or
22 parole, ~~whether,~~

23 9. Whether the defendant is already on bail or is subject to other release
24 conditions in other pending cases, ~~whether,~~

1 10. Whether the defendant has been bound over for trial after a preliminary
2 examination, ~~whether,~~

3 11. Whether the defendant has in the past forfeited bail or violated a condition
4 of release or was a fugitive from justice at the time of arrest, ~~and the,~~

5 12. The policy against unnecessary detention of ~~the defendant's~~ a defendant
6 pending trial.

7 **SECTION 3.** 969.02 (5) of the statutes is amended to read:

8 969.02 **(5)** Once bail has been given and a charge is pending or is thereafter filed
9 or transferred to another court, the latter court shall continue the original bail in that
10 court subject to s. ss. 969.08 and 969.095.

11 **SECTION 4.** 969.08 (9m) of the statutes is amended to read:

12 969.08 **(9m)** A person who has had ~~bail~~ release revoked under this section is
13 entitled to placement of his or her case on an expedited trial calendar and his or her
14 trial shall be given priority.

NOTE: SECTION 4 entitles any defendant who has his or her "release" revoked to placement on an expedited trial calendar, rather than only those defendants who have "bail" revoked. Does the committee believe that the provision should refer to "release" rather than to "bail?"

15 **SECTION 5.** 969.095 of the statutes is created to read:

16 **969.095 Review and adjustment of bail. (1)** The judge of the court before
17 whom an action against a defendant is pending shall review the bail of a defendant
18 for whom bail is imposed and who after 24 hours from the time of initial appearance
19 before the judge continues to be detained in custody as a result of the defendant's
20 inability to meet the bail. Unless the bail is adjusted and the defendant is thereupon
21 released, the judge shall set forth on the record the reasons for requiring the
22 continuation of the bail imposed.

