



State of Wisconsin  
2019 - 2020 LEGISLATURE

LRB-0508/P2  
EAW:ahe

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

1     **AN ACT** *to amend* 969.01 (4); and *to create* 969.01 (4) (c) 1. of the statutes;  
2             **relating to:** the use of a pretrial risk assessment when setting conditions for  
3             pretrial release.

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***Analysis by the Legislative Reference Bureau***

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

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***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 provides that a court may consider the results of a pretrial assessment in imposing bail or other pretrial release conditions. The draft also makes non-substantive formatting revisions.

4             **SECTION 1.** 969.01 (4) of the statutes is amended to read:  
5             969.01 (4) (a) If bail is imposed, it shall be only in the amount found necessary  
6             to assure the appearance of the defendant.

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

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

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

8           **3.** The nature, number, and gravity of the offenses and the potential penalty  
9 the defendant faces, ~~whether,~~

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

11          **5.** The defendant's prior record of criminal convictions and delinquency  
12 adjudications, if any, ~~the,~~

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

14          **7.** The character and strength of the evidence which has been presented to the  
15 judge, ~~whether,~~

16          **8.** Whether the defendant is currently on probation, extended supervision, or  
17 parole, ~~whether,~~

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

20          **10.** Whether the defendant has been bound over for trial after a preliminary  
21 examination, ~~whether,~~

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

24          **12.** The policy against unnecessary detention of ~~the defendant's~~ a defendant  
25 pending trial.

1           **SECTION 2.** 969.01 (4) (c) 1. of the statutes is created to read:

2           **969.01 (4) (c) 1.** The results of a pretrial risk assessment.

NOTE: Current law lists factors for a court to consider in determining: (1) whether to release a defendant without bail; (2) the amount of bail; and (3) whether to impose other pretrial release conditions. This list includes, among other factors, the nature of the offenses, whether the alleged acts were violent, and the defendant's prior criminal record.

Current law also provides that "bail" is "monetary conditions of release" and may only be imposed in the amount necessary to assure the defendant's appearance. Specific factors within the list of considerations may not apply to determining the amount necessary to assure appearance.

Does the committee wish to reformat the provision to specify which factors apply to determinations (1) and (2) relating to bail, and which factors apply to determination (3) relating to other pretrial release conditions?

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(END)