

1991 Senate Bill 197

Date of enactment: **April 29, 1992**
Date of publication*: **May 13, 1992**

1991 WISCONSIN ACT 276

AN ACT to amend 813.122 (3) (b) 2; to repeal and recreate 970.03 (4); and to create 895.73 of the statutes, relating to: authorizing certain persons to attend depositions, court proceedings and administrative hearings with an individual alleged to have been subject to abusive conduct.

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

SECTION 1. 813.122 (3) (b) 2. of the statutes is amended to read:

813.122 (3) (b) 2. That all persons, other than the parties, their attorneys, witnesses, child victim advocates, service representatives, as defined in s. 895.73 (1) (c). court personnel and any guardian ad litem, be excluded from any hearing under this section.

SECTION 2. 895.73 of the statutes is created to read:
895.73 Service representatives. (1) DEFINITIONS.

In this section:

(a) "Abusive conduct" means domestic abuse, as defined under s. 46.95 (1) (a), 813.12 (1) (a) or 968.075 (1) (a), harassment, as defined under s. 813.125 (1), sexual exploitation by a therapist under s. 940.22, sexual assault under s. 940.225, child abuse, as defined under s. 813.122 (1) (a) or child abuse under ss. 948.02 to 948.11.

(b) "Complainant" means an adult who alleges that he or she was the subject of abusive conduct or who alleges that a crime has been committed against him or her.

(c) "Service representative" means an individual member of an organization or victim assistance program who provides counseling or support services to complainants or petitioners and charges no fee for services provided to a complainant under sub. (2) or to a petitioner under s. 813.122.

(2) RIGHT TO BE PRESENT. A complainant has the right to select a service representative to attend, with the com-

plainant, hearings, depositions and court proceedings, whether criminal or civil, if abusive conduct is alleged to have occurred against the complainant or if a crime is alleged to have been committed against the complainant and if the abusive conduct or the crime is a factor under s. 767.24 or is a factor in the complainant's ability to represent his or her interest at the hearing, deposition or court proceeding. The complainant shall notify the court orally, or in writing, of that selection. A service representative selected by a complainant has the right to be present at every hearing, deposition and court proceeding that the complainant is required or authorized to attend. The service representative selected by the complainant has the right to sit adjacent to the complainant and confer orally and in writing with the complainant in a reasonable manner during every hearing, deposition or court proceeding, except when the complainant is testifying or is represented by private counsel. The service representative may not sit at counsel table during a jury trial. The service representative may address the court if permitted to do so by the court.

(3) FAILURE TO EXERCISE RIGHT NOT GROUNDS FOR APPEAL. The failure of a complainant to exercise a right under this section is not a ground for an appeal of a judgment of conviction or for any court to reverse or modify a judgment of conviction.

SECTION 3m. 970.03 (4) of the statutes is repealed and recreated to read:

970.03 (4) (a) If the defendant is accused of a crime under s. 940.225, 948.02, 948.05 or 948.06, the court may exclude from the hearing all persons who are not

1991 Senate Bill 197

officers of the court, members of the complainant's or defendant's families or others considered by the court to be supportive of the complainant or defendant, the service representative, as defined in s. 895.73 (1) (c), or other persons required to attend, if the court finds that the state or the defendant has established a compelling interest that would likely be prejudiced if the persons were not excluded. The court may consider as a compelling interest, among others, the need to protect a complainant from undue embarrassment and emotional trauma.

(b) In making its order under this subsection, the court shall set forth specific findings sufficient to support the closure order. In making these findings, the court shall consider, and give substantial weight to, the desires,

if any, of the complainant. Additional factors that the court may consider in making these findings include, but are not limited to, the complainant's age, psychological maturity and understanding; the nature of the crime; and the desires of the complainant's family.

(c) The court shall make its closure order under this subsection no broader than is necessary to protect the compelling interest under par. (a) and shall consider any reasonable alternatives to full closure of the entire hearing.

SECTION 4. Initial applicability. This act first applies to a hearing, deposition or court proceeding that is commenced on the effective date of this SECTION.

