

State of Wisconsin



2021 Senate Bill 219

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2021 WISCONSIN ACT 141

AN ACT *to repeal* 938.335 (4), 967.08 (2) (a) to (d) and 967.08 (3); *to renumber and amend* 938.299 (5) and 967.08 (2) (intro.); *to amend* 938.295 (4), 938.30 (10), 967.08 (title), 967.08 (1), 971.04 (1) (intro.) and 972.02 (1); and *to create* 938.299 (5) (b), 938.325, 967.08 (4) and 967.08 (5) of the statutes; **relating to:** conducting juvenile proceedings by telephone or audiovisual means and appearance at any criminal proceeding by telephone or audiovisual means.

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

SECTION 1d. 938.295 (4) of the statutes is amended to read:

938.295 (4) TELEPHONE OR LIVE AUDIOVISUAL PROCEEDING. Motions or objections under this section may be heard under s. 807.13 938.299 (5).

SECTION 1h. 938.299 (5) of the statutes is renumbered 938.299 (5) (a) and amended to read:

938.299 (5) (a) ~~On request of any party, unless good cause to the contrary is shown, The court may, upon the motion of the juvenile or the prosecutor or upon its own motion, conduct any hearing under s. 938.209 (1) (a) 5. or 938.21 (1) may be held this chapter on the record by telephone or live audiovisual means or testimony may be received by telephone or live audiovisual means under s. 807.13 (2). The request and the showing of good cause for not conducting the hearing or admitting testimony by telephone or live audiovisual means may be made by telephone, if available. If the proceeding is required to be reported under SCR 71.01 (2), the proceeding shall be reported by a court reporter who is in simultaneous voice communication with all parties to the proceeding. Regardless of the physical location of any party to a pro-~~

~~ceeding conducted by telephone or live audiovisual means, any plea, waiver, stipulation, motion, objection, decision, order, or other action taken by the court or any party shall have the same effect as if made in open court. Simultaneous access to the proceeding shall be provided to persons entitled to attend by means of a loudspeaker, live audiovisual means, or, upon request to the court, by allowing a person entitled to attend to listen to or view the proceedings without charge.~~

SECTION 1p. 938.299 (5) (b) of the statutes is created to read:

938.299 (5) (b) If the juvenile or the prosecutor objects to the use of telephone or live audiovisual means for a critical stage of the proceedings, the court shall sustain the objection. For all other such objections, the court shall consider the factors outlined in s. 885.56 in determining whether to sustain or overrule the objection.

SECTION 1q. 938.30 (10) of the statutes is amended to read:

938.30 (10) TELEPHONE OR LIVE AUDIOVISUAL PARTICIPATION. ~~The Subject to s. 938.299 (5), the court may permit any party to participate in hearings under this section by telephone or live audiovisual means except a juvenile who intends to admit the facts of the delinquency petition.~~

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

SECTION 2. 938.325 of the statutes is created to read:

938.325 Proceedings by telephone or live audiovisual means. Unless good cause to the contrary is shown, proceedings referred to under this chapter may be conducted by telephone or live audiovisual means if available. If the proceeding is required to be reported under SCR 71.01 (2), the proceeding shall be reported by a court reporter who is in simultaneous voice communication with all parties to the proceeding. Regardless of the physical location of any party to a proceeding conducted by telephone or live audiovisual means, any plea, waiver, stipulation, motion, objection, decision, order, or other action taken by the court or any party has the same effect as if made in open court. Simultaneous access to the proceeding shall be provided to persons entitled to attend by means of a loudspeaker or live audiovisual feed or, upon request to the court, by allowing persons entitled to attend to participate in the telephone call without charge.

SECTION 2m. 938.335 (4) of the statutes is repealed.

SECTION 3. 967.08 (title) of the statutes is amended to read:

967.08 (title) Telephone or live audiovisual proceedings.

SECTION 4. 967.08 (1) of the statutes is amended to read:

967.08 (1) ~~Unless good cause to the contrary is shown, proceedings referred to in this section may be conducted~~ The court may, upon the motion of any party or upon its own motion, conduct proceedings referred to in this section by telephone or live audiovisual means, if available. A party may petition the court to conduct a proceeding by telephone or live audiovisual means. If the proceeding is required to be reported under SCR 71.01 (2), the proceeding shall be reported by a court reporter who is in simultaneous voice communication with all parties to the proceeding. Regardless of the physical location of any party to ~~the call~~ a proceeding conducted by telephone or live audiovisual means, any plea, waiver, stipulation, motion, objection, decision, order or other action taken by the court or any party shall have the same effect as if made in open court. With the exceptions of scheduling conferences, pretrial conferences, and, during hours the court is not in session, setting, review, modification of bail and other conditions of release under ch. 969, the proceeding shall be conducted in a courtroom or

other place reasonably accessible to the public. Simultaneous access to the proceeding shall be provided to persons entitled to attend by means of a loudspeaker, live audiovisual means, or, upon request to the court, by ~~making~~ allowing a person ~~party entitled to attend to the telephone call~~ listen to or view the proceedings without charge.

SECTION 6m. 967.08 (2) (intro.) of the statutes is renumbered 967.08 (2) and amended to read:

967.08 (2) The court may permit ~~the following proceedings to be conducted under sub. (1) on the request of either party. The request and the opposing party's showing of good cause for not conducting the proceeding under sub. (1) may be made by telephone~~ any criminal proceeding under chs. 968 to 973 to be conducted by telephone or live audiovisual means if both parties consent to do so.

SECTION 7m. 967.08 (2) (a) to (d) of the statutes are repealed.

SECTION 11. 967.08 (3) of the statutes is repealed.

SECTION 11g. 967.08 (4) of the statutes is created to read:

967.08 (4) If any party objects to the use of telephone or live audiovisual means for a critical stage of the proceedings, the court shall sustain the objection.

SECTION 11m. 967.08 (5) of the statutes is created to read:

967.08 (5) For any other objections to the use of telephone or live audiovisual means, the court shall consider the factors outlined in s. 885.56 in determining whether to sustain or overrule the objection.

SECTION 12. 971.04 (1) (intro.) of the statutes is amended to read:

971.04 (1) (intro.) Except as provided in subs. (2) and (3), the defendant shall be present personally or as provided under s. 967.08:

SECTION 13. 972.02 (1) of the statutes is amended to read:

972.02 (1) Except as otherwise provided in this chapter, criminal cases shall be tried by a jury selected as prescribed in s. 805.08, unless the defendant waives a jury in writing or by statement in open court or under s. 967.08 (2) ~~(b)~~, on the record, with the approval of the court and the consent of the state.