
Wisconsin Legislative Council

AMENDMENT MEMO



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2023 Assembly Bill 57

Senate Amendment 1

2023 ASSEMBLY BILL 57

Current law generally vests district attorneys with discretion on whether to charge a person with a crime and which crimes to charge. However, once a prosecution has been commenced, the charge may be subject to both court oversight and any legislative enactments that define the limits of the prosecutor's discretion after a prosecution is initiated. [See, e.g., ss. 967.055 and 971.29, Stats.]

2023 Assembly Bill 57 generally addresses the prosecution of “covered crimes,” defined under the bill as any of the following violations:

- An act of domestic abuse that constitutes the commission of a crime or a violation of a domestic abuse temporary restraining order or injunction.
- Operating a vehicle without the owner's consent.
- Physical abuse of an elder person or abuse of an individual at risk, or a violation of an individual-at-risk temporary restraining order or injunction.
- First-, second-, or third-degree sexual assault.
- Any crime specified in ch. 948, Stats., *Crimes Against Children*, including certain specified crimes committed against a child that exist in other statutory chapters.
- Illegal possession of a firearm, if the individual has been convicted of, adjudicated delinquent for, or found not guilty by reason of mental disease or defect of, committing, soliciting, conspiring, or attempting to commit a violent felony, as defined under current law.
- Reckless driving causing great bodily harm to another.

Under the bill, if an individual is charged with a “covered crime,” as listed above, a prosecutor may only dismiss or amend the charge after applying to the court and receiving court approval for the dismissal or amendment. The court may approve the application only if it finds that the proposed amendment or dismissal is consistent with the public's interest in deterring the commission of covered crimes and is consistent with the statement of legislative intent expressed in the bill.

The bill also does all of the following:

- Requires the court to submit to the appropriate legislative standing committees an annual report detailing each application approved that year and how each approval is consistent with the public's interest and the Legislature's intent.
- Requires each district attorney's office to have a written policy as to how the office may best execute the intent specified in the bill.
- Prohibits a prosecutor from placing a person in a deferred prosecution program if the person is accused of or charged with a covered crime.

SENATE AMENDMENT 1

Senate Amendment 1 maintains the bill's prohibition on placement in a deferred prosecution program when a person is charged with a covered crime, but clarifies the circumstances in which a prosecutor is prohibited from placing a person in a deferred prosecution program based on an accusation of committing a covered crime.

Specifically, under the amendment, a prosecutor may not place a person in a deferred prosecution program if “a complaint or information is filed that alleges the person committed a covered crime,” rather than when a “person is accused of” a covered crime, as provided under the bill.

BILL HISTORY

Senator Hutton offered Senate Amendment 1 on September 11, 2023. On September 14, 2023, the Senate adopted Senate Amendment 1 and passed the bill, as amended, on voice votes.

For a full history of the bill, visit the Legislature's [bill history page](#).

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