



2009 ASSEMBLY BILL 365

August 6, 2009 - Introduced by Representatives BARCA, HIXSON, TURNER, SEIDEL, HRAYCHUCK, A. WILLIAMS, GUNDRUM, BERCEAU, KLEEFISCH, WOOD, M. WILLIAMS, GUNDERSON and PETROWSKI, cosponsored by Senators PLALE, WIRCH, HANSEN, LASSA and A. LASEE. Referred to Committee on Criminal Justice.

1 **AN ACT** *to create* 302.113 (9) (em), 302.114 (9) (dm), 304.06 (3b) and 973.10 (2r)
2 of the statutes; **relating to:** admitting prior testimony of a felony victim at a
3 probation, parole, or extended supervision revocation hearing.

Analysis by the Legislative Reference Bureau

Under current law, a person is entitled to an administrative hearing on whether the person's probation, parole, or extended supervision may be revoked. The person has a right to due process with respect to the revocation hearing, but the rules of evidence that apply to court proceedings do not necessarily apply to revocation hearings.

Also under current law, a person who has been charged with committing a felony is entitled to a preliminary examination at which the court must determine whether there is probable cause to believe that the defendant committed the felony. Witness testimony may be taken at both revocation hearings and preliminary examinations.

This bill provides that, if the Department of Corrections initiates proceedings to revoke a person's probation, parole, or extended supervision because the person has committed a new felony, the felony victim's testimony from the preliminary examination regarding the felony is admissible at the hearing on revocation of probation, parole, or extended supervision. The bill further provides that, if the victim testified at a preliminary examination regarding the felony and if a record of the testimony is available, a party to the revocation hearing may not subpoena the

ASSEMBLY BILL 365

victim to appear at the revocation hearing unless that party shows good cause for requiring the victim's appearance.

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

1 **SECTION 1.** 302.113 (9) (em) of the statutes is created to read:

2 302.113 **(9)** (em) A felony victim's testimony from a preliminary examination
3 regarding the felony is admissible in any administrative hearing held under par.
4 (am) to determine whether a person on extended supervision violated the conditions
5 of extended supervision by committing the felony. If such testimony is available, a
6 party to the administrative hearing may not subpoena the victim to appear at the
7 administrative hearing unless the party shows good cause for requiring the victim's
8 appearance.

9 **SECTION 2.** 302.114 (9) (dm) of the statutes is created to read:

10 302.114 **(9)** (dm) A felony victim's testimony from a preliminary examination
11 regarding the felony is admissible in any administrative hearing held under par.
12 (am) to determine whether a person on extended supervision violated the conditions
13 of extended supervision by committing the felony. If such testimony is available, a
14 party to the administrative hearing may not subpoena the victim to appear at the
15 administrative hearing unless the party shows good cause for requiring the victim's
16 appearance.

17 **SECTION 3.** 304.06 (3b) of the statutes is created to read:

18 304.06 **(3b)** A felony victim's testimony from a preliminary examination
19 regarding the felony is admissible in an administrative hearing under sub. (3) to
20 determine whether a parolee violated a rule or condition of parole by committing the
21 felony. If such testimony is available, a party to the administrative hearing may not

ASSEMBLY BILL 365

1 subpoena the victim to appear at the administrative hearing unless the party shows
2 good cause for requiring the victim's appearance.

3 **SECTION 4.** 973.10 (2r) of the statutes is created to read:

4 973.10 (2r) A felony victim's testimony from a preliminary examination
5 regarding the felony is admissible in an administrative hearing under sub. (2) to
6 determine whether a probationer violated the conditions of his or her probation by
7 committing the felony. If such testimony is available, a party to the administrative
8 hearing may not subpoena the victim to appear at the administrative hearing unless
9 the party shows good cause for requiring the victim's appearance.

10 **SECTION 5. Initial applicability.**

11 (1) This act first applies to administrative hearings that are held on the
12 effective date of this subsection.

13

(END)