



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-4077/1
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2023 ASSEMBLY BILL 433

September 19, 2023 - Introduced by Representatives DONOVAN, ALLEN, BRANDTJEN, EDMING, GUNDRUM, MAXEY, MURPHY, O'CONNOR, PENTERMAN, SORTWELL, DITTRICH and WICHGERS, cosponsored by Senators BRADLEY, HUTTON, NASS, STROEBEL and BALLWEG. Referred to Committee on Criminal Justice and Public Safety.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT to amend** 969.01 (1) (b) 1., 969.01 (4), 969.02 (1), 969.02 (2) and (3) (intro.)
2 and (e), 969.02 (8), 969.03 (1) (intro.) and 969.03 (1) (d); and **to create** 165.845
3 (1r) (a) 3., 165.845 (1r) (f), 758.19 (8) and 969.001 (1g) of the statutes; **relating**
4 **to:** bail for criminal defendants who have a previous conviction for bail jumping
5 and Department of Justice collection and reporting of certain criminal case
6 data.

Analysis by the Legislative Reference Bureau

CRIMINAL CASE DATA REPORTING

This bill requires the Department of Justice to collect from the Director of State Courts all of the following information for each criminal case: 1) the county in which the case was filed; 2) the name of the prosecuting attorney assigned to the case; 3) the name of the court official assigned to the case; 4) the criminal charge filed; 5) for each case, whether the court released the defendant without bail, upon the execution of an unsecured appearance bond, upon the execution of an appearance bond with sufficient solvent sureties, or upon the deposit of cash in lieu of sureties, or denied release, and the name of the court official who made the decision; 6) for each case for which a court required the execution of an appearance bond with sufficient solvent sureties, the monetary amount of the bond and the name of the court official who made the decision; 7) for each case for which a court required the deposit of cash in

ASSEMBLY BILL 433

lieu of sureties, the monetary amount of cash required and the name of the court official who made the decision; and 8) for each case, any other conditions of release imposed on the defendant and the name of the court official who made the decision.

Under the bill, DOJ must publish an annual report using the data collected on its website in an interactive format, and also submit a report on the data to the chief clerk of each house of the legislature for distribution to the appropriate standing committees.

BAIL FOR PERSONS WITH PREVIOUS CONVICTIONS FOR BAIL JUMPING

Under current law, a person accused of a crime is eligible for release before conviction under reasonable conditions designed to do any of the following: 1) assure that he or she will appear in court; 2) protect members of the community from serious harm; or 3) prevent the intimidation of witnesses. The conditions of release may include monetary bail only if the court finds that there is a reasonable basis to believe that bail is necessary to assure that the defendant will appear in court or, if the defendant is accused of a violent crime as defined under current law, if the court finds that there is a reasonable basis to believe that bail is necessary based on the totality of the circumstances. "Violent crime" is defined to include crimes such as homicide, battery, mayhem, sexual assault, reckless injury, false imprisonment, human trafficking, taking of hostages, kidnapping, stalking, witness or victim intimidation, disarming a police officer, straw purchasing of firearms, endangering safety, arson, felony burglary, carjacking, robbery, harassment, bomb scares, and mistreatment of animals; crimes to which a domestic abuse or dangerous weapon penalty enhancer may be applied; the violation of a domestic abuse, child abuse, or harassment injunction; or the solicitation, conspiracy, or attempt to commit a Class A felony.

Under the bill, if the defendant has a previous conviction for the crime of bail jumping, the court must impose bail to assure appearance in court and the defendant may be released only if he or she executes a secured bond or deposits cash in lieu of a bond in an amount of at least \$5,000. Under the bill, if the defendant is accused of a violent crime and the defendant has a previous conviction for a violent crime, the bail amount may not be less than \$10,000. Under the bill, the definition for "violent crime" is the same as the definition above.

For further information see the state and local fiscal estimate, which will be printed as an appendix to this bill.

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

- 1 **SECTION 1.** 165.845 (1r) (a) 3. of the statutes is created to read:
- 2 165.845 (1r) (a) 3. For each case involving a crime, as defined in s. 939.12, that
- 3 resulted in charges being filed in any circuit court, all of the following information,
- 4 which shall be provided by the director of state courts:

ASSEMBLY BILL 433

- 1 a. The county in which the case was filed.
- 2 b. The name of the prosecuting attorney assigned to the case.
- 3 c. The name of the court official assigned to the case.
- 4 d. The criminal charge filed.
- 5 e. For each case, whether the court official released the defendant without bail,
6 upon the execution of an unsecured appearance bond, upon the execution of an
7 appearance bond with sufficient solvent sureties, or upon the deposit of cash in lieu
8 of sureties, or denied release under s. 969.035, and the name of the court official who
9 made the decision.
- 10 f. For each case for which a court official required the execution of an
11 appearance bond with sufficient solvent sureties, the monetary amount of the bond
12 and the name of the court official who made the decision.
- 13 g. For each case for which a court official required the deposit of cash in lieu
14 of sureties, the monetary amount of cash required and the name of the court official
15 who made the decision.
- 16 h. For each case, any other conditions of release imposed on the defendant and
17 the name of the court official who made the decision.

18 **SECTION 2.** 165.845 (1r) (f) of the statutes is created to read:

19 165.845 (1r) (f) Publish an annual report using the information collected under
20 par. (a) 3. The report shall be published electronically on the department of justice's
21 website in an interactive format and shall be submitted in a static version to the chief
22 clerk of each house of the legislature for distribution to the appropriate standing
23 committees under s. 13.172 (3). The report shall include, at a minimum, all
24 information that is reported to the department of justice by the director of state
25 courts under par. (a) 3.

ASSEMBLY BILL 433

1 **SECTION 3.** 758.19 (8) of the statutes is created to read:

2 758.19 (8) The director of state courts shall provide to the department of justice
3 all information required for reporting under s. 165.845 (1r) (a) 3.

4 **SECTION 4.** 969.001 (1g) of the statutes is created to read:

5 969.001 (1g) “Court official” means a judge or a court commissioner.

6 **SECTION 5.** 969.01 (1) (b) 1. of the statutes, as affected by 2023 Wisconsin Act
7 3, is amended to read:

8 969.01 (1) (b) 1. There is a reasonable basis to believe that bail is necessary to
9 assure the defendant’s appearance in court. Bail is necessary to assure the
10 defendant’s appearance in court if the defendant has a previous conviction for bail
11 jumping under s. 946.49.

12 **SECTION 6.** 969.01 (4) of the statutes, as affected by 2023 Wisconsin Act 3, is
13 amended to read:

14 969.01 (4) CONSIDERATIONS IN SETTING CONDITIONS OF RELEASE. If bail is imposed
15 only due to a finding under sub. (1) (b) 1., the bail amount shall be only in the amount
16 found necessary to assure the appearance of the defendant. If a defendant has a
17 previous conviction for bail jumping under s. 946.49, the amount necessary to assure
18 the appearance of the defendant is an appearance bond with sufficient solvent
19 sureties, or the deposit of cash in lieu of sureties, in an amount not less than \$5,000.
20 If the court official requires a deposit of cash in lieu of sureties, the person making
21 the cash deposit shall be given written notice of the requirements of s. 969.02 (6).
22 If bail is imposed due to a finding under sub. (1) (b) 2., the bail amount may not be
23 excessive. If bail is imposed due to a finding under sub. (1) (b) 2. and the defendant
24 has a previous conviction for a violent crime, the bail amount may not be less than
25 \$10,000. Conditions of release, other than monetary conditions, may be imposed for

ASSEMBLY BILL 433

1 the purpose of assuring the defendant's appearance in court, protecting members of
2 the community from serious harm, or preventing intimidation of witnesses. Proper
3 considerations in determining whether to release the defendant without bail, fixing
4 a reasonable and not excessive amount of bail or imposing other reasonable
5 conditions of release are: the ability of the arrested person to give bail, the nature,
6 number and gravity of the offenses and the potential penalty the defendant faces,
7 whether the alleged acts were violent in nature, the defendant's prior record of
8 criminal convictions and delinquency adjudications, if any, the character, health,
9 residence and reputation of the defendant, the character and strength of the evidence
10 which has been presented to the judge court official, whether the defendant is
11 currently on probation, extended supervision or parole, whether the defendant is
12 already on bail or subject to other release conditions in other pending cases, whether
13 the defendant has been bound over for trial after a preliminary examination,
14 whether the defendant has in the past forfeited bail or violated a condition of release
15 or was a fugitive from justice at the time of arrest, and the policy against unnecessary
16 detention of the defendant's pending trial.

17 **SECTION 7.** 969.02 (1) of the statutes is amended to read:

18 969.02 (1) ~~A judge~~ Except as provided in s. 969.01 (1) (b) 1., a court official may
19 release a defendant charged with a misdemeanor without bail or may permit the
20 defendant to execute an unsecured appearance bond in an amount specified by the
21 judge court official.

22 **SECTION 8.** 969.02 (2) and (3) (intro.) and (e) of the statutes are amended to
23 read:

24 969.02 (2) In lieu of release pursuant to sub. (1), the judge court official may
25 require the execution of an appearance bond with sufficient solvent sureties, or the

ASSEMBLY BILL 433**SECTION 8**

1 deposit of cash in lieu of sureties. If the judge court official requires a deposit of cash
2 in lieu of sureties, the person making the cash deposit shall be given written notice
3 of the requirements of sub. (6).

4 (3) (intro.) In addition to or in lieu of the alternatives under subs. (1) and (2),
5 the judge court official may:

6 (e) If the person is charged with violating a restraining order or injunction
7 issued under s. 813.12 or 813.125, require the person to participate in mental health
8 treatment, a batterer's intervention program, or individual counseling. The judge
9 court official shall consider a request by the district attorney or the petitioner, as
10 defined in s. 301.49 (1) (c), in determining whether to issue an order under this
11 paragraph.

12 **SECTION 9.** 969.02 (8) of the statutes is amended to read:

13 969.02 (8) ~~In~~ Except as provided in s. 969.01 (4), in all misdemeanors, bail shall
14 not exceed the maximum fine provided for the offense.

15 **SECTION 10.** 969.03 (1) (intro.) of the statutes is amended to read:

16 969.03 (1) (intro.) ~~A~~ Except as provided in s. 969.01 (1) (b) 1., a defendant
17 charged with a felony may be released by the judge court official without bail or upon
18 the execution of an unsecured appearance bond ~~or the judge.~~ The court official may
19 in addition to requiring the execution of an appearance bond or in lieu thereof impose
20 one or more of the following conditions which will assure appearance for trial:

21 **SECTION 11.** 969.03 (1) (d) of the statutes is amended to read:

22 969.03 (1) (d) Require the execution of an appearance bond with sufficient
23 solvent sureties, or the deposit of cash in lieu of sureties. If the judge court official

ASSEMBLY BILL 433

1 requires a deposit of cash in lieu of sureties, the person making the cash deposit shall
2 be given written notice of the requirements of sub. (4).

3 (END)