



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-3725/1
MLJ:amn

2019 ASSEMBLY BILL 1005

March 13, 2020 - Introduced by Representatives SORTWELL, STEFFEN and MURPHY.
Referred to Committee on Judiciary.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT** *to renumber and amend* 805.13 (4); and *to create* 756.10 and 805.13
2 (4) (a) of the statutes; **relating to:** duties of a jury and jury determinations as
3 to the application of law.

Analysis by the Legislative Reference Bureau

This bill provides that it is the duty of a jury to try the issues in an action or proceeding by judging the evidence in a case and the application of the law in relation to the evidence provided and the facts in controversy. This bill also provides that, in a criminal action in which a jury finds that the state has proved all of the elements of the charged offense beyond a reasonable doubt, the jury may find the defendant not guilty if, based upon the facts of the case, the jury finds that a guilty verdict will yield an unjust result.

The bill also requires the court to instruct the jury of its duties orally and in writing, including providing a written copy of the full text of the statute that describes the duties of a jury.

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

4 **SECTION 1.** 756.10 of the statutes is created to read:

ASSEMBLY BILL 1005**SECTION 1**

1 **756.10 Duties of a jury. (1)** It is the duty of a jury to try the issues in an action
2 or proceeding by judging the evidence in a case and the application of the law in
3 relation to the evidence provided and the facts in controversy.

4 **(2)** In a criminal proceeding, if the jury has a reasonable doubt as to whether
5 the prosecuting attorney has proved any one or more of the elements of the charged
6 offense, the jury should find the defendant not guilty. If the jury finds that the
7 prosecuting attorney has proved all of the elements of the charged offense beyond a
8 reasonable doubt, the jury should find the defendant guilty.

9 **(3)** Notwithstanding sub. (2), in a criminal proceeding in which a jury finds that
10 the state has proved all of the elements of the charged offense beyond a reasonable
11 doubt, the jury may find the defendant not guilty if, based upon the facts of the case,
12 the jury finds that a guilty verdict will yield an unjust result.

13 **SECTION 2.** 805.13 (4) of the statutes is renumbered 805.13 (4) (b) and amended
14 to read:

15 805.13 (4) (b) The court shall instruct the jury before or after closing arguments
16 of counsel. Failure to object to a material variance or omission between the
17 instructions given and the instructions proposed does not constitute a waiver of
18 error.

19 (c) The court shall provide the jury with one complete set of written instructions
20 providing the full text of s. 756.10, which explains the duties of a jury, and an
21 explanation of the burden of proof and the substantive law to be applied to the case
22 to be decided.

23 **SECTION 3.** 805.13 (4) (a) of the statutes is created to read:

