



1995 SENATE BILL 588

February 28, 1996 – Introduced by Senators COWLES, DARLING, RUDE, PANZER and DRZEWIECKI, cosponsored by Representatives OURADA, NOTESTEIN, GUNDERSON, ALBERS, SERATTI, MUSSER, ZIEGELBAUER, BALDUS and BOYLE. Referred to Committee on Judiciary.

1 **AN ACT to amend** 767.11 (8) (b) 2., 767.11 (10) (e) 2., 767.24 (2) (b) 2. c., 767.24
2 (5) (i), 971.37 (1m) (a) 2. and 973.055 (1) (a) 1.; and **to create** 940.20 (1m) of the
3 statutes; **relating to:** battery by persons who are subject to harassment
4 injunctions and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, a court may issue an injunction against a person who engages in harassment of another person. A person who violates a harassment injunction may be fined not more than \$1,000 or imprisoned for not more than 90 days or both.

Also, under current law, ordinary battery (intentionally causing bodily harm to another person without consent) is a Class A misdemeanor, which is punishable by imprisonment of not more than 9 months or a fine of not more than \$10,000 or both. However, if a prisoner confined to a state prison or other state, county or municipal detention facility commits ordinary battery against an officer, employee, visitor or another inmate of such prison or institution, he or she is guilty of a Class D felony, which is punishable by imprisonment of not more than 5 years or a fine of not more than \$10,000 or both.

This bill makes it a Class E felony for a person who is subject to a harassment injunction to commit an ordinary battery against the person protected by the injunction. A Class E felony is punishable by imprisonment of not more than 2 years or a fine of not more than \$10,000 or both.

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

5 **SECTION 1.** 767.11 (8) (b) 2. of the statutes is amended to read:

1 767.11 (8) (b) 2. Interspousal battery as described under s. 940.19 or 940.20
2 (1m) or domestic abuse as defined in s. 813.12 (1) (a).

3 **SECTION 2.** 767.11 (10) (e) 2. of the statutes is amended to read:

4 767.11 (10) (e) 2. There is evidence of interspousal battery as described under
5 s. 940.19 or 940.20 (1m) or domestic abuse as defined in s. 813.12 (1) (a).

6 **SECTION 3.** 767.24 (2) (b) 2. c. of the statutes is amended to read:

7 767.24 (2) (b) 2. c. The parties will be able to cooperate in the future decision
8 making required under an award of joint legal custody. In making this finding the
9 court shall consider, along with any other pertinent items, any reasons offered by a
10 party objecting to joint legal custody. Evidence that either party engaged in abuse
11 of the child as defined in s. 48.981 (1) (a) and (b) or 813.122 (1) (a) or evidence of
12 interspousal battery as described under s. 940.19 or 940.20 (1m) or domestic abuse
13 as defined in s. 813.12 (1) (a) creates a rebuttable presumption that the parties will
14 not be able to cooperate in the future decision making required. This presumption
15 may be rebutted by clear and convincing evidence that the abuse will not interfere
16 with the parties' ability to cooperate in the future decision making required.

17 **SECTION 4.** 767.24 (5) (i) of the statutes is amended to read:

18 767.24 (5) (i) Whether there is evidence of interspousal battery as described
19 under s. 940.19 or 940.20 (1m) or domestic abuse as defined in s. 813.12 (1) (a).

20 **SECTION 5.** 940.20 (1m) of the statutes is created to read:

21 940.20 (1m) BATTERY BY PERSONS SUBJECT TO A HARASSMENT INJUNCTION. Any
22 person who is subject to an injunction under s. 813.125 and who intentionally causes
23 bodily harm to the petitioner who sought the injunction by an act done without the
24 consent of the petitioner is guilty of a Class E felony.

25 **SECTION 6.** 971.37 (1m) (a) 2. of the statutes is amended to read:

1 971.37 **(1m)** (a) 2. An adult accused of or charged with a criminal violation of
2 s. 940.19, 940.20 (1m) or (3), 940.225, 940.23, 940.285, 940.30, 940.42, 940.43,
3 940.44, 940.45, 940.48, 941.20, 941.30, 943.01, 943.14, 943.15, 946.49, 947.01 or
4 947.012 and the conduct constituting the violation involved an act by the adult
5 person against his or her spouse or former spouse, against an adult with whom the
6 adult person resides or formerly resided or against an adult with whom the adult
7 person has created a child.

8 **SECTION 7.** 973.055 (1) (a) 1. of the statutes is amended to read:

9 973.055 **(1)** (a) 1. The court convicts the person of a violation of a crime specified
10 in s. 940.01, 940.02, 940.03, 940.05, 940.06, 940.19, 940.20 (1m) or (3), 940.21,
11 940.225, 940.23, 940.285, 940.30, 940.305, 940.31, 940.42, 940.43, 940.44, 940.45,
12 940.48, 941.20, 941.30, 943.01, 943.14, 943.15, 946.49, 947.01 or 947.012 or of a
13 municipal ordinance conforming to s. 941.20, 941.30, 943.01, 943.14, 943.15, 946.49,
14 947.01 or 947.012; and

15 **SECTION 8. Initial applicability.**

16 (1) This act first applies to offenses occurring on the effective date of this
17 subsection.

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(END)