



1997 ASSEMBLY BILL 541

September 29, 1997 - Introduced by Representatives HARS DORF, GOETSCH, JENSEN, WALKER, ROBSON, MUSSER, BRANDEMUEHL, GUNDERSON, OLSEN, TURNER, LAZICH, GRONEMUS and KELSO, cosponsored by Senators ROESSLER, CLAUSING and A. LASEE. Referred to Committee on Criminal Justice and Corrections.

1 **AN ACT** *to renumber and amend* 939.621; *to amend* 968.075 (5) (b) 1., 968.075
2 (5) (b) 2. and 968.075 (5) (b) 3.; and *to create* 939.621 (2) and 939.621 (4) of the
3 statutes; **relating to:** domestic abuse and providing a penalty.

Analysis by the Legislative Reference Bureau

Current law provides a number of penalty enhancement provisions to allow for increased penalties whenever crimes are committed under specified circumstances. One such penalty enhancement provision relates to the commission of a crime following an arrest for a domestic abuse incident. Generally, a person who is arrested in a domestic abuse incident must avoid contact with the alleged victim for 72 hours immediately following the arrest. If the arrested person commits another act of domestic abuse during the 72-hour period and that act constitutes a crime, the maximum period of imprisonment for the crime may be increased by not more than 2 years.

This bill provides for an enhanced penalty for certain crimes committed during a domestic abuse incident. Under the bill, if a person is convicted of criminal damage to property, disorderly conduct or certain types of battery and the conduct constituting the crime involved an act against the person's spouse or former spouse, against an adult with whom the person resides or formerly resided or against an adult with whom the person has created a child, the maximum period of

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imprisonment for the criminal damage to property, disorderly conduct or battery may be increased by not more than 2 years.

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

1 **SECTION 1.** 939.621 of the statutes is renumbered 939.621 (1) and amended to
2 read:

3 939.621 (1) (title) OFFENSES COMMITTED DURING NO-CONTACT PERIOD. If a person
4 commits an act of domestic abuse, as defined in s. 968.075 (1) (a) and the act
5 constitutes the commission of a crime, the maximum term of imprisonment for that
6 crime may be increased by not more than 2 years if the crime is committed during
7 the 72 hours immediately following an arrest for a domestic abuse incident, as set
8 forth in s. 968.075 (5). The 72-hour period applies whether or not there has been a
9 waiver by the victim under s. 968.075 (5) (c). The victim of the domestic abuse crime
10 does not have to be the same as the victim of the domestic abuse incident that
11 resulted in the arrest. ~~The~~

12 **(3)** (title) CHANGE IN STATUS OF MISDEMEANOR. A penalty increase under this
13 section changes the status of a misdemeanor to a felony.

14 **SECTION 2.** 939.621 (2) of the statutes is created to read:

15 939.621 (2) CRIME COMMITTED DURING DOMESTIC ABUSE INCIDENT. If an adult
16 person is convicted of a crime specified in s. 940.19, 940.20 (1m) or (3), 943.01 (1) or
17 (2) or 947.01, the maximum term of imprisonment for the crime may be increased by
18 not more than 2 years if the conduct constituting the crime involved an act by the
19 adult person against his or her spouse or former spouse, against an adult with whom
20 the adult person resides or formerly resided or against an adult with whom the adult
21 person has created a child.

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1 **SECTION 3.** 939.621 (4) of the statutes is created to read:

2 939.621 (4) LIMITATION ON ENHANCING SENTENCES UNDER THIS SECTION. A court
3 may not impose an enhanced sentence under both subs. (1) and (2).

4 **SECTION 4.** 968.075 (5) (b) 1. of the statutes is amended to read:

5 968.075 (5) (b) 1. Unless there is a waiver under par. (c), a law enforcement
6 officer or other person who releases a person arrested for a domestic abuse incident
7 from custody less than 72 hours after the arrest shall inform the arrested person
8 orally and in writing of the requirements under par. (a), the consequences of violating
9 the requirements and the provisions of s. 939.621 (1) and (3). The arrested person
10 shall sign an acknowledgment on the written notice that he or she has received notice
11 of, and understands the requirements, the consequences of violating the
12 requirements and the provisions of s. 939.621 (1) and (3). If the arrested person
13 refuses to sign the notice, he or she may not be released from custody.

14 **SECTION 5.** 968.075 (5) (b) 2. of the statutes is amended to read:

15 968.075 (5) (b) 2. If there is a waiver under par. (c) and the person is released
16 under subd. 1., the law enforcement officer or other person who releases the arrested
17 person shall inform the arrested person orally and in writing of the waiver and the
18 provisions of s. 939.621 (1) and (3).

19 **SECTION 6.** 968.075 (5) (b) 3. of the statutes is amended to read:

20 968.075 (5) (b) 3. Failure to comply with the notice requirement under subd.
21 1. regarding a person who is lawfully released from custody bars a prosecution under
22 par. (a), but does not affect the application of s. 939.621 (1) and (3) in any criminal
23 prosecution.

24 **SECTION 7. Initial applicability.**

