

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3022/P1dn  
CMH:jld:rs

June 23, 2009

Matt:

Please review this draft carefully. I drafted the maximum term increases to fit into our classification scheme. The statute on which the proposed language seems to be based predates Truth in Sentencing so it does not cleanly fit the revised classification scheme. This new provision reflects the current penalties for crimes. Is that okay?

Note that, under a bifurcated sentence, "term of imprisonment" includes both a term of confinement and a term of extended supervision. An increase in the "maximum term of imprisonment," therefore, may not result in the person being confined for a longer period. The person will have a longer sentence but the addition could simply lengthen the person's term of extended supervision. Is that okay? If you prefer to create a mandatory minimum term of confinement in a correctional facility, please let me know and I will redraft.

Please note that I slightly modified the definition of "in the presence of a child." I was concerned that the prosecutor would have to prove beyond a reasonable doubt that the child heard the act or witnessed the act under the suggested definition. This could increase the burden on the prosecutor. For instance, the defense could argue that the baby was sleeping and raise a doubt as to this element. Is my change okay?

Would you like to include a violation of s. 943.01? For instance, if the actor damages property belonging to a former spouse in front of a child, would you like that actor to be subject to the penalty enhancement? In the past requesters asked for that addition and some thought such a provision would cover intentional injuries to pets, as a form of domestic abuse, in the presence of a child.

I drafted this proposal as a preliminary draft in case you want to work through some changes.

Cathlene Hanaman  
Legislative Attorney  
Phone: (608) 267-9810  
E-mail: [cathlene.hanaman@legis.wisconsin.gov](mailto:cathlene.hanaman@legis.wisconsin.gov)