

2011 DRAFTING REQUEST

Bill

Received: 09/23/2011

Received By: phurley

Wanted: As time permits

Companion to LRB: -3619

For: Alvin Ott (608) 266-5831

By/Representing: Erin Ruby

May Contact:

Drafter: phurley

Subject: Criminal Law - domestic abuse
Criminal Law - sentencing

Addl. Drafters:

Extra Copies:

Submit via email: YES

Requester's email: Rep.Ott@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Domestic abuse repeater

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?				_____			S&L Crime
/1	phurley 09/23/2011	jdyer 10/17/2011	phenry 10/17/2011	_____	sbasford 10/17/2011	mbarman 12/20/2011	

FE Sent For:

at intro
12-29-11

<END>

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1/?	phurley	10/17 JLD	10/17 ph				S&L Crime

FE Sent For: <END>

Bill Draft Request

Date: 9-23-11

Legislator Requesting Draft: Rep. Al Ott

Person Submitting Request: Erin Ruby – Research Assistant

Person to Contact with Questions: Erin Ruby (6-5831)

Drafting Request:

Representative Ott would like the attached proposal formally drafted by LRB.

Feel free to call with any questions.

Thank you!

THE TRAJA ACT

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

939.621 (1) In this section, "domestic abuse repeater" means any of the following:

SECTION 2. 939.621 (1) (a) of the statutes is created to read:

939.621 (1) (a) The crime is committed during the 72 hours immediately following an arrest for a domestic abuse incident, as set forth in s. 968.075 (5). The 72-hour period applies whether or not there has been a waiver by the victim under s. 968.075 (5) (c).

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

939.621 (1) (b) The actor was convicted of one felony or a misdemeanor on 2 separate occasions for which the court imposed a domestic abuse surcharge, as set forth in s. 973.055 (1), during the 10-year period immediately preceding the commission of the crime for which the actor presently is being sentenced, which convictions remain of record and unreversed. It is immaterial that sentence was stayed, withheld or suspended, or that the actor was pardoned, unless such pardon was granted on the ground of innocence. In computing the preceding 10-year period, time which the actor spent in actual confinement serving a criminal sentence shall be excluded.

SECTION 4. 939.621 of the statutes is renumbered 939.621 (2) and amended to read:

939.621 (2) If a person commits an act of domestic abuse, as defined in s. 968.075 (1) (a) and the act constitutes the commission of a crime, the maximum term of imprisonment for that crime may be increased by not more than 2 years if the actor is a domestic abuse repeater, as that term is defined in sub. (1). ~~crime is committed during the 72 hours immediately following an arrest for a domestic abuse incident, as set forth in s. 968.075 (5). The 72-hour period applies whether or not there has been a waiver by the victim under s. 968.075 (5) (c).~~ The victim of the domestic abuse crime does not have to be the same as the victim of the domestic abuse incident that resulted in the prior arrest or conviction. The penalty increase under this section changes the status of a misdemeanor to a felony.



FR 10/21 CW

JL

2011 BILL

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AN ACT ...; relating to: increased penalty for repeated domestic abuse offenses,
and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, if a person is arrested for a domestic abuse crime and commits a second domestic abuse crime (against the same victim or a different victim) within 72 hours after being arrested for the first crime, the person's maximum term of imprisonment for the second crime may be increased by up to two years. Additionally, the penalty increase changes the status of the second crime from a misdemeanor to a felony.

Current law generally requires a court to impose a domestic abuse surcharge on a person who commits certain criminal acts against his or her spouse or former spouse, against an adult with whom the adult person resides or formerly resided, or against an adult with whom the adult person has created a child. This surcharge is in addition to any other fines or terms of imprisonment.

Under this bill, the same increase in the term of imprisonment and the same change from a misdemeanor to a felony also applies to a person who was convicted, on two separate occasions, of a felony or a misdemeanor for which a court imposed a domestic abuse surcharge during the 10-year period immediately prior to the commission of the crime for which the person presently is being sentenced. Under the bill, any time the person spent in jail or in prison does not count in computing the preceding 10-year period.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a

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BILL

report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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:

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

939.621 (1) In this section, "domestic abuse repeater" means either of the following:

(a) A person who commits, during the 72 hours immediately following an arrest for a domestic abuse incident as set forth in s. 968.075 (5), an act of domestic abuse, as defined in s. 968.075 (1) (a) that constitutes the commission of a crime. For the purpose of ~~this definition~~ *the definition under this paragraph*, the 72-hour period applies whether or not there has been a waiver by the victim under s. 968.075 (5) (c).

(b) A person who was convicted, on ~~two~~ *two* separate occasions, of a felony or a misdemeanor for which a court imposed a domestic abuse surcharge under s. 973.055 (1) or waived a domestic abuse surcharge pursuant to s. 973.055 (4), during the 10-year period immediately prior to the commission of the crime for which the person presently is being sentenced, if the convictions remain of record and unreversed. For the purpose of ~~this definition~~ *the definition under this paragraph*, it is immaterial that sentence was stayed, withheld or suspended, or that the person was pardoned, unless such pardon was granted on the ground of innocence. In computing the preceding 10-year period, time ~~which~~ *that* the person spent in actual confinement serving a criminal sentence shall be excluded.

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

Parisi, Lori

From: Ruby, Erin
Sent: Tuesday, December 20, 2011 12:20 PM
To: LRB.Legal
Subject: Draft Review: LRB 11-2984/1 Topic: Domestic abuse repeater

Please Jacket LRB 11-2984/1 for the ASSEMBLY.