



1997 ASSEMBLY BILL 742

January 27, 1998 - Introduced by Representatives OTTE, GREEN, MURAT, DOBYNS, GROTHMAN, OWENS, GUNDERSON, F. LASEE, PORTER, AINSWORTH, PLOUFF, SKINDRUD, MUSSER, SYKORA, LADWIG, ZIEGELBAUER, BAUMGART, BRANDEMUEHL, GRONEMUS, ALBERS, NASS and RILEY, cosponsored by Senators C. POTTER, ROESSLER, DARLING, WEEDEN and A. LASEE. Referred to Committee on Judiciary.

1 **AN ACT to amend** 165.70 (1) (b), 940.20 (3), 940.43 (1), 940.45 (1), 943.01 (2) (c),
2 943.017 (2) (c), 946.82 (4), 949.03 (1) (b), 969.08 (10) (b), 971.37 (1m) (a) 2. and
3 973.055 (1) (a) 1.; and **to create** 939.22 (21) (em), 939.22 (21) (mg), 940.201,
4 941.38 (1) (b) 5m., 941.38 (1) (b) 13m., 943.011 and 943.017 (2m) of the statutes;
5 **relating to:** threats to cause bodily harm to a witness or to damage the
6 property of a witness and providing penalties.

Analysis by the Legislative Reference Bureau

Under current law, a person is guilty of intimidation of a witness if he or she prevents or dissuades, or attempts to prevent or dissuade, a witness from attending or giving testimony at a legal proceeding. Generally, a person who is convicted of intimidation of a witness may be fined not more than \$10,000 or imprisoned for not more than 9 months or both. However, a person is guilty of felony intimidation if he or she intimidates a witness under certain circumstances, such as using or threatening to use force or violence against the witness or damaging or threatening to damage property of the witness. Under current law, a person convicted of felony intimidation of a witness may be fined not more than \$10,000 or imprisoned for not more than 5 years or both.

In addition, current law provides penalties for battery to or criminal damage to the property of witnesses who have attended or testified at a proceeding. Specifically, a person is guilty of battery to a witness if he or she intentionally causes

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bodily harm to a witness without the consent of the witness and because the witness attended or testified at a proceeding. Likewise, a person is guilty of criminal damage to property of a witness if he or she intentionally causes damage to any physical property of a witness without the consent of the witness and because the witness attended or testified at a proceeding. Finally, a person is guilty of graffiti vandalism to property of a witness if he or she intentionally marks, draws or writes on any physical property of a witness without the consent of the witness and because the witness attended or testified at a proceeding. A person convicted of any of these crimes against a witness may be fined not more than \$10,000 or imprisoned for not more than 5 years or both.

This bill expands the current law provisions concerning battery to, or criminal damage to the property of, a witness who has attended or testified at a proceeding by prohibiting a person from threatening to commit battery to, or criminal damage to the property of, a witness who has attended or testified at a proceeding. The bill also prohibits a person from committing or threatening to commit battery to, or criminal damage to the property of, either a family member of a witness who has attended or testified at a proceeding or a person sharing a common domicile with a witness who has attended or testified at a proceeding. A person who violates the prohibitions created in the bill is subject to the same penalty provided under current law for battery to a witness or criminal damage to the property of a witness.

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

1 **SECTION 1.** 165.70 (1) (b) of the statutes is amended to read:

2 165.70 (1) (b) Enforce chs. 945 and 961 and ss. 940.20 (3), 940.201, 941.25 to
3 941.27, 943.01 (2) (c), 943.011, 943.27, 943.28, 943.30, 944.30, 944.31, 944.32, 944.33,
4 944.34, 946.65, 947.02 (3) and (4) and 948.08.

5 **SECTION 2.** 939.22 (21) (em) of the statutes is created to read:

6 939.22 (21) (em) Battery or threat to witness, as prohibited in s. 940.201.

7 **SECTION 3.** 939.22 (21) (mg) of the statutes is created to read:

8 939.22 (21) (mg) Criminal damage to or threat to criminally damage the
9 property of a witness, as prohibited in s. 943.011 or 943.017 (2m).

10 **SECTION 4.** 940.20 (3) of the statutes is amended to read:

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1 940.20 (3) (title) ~~BATTERY TO WITNESSES AND JURORS.~~ Whoever intentionally
2 causes bodily harm to a person who he or she knows or has reason to know is or was
3 a ~~witness as defined in s. 940.41 (3)~~ or a grand or petit juror, and by reason of the
4 ~~person having attended or testified as a witness or~~ by reason of any verdict or
5 indictment assented to by the person, without the consent of the person injured, is
6 guilty of a Class D felony.

7 **SECTION 5.** 940.201 of the statutes is created to read:

8 **940.201 Battery or threat to witnesses. (1)** In this section:

9 (a) "Family member" means a spouse, child, stepchild, foster child, treatment
10 foster child, parent, sibling or grandchild.

11 (b) "Witness" has the meaning given in s. 940.41 (3).

12 **(2)** Whoever does any of the following is guilty of a Class D felony:

13 (a) Intentionally causes bodily harm or threatens to cause bodily harm to a
14 person who he or she knows or has reason to know is or was a witness by reason of
15 the person having attended or testified as a witness and without the consent of the
16 person harmed or threatened.

17 (b) Intentionally causes bodily harm or threatens to cause bodily harm to a
18 person who he or she knows or has reason to know is a family member of a witness
19 or a person sharing a common domicile with a witness by reason of the witness
20 having attended or testified as a witness and without the consent of the person
21 harmed or threatened.

22 **SECTION 6.** 940.43 (1) of the statutes is amended to read:

23 940.43 (1) Where the act is accompanied by force or violence or attempted force
24 or violence, upon the witness, or the spouse, child, stepchild, foster child, treatment

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1 foster child, parent, sibling or grandchild of the witness or any person sharing a
2 common domicile with the witness.

3 **SECTION 7.** 940.45 (1) of the statutes is amended to read:

4 940.45 (1) Where the act is accompanied by force or violence or attempted force
5 or violence, upon the victim, or the spouse, child, stepchild, foster child, treatment
6 foster child, parent, sibling or grandchild of the victim or any person sharing a
7 common domicile with the victim.

8 **SECTION 8.** 941.38 (1) (b) 5m. of the statutes is created to read:

9 941.38 (1) (b) 5m. Battery or threat to witness, as prohibited in s. 940.201.

10 **SECTION 9.** 941.38 (1) (b) 13m. of the statutes is created to read:

11 941.38 (1) (b) 13m. Criminal damage to or threat to criminally damage the
12 property of a witness, as prohibited in s. 943.011 or 943.017 (2m).

13 **SECTION 10.** 943.01 (2) (c) of the statutes is amended to read:

14 943.01 (2) (c) The property damaged belongs to a person who is or was a witness
15 ~~as defined in s. 940.41 (3) or a grand or petit juror and the damage was caused by~~
16 ~~reason of the owner's having attended or testified as a witness or by reason of any~~
17 verdict or indictment assented to by the owner.

18 **SECTION 11.** 943.011 of the statutes is created to read:

19 **943.011 Damage or threat to property of witness. (1)** In this section:

20 (a) "Family member" means a spouse, child, stepchild, foster child, treatment
21 foster child, parent, sibling or grandchild.

22 (b) "Witness" has the meaning given in s. 940.41 (3).

23 **(2)** Whoever does any of the following is guilty of a Class D felony:

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1 (a) Intentionally causes damage or threatens to cause damage to any physical
2 property owned by a person who is or was a witness by reason of the owner having
3 attended or testified as a witness and without the owner's consent.

4 (b) Intentionally causes damage or threatens to cause damage to any physical
5 property owned by a person who is a family member of a witness or a person sharing
6 a common domicile with a witness by reason of the witness having attended or
7 testified as a witness and without the owner's consent.

8 **SECTION 12.** 943.017 (2) (c) of the statutes is amended to read:

9 943.017 (2) (c) The property under sub. (1) belongs to a person who is or was
10 ~~a witness, as defined in s. 940.41 (3), or a grand or petit juror and the marking,~~
11 ~~drawing, writing or etching was caused by reason of the owner's having attended or~~
12 ~~testified as a witness or~~ by reason of any verdict or indictment assented to by the
13 owner.

14 **SECTION 13.** 943.017 (2m) of the statutes is created to read:

15 943.017 (2m) (a) In this subsection:

16 1. "Family member" means a spouse, child, stepchild, foster child, treatment
17 foster child, parent, sibling or grandchild.

18 2. "Witness" has the meaning given in s. 940.41 (3).

19 (b) Whoever does any of the following is guilty of a Class D felony:

20 1. Intentionally marks, draws or writes with paint, ink or another substance
21 on or intentionally etches into, or threatens to mark, draw or write on or etch into,
22 any physical property owned by a person who is or was a witness by reason of the
23 owner having attended or testified as a witness and without the owner's consent.

24 2. Intentionally marks, draws or writes with paint, ink or another substance
25 on or intentionally etches into, or threatens to mark, draw or write on or etch into,

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1 any physical property owned by a family member of a witness or by a person sharing
2 a common domicile with a witness by reason of the witness having attended or
3 testified as a witness and without the owner's consent.

4 **SECTION 14.** 946.82 (4) of the statutes is amended to read:

5 946.82 (4) "Racketeering activity" means any activity specified in 18 USC 1961
6 (1) in effect as of April 27, 1982 or the attempt, conspiracy to commit, or commission
7 of any of the felonies specified in: chs. 945 and 961 and ss. 49.49, 134.05, 139.44 (1),
8 180.0129, 181.69, 184.09 (2), 185.825, 215.12, 221.0625, 221.0636, 221.0637,
9 221.1004, 551.41, 551.42, 551.43, 551.44, 553.41 (3) and (4), 553.52 (2), 940.01,
10 940.19 (3) to (6), 940.20, 940.201, 940.203, 940.21, 940.30, 940.305, 940.31, 941.20
11 (2) and (3), 941.26, 941.28, 941.298, 941.31, 941.32, 943.01 (2) or (2g), 943.011,
12 943.012, 943.013, 943.02, 943.03, 943.04, 943.05, 943.06, 943.10, 943.20 (3) (b) to (d),
13 943.23 (1g), (1m), (1r), (2) and (3), 943.24 (2), 943.25, 943.27, 943.28, 943.30, 943.32,
14 943.34 (1) (b) and (c), 943.38, 943.39, 943.40, 943.41 (8) (b) and (c), 943.50 (4) (b) and
15 (c), 943.60, 943.70, 944.205, 944.21 (5) (c) and (e), 944.32, 944.33 (2), 944.34, 945.03,
16 945.04, 945.05, 945.08, 946.10, 946.11, 946.12, 946.13, 946.31, 946.32 (1), 946.48,
17 946.49, 946.61, 946.64, 946.65, 946.72, 946.76, 947.015, 948.05, 948.08, 948.12 and
18 948.30.

19 **SECTION 15.** 949.03 (1) (b) of the statutes is amended to read:

20 949.03 (1) (b) The commission or the attempt to commit any crime specified in
21 s. 346.62 (4), 346.63 (2) or (6), 940.01, 940.02, 940.03, 940.05, 940.06, 940.07, 940.08,
22 940.09, 940.10, 940.19, 940.20, 940.201, 940.21, 940.22 (2), 940.225, 940.23, 940.24,
23 940.25, 940.285, 940.29, 940.30, 940.305, 940.31, 940.32, 941.327, 943.02, 943.03,
24 943.04, 943.10, 943.20, 943.23 (1g), (1m) or (1r), 943.32, 948.02, 948.025, 948.03,
25 948.04, 948.07, 948.095, 948.20, 948.30 or 948.51.

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1 **SECTION 16.** 969.08 (10) (b) of the statutes is amended to read:

2 969.08 **(10)** (b) "Serious crime" means any crime specified in s. 346.62 (4),
3 940.01, 940.02, 940.03, 940.05, 940.06, 940.08, 940.09, 940.10, 940.19 (5), 940.20,
4 940.201, 940.203, 940.21, 940.225 (1) to (3), 940.23, 940.24, 940.25, 940.29, 940.295
5 (3) (b) 1., 2. or 3., 940.31, 941.20 (2) or (3), 941.26, 941.30, 941.327, 943.01 (2) (c),
6 943.011, 943.013, 943.02, 943.03, 943.04, 943.06, 943.10, 943.23 (1g), (1m) or (1r),
7 943.30, 943.32, 946.01, 946.02, 946.43, 947.015, 948.02 (1) or (2), 948.025, 948.03,
8 948.04, 948.05, 948.06, 948.07 or 948.30.

9 **SECTION 17.** 971.37 (1m) (a) 2. of the statutes is amended to read:

10 971.37 **(1m)** (a) 2. An adult accused of or charged with a criminal violation of
11 s. 940.19, 940.20 (1m) ~~or (3)~~, 940.201, 940.225, 940.23, 940.285, 940.30, 940.42,
12 940.43, 940.44, 940.45, 940.48, 941.20, 941.30, 943.01, 943.011, 943.14, 943.15,
13 946.49, 947.01, 947.012 or 947.0125 and the conduct constituting the violation
14 involved an act by the adult person against his or her spouse or former spouse,
15 against an adult with whom the adult person resides or formerly resided or against
16 an adult with whom the adult person has created a child.

17 **SECTION 18.** 973.055 (1) (a) 1. of the statutes is amended to read:

18 973.055 **(1)** (a) 1. The court convicts the person of a violation of a crime specified
19 in s. 940.01, 940.02, 940.03, 940.05, 940.06, 940.19, 940.20 (1m) ~~or (3)~~, 940.201,
20 940.21, 940.225, 940.23, 940.285, 940.30, 940.305, 940.31, 940.42, 940.43, 940.44,
21 940.45, 940.48, 941.20, 941.30, 943.01, 943.011, 943.14, 943.15, 946.49, 947.01,
22 947.012 or 947.0125 or of a municipal ordinance conforming to s. 941.20, 940.201,
23 941.30, 943.01, 943.011, 943.14, 943.15, 946.49, 947.01, 947.012 or 947.0125; and

24 **SECTION 19. Initial applicability.**

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SECTION 19

1 (1) This act first applies to offenses committed on the effective date of this
2 subsection.

3 (END)