LRB-0525/1 PJH:kjf:nwn

2007 ASSEMBLY BILL 92

February 22, 2007 – Introduced by Representatives Albers, Owens, Musser, Mursau, Kleefisch, Gunderson, Lothian and A. Ott, cosponsored by Senator Schultz. Referred to Committee on Corrections and Courts.

- 1 AN ACT to create 939.622 of the statutes; relating to: battery occurring during
- 2 a riot and providing a penalty.

Analysis by the Legislative Reference Bureau

Current law criminalizes several types of assaultive behavior by prisoners:

- 1. It is a crime for a prisoner to cause bodily harm intentionally to an officer, employee, visitor, or another inmate of a prison or other type of detention facility without the person's consent (battery by a prisoner). The maximum penalty for battery by a prisoner is a fine not to exceed \$10,000; a term of confinement in prison followed by a term of extended supervision that together may not exceed six years; or both.
- 2. It is a crime for a prisoner to place an officer, employee, visitor, or another inmate of a prison or other type of detention facility in fear of immediate and great bodily harm or to confine or restrain the officer, employee, visitor, or other inmate. The maximum penalty for these offenses is a fine not to exceed \$10,000; a term of confinement followed by a term of extended supervision that together may not exceed 12.5 years; or both.
- 3. It is a crime for a prisoner to throw or expel certain bodily substances at an officer, employee, visitor, or other inmate of a prison or other type of detention facility. The maximum penalty for this offense is a fine not to exceed \$10,000; a term of confinement followed by a term of extended supervision that together may not exceed three and one-half years; or both.

Under this bill, any person who commits any of those offenses while participating in a riot is subject to a mandatory minimum term of three years in

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prison, to run consecutively to any other term of imprisonment the person is already serving. The bill defines a "riot" as a disruption that creates a risk of injury or death to any person or damage to property and that is committed by two or more persons who are arrested, detained, or otherwise in the custody of any law enforcement agency in the state.

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 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:

Section 1. 939.622 of the statutes is created to read:

939.622 Mandatory minimum sentence for battery that occurs pursuant to a riot. (1) In this subsection, "riot" means a disruption that creates a risk of injury or death to any person or damage to property and that is committed by 2 or more persons who are arrested, detained, or otherwise in the custody of any law enforcement agency in the state.

(2) If a person is convicted of a violation of s. 940.20 or 946.43 while participating in a riot, the court shall impose a bifurcated sentence under s. 973.01. The term of confinement in prison portion of a bifurcated sentence imposed under this subsection may not be less than 3 years and shall run consecutive to any other term of imprisonment the person was serving at the time of the violation, but otherwise the penalties for the crime apply, subject to any applicable penalty enhancement.

14 (END)