



## 2011 ASSEMBLY BILL 449

December 29, 2011 - Introduced by Representatives A. OTT, BIES, BILLINGS, BROOKS, DOYLE, ENDSLEY, JACQUE, MARKLEIN, PETROWSKI, PETRYK, RINGHAND, RIPP, SINICKI, SPANBAUER, STASKUNAS, STEINEKE, WYNN, BALLWEG and KAUFERT, cosponsored by Senators OLSEN, S. COGGS, ERPENBACH, LASSA, SCHULTZ, SHILLING and WANGGAARD. Referred to Committee on Criminal Justice and Corrections.

1     **AN ACT to renumber and amend** 939.621; and **to create** 939.621 (1) of the  
2             **statutes; relating to:** increased penalty for repeated domestic abuse offenses  
3             and providing a penalty.

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### *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 ten-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 ten-year period.

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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.

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*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 (2) and amended to  
2 read:

3           939.621 (2) If a person commits an act of domestic abuse, as defined in s.  
4 968.075 (1) (a) and the act constitutes the commission of a crime, the maximum term  
5 of imprisonment for that crime may be increased by not more than 2 years if the crime  
6 is committed during the 72 hours immediately following an arrest for a domestic  
7 abuse incident, as set forth in s. 968.075 (5). The 72-hour period applies whether or  
8 not there has been a waiver by the victim under s. 968.075 (5) (c) person is a domestic  
9 abuse repeater. The victim of the domestic abuse crime does not have to be the same  
10 as the victim of the domestic abuse incident that resulted in the prior arrest or  
11 conviction. The penalty increase under this section changes the status of a  
12 misdemeanor to a felony.

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

14           939.621 (1) In this section, “domestic abuse repeater” means either of the  
15 following:

16           (a) A person who commits, during the 72 hours immediately following an arrest  
17 for a domestic abuse incident as set forth in s. 968.075 (5), an act of domestic abuse,  
18 as defined in s. 968.075 (1) (a) that constitutes the commission of a crime. For the

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1 purpose of the definition under this paragraph, the 72-hour period applies whether  
2 or not there has been a waiver by the victim under s. 968.075 (5) (c).

3 (b) A person who was convicted, on 2 separate occasions, of a felony or a  
4 misdemeanor for which a court imposed a domestic abuse surcharge under s. 973.055  
5 (1) or waived a domestic abuse surcharge pursuant to s. 973.055 (4), during the  
6 10-year period immediately prior to the commission of the crime for which the  
7 person presently is being sentenced, if the convictions remain of record and  
8 unreversed. For the purpose of the definition under this paragraph, it is immaterial  
9 that sentence was stayed, withheld or suspended, or that the person was pardoned,  
10 unless such pardon was granted on the ground of innocence. In computing the  
11 preceding 10-year period, time that the person spent in actual confinement serving  
12 a criminal sentence shall be excluded.

13 **SECTION 3. Initial applicability.**

14 (1) This act first applies to offenses that are committed on the effective date of  
15 this subsection.

16 (END)