



1997 ASSEMBLY BILL 868

March 2, 1998 - Introduced by Representatives KELSO, SCHAFER, SPILLNER, GUNDERSON, LADWIG, KAUFERT and DOBYNS, cosponsored by Senator ROESSLER. Referred to Committee on Criminal Justice and Corrections.

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

Analysis by the Legislative Reference Bureau

Current law provides a number of penalty enhancement provisions to allow for increased penalties whenever crimes are committed under specified circumstances. One such penalty enhancement provision relates to the commission of a crime following an arrest for a domestic abuse incident. Generally, a person who is arrested in a domestic abuse incident must avoid contact with the alleged victim for 72 hours immediately following the arrest. If the arrested person commits another act of domestic abuse during the 72-hour period and that act constitutes a crime, the maximum period of imprisonment for the crime may be increased by not more than 2 years.

This bill provides for an enhanced penalty for certain felony battery offenses that are committed during a domestic abuse incident. Under the bill, the maximum period of imprisonment for the covered offenses may be increased by not more than 5 years if all of the following apply: 1) the conduct constituting the battery involved an act by the defendant against his or her spouse or former spouse, against an adult with whom the defendant resides or formerly resided or against an adult with whom the defendant has created a child; and 2) a child of the defendant or the victim was present at the time and place the battery was committed.

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

ASSEMBLY BILL 868**SECTION 1**

1 **SECTION 1.** 939.621 of the statutes is renumbered 939.621 (1) and amended to
2 read:

3 939.621 (1) (title) OFFENSES COMMITTED DURING NO-CONTACT PERIOD. If a person
4 commits an act of domestic abuse, as defined in s. 968.075 (1) (a) and the act
5 constitutes the commission of a crime, the maximum term of imprisonment for that
6 crime may be increased by not more than 2 years if the crime is committed during
7 the 72 hours immediately following an arrest for a domestic abuse incident, as set
8 forth in s. 968.075 (5). The 72-hour period applies whether or not there has been a
9 waiver by the victim under s. 968.075 (5) (c). The victim of the domestic abuse crime
10 does not have to be the same as the victim of the domestic abuse incident that
11 resulted in the arrest. The penalty increase under this ~~section~~ subsection changes
12 the status of a misdemeanor to a felony.

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

14 939.621 (2) COMMITTING BATTERY IN THE PRESENCE OF A CHILD. (a) If an adult
15 person is convicted of a crime specified in s. 940.19 (2) to (6) or 940.20 (1m) or (3), the
16 maximum term of imprisonment for the crime may be increased by not more than
17 5 years if all of the following apply:

18 1. The conduct constituting the crime involved an act by the adult person
19 against his or her spouse or former spouse, against an adult with whom the adult
20 person resides or formerly resided or against an adult with whom the adult person
21 has created a child.

22 2. At the time of the conduct constituting the crime, a natural child, adopted
23 child, foster child, treatment foster child or stepchild of the adult person or the victim
24 was present at the place where the crime was committed.

