

1999 ASSEMBLY BILL 169

March 4, 1999 – Introduced by Representatives KELSO, PORTER, LADWIG, KREIBICH, BRANDEMUEHL, FREESE, MUSSER, PLALE and NASS. Referred to Committee on Criminal Justice.

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 two years.

This bill provides for an enhanced penalty for certain felony battery offenses and for battery or threat to a witness, if the offense is 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 five 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;

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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:

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

3 939.621 (1) 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), 940.20 (1m) or 940.201,
16 the 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.

