

**ASSEMBLY SUBSTITUTE AMENDMENT 2,
TO 1999 ASSEMBLY BILL 169**

September 23, 1999 – Offered by Representatives KELSO and KRUG.

1 **AN ACT** *to repeal* 939.6215 (2); *to renumber and amend* 939.6215 (title) and
2 939.6215 (1); and *to create* 939.6215 of the statutes; **relating to:** domestic
3 abuse and providing a penalty.

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

4 **SECTION 1.** 939.6215 of the statutes is created to read:

5 **939.6215 Increased penalty for committing battery in the presence of**
6 **a child. (1)** If an adult person is convicted of a crime specified in s. 940.19 (2) to (6),
7 940.20 (1m) or 940.201, the maximum term of imprisonment for the crime may be
8 increased by not more than 5 years if all of the following apply:

9 (a) The conduct constituting the crime involved an act by the adult person
10 against his or her spouse or former spouse, against an adult with whom the adult
11 person resides or formerly resided or against an adult with whom the adult person
12 has a child in common.

1 (b) The conduct constituting the crime was committed in the presence of or was
2 seen or heard by a minor who is a natural child, adopted child, foster child, treatment
3 foster child or stepchild of the adult person or the victim.

4 (2) This section provides for the enhancement of the penalties applicable for
5 the underlying crime. The court shall direct that the trier of fact find a special verdict
6 as to all of the issues specified in sub. (1).

7 **SECTION 2.** 939.6215 (title) of the statutes, as created by 1999 Wisconsin Act
8 (this act), is renumbered 973.017 (4g) (title) and amended to read:

9 973.017 (4g) (title) ~~INCREASED PENALTY FOR~~ AGGRAVATING FACTORS; COMMITTING
10 BATTERY IN THE PRESENCE OF A CHILD.

11 **SECTION 3.** 939.6215 (1) of the statutes, as created by 1999 Wisconsin Act
12 (this act), is renumbered 973.017 (4g) and amended to read:

13 973.017 (4g) ~~If~~ When making a sentencing decision concerning an adult person
14 ~~is convicted of a crime specified in~~ violating s. 940.19 (2) to (6), 940.20 (1m) or
15 940.201, the maximum term of imprisonment for the crime may be increased by not
16 ~~more than 5 years if all of the following apply~~ court shall consider as an aggravating
17 factor the fact that the violation was committed under all of the following
18 circumstances:

19 (a) The conduct constituting the ~~crime~~ violation involved an act by the adult
20 person against his or her spouse or former spouse, against an adult with whom the
21 adult person resides or formerly resided or against an adult with whom the adult
22 person has a child in common.

23 (b) The conduct constituting the ~~crime~~ violation was committed in the presence
24 of or was seen or heard by a minor who is a natural child, adopted child, foster child,
25 treatment foster child or stepchild of the adult person or the victim.

1 **SECTION 4.** 939.6215 (2) of the statutes, as created by 1999 Wisconsin Act ...
2 (this act), is repealed.

3 **SECTION 5. Nonstatutory provisions.**

4 (1) RECONCILIATION PROVISION. The repeal of section 939.6215 (2) of the statutes,
5 as created by this act, the renumbering and amendment of section 939.6215 (title)
6 and (1) of the statutes, as created by this act, and SECTION 6 (1), (2) and (3) of this act
7 are void unless 1999 Assembly Bill 465 is enacted into law before July 1, 2000, and
8 unless 1999 Assembly Bill 465 creates section 973.017 of the statutes in exactly the
9 same form as it appears in section 757 of 1999 Assembly Bill 465.

10 **SECTION 6. Effective dates.** This act takes effect on the day after publication,
11 except as follows:

12 (1) If 1999 Assembly Bill 465 has been enacted on or before the day after
13 publication of this act and the day after publication of this act is on or before
14 December 31, 1999, the repeal of section 939.6215 (2) of the statutes, as created by
15 this act, and the renumbering and amendment of section 939.6215 (title) and (1) of
16 the statutes, as created by this act, take effect on December 31, 1999.

17 (2) If 1999 Assembly Bill 465 has been enacted on or before the day after
18 publication of this act and the day after publication of this act is after December 31,
19 1999, the repeal of section 939.6215 (2) of the statutes, as created by this act, and the
20 renumbering and amendment of section 939.6215 (title) and (1) of the statutes, as
21 created by this act, take effect on the day after publication of this act.

22 (3) If 1999 Assembly Bill 465 is enacted after the day after publication of this
23 act but before July 1, 2000, the repeal of section 939.6215 (2) of the statutes, as
24 created by this act, and the renumbering and amendment of section 939.6215 (title)
25 and (1) of the statutes, as created by this act, take effect on December 31, 1999, or

1 on the date that the creation of section 973.017 of the statutes by 1999 Assembly Bill
2 465 takes effect, whichever is later.

3 (END)