

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-2199/P1dn  
JEO:jlg:hmh

April 6, 1999

Representative La Fave:

Please note the following when reviewing this draft:

1. The California statute on which this draft is based refers to "body armor". However, the draft refers to "bulletproof garment" instead because that term is already used in our statutes. The definition in the draft is identical to the definition provided under s. 939.64 (1), stats.

2. The definition of "violent felony" is based on the one referred to in the California statute. Please review it carefully to make sure that it includes the crimes that you want to cover.

3. The prohibition on the possession of bulletproof garments covers juveniles who have been adjudicated delinquent for a violent felony. Compare s. 941.29 (1) (bm), stats. Is that your intent? (It is not clear to me whether the California statute covers juveniles.)

4. The draft provides that a violation of the prohibition on the possession of bulletproof garments is a Class E felony (a fine of up to \$10,000 or imprisonment of not more than two years or both for crimes committed before 12/31/99; for crimes committed on or after 12/31/99, the maximum imprisonment is increased to five years). Compare s. 941.29 (2) (intro.), stats. Do you want to provide an increased penalty for a second or subsequent offense? Compare s. 941.29 (2m), stats.

5. Please review the procedure for granting an exemption to the prohibition on possession of bulletproof garments (see proposed s. 941.291 (4)). It is rather sketchy, just like the California law on which it is based. Do you want to provide more detail? For instance, should the sheriff or police chief hold a hearing of some sort? Can they charge a fee for processing an exemption request? Should they be required to make a decision on an exemption request within a specified period of time? If a police chief or sheriff denies an exemption request, may the person appeal? (If the draft says nothing, the person may have the right to appeal to circuit court using a common law writ of certiorari, under which a circuit judge would engage in a limited review the denial.) Instead of having police chiefs and sheriffs process these requests, would you prefer to have courts do it?

Please let me know if you have any questions or changes.

Jefren E. Olsen  
Legislative Attorney  
Phone: (608) 266-8906  
E-mail: Jefren.Olsen@legis.state.wi.us