

1999 DRAFTING REQUEST

Bill

Received: 05/5/99

Received By: mdsida

Wanted: As time permits

Identical to LRB:

For: Robert Wirch (608) 267-8979

By/Representing: Amber

This file may be shown to any legislator: NO

Drafter: olsenje

May Contact:

Alt. Drafters: mdsida

Subject: Criminal Law - guns and weapons

Extra Copies:

Pre Topic:

No specific pre topic given


Topic:

Facsimile explosive devices.

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>		<u>Required</u>
/P1	olsenje 05/5/99 mdsida 05/18/99		martykr 05/20/99	_____ _____ _____	lrb_docadmin 05/20/99		
/1	mdsida 06/8/99	jgeller 06/9/99	martykr 06/9/99	_____ _____ _____	lrb_docadmin 06/9/99	lrb_docadmin 06/9/99 lrb_docadmin 06/9/99	

FE Sent For: N/A

<END>

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/P1	olsenje 05/5/99 mdsida 05/18/99	1 <i>g/jlg</i>	martykr 05/20/99 <i>Amg</i>	_____ _____ _____ _____ <i>Amg</i>	lrb_docadmin 05/20/99	Jacketed	

for Senate

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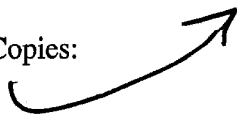
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/P1	olsenje	1/P1 5/8 jlg	5/19	2/5	2/20		

FE Sent For:

<END>

Anke - Sen. Wirth

Wants bill to respond to situation in Kenosha City last year

Middle school student brought fake pipe bomb to school

D.A. ~~was~~ only charged w/ him w/ disorderly conduct b/c student didn't ~~threaten~~ explicitly threaten

is fixing own language

DA, school board support it.

She will try to get more info from DA. re specifics

TO: Senator Robert Wirch

FROM: Police Officer Thomas Hamm
Kenosha Police Department
1000 55 Street
Kenosha WI 53140

DATE: April 30, 1999

Post-It® Fax Note 7671		Date 5-5-99	# of pages 1
To Mike Osida	From Amber		
Co./Dept LRB-Drafting	Co. Sen. Wirch		
Phone # 266-9867	Phone # 267-8979		
Fax # 264-8522	Fax #		

Senator Wirch:

I am a Police Officer for the Kenosha Police Department and a Bomb Technician on the Kenosha County Hazardous Device Squad. I am writing to you because there is a gap in the Wisconsin State Statutes regarding hoax explosive devices.

Currently, there is no criminal charge in the Wisconsin State Statutes for individuals who build or construct a device, without explosive components, to appear or resemble an improvised explosive device with the intent to scare, intimidate, or harass others. In June 1998, the Kenosha County Hazardous Device Squad was called to McKinley Middle School, 5710 32 Avenue Kenosha, for a suspected pipe bomb. A student at McKinley had constructed a steel pipe with end caps wrapped in duct tape and had placed this device inside the school. This incident caused fear for the students and staff of McKinley as the school was sealed off, the police and the bomb squad were called to respond. The Kenosha County Hazardous Device Squad rendered the device safe. The device was found not to contain explosive substances. The student later admitted he had intentionally constructed the device to appear to be a bomb with the purpose of scaring students and staff at McKinley Middle School.

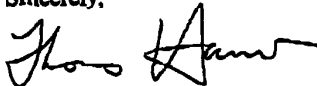
Due to the gap in the Wisconsin State Statutes, the student could only be charged with Disorderly Conduct 947.01, a misdemeanor. There is the charge of Bomb Scares 947.015, a felony; however the elements of this charge is a verbal or written threat of an explosive device. The incident at McKinley Middle School did not include an actual verbal or written threat. Other charges, such as Possession of Explosives to Commit a Crime 941.31, also a felony, have the element of the device containing actual explosive substances to charged.

Other jurisdictions and other bomb squads in our state have also had similar situations like the one at McKinley Middle School.

I am proposing a criminal statute under Chapter 941 or Chapter 947 for Hoax Explosive Devices. The statute could state "Anyone who builds or constructs a device that appears or resembles an explosive device but does not actually contain explosive substances and places or uses the device with intent to scare, intimidate, or harass others". I believe this charge would be appropriate as a Class E Felony.

If you have any questions or concerns, please feel free to contact me at the Kenosha Police Department, 1000 55 Street Kenosha, 605-521-1111 or at home 7319 22 Avenue Kenosha, 653-9586.

Sincerely,



Thomas Hamm



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-3034/P1

JEO:.....

D-Note
SOON

Jlg

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1

gen cat

AN ACT ...; relating to: facsimile explosive devices and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, with certain exceptions, no person may carry or display a facsimile firearm in a manner that could reasonably be expected to alarm, intimidate, threaten or terrify another person. A facsimile firearm under current law is a replica, toy, starter pistol or other object that bears a reasonable resemblance to or that reasonably can be perceived to be an actual firearm. A person who violates this prohibition relating to facsimile firearms is subject to a forfeiture (civil monetary penalty) of not more than \$500.

This bill prohibits a person from carrying or displaying a facsimile explosive device or placing a facsimile explosive device anywhere with intent to alarm, intimidate, threaten, terrify or harass another person. The bill defines a facsimile explosive device as a replica or imitation of an explosive device, an object that bears a reasonable resemblance to or can reasonably be perceived to be an explosive device or an object that is represented to be an explosive device. A facsimile explosive device does not include an actual explosive device. In addition, the bill includes this crime in the definition of "racketeering activity". Finally, unlawful use of a facsimile explosive device is treated as a "serious crime" for the purpose of determining the applicability of certain bail revocation procedures.

A person who violates this prohibition may be fined not more than \$10,000 or imprisoned for not more than ~~2~~ years or both, if the offense occurs before December 31, 1999, or may be fined not more than \$10,000 or imprisoned for not more than ~~2~~ years or both, if the offense occurs on or after December 31, 1999. This prohibition does not apply to a peace officer acting in the discharge of his or her official duties

two

five

or to a person engaged in military activities and acting in the discharge of his or her official duties.

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

1 SECTION 1. 941.313^X of the statutes is created to read:

2 **941.313 Use of facsimile explosive devices.** (1) In this[✓] section:

3 (a) “Explosive device” means any chemical compound, mixture or device, the
4 primary or common purpose of which is to function by explosion or an object
5 containing such a chemical compound, mixture or device.

6 (b) “Facsimile explosive device” means a replica or imitation of an explosive
7 device, an object that bears a reasonable resemblance to or can reasonably be
8 perceived to be an explosive device or an object that is represented to be an explosive
9 device. “Facsimile explosive device” does not include an actual explosive device.

10 (2) Whoever, with intent to[✓] alarm, intimidate, threaten, terrify or harass
11 another person, carries or displays a facsimile explosive device or places a facsimile
12 explosive device anywhere is guilty of a Class E[✓] felony.

13 (3) This section[✓] does not apply to a peace officer acting in the discharge of his
14 or her official duties or a person engaged in military activities, sponsored by the state
15 or federal government, acting in the discharge of his or her official duties.

16 SECTION 2. 946.82 (4)^X of the statutes is amended to read:

17 946.82 (4) “Racketeering activity” means any activity specified in 18 USC 1961
18 (1) in effect as of April 27, 1982 or the attempt, conspiracy to commit, or commission
19 of any of the felonies specified in: chs. 945 and 961 and ss. 49.49, 134.05, 139.44 (1),
20 180.0129, 181.0129, 185.825, 200.09 (2), 215.12, 221.0625, 221.0636, 221.0637,
21 221.1004, 551.41, 551.42, 551.43, 551.44, 553.41 (3) and (4), 553.52 (2), 940.01,

1 940.19 (3) to (6), 940.20, 940.201, 940.203, 940.21, 940.30, 940.305, 940.31, 941.20
 2 (2) and (3), 941.26, 941.28, 941.298, 941.31, 941.313✓, 941.32, 943.01 (2) or (2g),
 3 943.011, 943.012, 943.013, 943.02, 943.03, 943.04, 943.05, 943.06, 943.10, 943.20 (3)
 4 (b) to (d), 943.201, 943.23 (1g), (1m), (1r), (2) and (3), 943.24 (2), 943.25, 943.27,
 5 943.28, 943.30, 943.32, 943.34 (1) (b) and (c), 943.38, 943.39, 943.40, 943.41 (8) (b)
 6 and (c), 943.50 (4) (b) and (c), 943.60, 943.70, 944.205, 944.21 (5) (c) and (e), 944.32,
 7 944.33 (2), 944.34, 945.03, 945.04, 945.05, 945.08, 946.10, 946.11, 946.12, 946.13,
 8 946.31, 946.32 (1), 946.48, 946.49, 946.61, 946.64, 946.65, 946.72, 946.76, 947.015,
 9 948.05, 948.08, 948.12 and 948.30.

History: 1981 c. 280; 1983 a. 438; 1985 a. 104; 1985 a. 236 s. 15; 1987 s. 266 s. 5; 1987 a. 332, 348, 349, 403; 1989 a. 121, 303; 1991 a. 32, 39, 189; 1993 a. 50, 92, 94, 112, 280, 441, 491; 1995 a. 133, 249, 336, 448; 1997 a. 35, 79, 101, 140, 148, 252.

10 SECTION 3. 969.08 (10) (b) of the statutes is amended to read:

11 969.08 (10) (b) "Serious crime" means any crime specified in s. 346.62 (4),
 12 940.01, 940.02, 940.03, 940.05, 940.06, 940.08, 940.09, 940.10, 940.19 (5), 940.195
 13 (5), 940.20, 940.201, 940.203, 940.21, 940.225 (1) to (3), 940.23, 940.24, 940.25,
 14 940.29, 940.295 (3) (b) 1g., 1m., 1r., 2. or 3., 940.31, 941.20 (2) or (3), 941.26, 941.30,
 15 941.313✓, 941.327, 943.01 (2) (c), 943.011, 943.013, 943.02, 943.03, 943.04, 943.06,
 16 943.10, 943.23 (1g), (1m) or (1r), 943.30, 943.32, 946.01, 946.02, 946.43, 947.015,
 17 948.02 (1) or (2), 948.025, 948.03, 948.04, 948.05, 948.06, 948.07 or 948.30.

NOTE: NOTE: Par. (b) is shown as affected by three acts of the 1997 legislature and as merged by the revisor under s. 13.93 (2) (c). NOTE:
 History: 1971 c. 298; 1977 c. 449; 1979 c. 112; 1981 c. 183; 1985 a. 293 s. 3; 1987 a. 90, 332, 399, 403; 1991 a. 153, 269; 1993 a. 50, 92, 94, 227, 441, 445, 491; 1997 a. 148, 180, 295; s. 13.93 (2) (c).

18

(END)

D-Note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3034/P1dn

JEO:.....

↑
Jg

May 10, 1999, 3 new date

Amber:

Please review this draft carefully to make sure that it does what you want it to do. In particular, please note that the draft includes this crime in the definition of "racketeering activity" under s. 946.82 (4) ✓ and adds it to the list of "serious crimes" for the purpose of bail revocation under s. 969.08 (10) (b). ✓ Is this okay?

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

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

LRB-3034/P1dn
JEO:jl:km

May 19, 1999

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



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-3034/P1

JEO:jlg:km

SOON

RMR

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

Regen

- 1 AN ACT *to amend* 946.82 (4) and 969.08 (10) (b); and *to create* 941.313 of the
2 statutes; **relating to:** facsimile explosive devices and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, with certain exceptions, no person may carry or display a facsimile firearm in a manner that could reasonably be expected to alarm, intimidate, threaten or terrify another person. A facsimile firearm under current law is a replica, toy, starter pistol or other object that bears a reasonable resemblance to or that reasonably can be perceived to be an actual firearm. A person who violates this prohibition relating to facsimile firearms is subject to a forfeiture (civil monetary penalty) of not more than \$500.

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A person who violates this prohibition may be fined not more than \$10,000 or imprisoned for not more than two years or both, if the offense occurs before December 31, 1999, or may be fined not more than \$10,000 or imprisoned for not more than five years or both, if the offense occurs on or after December 31, 1999. This prohibition does not apply to a peace officer acting in the discharge of his or her official duties

or to a person engaged in military activities and acting in the discharge of his or her official duties.

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

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8 perceived to be an explosive device or an object that is represented to be an explosive
9 device. “Facsimile explosive device” does not include an actual explosive device.

10 (2) Whoever, with intent to alarm, intimidate, threaten, terrify or harass
11 another person, carries or displays a facsimile explosive device or places a facsimile
12 explosive device anywhere is guilty of a Class E felony.

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14 or her official duties or a person engaged in military activities, sponsored by the state
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18

(END)