

2001 ASSEMBLY BILL 477

August 15, 2001 – Introduced by Representatives PETTIS, SUDER, MUSSER, TOWNSEND, OTT, KRAWCZYK, LADWIG, STARZYK, JESKEWITZ, SYKORA, HAHN, M. LEHMAN, URBAN, LEIBHAM, OWENS, KREIBICH, KEDZIE, LIPPERT, FREESE, GUNDERSON, ALBERS, HOVEN, NASS, VRAKAS, AINSWORTH, HUNDERTMARK and PETROWSKI, cosponsored by Senators ZIEN, DARLING, HUELSMAN and ROESSLER. Referred to Committee on Criminal Justice.

1 **AN ACT** *to amend* 895.75 (1); and *to create* 947.07 of the statutes; **relating to:**
 2 crimes affecting the U.S. flag and providing a penalty.

Analysis by the Legislative Reference Bureau

Current law prohibits a person from intentionally and publicly mutilating, defiling, or casting contempt upon the flag, which is defined to include the U.S. flag, the U.S. shield, the U.S. coat of arms, the Wisconsin state flag, or a copy, picture, or representation of any of these things. However, this law was held to be unconstitutional by the Wisconsin supreme court in *State v. Janssen*, 218 Wis. 2d 362 (1998).

This bill prohibits a person from destroying, damaging, or mutilating a U.S. flag, or causing a U.S. flag to come into contact with urine, feces, or excretion, with the intent to cause imminent violence or a breach of the peace in circumstances in which the actor knows that his or her conduct is likely to cause violence or a breach of the peace. A person who violates this prohibition may be fined not more than \$10,000 or imprisoned for not more than five years or both.

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

3 **SECTION 1.** 895.75 (1) of the statutes is amended to read:
 4 895.75 (1) **Any** If a person who suffers physical injury to his or her person or
 5 emotional distress or damage to or loss of his or her property by reason of conduct

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1 ~~which~~ that is prohibited under s. 943.012 and that causes damage to any property
2 specified in s. 943.012 (1) to (4) or which by reason of conduct that is grounds for a
3 penalty increase under s. 939.645 (1), the person has a civil cause of action against
4 the person who caused the physical injury, emotional distress, damage or loss.

5 **SECTION 2.** 947.07 of the statutes is created to read:

6 **947.07 Causing violence or breach of the peace by damaging or**
7 **destroying a U.S. flag. (1)** In this section, “flag” means a flag of the United States
8 consisting of horizontal stripes, alternately colored red and white, and a union of any
9 number of white stars on a blue field.

10 **(2)** Whoever destroys, damages, or mutilates a flag, or causes a flag to come into
11 contact with urine, feces, or expectoration, with the intent to cause imminent
12 violence or a breach of the peace under circumstances in which the actor knows that
13 his or her conduct is likely to cause violence or a breach of the peace is guilty of a Class
14 A misdemeanor.

15 **SECTION 3. Initial applicability.**

16 (1) This act first applies to offenses occurring on the effective date of this
17 subsection.

18 (END)