

2001 DRAFTING REQUEST

Bill

Received: 10/17/2001

Received By: mdsida

Wanted: As time permits

Identical to LRB:

For: Mark Gundrum (608) 267-5158

By/Representing: Don Dyke

This file may be shown to any legislator: NO

Drafter: rryan

May Contact:

Addl. Drafters:

Subject: Criminal Law - miscellaneous

Extra Copies: md

Submit via email: YES

Requester's email: Rep.Gundrum@legis.state.wi.us

Carbon copy (CC:) to: jolene.churchill.@legis.state.wi.us

Pre Topic:

No specific pre topic given

Topic:

Biological and chemical terrorism

Instructions:

Prohibit threatening to use chemical or biological weapons or engaging in conduct with the intent to induce fear in the victim that the victim has been exposed to chemical or biological weapons; make crime a Class E felony

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	rryan 10/31/2001	hhagen 11/02/2001	jfrantze 11/05/2001	_____	lrb_docadmin 11/05/2001		S&L
/2	rryan 11/13/2001	hhagen 11/13/2001	jfrantze 11/13/2001	_____	lrb_docadmin 11/13/2001		S&L

ASA1-AB673

Copy bill file for -4056 & insert in SO296 per RLR 01-23-2002

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/3	rryan 12/10/2001	hhagen 12/12/2001	kfollet 12/12/2001	_____	lrb_docadmin 12/12/2001		S&L

FE Sent For: 11/13/2001, 11/13/2001, 11/13/2001, 11/13/2001.

<END>

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/2	rryan 11/13/2001	hhagen 11/13/2001	jfrantze 11/13/2001	_____	lrb_docadmin 11/13/2001		S&L

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

FE Sent For:

12 hmt
12/12/01
11-13-2001
"1/2"

<END>

kj/jt
12/12

kj
12/12

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/1	rryan 10/31/2001	hhagen 11/02/2001	jfrantze 11/05/2001		lrb_docadmin 11/05/2001		S&L

FE Sent For:

12 hph
11/13/01

11/13

11/13

<END>

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Wanted: As time permits

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/P1	rryan	1. hmk 11/2/01	J 10/15	J 11/5			

FE Sent For:

<END>



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-4056/1

RLR: *[Handwritten initials]*

SOON
In 10/31/01

2001 BILL

- Generate*
- 1 AN ACT ...; relating to: threats related to harmful chemical or biological
2 substances and providing a penalty.

Analysis by the Legislative Reference Bureau

Current law prohibits persons from threatening to commit certain criminal acts, such as destroying property with explosives (making a bomb scare) or causing bodily harm to certain individuals (threatening battery). This bill prohibits persons from making threats concerning the use of or exposure to a harmful substance, which the bill defines as a toxic or poisonous chemical or its precursor or a disease organism. Specifically the bill prohibits the following:

1. Intentionally threatening to use a harmful substance to harm another, if the threat induces a reasonable expectation or fear that the person making the threat will use a harmful substance to harm another ~~and~~.

2. Intentionally causing a person to believe that the person may have been exposed to a harmful substance, knowing that the person has not been exposed to a harmful substance.

A person who violates either prohibition may be fined not more than \$10,000; sentenced to a term of confinement in prison followed by a term of extended supervision that together may not exceed five years; or both.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

Ryan, Robin

From: Gundrum, Mark
Sent: November 06, 2001 4:12 PM
To: Ryan, Robin
Cc: Churchill, Jolene
Subject: FW: Bill - Biological Terrorism



04CB9000.tif

Robin,

On lines 2-4 on page 2, there are several words that are not defined, such as toxic, poisonous, etc. Are these and the other words on lines 3 and 4 (precursor, disease organism) defined somewhere, so that a person would have reasonable notice that something qualifies as a "toxic" or "poisonous" substance, precursor, or disease organism, if they make such a threat. I know it's a tricky area, but might we have some due process/notice/vagueness issues if these aren't defined in some way?

Also, are you confident that this language would be sufficient to cover things like Anthrax, small pox, ebola, bubonic plague, etc.??

Thanks.

Mark

-----Original Message-----

From: Faxination
Sent: Monday, November 05, 2001 10:38 AM
To: Gundrum, Mark
Subject: Bill - Biological Terrorism

Incoming Fax:
Description:

Explanation:
Sent to: '2823684' CSID:6082665104 (0)

Items received: 2
Duration: 62 seconds Transmission speed: 14400 baud
Gateway ID: 0 Job Reference: 04CBA

2001 - 2002 LEGISLATURE

LRB-4056/1

RLR:hmh:js
stays

By Wed 9 am

2001 BILL

RMR

use of or exposure to a toxic chemical or its precursor or a biological agent

- 1 ^{Regenerate} AN ACT ~~to create~~ 947.017 of the statutes; relating to: threats related to ~~harmful~~
- 2 ~~chemical or biological substances~~ and providing a penalty.

Analysis by the Legislative Reference Bureau

Current law prohibits persons from threatening to commit certain criminal acts, such as destroying property with explosives (making a bomb scare) or causing bodily harm to certain individuals (threatening battery). This bill prohibits persons from making threats concerning the use of or exposure to a ~~harmful substance, which the bill defines as a toxic or poisonous chemical or its precursor or a disease organism.~~ Specifically the bill prohibits the following:

1. Intentionally threatening to use a ~~harmful substance~~ to harm another, if the threat induces a reasonable expectation or fear that the person making the threat will use a ~~harmful substance~~ to harm another.
2. Intentionally causing a person to believe that the person may have been exposed to a ~~harmful substance~~, knowing that the person has not been exposed to a ~~harmful substance~~.

A person who violates either prohibition may be fined not more than \$10,000, sentenced to a term of confinement in prison followed by a term of extended supervision that together may not exceed five years, or both.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

toxic chemical or its precursor or a biological agent

Insert Analysis

BILL

1 SECTION 1. 947.017 of the statutes is created to read:

2 **947.017 Threats related to chemical or biological substances.** (1) In this

3 section, "harmful substance" means a ~~toxic or poisonous~~ chemical or its precursor or
4 a disease organism.

Insert 2-11

5 (2) (a) Whoever intentionally threatens to use a harmful substance to harm
6 another, if the threat induces a reasonable expectation or fear that the person will
7 use a harmful substance to harm another, is guilty of a Class E felony.

8 (b) Whoever intentionally causes another person to reasonably believe that the
9 other person may have been exposed to a harmful substance, knowing that the other
10 person has not been exposed to a harmful substance, is guilty of a Class E felony.

11

(END)

toxic chemical or its precursor or a biological agent

B

toxic

agents

**2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-4056/2ins
RLR:.....

1 **Insert Analysis:**

not toxic chemical or its precursor or a biological agent. The bill defines a "toxic chemical" as any chemical that through its chemical action on life processes can cause death, temporary incapacitation, or permanent harm to humans. The bill defines "biological agent" as a microorganism or an infectious substance, or any naturally occurring, bioengineered, or synthesized toxin or component of a microorganism or an infectious substance that is capable of causing death, disease, or other biological malfunction in humans.

2

3 **Insert 2-4:**

4 (a) "Biological agent" means a microorganism or an infectious substance, or any
5 naturally occurring, bioengineered, or synthesized toxin or component of a
6 microorganism or an infectious substance that is capable of causing death, disease,
7 or other biological malfunction in humans.

8 (b) "Microorganism" includes a bacterium, virus, fungus, rickettsia, or
9 protozoan.

10 (c) "Precursor" means any chemical reactant that takes part at any stage in the
11 production by whatever method of a toxic chemical.

12 (d) "Toxic chemical" means any chemical that through its chemical action on
13 life processes can cause death, temporary incapacitation, or permanent harm to
14 humans.

Barman, Mike

From: Ryan, Robin
Sent: Tuesday, November 13, 2001 9:57 AM
To: Barman, Mike
Subject: fiscal estimate

Could you please request a fiscal estimate on LRB-4056/2 when it is completed, which should be by 9 AM wed. Should I add a note to the request sheet so you will know that the requester wants the fiscal estimate? thanks

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU - LEGAL SECTION
(608-266-3561)

Don Dyke
4056/2

12/4/01

add radioactive material

plus provision on response ~~costs~~ costs



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-4056/2

RLR:hmh

stays

In 12/10/01

OTHER

2001 BILL

RMR

1 AN ACT to create 947.017 of the statutes; relating to: threats ^{scars} ^{OR SCARES} ^{concerning the} related to use of
2 or exposure to a toxic chemical or its precursor or a biological agent and
3 providing a penalty.

radioactive material,
Regm.

radioactive material that is
harmful to human life,

OR CAUSING
SCARES

Analysis by the Legislative Reference Bureau

Current law prohibits persons from threatening to commit certain criminal acts, such as destroying property with explosives (making a bomb scare) or causing bodily harm to certain individuals (threatening battery). This bill prohibits persons from making threats concerning the use of or exposure to a toxic chemical or its precursor or a biological agent. The bill defines a "toxic chemical" as any chemical that through its chemical action on life processes can cause death, temporary incapacitation, or permanent harm to humans. The bill defines "biological agent" as a microorganism or an infectious substance, or any naturally occurring, bioengineered, or synthesized toxin or component of a microorganism or an infectious substance that is capable of causing death, disease, or other biological malfunction in humans. Specifically the bill prohibits the following:

1. Intentionally threatening to use a toxic chemical or its precursor or a biological agent to harm another, if the threat induces a reasonable expectation or fear that the person making the threat will use a toxic chemical or its precursor or a biological agent to harm another.

2. Intentionally causing a person to believe that the person may have been exposed to a toxic chemical or its precursor or a biological agent, knowing that the person has not been exposed to a toxic chemical or its precursor or a biological agent.

radioactive material that is harmful to human life,

such radioactive material,

BILL

A person who violates either prohibition may be fined not more than \$10,000, sentenced to a term of confinement in prison followed by a term of extended supervision that together may not exceed five years, or both.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

Insert
Analysis

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

1 SECTION 1. 947.017 of the statutes is created to read:

2 947.017 Threats related to toxic chemicals, or biological agents. (1) In
3 this section:

4 (a) "Biological agent" means a microorganism or an infectious substance, or any
5 naturally occurring, bioengineered, or synthesized toxin or component of a
6 microorganism or an infectious substance that is capable of causing death, disease,

or other biological malfunction in humans.

7 (c) "Microorganism" includes a bacterium, virus, fungus, rickettsia, or
8 protozoan.

9 (d) "Precursor" means any chemical reactant that takes part at any stage in the
10 production by whatever method of a toxic chemical.

11 (e) "Toxic chemical" means any chemical that through its chemical action on
12 life processes can cause death, temporary incapacitation, or permanent harm to
13 humans.

14 (2) (a) Whoever intentionally threatens to use a ~~toxic chemical or its precursor~~
15 ~~or a biological agent~~ to harm another, if the threat induces a reasonable expectation
16 or fear that the person will use a ~~toxic chemical or its precursor~~ or a biological agent

17 or fear that the person will use a ~~toxic chemical or its precursor~~ or a biological agent
18 to harm another, is guilty of a Class E felony.

BILL

1 (b) Whoever intentionally causes another person to reasonably believe that the
2 other person may have been exposed to a ~~toxic chemical or its precursor or a biological~~ *harmful substance*
3 ~~agent, knowing that the other person has not been exposed to a toxic chemical or its~~ *harmful substance*
4 ~~precursor or a biological agent, is guilty of a Class E felony.~~

5 *Insert 3-4*

(END)

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4056/3ins
RLR:.....

Insert Analysis:

R The bill also allows courts to assess certain costs incurred by state or local government agencies in responding to threats and scares against persons convicted of making threats or causing scares related to radioactive material, toxic chemicals or their precursors, or biological agents. These costs include the cost of supplying emergency law enforcement and medical personnel to respond to the threat or scare, the cost of analyzing any alleged radioactive material, toxic chemical or precursor, or biological agent, and the cost of treating alleged victims exposed to any such substance.

1

Insert 2-7:

2

3

4

5

6

Insert 3-4:

7

SECTION 1. 973.06 (1) (ar) of the statutes is created to read:

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973.06 (1) (ar) If the defendant violated s. 947.017, the moneys expended by a state or local government agency for the following activities in connection with a threat or scare under s. 947.017 (2):

1. The response to the threat or scare by emergency medical personnel, as defined in s. 941.37 (1) (c).

2. The analysis of any substance alleged to be a harmful substance, as defined in s. 947.017 (1) (b).

3. The medical treatment of persons who are alleged to have been exposed to an alleged harmful substance, as defined under s. 947.017 (1) (b).



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-4056/3

RLR:hmh:kjf

2001 BILL

- 1 **AN ACT** *to create* 947.017 and 973.06 (1) (ar) of the statutes; **relating to:** threats
2 or scares concerning the use of or exposure to radioactive material, a toxic
3 chemical or its precursor, or a biological agent and providing a penalty.

Analysis by the Legislative Reference Bureau

Current law prohibits persons from threatening to commit certain criminal acts, such as destroying property with explosives (making a bomb scare) or causing bodily harm to certain individuals (threatening battery). This bill prohibits persons from making threats or causing scares concerning the use of or exposure to radioactive material that is harmful to human life, a toxic chemical or its precursor, or a biological agent. The bill defines a "toxic chemical" as any chemical that through its chemical action on life processes can cause death, temporary incapacitation, or permanent harm to humans. The bill defines "biological agent" as a microorganism or an infectious substance, or any naturally occurring, bioengineered, or synthesized toxin or component of a microorganism or an infectious substance that is capable of causing death, disease, or other biological malfunction in humans. Specifically the bill prohibits the following:

1. Intentionally threatening to use radioactive material that is harmful to human life, a toxic chemical or its precursor, or a biological agent to harm another, if the threat induces a reasonable expectation or fear that the person making the threat will use such radioactive material, a toxic chemical or its precursor, or a biological agent to harm another.
2. Intentionally causing a person to believe that the person may have been exposed to radioactive material that is harmful to human life, a toxic chemical or its

BILL

precursor or a biological agent, knowing that the person has not been exposed to such radioactive material, a toxic chemical or its precursor, or a biological agent.

A person who violates either prohibition may be fined not more than \$10,000, sentenced to a term of confinement in prison followed by a term of extended supervision that together may not exceed five years, or both.

The bill also allows courts to assess certain costs incurred by state or local government agencies in responding to threats and scares against persons convicted of making threats or causing scares related to radioactive material, toxic chemicals or their precursors, or biological agents. These costs include the cost of supplying emergency law enforcement and medical personnel to respond to the threat or scare, the cost of analyzing any alleged radioactive material, toxic chemical or precursor, or biological agent, and the cost of treating alleged victims exposed to any such substance.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 947.017 of the statutes is created to read:

2 **947.017 Threats or scares related to radioactive material, toxic**
3 **chemicals, or biological agents.** (1) In this section:

4 (a) "Biological agent" means a microorganism or an infectious substance, or any
5 naturally occurring, bioengineered, or synthesized toxin or component of a
6 microorganism or an infectious substance that is capable of causing death, disease,
7 or other biological malfunction in humans.

8 (b) "Harmful substance" means radioactive material that is harmful to human
9 life, a toxic chemical or its precursor, or a biological agent.

10 (c) "Microorganism" includes a bacterium, virus, fungus, rickettsia, or
11 protozoan.

12 (d) "Precursor" means any chemical reactant that takes part at any stage in the
13 production by whatever method of a toxic chemical.

BILL

1 (e) "Toxic chemical" means any chemical that through its chemical action on life
2 processes can cause death, temporary incapacitation, or permanent harm to
3 humans.

4 (2) (a) Whoever intentionally threatens to use a harmful substance to harm
5 another, if the threat induces a reasonable expectation or fear that the person will
6 use a harmful substance to harm another, is guilty of a Class E felony.

7 (b) Whoever intentionally causes another person to reasonably believe that the
8 other person may have been exposed to a harmful substance, knowing that the other
9 person has not been exposed to a harmful substance, is guilty of a Class E felony.

10 **SECTION 2.** 973.06 (1) (ar) of the statutes is created to read:

11 973.06 (1) (ar) If the defendant violated s. 947.017, the moneys expended by
12 a state or local government agency for the following activities in connection with a
13 threat or scare under s. 947.017 (2):

14 1. The response to the threat or scare by emergency medical personnel, as
15 defined in s. 941.37 (1) (c).

16 2. The analysis of any substance alleged to be a harmful substance, as defined
17 in s. 947.017 (1) (b).

18 3. The medical treatment of persons who are alleged to have been exposed to
19 an alleged harmful substance, as defined under s. 947.017 (1) (b).

20

(END)