

ASSEMBLY BILL 206 (LRB -1720)

An Act to amend 941.20 (1) (c), 946.42 (1) (a), 946.43 (title) and 946.43 (2m) (a); and to create 941.20 (1m), 946.42 (1) (bm), 946.43 (1) and 946.43 (2m) (am) of the statutes; relating to: pointing a firearm at certain persons and throwing or expelling bodily substances and providing penalties. (FE)

2003

04-28.	A.	Introduced by Representatives Wieckert, Jeskewitz, Pettis, Gunderson, M. Lehman, Stone, Ladwig, Hahn, Musser, Hines, Ott, Kreibich, Ainsworth, Owens, Vrakas, Coggs and Seratti ; cosponsored by Senators Stepp and Roessler .	
03-25.	A.	Read first time and referred to committee on Criminal Justice	142
04-03.	A.	Fiscal estimate received.	
04-09.	A.	Public hearing held.	
04-15.	A.	Assembly amendment 1 offered by Representative Suder (LRB a0438)	155
04-22.	A.	Assembly amendment 2 offered by Representative Wieckert (LRB a0466)	163
04-22.	A.	Assembly amendment 3 offered by Representatives Gundrum and Suder (LRB a0451)	163
04-22.	A.	Assembly amendment 4 offered by Representative Friske (LRB a0450)	163
04-23.	A.	Executive action taken.	
04-28.	A.	Report Assembly Amendment 1 adoption recommended by committee on Criminal Justice, Ayes 12, Noes 0	169
04-28.	A.	Report Assembly Amendment 2 adoption recommended by committee on Criminal Justice, Ayes 12, Noes 0	169
04-28.	A.	Report passage as amended recommended by committee on Criminal Justice, Ayes 11, Noes 1	169
04-28.	A.	Referred to committee on Rules	170
11-06.	A.	Placed on calendar 11-13-2003 by committee on Rules.	
11-13.	A.	Representative Bies added as a coauthor	544
11-13.	A.	Read a second time	541
11-13.	A.	Assembly amendment 1 adopted	541
11-13.	A.	Assembly amendment 2 adopted	541
11-13.	A.	Ordered to a third reading	541
11-13.	A.	Rules suspended	541
11-13.	A.	Read a third time and passed	541
11-13.	A.	Ordered immediately messaged	541
11-13.	S.	Received from Assembly	483
11-13.	S.	Read first time and referred to committee on Judiciary, Corrections and Privacy	483

2004

01-08.	S.	Executive action taken.	
01-12.	S.	Report concurrence recommended by committee on Judiciary, Corrections and Privacy, Ayes 5, Noes 0	535
01-12.	S.	Available for scheduling.	
03-09.	S.	Placed on calendar 3-10-2004 by committee on Senate Organization.	
03-11.	S.	Placed on calendar 3-11-2004 by committee on Senate Organization.	
03-11.	S.	Read a second time.	
03-11.	S.	Ordered to a third reading.	
03-11.	S.	Rules suspended.	
03-11.	S.	Read a third time and concurred in .	
03-11.	S.	Ordered immediately messaged.	

**2003
ENROLLED BILL**

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ADOPTED DOCUMENTS:

Orig **Engr** **SubAmdt**

03-17201-2

Amendments to above (if none, write "NONE"): AA1, AA2

Corrections - show date (if none, write "NONE"): None

Topic relate mins penalty

3/12/04 [Signature]
Date Enrolling Drafter

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2003 ASSEMBLY BILL 206

March 25, 2003 - Introduced by Representatives WIECKERT, JESKEWITZ, PETTIS, GUNDERSON, M. LEHMAN, STONE, LADWIG, HAHN, MUSSER, HINES, OTT, KREIBICH, AINSWORTH, OWENS, VRAKAS, COGGS and SERATTI, cosponsored by Senators STEPP and ROESSLER. Referred to Committee on Criminal Justice.

1 **AN ACT to amend** 941.20 (1) (c), 946.42 (1) (a), 946.43 (title) and 946.43 (2m) (a);
2 **and to create** 941.20 (1m), 946.42 (1) (bm), 946.43 (1) and 946.43 (2m) (am) of
3 the statutes; **relating to:** pointing a firearm at certain persons and throwing
4 or expelling bodily substances and providing penalties.

Analysis by the Legislative Reference Bureau

Current law prohibits pointing a firearm at or toward another person. A person who violates this prohibition may be fined up to \$10,000, confined in the county jail for up to nine months, or both. Under this bill, a person who points a firearm at a law enforcement officer, a fire fighter, an emergency medical technician, a first responder, or an ambulance driver may be fined up to \$10,000, sentenced to a term of imprisonment (a term of confinement in state prison followed by a term of extended supervision) of up to six years, or both.

This bill also expands the scope of current law's prohibition against prisoners throwing bodily substances at others. Under current law, a prisoner may not intentionally throw or expel blood, semen, vomit, saliva, urine, feces, or another bodily substance at or toward an officer, employee, or a visitor of the prison, jail, or detention facility or at another prisoner if he or she does so with the intent either to cause bodily harm to the victim or to abuse, harass, offend, intimidate, or frighten the victim. A person who violates this prohibition may be fined up to \$10,000, sentenced to a term of imprisonment of up to three and a half years, or both. Under this bill, the prohibition applies to a person who is in the custody of or who has been

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detained by a peace officer and to throwing or expelling bodily substances at a peace officer.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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. 941.20 (1) (c) of the statutes is amended to read:

2 941.20 (1) (c) ~~Intentionally~~ Except as provided in sub. (1m) points a firearm
3 at or toward another.

Intentionally

4 SECTION 2. 941.20 (1m) of the statutes is created to read:

5 941.20 (1m) (a) In this subsection:

AA

- 6 1. "Ambulance" has the meaning given in s. 146.50 (1) (am).
- 7 2. "Emergency medical technician" has the meaning given in s. 146.50 (1) (e).
- 8 3. "First responder" has the meaning given in s. 146.53 (1) (d).

9 (b) Whoever intentionally points a firearm at or towards a law enforcement
10 officer, a fire fighter, an emergency medical technician, a first responder, or an
11 ambulance driver who is acting in an official capacity and who the person knows or
12 has reason to know is a law enforcement officer, a fire fighter, an emergency medical
13 technician, a first responder, or an ambulance driver, is guilty of a Class H felony.

14 SECTION 3. 946.42 (1) (a) of the statutes is amended to read:

AA 2

15 946.42 (1) (a) "Custody" includes without limitation actual custody of an
16 institution, ~~including a secured correctional facility, as defined in s. 938.02 (15m), a~~
17 ~~secured child caring institution, as defined in s. 938.02 (15g), a secured group home,~~
18 ~~as defined in s. 938.02 (15p), a secure detention facility, as defined in s. 938.02 (16),~~

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1 a Type 2 child caring institution, as defined in s. 938.02 (19r), or a juvenile portion
2 of a county jail, or of a peace officer, or institution guard and constructive custody of
3 prisoners and juveniles subject to an order under s. 48.366, 938.183, 938.34 (4d), (4h)
4 or (4m) or 938.357 (4) or (5) (e) temporarily outside the institution whether for the
5 purpose of work, school, medical care, a leave granted under s. 303.068, a temporary
6 leave or furlough granted to a juvenile or otherwise. Under s. 303.08 (6) it means,
7 without limitation, that of the sheriff of the county to which the prisoner was
8 transferred after conviction. It does not include the custody of a probationer, parolee
9 or person on extended supervision by the department of corrections or a probation,
10 extended supervision or parole officer or the custody of a person who has been
11 released to aftercare supervision under ch. 938 unless the person is in actual custody
12 or is subject to a confinement order under s. 973.09 (4). *AA 2*

13 **SECTION 4.** 946.42 (1) (bm) of the statutes is created to read:

14 946.42 (1) (bm) "Institution" includes a secured correctional facility, as defined
15 in s. 938.02 (15m), a secured child caring institution, as defined in s. 938.02 (15g),
16 a secured group home, as defined in s. 938.02 (15p), a secure detention facility, as
17 defined in s. 938.02 (16), a Type 2 child caring institution, as defined in s. 938.02
18 (19r), and a juvenile portion of a county jail.

19 **SECTION 5.** 946.43 (title) of the statutes is amended to read:

20 **946.43 (title) Assaults by prisoners persons in custody or detainees.**

21 **SECTION 6.** 946.43 (1) of the statutes is created to read:

22 946.43 (1) In this section, "detainee" means a person who has been detained
23 by a peace officer.

24 **SECTION 7.** 946.43 (2m) (a) of the statutes is amended to read:

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1 .946.43 (2m) (a) Any ~~prisoner confined to a state prison or other state, county~~
2 ~~or municipal detention facility~~ person in custody or detainee who throws or expels
3 blood, semen, vomit, saliva, urine, feces or other bodily substance at or toward peace
4 officer or an officer, employee or visitor of the a state prison or other state, county,
5 or municipal detention facility or another ~~prisoner of the prison or facility~~ person in
6 custody or detainee under all of the following circumstances is guilty of a Class I
7 felony:

8 1. The ~~prisoner~~ person throws or expels the blood, semen, vomit, saliva, urine,
9 feces or other bodily substance with the intent that it come into contact with the
10 peace officer, officer, employee, visitor or other prisoner person in custody or
11 detainee. AAZ

12 2. The ~~prisoner~~ person throws or expels the blood, semen, vomit, saliva, urine,
13 feces or other bodily substance with the intent either to cause bodily harm to the
14 peace officer, officer, employee, visitor or other prisoner person in custody or detainee
15 or to abuse, harass, offend, intimidate or frighten the peace officer, officer, employee,
16 visitor or other prisoner person in custody or detainee.

17 3. The peace officer, officer, employee, visitor or other prisoner person in
18 custody or detainee does not consent to the blood, semen, vomit, saliva, urine, feces
19 or other bodily substance being thrown or expelled at or toward him or her.

20 SECTION 8. 946.43 (2m) (am) of the statutes is created to read:

21 946.43 (2m) (am) In this subsection, custody does not include custody of a
22 probationer, parolee, or person on extended supervision by the department of
23 corrections or a probation, parole, or extended supervision officer or custody of a
24 person who has been released to aftercare supervision under ch. 938 unless the
25 person is in the actual custody of an institution, as defined in s. 946.42 (1) (bm), a

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1 peace officer, or an institution guard or is subject to a confinement order under s.

2 973.09 (4).

3

(END)

Handwritten: RLS - R 2-14 AA2

**ASSEMBLY AMENDMENT 2,
TO 2003 ASSEMBLY BILL 206**

April 22, 2003 - Offered by Representative WIECKERT.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 2, line 14: delete the material beginning with that line and ending with
3 page 5, line 2 and substitute:

4 ~~SECTION 2m.~~ 941.375 of the statutes is created to read:

5 **941.375 Throwing or discharging bodily fluids at public safety**

6 **workers.** (1) In this section:

7 (a) "Ambulance" has the meaning specified in s. 146.50 (1) (am).

8 (b) "Public safety worker" means an emergency medical technician licensed
9 under s. 146.50, a first responder certified under s. 146.50 (8), a peace officer, a fire
10 fighter, or a person operating or staffing an ambulance.

11 (2) Any person who throws or expels blood, semen, vomit, saliva, urine, feces,
12 or other bodily substance at or toward a public safety worker under all of the
13 following circumstances is guilty of a Class I felony:

2-74

1 (a) The person throws or expels the blood, semen, vomit, saliva, urine, feces,
2 or other bodily substance with the intent that it come into contact with the public
3 safety worker.

2-14

4 (b) The person throws or expels the blood, semen, vomit, saliva, urine, feces,
5 or other bodily substance with the intent to cause bodily harm to the public safety
6 worker.

7 (c) The public safety worker does not consent to the blood, semen, vomit, saliva,
8 urine, feces, or other bodily substance being thrown or expelled at or toward him or
9 her.

10

(END)