

## 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.

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### ***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.

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***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.

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

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

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:

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).

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:

**ASSEMBLY BILL 206****SECTION 7**

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.

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)