

2003 DRAFTING REQUEST

Bill

Received: **01/24/2003**

Received By: **mdsida**

Wanted: **As time permits**

Identical to LRB:

For: **Steve Wieckert (608) 266-3070**

By/Representing: **Anne Sappenfield**

This file may be shown to any legislator: **NO**

Drafter: **mdsida**

May Contact:

Addl. Drafters:

Subject: **Criminal Law - guns and weapons
Criminal Law - law enforcement
Health - emergency med services
Correctional System - prisons
Correctional System - jails
Children - juvenile justice**

Extra Copies:

Submit via email: **YES**

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

Carbon copy (CC:) to: **anne.sappenfield@legis.state.wi.us**

Pre Topic:

No specific pre topic given

Topic:

Pointing a firearm at certain persons; throwing or expelling bodily substances at another person

Instructions:

See Attached

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>
/?				_____			S&L Crime

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	mdsida 02/12/2003	wjackson 02/14/2003	chaskett 02/17/2003	_____	lemery 02/17/2003		S&L Crime
/1	mdsida 02/20/2003	wjackson 02/20/2003	rschluet 02/20/2003	_____	sbasford 02/20/2003		S&L Crime
/2	mdsida 02/25/2003	wjackson 02/25/2003	jfrantze 02/25/2003	_____ _____ _____	sbasford 02/25/2003	sbasford 02/28/2003 sbasford 02/28/2003	

FE Sent For: 02/21/2003.

"12" At intro.

<END>

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Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

/?

Two horizontal lines under Proofed

FOR ASSEMBLY per Scott S&L Crime

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/1	mdsida 02/20/2003	wjackson 02/20/2003	rschluet 02/20/2003	_____	sbasford 02/20/2003		S&L Crime
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1?		12 WLJ 2/25	7/2/25	7/2/25			S&L Crime

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/P1	mdsida 02/12/2003	wjackson 02/14/2003	chaskett 02/17/2003	_____	lemery 02/17/2003		S&L Crime
/1	mdsida 02/20/2003	wjackson 02/20/2003	rschluet 02/20/2003	_____	sbasford 02/20/2003		

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<END>

02-21-2003
("1/1")
Per Scott

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Drafting History:

Table with columns: Vers., Drafted, Reviewed, Typed, Proofed, Submitted, Jacketed, Required. Includes handwritten notes like '1 WJ 2/20' and 'S&L Crime'.

Handwritten note: PA's -> send out for a FE on "11" (give draft to Mike or Lynn)

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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1?	mdsida	/PI NLJ 2/11	1/24 PR i.c. conversion	copy 2/17			

FE Sent For:

1/14
sph
PI
<END>

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

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

~~LEGISLATIVE COUNCIL STAFF PREFATORY NOTE: Under current law, whoever points a firearm at or toward another person is guilty of a Class A misdemeanor. This bill draft provides that whoever points a firearm at a law enforcement officer, a fire fighter, an emergency medical technician (EMT), a first responder, or an ambulance driver who the person knows or has reason to know is a law enforcement officer, a fire fighter, an EMT, a first responder, or an ambulance driver is guilty of a Class H felony.~~

~~The bill draft also expands the current crime that prohibits a prisoner from throwing or expelling blood, semen, vomit, saliva, urine, feces, or other bodily substance at or toward an officer, employee, or visitor of a state prison or other detention facility or another prisoner. Under the bill draft, this offense applies to any person in custody and also prohibits throwing or expelling a bodily substance at a law enforcement officer. The bill draft specifies that "custody" does not include supervision of a probationer, parolee, or person on extended supervision by the Department of Corrections unless the person is in actual custody.~~

4 **SECTION 1.** 941.20 (1) (c) of the statutes is amended to read:
5 941.20 (1) (c) ~~Intentionally~~ Except as provided in sub. (1m), points a firearm at or
6 toward another.

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

8 941.20 (1m) (a) In this subsection:

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

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

6 SECTION 3. 946.43 (title) of the statutes is amended to read:

7 **946.43 (title) Assaults by ~~prisoners~~ persons in custody.**

8 SECTION 4. 946.43 (2m) (a) of the statutes is amended to read:

9 946.43 (2m) (a) Any ~~prisoner confined to a state prison or other state, county or~~
10 ~~municipal detention facility~~ person in custody who throws or expels blood, semen, vomit,
11 saliva, urine, feces or other bodily substance at or toward a law enforcement officer or an
12 officer, employee or visitor of the a state prison or other state, county, or municipal detention
13 facility or another prisoner of the prison or facility person in custody under all of the following
14 circumstances is guilty of a Class I felony:

15 1. The ~~prisoner~~ person throws or expels the blood, semen, vomit, saliva, urine, feces
16 or other bodily substance with the intent that it come into contact with the law enforcement
17 officer, officer, employee, visitor or other ~~prisoner~~ person in custody.

18 2. The ~~prisoner~~ person throws or expels the blood, semen, vomit, saliva, urine, feces
19 or other bodily substance with the intent either to cause bodily harm to the law enforcement
20 officer, officer, employee, visitor or other ~~prisoner~~ person in custody or to abuse, harass,
21 offend, intimidate or frighten the law enforcement officer, officer, employee, visitor or other
22 ~~prisoner~~ person in custody.

2/21

2/12

~~the~~ Message from Anne

Do not include actual custody ^{by} of Probation off
Parole officer, or ES agent

(I told her abt Zimmerman)



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-1720/P1

MGD:/:pg

WLj

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

REGEN

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

Analysis by the Legislative Reference Bureau

ANALYSIS
INS

This is a preliminary draft. An analysis will be provided in a later version.

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

5 SECTION 1. 941.20 (1) (c) [↓] of the statutes is amended to read:
6 941.20 (1) (c) ~~Intentionally~~ Except as provided in sub. (1m), points a firearm
7 at or toward another.
8 SECTION 2. 941.20 (1m) [↓] of the statutes is created to read:
9 941.20 (1m) (a) In this subsection: [↓]
10 1. "Ambulance" has the meaning given in s. 146.50 (1) (am). [↓]

1 2. "Emergency medical technician" has the meaning given in s. 146.50 (1) (e). ✓

2 3. "First responder" has the meaning given in s. 146.53 (1) (d). ✓

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

INS
2/7

8 SECTION 3. 946.43 (title) of the statutes is amended to read:

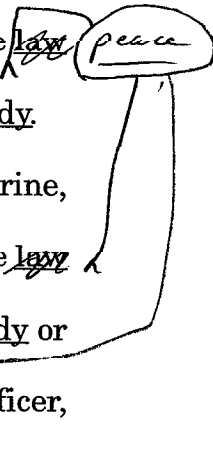
9 946.43 (title) Assaults by ~~prisoners~~ persons in custody.

10 SECTION 4. 946.43 (2m) (a) of the statutes is amended to read:

11 946.43 (2m) (a) Any ~~prisoner confined to a state prison or other state, county~~
12 ~~or municipal detention facility~~ person in custody who throws or expels blood, semen,
13 vomit, saliva, urine, feces or other bodily substance at or toward a ~~law enforcement~~ peace
14 officer or an officer, employee or visitor of the a state prison or other state, county,
15 or municipal detention facility or another ~~prisoner of the prison or facility~~ person in
16 custody under all of the following circumstances is guilty of a Class I felony:

17 1. The ~~prisoner~~ person throws or expels the blood, semen, vomit, saliva, urine,
18 feces or other bodily substance with the intent that it come into contact with the ~~law~~ peace
19 ~~enforcement~~ officer, officer, employee, visitor or other ~~prisoner~~ person in custody.

20 2. The ~~prisoner~~ person throws or expels the blood, semen, vomit, saliva, urine,
21 feces or other bodily substance with the intent either to cause bodily harm to the ~~law~~
22 ~~enforcement~~ officer, officer, employee, visitor or other ~~prisoner~~ person in custody or
23 to abuse, harass, offend, intimidate or frighten the ~~law enforcement~~ officer, officer,
24 employee, visitor or other ~~prisoner~~ person in custody.



1 **analysis INSERT**

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

9 This bill also expands the scope of current law's prohibition against prisoners
10 throwing bodily substances at others. Under current law, a prisoner may not
11 intentionally throw or expel blood, semen, vomit, saliva, urine, feces, or another
12 bodily substance at or toward an officer, employee, or ^a visitor of the prison, jail, or
13 detention facility or at another prisoner if he or she does so with the intent either to
14 cause bodily harm to the victim or to abuse, harass, offend, intimidate, or frighten
15 the victim. A person who violates this prohibition may be fined up to \$10,000,
16 sentenced to a term of imprisonment of up to three and a half years, or both. Under
17 this bill, ~~the~~^e prohibition applies to a person who is in the custody of a peace officer
18 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.

19 **INSERT 2/7**

20 SECTION ~~§~~[#] 946.42 (1) (a) [↓] of the statutes is amended to read:

Please fix spacing.

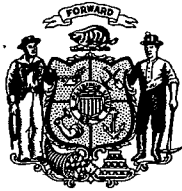
1 946.42 (1) (a) "Custody" includes without limitation actual custody of an
 2 institution, including a secured correctional facility, as defined in s. 938.02 (15m), a
 3 secured child caring institution, as defined in s. 938.02 (15g), a secured group home,
 4 as defined in s. 938.02 (15p), a secure detention facility, as defined in s. 938.02 (16),
 5 a Type 2 child caring institution, as defined in s. 938.02 (19r), or a juvenile portion
 6 of a county jail, or of a plain peace officer, or institution guard and constructive custody of
 7 prisoners and juveniles subject to an order under s. 48.366, 938.183, 938.34 (4d), (4h)
 8 or (4m) or 938.357 (4) or (5) (e) temporarily outside the institution whether for the
 9 purpose of work, school, medical care, a leave granted under s. 303.068, a temporary
 10 leave or furlough granted to a juvenile or otherwise. Under s. 303.08 (6) it means,
 11 without limitation, that of the sheriff of the county to which the prisoner was
 12 transferred after conviction. It does not include the custody of a probationer, parolee
 13 or person on extended supervision by the department of corrections or a probation,
 14 extended supervision or parole officer or the custody of a person who has been
 15 released to aftercare supervision under ch. 938 unless the person is in actual custody
 16 or is subject to a confinement order under s. 973.09 (4).

History: 1971 c. 164 s. 89; 1975 c. 49; 1977 c. 173, 312, 354, 418; 1985 a. 320; 1987 a. 27, 238, 352; 1987 a. 403 ss. 238, 239, 256; 1989 a. 31; 1993 a. 16, 377, 385, 491; 1995 a. 27 ss. 7233m, 7233p, 9126 (19); 1995 a. 77, 154, 352, 390; 1997 a. 35, 283; 1999 a. 9; 2001 a. 109.

17 SECTION 946.42 (1) (bm) of the statutes is created to read:

18 946.42 (1) (bm) "Institution" includes a secured correctional facility, as defined
 19 in s. 938.02 (15m), a secured child caring institution, as defined in s. 938.02 (15g),
 20 a secured group home, as defined in s. 938.02 (15p), a secure detention facility, as
 21 defined in s. 938.02 (16), a Type 2 child caring institution, as defined in s. 938.02
 22 (19r), and a juvenile portion of a county jail.

END INSERT



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-1720/PT

MGD:wlj:AW

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

REGEN

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) and 946.43 (2m) (am) of the statutes;
3 **relating to:** pointing a firearm at certain persons and throwing or expelling
4 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 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.

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),~~
19 ~~a Type 2 child caring institution, as defined in s. 938.02 (19r), or a juvenile portion~~

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

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

13 946.42 (1) (bm) "Institution" includes a secured correctional facility, as defined
14 in s. 938.02 (15m), a secured child caring institution, as defined in s. 938.02 (15g),
15 a secured group home, as defined in s. 938.02 (15p), a secure detention facility, as
16 defined in s. 938.02 (16), a Type 2 child caring institution, as defined in s. 938.02
17 (19r), and a juvenile portion of a county jail.

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

19 **946.43 (title) Assaults by prisoners persons in custody.**

20 **SECTION 6.** 946.43 (2m) (a) of the statutes is amended to read:

21 946.43 (2m) (a) ~~Any prisoner confined to a state prison or other state, county~~
22 ~~or municipal detention facility~~ person in custody who throws or expels blood, semen,
23 vomit, saliva, urine, feces or other bodily substance at or toward peace officer or an
24 officer, employee or visitor of the a state prison or other state, county, or municipal

1 detention facility or another prisoner of the prison or facility person in custody under
2 all of the following circumstances is guilty of a Class I felony:

3 1. The prisoner person throws or expels the blood, semen, vomit, saliva, urine,
4 feces or other bodily substance with the intent that it come into contact with the
5 peace officer, officer, employee, visitor or other prisoner person in custody.

6 2. The prisoner person throws or expels the blood, semen, vomit, saliva, urine,
7 feces or other bodily substance with the intent either to cause bodily harm to the
8 peace officer, officer, employee, visitor or other prisoner person in custody or to abuse,
9 harass, offend, intimidate or frighten the peace officer, officer, employee, visitor or
10 other prisoner person in custody.

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

14 **SECTION 7.** 946.43 (2m) (am) of the statutes is created to read:

15 946.43 (2m) (am) In this subsection, custody does not include custody of a
16 probationer, parolee, or person on extended supervision by the department of
17 corrections or a probation, parole, or extended supervision officer or custody of a
18 person who has been released to aftercare supervision under ch. 938 unless the
19 person is in the actual custody of an institution, as defined in s. 946.42 (1) (bm), a
20 peace officer, or an institution guard or is subject to a confinement order under s.
21 973.09 (4).

22 (END)

Fiscal Estimate - 2003 Session

Original Updated Corrected Supplemental

LRB Number 03-1720/1	Introduction Number	
Subject Pointing a firearm at certain persons; throwing or expelling bodily substances at another person		
Fiscal Effect		
State:		
<input type="checkbox"/> No State Fiscal Effect <input checked="" type="checkbox"/> Indeterminate		
<input type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Create New Appropriations	<input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Revenues	<input type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Decrease Costs
Local:		
<input type="checkbox"/> No Local Government Costs <input checked="" type="checkbox"/> Indeterminate		
1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	3. <input type="checkbox"/> Increase Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 4. <input type="checkbox"/> Decrease Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	5. Types of Local Government Units Affected <input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities <input checked="" type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts
Fund Sources Affected		Affected Ch. 20 Appropriations
<input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS		
Agency/Prepared By	Authorized Signature	Date
DOC/ Dawn Woeshnick (608) 240-5417	Robert Margolies (608) 240-5056	3/6/2003

copy sent to Rep. Wieckert (3-6-03)
→ PE is for old "11" version
→ Draft is now a "12"

Fiscal Estimate Narratives

DOC 3/6/2003

LRB Number 03-1720/1	Introduction Number	Estimate Type	Original
Subject Pointing a firearm at certain persons; throwing or expelling bodily substances at another person			

Assumptions Used in Arriving at Fiscal Estimate

Current law prohibits pointing a firearm at or toward another person. Violation can result in a fine up to \$10,000, confinement in a county jail for up to nine months, or both. This bill would increase the penalties for someone who points a firearm at a law enforcement officer, fire fighter, emergency medical technician, first responder or an ambulance driver. The penalties would increase to a fine of \$10,000, imprisonment of up to six years, or both.

This bill also expands the current law on prohibition against prisoners throwing bodily substances at others to include offenders in the custody of a peace officer. The fine for this offense is up to \$10,000, imprisonment of up to three and a half years, or both.

We are not able to estimate how persons will be sentenced under these penalty provisions. Therefore, it is not possible to determine the fiscal impact of this bill on either state or local government. However, in FY02 it cost approximately \$26,000 to incarcerate a person in a state prison and \$1,900 to supervise an offender on probation.

If some offenders are sentenced to a state prison instead of a county jail, costs will decrease for the counties.

Long-Range Fiscal Implications

1720

Plc from Rep Weichert

Wants to cover detention too, not just custody
(eg. Terry stop)

2/25

Plc to Anne

She didn't use 946.42 def'n of custody b/c
she thought Rep Weichert didn't want to cover people
on Huber premises ...

~~at~~ Lay person notion of custody



2

2003 BILL

soon

REGEN

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) and 946.43 (2m) (am) of the statutes;
 3 **relating to:** pointing a firearm at certain persons and throwing or expelling
 4 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 a peace officer and to throwing or expelling bodily substances at a peace officer.

a who has been detained by

BILL

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.

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 II 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),~~
19 ~~a Type 2 child caring institution, as defined in s. 938.02 (19r), or a juvenile portion~~

BILL

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

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

13 946.42 (1) (bm) "Institution" includes a secured correctional facility, as defined
 14 in s. 938.02 (15m), a secured child caring institution, as defined in s. 938.02 (15g),
 15 a secured group home, as defined in s. 938.02 (15p), a secure detention facility, as
 16 defined in s. 938.02 (16), a Type 2 child caring institution, as defined in s. 938.02
 17 (19r), and a juvenile portion of a county jail.

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

19 **946.43 (title) Assaults by prisoners persons in custody.** ^(B)
 on detainees

20 **SECTION 6.** 946.43 (2m) (a) of the statutes is amended to read:

21 946.43 (2m) (a) Any ~~prisoner confined to a state prison or other state, county~~
 22 ~~or municipal detention facility~~ person in custody ^{or detainee} who throws or expels blood, semen,
 23 vomit, saliva, urine, feces or other bodily substance at or toward peace officer or an
 24 officer, employee or visitor of the a state prison or other state, county, or municipal

INS
3/19

BILL

1 ~~detention facility or another prisoner of the prison or facility~~ person in custody, under
2 all of the following circumstances is guilty of a Class I felony:

or detainee

3 1. The ~~prisoner~~ person throws or expels the blood, semen, vomit, saliva, urine,
4 feces or other bodily substance with the intent that it come into contact with the
5 ~~peace officer, officer, employee, visitor or other prisoner~~ person in custody.

6 2. The ~~prisoner~~ person throws or expels the blood, semen, vomit, saliva, urine,
7 feces or other bodily substance with the intent either to cause bodily harm to the
8 ~~peace officer, officer, employee, visitor or other prisoner~~ person in custody or to abuse,
9 harass, offend, intimidate or frighten the peace officer, officer, employee, visitor or
10 ~~other prisoner~~ person in custody.

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

14 SECTION 7. 946.43 (2m) (am) of the statutes is created to read:

15 946.43 (2m) (am) In this subsection, custody does not include custody of a
16 probationer, parolee, or person on extended supervision by the department of
17 corrections or a probation, parole, or extended supervision officer or custody of a
18 person who has been released to aftercare supervision under ch. 938 unless the
19 person is in the actual custody of an institution, as defined in s. 946.42 (1) (bm), a
20 peace officer, or an institution guard or is subject to a confinement order under s.
21 973.09 (4).

22

(END)

2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1720/2ins
MCD:.....

1 **INSERT 3/19**

2 SECTION ~~A~~[#]. 946.43 (1) of the statutes is created to read:

3 946.43 (1) In this section, "detainee" means a person who has been detained

4 by a peace officer.