

**ASSEMBLY BILL 157 (LRB -1340)**

An Act to repeal 946.05; to amend 895.75 (1) and 946.06 (3); and to create 947.07 of the statutes; relating to: crimes affecting the U.S. flag and providing a penalty. (FE)

**2003**

03-13.	A.	Introduced by Representatives <b>Pettis, Musser, Krawczyk, Suder, Kerkman, Owens, Ladwig, Hahn, Hines, Albers, Ainsworth, Freese, Friske, Loeffelholz, Bies, Gunderson, Nass, Vrakas, Ott, McCormick, J. Fitzgerald, Townsend and Stone</b> ; cosponsored by Senators <b>Zien, Kedzie, Stepp, Roessler and A. Lasee.</b>	
03-13.	A.	Read first time and referred to committee on Criminal Justice .....	115
04-08.	A.	Fiscal estimate received.	
04-09.	A.	Public hearing held.	
04-23.	A.	Executive action taken.	
04-28.	A.	Report passage recommended by committee on Criminal Justice, Ayes 9, Noes 3 .....	169
04-28.	A.	Referred to committee on Rules .....	169
09-29.	A.	Placed on calendar 10-1-2003 by committee on Rules.	
10-01.	A.	Placed at the foot of the eleventh order of business on the calendar of 10-2-2003 .....	405
10-02.	A.	Read a second time .....	415
10-02.	A.	Ordered to a third reading .....	415
10-02.	A.	Refused to suspend rules to read a third time, Ayes 58, Noes 38 .....	415
10-23.	A.	Read a third time and <b>passed</b> , Ayes 83, Noes 13 .....	451
10-23.	A.	Ordered immediately messaged .....	451
10-28.	S.	Received from Assembly .....	448
10-28.	S.	Read first time and referred to committee on Judiciary, Corrections and Privacy .....	448

**2004**

01-08.	S.	Public hearing held.	
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.	Senator Leibham added as a cosponsor.	
03-11.	S.	Read a second time.	
03-11.	S.	Senate amendment 1 offered by Senator Carpenter ( <b>LRB a2830</b> ).	
03-11.	S.	Senate amendment 1 rejected, Ayes 18, Noes 15.	
03-11.	S.	Refused to nonconcur in, Ayes 7, Noes 26.	
03-11.	S.	Ordered to a third reading.	
03-11.	S.	Rules suspended.	
03-11.	S.	Read a third time and <b>concurred in</b> , Ayes 29, Noes 4.	
03-11.	S.	Ordered immediately messaged.	
03-15.	A.	Received from Senate concurred in.	

**2003  
ENROLLED BILL**

03en AB-157

**ADOPTED DOCUMENTS:**

**Orig**     **Engr**           **SubAmdt**       

03 -1340 1

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

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

Topic relief minus penalty

3/15/04  
Date

[Signature]  
Enrolling Drafter

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## 2003 ASSEMBLY BILL 157

March 13, 2003 - Introduced by Representatives PETTIS, MUSSER, KRAWCZYK, SUDER, KERKMAN, OWENS, LADWIG, HAHN, HINES, ALBERS, AINSWORTH, FREESE, FRISKE, LOEFFELHOLZ, BIES, GUNDERSON, NASS, VRAKAS, OTT, MCCORMICK, J. FITZGERALD, TOWNSEND and STONE, cosponsored by Senators ZIEN, KEDZIE, STEPP, ROESSLER and A. LASEE. Referred to Committee on Criminal Justice.

1 AN ACT *to repeal* 946.05; *to amend* 895.75 (1) and 946.06 (3); and *to create*  
2 947.07 of the statutes; **relating to:** crimes affecting the U.S. flag and providing  
3 a penalty.

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### *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*, 219 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 nine months or both. The bill also repeals the law held unconstitutional in *State v. Janssen*.

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.

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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.** 895.75 (1) of the statutes is amended to read:

2           895.75 (1) ~~Any~~ If a person who suffers physical injury to his or her person or  
3           emotional distress or damage to or loss of his or her property by reason of conduct  
4           which that is prohibited under s. 943.012 and that causes damage to any property  
5           specified in s. 943.012 (1) to (4) or which by reason of conduct that is grounds for a  
6           penalty increase under s. 939.645 (1), the person has a civil cause of action against  
7           the person who caused the physical injury, emotional distress, damage or loss.

8           **SECTION 2.** 946.05 of the statutes, as affected by 2001 Wisconsin Act 109, is  
9           repealed.

10          **SECTION 3.** 946.06 (3) of the statutes is amended to read:

11          946.06 (3) In this section “flag” ~~has the meaning designated in s. 946.05~~ means  
12          anything that is or purports to be the Stars and Stripes, the United States shield, the  
13          United States coat of arms, the Wisconsin state flag, or a copy, picture, or  
14          representation of any of them.

15          **SECTION 4.** 947.07 of the statutes is created to read:

16          **947.07 Causing violence or breach of the peace by damaging or**  
17          **destroying a U.S. flag.** (1) In this section, “flag” means a flag of the United States  
18          consisting of horizontal stripes, alternately colored red and white, and a union of any  
19          number of white stars on a blue field.

20          (2) Whoever destroys, damages, or mutilates a flag, or causes a flag to come into  
21          contact with urine, feces, or excretion, with the intent to cause imminent

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1 violence or a breach of the peace under circumstances in which the actor knows that  
2 his or her conduct is likely to cause violence or a breach of the peace is guilty of a Class  
3 A misdemeanor.

4 **SECTION 5. Initial applicability.**

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

7 (END)