

**2005 DRAFTING REQUEST**

**Bill**

Received: 09/17/2004

Received By: **chanaman**

Wanted: **As time permits**

Identical to LRB:

For: **Mark Gundrum (608) 267-5158**

By/Representing: **Jolene**

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

Drafter: **chanaman**

May Contact:

Addl. Drafters:

Subject: **Criminal Law - sentencing**

Extra Copies:

Submit via email: **YES**

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

Carbon copy (CC:) to: **robin.ryan@legis.state.wi.us**  
**michael.dsida@legis.state.wi.us**

**Pre Topic:**

No specific pre topic given

**Topic:**

Allowing a court to prohibit defendant from contacting persons during any part of defendant's sentence

**Instructions:**

See Attached--03-4100/1

**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>
/?	chanaman 09/24/2004	wjackson 09/27/2004 wjackson 09/28/2004		_____			S&L Crime
/1	chanaman 09/29/2004	wjackson 09/30/2004	rschlue 09/29/2004	_____	sbasford 09/29/2004		S&L Crime
/2			rschlue	_____	Inorthro		S&L

<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	chanaman 12/10/2004	wjackson 12/17/2004	rschluet 12/20/2004	_____	09/30/2004 _____	09/30/2004 _____	Crime

FE Sent For:

<END>

↳ At  
Intro.

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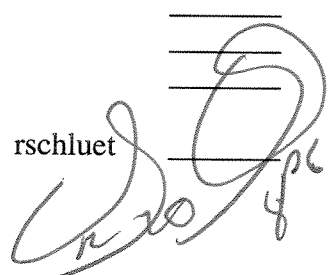
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**LRB-0221**

09/30/2004 09:25:55 AM

Page 2

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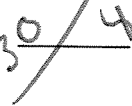
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See Attached--03-4100/1

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/1		12 Wlj 9/30	rschlact		sbasford		

**LRB-0221**

09/29/2004 11:35:02 AM

Page 2

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/?	chanaman	1 WLJ 9/28					
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FE Sent For:

<END>

## Hanaman, Cathlene

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**From:** Churchill, Jolene  
**Sent:** Friday, September 24, 2004 10:58 AM  
**To:** Hanaman, Cathlene  
**Subject:** Representative Mark Gundrum - Drafting Request RE LRb 4100/1  
**Follow Up Flag:** Follow up  
**Due By:** Thursday, September 16, 2004 5:00 PM  
**Flag Status:** Flagged  
**Spam:** 0.306490384887676

Dear Cathalene,

In following up with the conversation you had with Representative Gundrum earlier this week regarding LRB 4100/1 relating to sentencing discretion of a court and providing a penalty, my boss asked me to forward the below message for you to incorporate into your drafting. Thanks! - Jolene

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

**From:** Gundrum, Mark  
**Sent:** Friday, September 17, 2004 1:34 PM  
**To:** Churchill, Jolene  
**Subject:** Judge Bohren Bill: Annette Ziegler - 941.049

along with that bill I gave you with my handwritten notes on it, this e-mail should go to the drafter of the Judge Bohren bill as well.

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

**From:** Annette Ziegler [mailto:Annette.Ziegler@wicourts.gov]  
**Sent:** Tuesday, September 14, 2004 3:50 PM  
**To:** Rep.Gundrum  
**Subject:** Annette Ziegler - 941.049

nice to meet you yesterday.

as we discussed.....some areas that you might wish to consider in your draft of 973.049 is to add some term, such as co actors or the definition of party to a crime, whether charged or uncharged, or some such litney, instead of the word "coconspirator".....since coconspiritor has a unique definition in the law and might limit that which you are trying to accomplish. also, the language "for which an individual is being sentenced" might be limiting in cases where crimes are dismissed or uncharged, yet considered for purposes of sentencing,.....so adding some expansive language here might better serve your purposes....include read in's or uncharged offenses.....

those are my immediate thoughts.

thank you for your time. hope this helps. akz

SDOT 9/24

0221/1

~~SDOT~~  
LWLj

# 2003 BILL

repeal

1 AN ACT to create 941.39 and 973.049 of the statutes; relating to: sentencing  
2 discretion of a court and providing a penalty.

### *Analysis by the Legislative Reference Bureau*

Current law gives a court the authority to require or prohibit specified conduct during the defendant's terms of parole, probation, or extended supervision.

This bill adds to the court's existing authority and permits a court authority over the defendant's conduct during his or her term of confinement in prison or jail following a felony conviction. When imposing a sentence, the court may decide, in the interest of public protection, to prohibit a defendant from contacting victims of the crime or ~~coconspirators~~ in the crime for which the defendant is being sentenced. If the defendant intentionally violates the prohibition, he or she may be found guilty of a Class A misdemeanor and may be subject to a fine not to exceed \$10,000 or imprisonment not to exceed nine months or both.

other actors

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:***

**BILL**

co-actor (2)

1 SECTION 1. 941.39 of the statutes is created to read:

2 **941.39 Victim or ~~coconspirator~~ contact.** Whoever intentionally violates a  
3 court order issued under s. 973.049 is guilty of a Class A misdemeanor.

4 SECTION 2. 973.049 of the statutes is created to read:

5 **973.049 Sentencing; restrictions on contact. (1)** When a court imposes  
6 a sentence on an individual for a felony conviction, the court may prohibit the  
7 individual from contacting victims of, or <sup>co-actors</sup> ~~coconspirators~~ in, the crime ~~for which the~~  
8 ~~individual is being sentenced~~ <sup>considered at sentencing</sup> during any part of the individual's sentence if the court  
9 determines that the prohibition would be in the interest of public protection.

10 <sup>3</sup> **(2)** If a court issues an order under sub. <sup>2</sup> (1), the court shall inform the individual  
11 of the prohibition and of the penalty under s. 941.39.

(END)

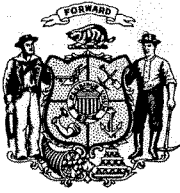
In this section:

charged with or

(a) <sup>co-actor</sup> means any individual who was a party  
to the crime considered as sentencing, <sup>whether or not</sup> the individual  
was <sup>committed</sup> of the crime considered at sentencing.

(b) <sup>Crime considered at sentencing</sup> means any crime  
for which the defendant was <sup>convicted</sup> or any read-in  
crime as defined in ss 973.020 (1g) (b).

(A) (2)  
(B)



State of Wisconsin  
2005 - 2006 LEGISLATURE

LRB-0221/4<sup>2</sup>

CMH:wlj:rs ✓

*Thurs. A.M.*

**2005 BILL**

*Reyer*

- 1 AN ACT *to create* 941.39 and 973.049 of the statutes; **relating to:** sentencing  
2 discretion of a court and providing a penalty.

---

***Analysis by the Legislative Reference Bureau***

Current law gives a court the authority to require or prohibit specified conduct during the defendant's terms of parole, probation, or extended supervision.

This bill adds to the court's existing authority and permits a court authority over the defendant's conduct during his or her term of confinement in prison or jail following a felony conviction. When imposing a sentence, the court may decide, in the interest of public protection, to prohibit a defendant from contacting victims of the crime or other actors in the crime for which the defendant is being sentenced. If the defendant intentionally violates the prohibition, he or she may be found guilty of a Class A misdemeanor and may be subject to a fine not to exceed \$10,000 or imprisonment not to exceed nine months or both.

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:***

**BILL****SECTION 1**

1           **SECTION 1.** 941.39 of the statutes is created to read:

2           **941.39 Victim or co-actor contact.** Whoever intentionally violates a court  
3 order issued under s. 973.049 (2) is guilty of a Class A misdemeanor.

4           **SECTION 2.** 973.049 of the statutes is created to read:

5           **973.049 Sentencing; restrictions on contact. (1)** In this section:

6           (a) “Co-actor” means any individual who was a party to the crime considered  
7 at sentencing, whether or not the individual was charged with or committed of the  
8 crime considered at sentencing. *convicted*

9           (b) “Crime considered at sentencing” means any crime for which the defendant  
10 was convicted or any read-in crime, as defined in s. 973.20 (1g) (b).

11           (2) When a court imposes a sentence on an individual for a felony conviction,  
12 the court may prohibit the individual from contacting victims of, or co-actors in, the  
13 crime considered at sentencing during any part of the individual’s sentence if the  
14 court determines that the prohibition would be in the interest of public protection.

15           (3) If a court issues an order under sub. (2), the court shall inform the individual  
16 of the prohibition and of the penalty under s. 941.39.

17

(END)

## Emery, Lynn

---

**From:** Emery, Lynn  
**Sent:** Tuesday, November 09, 2004 11:19 AM  
**To:** Churchill, Jolene  
**Subject:** LRB-0221/2 (attached as requested)



05-0221/2

Lynn Emery  
Program Assistant  
Legislative Reference Bureau  
608-266-3561  
lynn.emery@legis.state.wi.us

**Hanaman, Cathlene**

---

**From:** Churchill, Jolene  
**Sent:** Wednesday, November 17, 2004 9:12 AM  
**To:** Hanaman, Cathlene  
**Subject:** Rep. Gundrum - LRB Draft 221/2

Dear Cathlene,

Could you incorporate the below suggestions into LRB Draft 221/2 - sentencing discretion of a court?

Thanks! - Jolene 267-5158

This provision fills a currently-unmet need and gives felony victims some peace of mind. It adds another sentencing duty, but is worthwhile. May I suggest that s.973.049(2) be amended to include withheld sentences. It appears only to apply to imposed sentences ("any part of the individual's sentence").

I read this and all I have to comment on is that he may want to clarify one sentence under "Analysis by the Legislative Reference Bureau".

It is under the second paragraph- second sentence and starts with "When imposing...."

I know what he wants to say but that sentence does not clearly say "during the sentence".

It should be rephrased or simply replaced by lines 11 - 14 of the actual bill.

*defined prosecution agreement?*  
*drug cases*



## Hanaman, Cathlene

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**From:** Churchill, Jolene  
**Sent:** Thursday, November 18, 2004 2:27  
**To:** Hanaman, Cathlene  
**Subject:** LRB DRaft 221/2

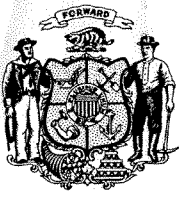
Cathalene,

Please see the below comments RE: LRB Draft 221/2. - j

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

**From:** Jackie Erwin [mailto:Jackie.Erwin@wicourts.gov]  
**Sent:** Thursday, November 18, 2004 12:03 PM  
**To:** Churchill, Jolene  
**Subject:** Re: FW: Rep. Gundrum - LRB Draft 221/2

Because probation supervision is ordered either upon imposed but stayed sentences or while withholding sentence (more common in my experience), the proposal would be most useful if the court had it available under both types of orders. The proposed language I saw appears only to apply to imposed sentences. I do not suggest any treatment of deferred prosecutions.



3  
KMP  
Stays

2005 BILL

SOON

major cat

This bill also specifies that the court may prohibit the same conduct in probation cases.

1  
2

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during any part of the defendant's sentence



**Northrop, Lori**

---

**From:** Usealman, Kevin  
**Sent:** Wednesday, January 26, 2005 10:00 AM  
**To:** LRB.Legal  
**Subject:** Draft review: LRB 05-0221/3 Topic: Allowing a court to prohibit defendant from contacting persons during any part of defendant's sentence

It has been requested by <Usealman, Kevin> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 05-0221/3 Topic: Allowing a court to prohibit defendant from contacting persons during any part of defendant's sentence