

2007 DRAFTING REQUEST

Bill

Received: **03/08/2007**

Received By: **chanaman**

Wanted: **As time permits**

Identical to LRB:

For: **Tony Staskunas (608) 266-0620**

By/Representing: **Lloyd Clark**

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

Drafter: **chanaman**

May Contact:

Addl. Drafters:

Subject: **Criminal Law - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Staskunas@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Violent behavior on school grounds by nonstudents

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>
/?	chanaman 03/13/2007	jdye 03/14/2007					Crime
/1			rschluet 03/14/2007		sbasford 03/14/2007	cduerst 05/22/2007	

FE Sent For:

<END>

NO

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/?	chanaman	1/3/14 jld					Crime

FE Sent For:

<END>

Hanaman, Cathlene

From: Clark, Lloyd
Sent: Tuesday, March 13, 2007 9:44 AM
To: Hanaman, Cathlene
Subject: RE: Message for Cathlene Hanaman - DRAFTING REQUEST

Hi Cathlene,

What we are trying to do is to enhance security of public schools by making violent crimes committed during school hours and on school grounds to be penalized more than the crimes would be if they were committed elsewhere. I would assume that we would be looking at a penalty enhancer that adds the imprisonment time of the requested felony to that of the violent crime if they meet this criteria.

I apologize for the confusion.

If you have any further questions, just give me a yell.

Lloyd Clark

Administrative Assistant
Office of Representative Tony Staskunas
Assembly Democratic Caucus Chair
State Capitol - 221N
608-266-0620

From: Hanaman, Cathlene
Sent: Monday, March 12, 2007 4:47 PM
To: Clark, Lloyd; Ramirez, Adrienne
Subject: FW: Message for Cathlene Hanaman - DRAFTING REQUEST

Lloyd:

I need to talk to you about this request. I am not sure if you intend to create a new felony that can be prosecuted alongside a prosecution for the violent behavior. It may be problematic to be convicted of both sexual assault say (Class B) and sexual assault on school grounds (Class H) for one act. See s. 939.66 (1), which the court reads as a codification of *Blockburger*, which requires each charge to have a distinct element to prove. And under s. 939.66 (1), the Class B felony would be the lesser included of the Class H felony.

Since other cases find that clear legislative intent to have cumulative punishments for one action can be constitutional, I simply want to make sure that this is what you intend.

Other options include a penalty enhancer that adds the imprisonment time of the requested felony to that of the violent crime if the other factors are met.

Please let me know,
Cathlene

From: Clark, Lloyd
Sent: Thursday, February 15, 2007 2:28 PM
To: LRB.Legal
Cc: Ramirez, Adrienne
Subject: Message for Cathlene Hanaman - DRAFTING REQUEST

Date: 2/15/07

Legislator: Rep. Staskunas
Staff Contact: Lloyd Clark 266-0620

Bill Description:

Non-students that engage in violent behavior, defined as battery, mayhem, sexual assault, and reckless injury, on school grounds, within one hour before to one hour after school hours, shall be guilty of a Class H felony for the first offense, a Class G felony for the second offense, and a Class E felony for third and subsequent offenses. Self-defense of a third person (ss 939.48(3) and 939.48 (4)) is not an applicable defense.

Request is Confidential.

Request is Not Urgent.

Request should not receive priority over other requests by Rep. Staskunas.

Have a great day,

Lloyd Clark
Administrative Assistant
Office of Representative Tony Staskunas
Assembly Democratic Caucus Chair
State Capitol - 221N
608-266-0620



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-21777/2

CMH:.....

Jld

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: sentencing for crimes on school premises and providing
2 a penalty. ✓

sex act ✓

sexual assault, ✓

✓ violent

Analysis by the Legislative Reference Bureau

Under current law, if a person commits a violent crime, as defined in current law, on or within 1,000 feet of school premises, on a school bus, or at a school bus stop, the maximum term of imprisonment for that crime increases either by five years, if the crime is a felony, or by three months, if the crime is a misdemeanor. Under this bill, if a person commits battery, mayhem, sexual assault of a child, or reckless injury on school premises, the maximum term of imprisonment is increased by six years for the first offense, ten years for the second offense, and 15 years for the third or subsequent offense if the person is not a student at the school and if the crime is committed during school hours or within one hour of school starting or ending.

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.

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

3 SECTION 1. 939.632 (title) of the statutes is amended to read:

4 939.632 (title) Penalties; violent crime in a crimes near a school zone.

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SECTION 2. 939.632 (1) (dm) of the statutes is created to read:

939.632 (1) (dm) "Serious crime" means any crime under s. 940.19, 940.21, 940.225, 940.23, 948.02, or 948.025.

SECTION 3. 939.632 (2) (intro.) of the statutes is amended to read:

939.632 (2) (intro.) If Unless sub. (3m) applies, if a person commits a violent crime in a school zone, the maximum term of imprisonment is increased as follows:

History: 1995 a. 22; 2001 a. 109; 2005 a. 277.

SECTION 4. 939.632 (3m) of the statutes is created to read:

939.632 (3m) (a) If a person commits a serious crime under all of the following circumstances, the maximum term of imprisonment is increased as in par. (b):

1. The serious crime occurred on school premises.
 2. The serious crime occurred within one hour before, during, or within one hour after a scheduled school day.
 3. He or she is not a student at the school on whose school premises the serious crime occurred.
- (b) 1. For a first offense, the maximum term of imprisonment is increased by 6 years.
2. For a 2nd offense, the maximum term of imprisonment is increased by 10 years.
3. For a 3rd or subsequent offense, the maximum term of imprisonment is increased by 15 years.

SECTION 5. 939.632 (4) of the statutes is amended to read:

1 939.632 (4) This section provides for the enhancement of the penalties
2 applicable for the underlying crime. The court shall direct that the trier of fact find
3 a special verdict as to all of the issues specified in sub. (2) or (3m). ✓

History: 1995 a. 22; 2001 a. 109; 2005 a. 277.

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(END)

mode

Seem

1 #. Initial Applicability. This

(#) This act first applies to acts ^{occurring} on the effective date of this subsection. ✓

Duerst, Christina

From: Clark, Lloyd
Sent: Tuesday, May 22, 2007 9:02 AM
To: LRB.Legal
Subject: Draft Review: LRB 07-2177/1 Topic: Violent behavior on school grounds by nonstudents

Please Jacket LRB 07-2177/1 for the ASSEMBLY.