

2007 ASSEMBLY BILL 412

June 14, 2007 – Introduced by Representatives MURSAU, FIELDS, BERCEAU, GUNDERSON, HAHN, HINES, KERKMAN, LEMAHIEU, MUSSER, NYGREN, A. OTT, J. OTT, SUDER, TOWNSEND and VAN ROY, cosponsored by Senators PLALE, DARLING, LEIBHAM, ROESSLER and SCHULTZ. Referred to Committee on Criminal Justice.

1 **AN ACT** *to amend* 48.57 (3p) (g) 2. and 973.01 (2) (c) 2. a.; and *to create* 939.642
2 of the statutes; **relating to:** crimes committed against individuals who are at
3 least 65 years old and providing penalties.

Analysis by the Legislative Reference Bureau

Under current law, a person who commits a crime under specified circumstances may be subject to penalties that are more severe than those that ordinarily apply to the crime. For example, under the “hate crimes” penalty enhancer, if a person commits a crime contained in chapters 939 to 951 of the Wisconsin Statutes (the Criminal Code) and selects the victim based on the person’s belief or perception regarding the race, religion, color, disability, sexual orientation, national origin, or ancestry of the victim, the maximum penalties for the crime are increased based on how the crime would ordinarily be classified. If the crime is already a felony, the maximum fine is \$5,000 more than it would ordinarily be and the maximum term of imprisonment is five years longer. If the crime is ordinarily a Class A misdemeanor, the maximum term of imprisonment is increased from nine months to two years — as a result of which the crime becomes a felony. The maximum fine remains \$10,000. If the crime is ordinarily a Class B or Class C misdemeanor, the crime remains a misdemeanor, but the maximum fine is increased to \$10,000 and the maximum term of imprisonment is increased to one year in the county jail. The maximum fines for Class B and Class C misdemeanors are \$1,000 and \$500, respectively; the maximum terms of imprisonment are 90 days and 30 days, respectively. Other penalty enhancers (with different penalty increases) apply to

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certain repeat offenders, to crimes of domestic abuse, to crimes involving dangerous weapons, and to crimes committed in school zones.

This bill creates a new penalty enhancer for crimes committed against an individual who is age 65 or older. The penalty increases provided under this penalty enhancer are the same as those provided under the hate crimes penalty enhancer that are described above and apply only if the underlying crime is one set forth in the Criminal Code.

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.** 48.57 (3p) (g) 2. of the statutes is amended to read:

2 48.57 **(3p)** (g) 2. The person has had imposed on him or her a penalty specified
3 in s. 939.64, 1999 stats., or s. 939.641, 1999 stats., or s. 939.62, 939.621, 939.63,
4 939.642, or 939.645 or has been convicted of a violation of the law of any other state
5 or federal law under circumstances under which the person would be subject to a
6 penalty specified in any of those sections if convicted in this state.

7 **SECTION 2.** 939.642 of the statutes is created to read:

8 **939.642 Increased penalty; crimes committed against the elderly. (1)**

9 If a person commits a crime under this chapter or chs. 940 to 948 against a person
10 who is at least 65 years of age, the penalties for the underlying crime are increased
11 as follows:

12 (a) If the crime is ordinarily a misdemeanor other than a Class A misdemeanor,
13 the revised maximum fine is \$10,000 and the revised maximum term of
14 imprisonment is one year in the county jail.

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1 (b) If the crime is ordinarily a Class A misdemeanor, the penalty increase under
2 this section changes the status of the crime to a felony and the revised maximum fine
3 is \$10,000 and the revised maximum term of imprisonment is 2 years.

4 (c) If the crime is a felony, the maximum fine for the crime may be increased
5 by not more than \$5,000 and the maximum term of imprisonment for the crime may
6 be increased by not more than 5 years.

7 **(2)** This section provides for the enhancement of the penalties applicable for
8 the underlying crime. The court shall direct that the trier of fact find a special verdict
9 as to the age of the victim at the time of the crime.

10 **(3)** (a) In this subsection, “threshold age” means any age equal to or in excess
11 of 65 years.

12 (b) This section does not apply to any crime if proof that the victim was at or
13 beyond a threshold age on the date of the crime is required for a conviction for that
14 crime.

15 **SECTION 3.** 973.01 (2) (c) 2. a. of the statutes is amended to read:

16 973.01 **(2)** (c) 2. a. Sections 939.621, 939.632, 939.642, 939.645, 961.46, and
17 961.49.

18 (END)