



2009 ASSEMBLY BILL 233

April 28, 2009 – Introduced by Representatives VAN ROY, MONTGOMERY, KERKMAN, A. OTT, VOS, LEMAHIEU, BERCEAU, BROOKS, NASS, TOWNSEND, LOTHIAN, SPANBAUER, STEINBRINK and RIPP, cosponsored by Senators HANSEN, OLSEN, SCHULTZ, DARLING and COWLES. Referred to Committee on Criminal Justice.

1 **AN ACT** *to amend* 939.63 (1) (intro.), 940.225 (1) (b), 941.2965 (2), 943.32 (2) and
2 946.415 (2) (c) of the statutes; **relating to:** use of a facsimile firearm and
3 providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, a person who commits certain crimes by using or threatening to use a dangerous weapon or an article used or fashioned in a manner that the victim believes is a dangerous weapon is subject to greater penalties than the person would be if he or she committed the crime without using a dangerous weapon.

Under this bill, a person is subject to the same penalties as he or she would be under current law for using a dangerous weapon if the person commits a crime using a facsimile firearm. A “facsimile firearm” is defined as any replica, toy, starter pistol, or other object that bears a reasonable resemblance to or that reasonably can be perceived to be an actual firearm.

Current law also prohibits a person from carrying or displaying a facsimile firearm in a way that would alarm, intimidate, threaten, or terrify another person. Anyone who does so is subject to a Class C forfeiture and may be required to pay a forfeiture not to exceed \$500.

This bill increases that penalty to a Class A misdemeanor and a person who violates the provision may be fined up to \$10,000, imprisoned for up to 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

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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:

1 **SECTION 1.** 939.63 (1) (intro.) of the statutes is amended to read:

2 939.63 (1) (intro.) If a person commits a crime while possessing, using or
3 threatening to use a dangerous weapon or while using or threatening to use a
4 facsimile firearm, the maximum term of imprisonment prescribed by law for that
5 crime may be increased as follows:

6 **SECTION 2.** 940.225 (1) (b) of the statutes is amended to read:

7 940.225 (1) (b) Has sexual contact or sexual intercourse with another person
8 without consent of that person by use or threat of use of a dangerous weapon, a
9 facsimile firearm, or any other article used or fashioned in a manner to lead the
10 victim reasonably to believe it to be a dangerous weapon.

11 **SECTION 3.** 941.2965 (2) of the statutes is amended to read:

12 941.2965 (2) No person may carry or display a facsimile firearm in a manner
13 that could reasonably be expected to alarm, intimidate, threaten or terrify another
14 person. Whoever violates this section is ~~subject to a Class C forfeiture~~ guilty of a
15 Class A misdemeanor.

16 **SECTION 4.** 943.32 (2) of the statutes is amended to read:

17 943.32 (2) Whoever violates sub. (1) by use or threat of use of a dangerous
18 weapon, a device or container described under s. 941.26 (4) (a), a facsimile firearm,
19 or any other article used or fashioned in a manner to lead the victim reasonably to
20 believe that it is a dangerous weapon or such a device or container is guilty of a Class
21 C felony.

