

2009 DRAFTING REQUEST

Bill

Received: **04/24/2009**

Received By: **phurley**

Wanted: **As time permits**

Identical to LRB:

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

By/Representing: **Steve Knudson**

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

Drafter: **phurley**

May Contact:

Addl. Drafters:

Subject: **Criminal Law - miscellaneous**

Extra Copies:

Submit via email: **YES**

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

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Battery and intimidation of district attorneys

Instructions:

1. 940.203 amend to include battery or threat to a criminal prosecutor Add - prosecutors explicitly to battery provision
2. 940.41, 42, 43, 44 45 to include intimidation of a criminal prosecutor

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>
/?				_____			Crime
/1	phurley 05/15/2009	bkraft 05/22/2009	phenry 05/26/2009	_____	cduerst 05/26/2009		Crime
	phurley 08/05/2009	bkraft 08/10/2009		_____			

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/2			mduchek 08/10/2009	_____ _____	cduerst 08/10/2009		Crime
/3	phurley 08/24/2009	bkraft 08/24/2009	rschluet 08/24/2009	_____ _____	sbasford 08/24/2009	mbarman 09/04/2009	

FE Sent For:

↳ Not Needed

<END>

←
Per Steve K.
(phone)

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12			mduchek	_____	cduerst		
			08/10/2009	_____	08/10/2009		

13 bjk 8/24

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12 bjk 8/10

WJ
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1?	phurley	11 bjk 5/21	phurley	phurley			Crime

FE Sent For:

<END>



Lbjk

2009 BILL

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x-ref Insert

5-15-09

providing

i AN ACT ^{gen.} ...; relating to: battery, intimidation, or threats to a district attorney,
2 deputy district attorney, or assistant district attorney, and ~~creating~~ a penalty.

Analysis by the Legislative Reference Bureau

> Under current law, no one may intentionally cause or threaten bodily harm to a judge or a member of a judge's family if the person knows that the person harmed or threatened is a judge or a family member of the judge, and the person who causes or threatens harm does so while the judge is acting in his or her official capacity or as a response to an official action by the judge. A person who does so is guilty of a Class H felony and may be fined not more than \$10,000, imprisoned for not more than six years, or both.

This bill attaches the same penalty to a person who knowingly causes or threatens bodily harm to a district attorney or a member of a district attorney's family while the district attorney is acting in an official capacity or as a response to an official action by the district attorney. The bill defines district attorney to include any person authorized to prosecute a criminal case or a delinquency petition, or his or her designee.

Under current law, no one may intimidate a witness or a victim in an effort to prevent the witness or victim from reporting or cooperating in the prosecution of a crime. Anyone who intimidates a witness or a victim is guilty of a Class A misdemeanor and may be fined not more than \$10,000, imprisoned for not more than 9 months, or both. If the person who intimidates a witness or victim acts in furtherance of a conspiracy, for monetary gain, or injures or harms the property of the victim or witness, the person is guilty of a Class G felony, and may be fined not more than \$25,000, imprisoned for not more than 10 years, or both.

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BILL

This bill attaches the same penalties to a person who intimidates a district attorney in an effort to prevent the district attorney from prosecuting a crime.

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:

1 **SECTION 1.** 301.048 (2) (bm) 1. a. of the statutes is amended to read:

2 301.048 (2) (bm) 1. a. A crime specified in s. 940.19 (3), 1999 stats., s. 940.195
3 (3), 1999 stats., s. 943.23 (1m), 1999 stats., or s. 943.23 (1r), 1999 stats., or s. 940.01,
4 940.02, 940.03, 940.05, 940.06, 940.08, 940.09, 940.10, 940.19 (4) or (5), 940.195 (4)
5 or (5), 940.20, 940.201, 940.203, 940.21, 940.225 (1) to (3), 940.23, 940.285 (2) (a) 1.
6 or 2., 940.29, 940.295 (3) (b) 1g., 1m., 1r., 2., or 3., 940.31, 940.43 (1) to (3), 940.435
7 (2) (a) to (c), 940.45 (1) to (3), 941.20 (2) or (3), 941.26, 941.30, 941.327, 943.01 (2) (c),
8 943.011, 943.013, 943.02, 943.04, 943.06, 943.10 (2), 943.23 (1g), 943.30, 943.32,
9 946.43, 947.015, 948.02 (1) or (2), 948.025, 948.03, 948.04, 948.05, 948.051, 948.06,
10 948.07, 948.08, 948.085, or 948.30.

History: 1991 a. 39; 1993 a. 79, 97, 227, 437, 479; 1995 a. 27; 1997 a. 27, 133, 181, 283; 1999 a. 9; 2001 a. 109; 2005 a. 277; 2007 a. 116.

11 **SECTION 2.** 939.22 (21) (er) of the statutes is created to read:

12 # → ^① ^② 939.22 (2) (~~kL~~) Battery or threat to a judge or district attorney, as prohibited
13 in s. 940.203. (er)

14 **SECTION 3.** 939.22 (21) (kL) of the statutes is created to read:

15 # → ^① ^② 939.22 (2) (kL) Intimidation of a district attorney, as prohibited in s. 940.435.

16 **SECTION 4.** 939.632 (1) (e) 3. of the statutes is amended to read:

17 939.632 (1) (e) 3. Any misdemeanor under s. 940.19 (1), 940.225 (3m), 940.32
18 (2), 940.42, 940.435, 940.44, 941.20 (1), 941.23, 941.235, 941.24 or 941.38 (3).

History: 1995 a. 22; 2001 a. 109; 2005 a. 277; 2007 a. 116, 127; s. 13.92 (2) (i).

Insert

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Insert

1 SECTION 5. 940.20 (4) of the statutes is amended to read:

2 940.20 (4) BATTERY TO PUBLIC OFFICERS. Whoever intentionally causes bodily
3 harm to a public officer in order to influence the action of such officer or as a result
4 of any action taken within an official capacity, without the consent of the person
5 injured, is guilty of a Class I felony. A district attorney, as defined by s. 950.02 (2m),
6 is not a public officer for the purposes of this subsection.

History: 1977 c. 173; 1979 c. 30, 113, 221; 1981 c. 118 s. 9; 1983 a. 189 s. 329 (4); 1989 a. 336; 1993 a. 54, 164, 491; 1995 a. 27 s. 9126 (19); 1995 a. 77, 145, 225, 343; 1997 a. 35, 143, 283; 1999 a. 85; 2001 a. 109; 2005 a. 434; 2007 a. 20 s. 9121 (6) (a); 2007 a. 27, 130.

7 SECTION 6. 940.203 (title) of the statutes is amended to read:

8 **940.203 (title) Battery or threat to judge or district attorney.**

History: 1993 a. 50, 446; 2001 a. 61, 109.

9 SECTION 7. 940.203 (1) (a) of the statutes is renumbered 940.203 (1) (am).

10 SECTION 8. 940.203 (1) (ag) of the statutes is created to read:

11 940.203 (1) (ag) "District attorney" has the meaning given in s. 950.02 (2m).

12 SECTION 9. 940.203 (2) (intro.) of the statutes is amended to read:

13 940.203 (2) (intro.) Whoever intentionally causes bodily harm or threatens to
14 cause bodily harm to the person or family member of any judge or district attorney
15 under all of the following circumstances is guilty of a Class H felony:

History: 1993 a. 50, 446; 2001 a. 61, 109.

16 SECTION 10. 940.203 (2) (a) of the statutes is amended to read:

17 940.203 (2) (a) At the time of the act or threat, the actor knows or should have
18 known that the victim is a judge or or a district attorney or a family member of his
19 or her family a judge or a district attorney.

History: 1993 a. 50, 446; 2001 a. 61, 109.

20 SECTION 11. 940.203 (2) (b) of the statutes is amended to read:

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plain period

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SECTION 11

1 940.203 (2) (b) The judge or district attorney is acting in an official capacity at
2 the time of the act or threat or the act or threat is in response to any action taken in
3 an official capacity.

History: 1993 a. 50, 446; 2001 a. 61, 109.

4 **SECTION 12.** 940.41 (1d) of the statutes is created to read:

5 940.41 (1d) "District attorney" has the meaning given in s. 950.02 (2m).

6 **SECTION 13.** 940.435 of the statutes is created to read:

7 **940.435 Intimidation of a district attorney.** (1) Except as provided in sub.
8 (2), whoever knowingly and maliciously prevents or dissuades a district attorney
9 from prosecuting a crime is guilty of a Class A misdemeanor.

10 (2) Whoever knowingly and malicious prevents or dissuades a district attorney
11 from prosecuting a crime under any of the following circumstances is guilty of a Class
12 G felony:

13 (a) Where the act is accompanied by force or violence or attempted force or
14 violence, upon the district attorney, or the spouse, child, stepchild, foster child,
15 treatment foster child, parent, sibling, or grandchild of the district attorney.

16 (b) Where the act is accompanied by injury or damage to the real or personal
17 property of any person covered under sub. (1) or (a)

18 (c) Where the act is accompanied by any express or implied threat of force,
19 violence, injury, or damage described in sub. (1) or (2) or (a) or (b)

20 (d) Where the act is in furtherance of any conspiracy.

21 (e) Where the act is committed by any person who has suffered any prior
22 conviction for any violation under s. 943.30, 1979 stats., ss. 940.42 to 940.45, or any
23 federal statute or statute of any other state which, if the act prosecuted was
24 committed in this state, would be a violation under ss. 940.42 to 940.45.

BILL

1 (f) Where the act is committed by any person for monetary gain or for any other
2 consideration acting on the request of any other person. All parties to the
3 transactions are guilty under this section.

4 History: 1981 c. 118; 1997 a. 143; 2001 a. 109; 2007 a. 96.

SECTION 14. 941.291 (1) (b) of the statutes is amended to read:

5 941.291 (1) (b) “Violent felony” means any felony, or the solicitation, conspiracy,
6 or attempt to commit any felony, under s. 943.23 (1m) or (1r), 1999 stats., or s. 940.01,
7 940.02, 940.03, 940.05, 940.06, 940.08, 940.09, 940.10, 940.19, 940.195, 940.20,
8 940.201, 940.203, 940.21, 940.225, 940.23, 940.285 (2), 940.29, 940.295 (3), 940.30,
9 940.305, 940.31, 940.43 (1) to (3), 940.435 (2) (a) to (c), 940.45 (1) to (3), 941.20,
10 941.26, 941.28, 941.29, 941.30, 941.327, 943.01 (2) (c), 943.011, 943.013, 943.02,
11 943.04, 943.06, 943.10 (2), 943.23 (1g), 943.32, 943.81, 943.82, 943.83, 943.85,
12 943.86, 943.87, 943.88, 943.89, 943.90, 946.43, 947.015, 948.02 (1) or (2), 948.025,
13 948.03, 948.04, 948.05, 948.06, 948.07, 948.08, 948.085, or 948.30; or, if the victim is
14 a financial institution, as defined in s. 943.80 (2), a felony, or the solicitation,
15 conspiracy, or attempt to commit a felony under s. 943.84 (1) or (2).

16 History: 2001 a. 95; 2003 a. 321; 2005 a. 212, 277; 2007 a. 97.

SECTION 15. 941.38 (1) (b) 5r. of the statutes is created to read:

17 941.38 (1) (b) 5r. Battery or threat to a judge or district attorney, as prohibited
18 in s. 940.203.

19 **SECTION 16.** 941.38 (1) (b) 11m. of the statutes is created to read:

20 941.38 (1) (b) 11m. Intimidation of a district attorney, as prohibited in s.
21 940.335.

22 **SECTION 17.** 971.37 (1m) (a) 2. of the statutes is amended to read:

23 971.37 (1m) (a) 2. An adult accused of or charged with a criminal violation of
24 s. 940.19, 940.20 (1m), 940.201, 940.225, 940.23, 940.285, 940.30, 940.42, 940.43,

BILL**SECTION 17**

1 940.435, 940.44, 940.45, 940.48, 941.20, 941.30, 943.01, 943.011, 943.14, 943.15,
2 946.49, 947.01, 947.012 or 947.0125 and the conduct constituting the violation
3 involved an act by the adult person against his or her spouse or former spouse,
4 against an adult with whom the adult person resides or formerly resided or against
5 an adult with whom the adult person has created a child.

History: 1979 c. 111; 1981 c. 88, 366; 1983 a. 204; 1987 a. 27; 1987 a. 332 s. 64; 1991 a. 39; 1993 a. 227, 262, 319; 1995 a. 343, 353, 456; 1997 a. 35, 143; 2003 a. 139; 2005 a. 277.

6 **SECTION 18. 973.055 (1) (a) 1.** of the statutes is amended to read:

7 973.055 (1) (a) 1. The court convicts the person of a violation of a crime specified
8 in s. 940.01, 940.02, 940.03, 940.05, 940.06, 940.19, 940.20 (1m), 940.201, 940.21,
9 940.225, 940.23, 940.235, 940.285, 940.30, 940.305, 940.31, 940.42, 940.43, 940.435,
10 940.44, 940.45, 940.48, 941.20, 941.30, 943.01, 943.011, 943.14, 943.15, 943.15, 946.49,
11 947.01, 947.012 or 947.0125 or of a municipal ordinance conforming to s. 940.201,
12 941.20, 941.30, 943.01, 943.011, 943.14, 943.15, 946.49, 947.01, 947.012 or 947.0125;
13 and

History: 1979 c. 111; 1979 c. 221 s. 2202 (20); 1979 c. 355; 1981 c. 20 s. 2202 (20) (s); 1983 a. 27 s. 2202 (20); 1987 a. 27; 1989 a. 31; 1991 a. 39; 1993 a. 262, 319; 1995 a. 27, 201, 343, 353; 1997 a. 27, 35, 143; 1999 a. 150 s. 672; 1999 a. 185; 2001 a. 16; 2003 a. 33, 139, 225, 326, 327; 2007 a. 20, 97, 127.

14

(END)

**2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2773/lins
PJH:.....

Lbjk

INSERT:

SECTION 1. 939.31 of the statutes is amended to read:

939.31 Conspiracy. Except as provided in ss. 940.43 (4), 940.435, 940.45 (4) and 961.41 (1x), whoever, with intent that a crime be committed, agrees or combines with another for the purpose of committing that crime may, if one or more of the parties to the conspiracy does an act to effect its object, be fined or imprisoned or both not to exceed the maximum provided for the completed crime; except that for a conspiracy to commit a crime for which the penalty is life imprisonment, the actor is guilty of a Class B felony.

History: 1977 c. 173; 1981 c. 118; 1985 a. 328; 1995 a. 448.



2009 BILL

J-509

SA

→ regen.

1 AN ACT *to renumber* 940.203 (1) (a); *to amend* 301.048 (2) (bm) 1. a., 939.31,
 2 939.632 (1) (e) 3., 940.20 (4), 940.203 (title), 940.203 (2) (intro.), 940.203 (2) (a),
 3 940.203 (2) (b), 941.291 (1) (b), 971.37 (1m) (a) 2. and 973.055 (1) (a) 1.; and *to*
 4 *create* 939.22 (21) (er), 939.22 (21) (kL), 940.203 (1) (ag), 940.41 (1d), 940.435,
 5 941.38 (1) (b) 5r. and 941.38 (1) (b) 11m. of the statutes; **relating to:** battery,
 6 intimidation, or threats to a district attorney, deputy district attorney, or
 7 assistant district attorney and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, no one may intentionally cause or threaten bodily harm to a judge or a member of a judge's family if the person knows that the person harmed or threatened is a judge or a family member of the judge, and the person who causes or threatens harm does so while the judge is acting in his or her official capacity or as a response to an official action by the judge. A person who does so is guilty of a Class H felony and may be fined not more than \$10,000, imprisoned for not more than six years, or both.

This bill attaches the same penalty to a person who knowingly causes or threatens bodily harm to a district attorney or a member of a district attorney's family while the district attorney is acting in an official capacity or as a response to an official action by the district attorney. The bill defines district attorney to include

BILL

any person authorized to prosecute a criminal case or a delinquency petition, or his or her designee.

Under current law, no one may intimidate a witness or a victim in an effort to prevent the witness or victim from reporting or cooperating in the prosecution of a crime. Anyone who intimidates a witness or a victim is guilty of a Class A misdemeanor and may be fined not more than \$10,000, imprisoned for not more than nine months, or both. If the person who intimidates a witness or victim acts in furtherance of a conspiracy, for monetary gain, or injures or harms the property of the victim or witness, the person is guilty of a Class G felony, and may be fined not more than \$25,000, imprisoned for not more than ten years, or both.

This bill attaches the same penalties to a person who intimidates a district attorney in an effort to prevent the district attorney from prosecuting a crime.

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:

1 **SECTION 1.** 301.048 (2) (bm) 1. a. of the statutes is amended to read:

2 301.048 (2) (bm) 1. a. A crime specified in s. 940.19 (3), 1999 stats., s. 940.195
3 (3), 1999 stats., s. 943.23 (1m), 1999 stats., or s. 943.23 (1r), 1999 stats., or s. 940.01,
4 940.02, 940.03, 940.05, 940.06, 940.08, 940.09, 940.10, 940.19 (4) or (5), 940.195 (4)
5 or (5), 940.20, 940.201, 940.203, 940.21, 940.225 (1) to (3), 940.23, 940.285 (2) (a) 1.
6 or 2., 940.29, 940.295 (3) (b) 1g., 1m., 1r., 2., or 3., 940.31, 940.43 (1) to (3), 940.435
7 (2) (a) to (c), 940.45 (1) to (3), 941.20 (2) or (3), 941.26, 941.30, 941.327, 943.01 (2) (c),
8 943.011, 943.013, 943.02, 943.04, 943.06, 943.10 (2), 943.23 (1g), 943.30, 943.32,
9 946.43, 947.015, 948.02 (1) or (2), 948.025, 948.03, 948.04, 948.05, 948.051, 948.06,
10 948.07, 948.08, 948.085, or 948.30.

11 **SECTION 2.** 939.22 (21) (er) of the statutes is created to read:

12 939.22 (21) (er) Battery or threat to a judge or district attorney, as prohibited
13 in s. 940.203.

BILL

SECTION 3. 939.22 (21) (kL) of the statutes is created to read:

939.22 (21) (kL) Intimidation of a district attorney, as prohibited in s. 940.435.

SECTION 4. 939.31 of the statutes is amended to read:

939.31 Conspiracy. Except as provided in ss. 940.43 (4), 940.435, 940.45 (4) and 961.41 (1x), whoever, with intent that a crime be committed, agrees or combines with another for the purpose of committing that crime may, if one or more of the parties to the conspiracy does an act to effect its object, be fined or imprisoned or both not to exceed the maximum provided for the completed crime; except that for a conspiracy to commit a crime for which the penalty is life imprisonment, the actor is guilty of a Class B felony.

SECTION 5. 939.632 (1) (e) 3. of the statutes is amended to read:

939.632 (1) (e) 3. Any misdemeanor under s. 940.19 (1), 940.225 (3m), 940.32 (2), 940.42, 940.435, 940.44, 941.20 (1), 941.23, 941.235, 941.24 or 941.38 (3).

SECTION 6. 940.20 (4) of the statutes is amended to read:

940.20 (4) **BATTERY TO PUBLIC OFFICERS.** Whoever intentionally causes bodily harm to a public officer in order to influence the action of such officer or as a result of any action taken within an official capacity, without the consent of the person injured, is guilty of a Class I felony. A district attorney, as defined by s. 950.02 (2m), is not a public officer for the purposes of this subsection.

SECTION 7. 940.203 (title) of the statutes is amended to read:

940.203 (title) Battery or threat to judge or district attorney.

SECTION 8. 940.203 (1) (a) of the statutes is renumbered 940.203 (1) (am).

SECTION 9. 940.203 (1) (ag) of the statutes is created to read:

940.203 (1) (ag) "District attorney" has the meaning given in s. 950.02 (2m).

SECTION 10. 940.203 (2) (intro.) of the statutes is amended to read:

was affected by 2009 Wisconsin Act 281

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1 940.203 (2) (intro.) Whoever intentionally causes bodily harm or threatens to
2 cause bodily harm to the person or family member of any judge or district attorney
3 under all of the following circumstances is guilty of a Class H felony:

4 **SECTION 11.** 940.203 (2) (a) of the statutes is amended to read:

5 940.203 (2) (a) At the time of the act or threat, the actor knows or should have
6 known that the victim is a judge or a district attorney or a family member of ~~his or~~
7 ~~her family~~ a judge or a district attorney.

8 **SECTION 12.** 940.203 (2) (b) of the statutes is amended to read:

9 940.203 (2) (b) The judge or district attorney is acting in an official capacity at
10 the time of the act or threat or the act or threat is in response to any action taken in
11 an official capacity.

12 **SECTION 13.** 940.41 (1d) of the statutes is created to read:

13 940.41 (1d) “District attorney” has the meaning given in s. 950.02 (2m).

14 **SECTION 14.** 940.435 of the statutes is created to read:

15 **940.435 Intimidation of a district attorney.** (1) Except as provided in sub.
16 (2), whoever knowingly and maliciously prevents or dissuades a district attorney
17 from prosecuting a crime is guilty of a Class A misdemeanor.

18 (2) Whoever knowingly and malicious prevents or dissuades a district attorney
19 from prosecuting a crime under any of the following circumstances is guilty of a Class
20 G felony:

21 (a) Where the act is accompanied by force or violence or attempted force or
22 violence, upon the district attorney, or the spouse, child, stepchild, foster child,
23 treatment foster child, parent, sibling, or grandchild of the district attorney.

24 (b) Where the act is accompanied by injury or damage to the real or personal
25 property of any person covered under par. (a).

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1 (c) Where the act is accompanied by any express or implied threat of force,
2 violence, injury, or damage described in par. (a) or (b).

3 (d) Where the act is in furtherance of any conspiracy.

4 (e) Where the act is committed by any person who has suffered any prior
5 conviction for any violation under s. 943.30, 1979 stats., ss. 940.42 to 940.45, or any
6 federal statute or statute of any other state which, if the act prosecuted was
7 committed in this state, would be a violation under ss. 940.42 to 940.45.

8 (f) Where the act is committed by any person for monetary gain or for any other
9 consideration acting on the request of any other person. All parties to the
10 transactions are guilty under this section.

11 **SECTION 15.** 941.291 (1) (b) of the statutes is amended to read:

12 941.291 (1) (b) “Violent felony” means any felony, or the solicitation, conspiracy,
13 or attempt to commit any felony, under s. 943.23 (1m) or (1r), 1999 stats., or s. 940.01,
14 940.02, 940.03, 940.05, 940.06, 940.08, 940.09, 940.10, 940.19, 940.195, 940.20,
15 940.201, 940.203, 940.21, 940.225, 940.23, 940.285 (2), 940.29, 940.295 (3), 940.30,
16 940.305, 940.31, 940.43 (1) to (3), 940.435 (2) (a) to (c), 940.45 (1) to (3), 941.20,
17 941.26, 941.28, 941.29, 941.30, 941.327, 943.01 (2) (c), 943.011, 943.013, 943.02,
18 943.04, 943.06, 943.10 (2), 943.23 (1g), 943.32, 943.81, 943.82, 943.83, 943.85,
19 943.86, 943.87, 943.88, 943.89, 943.90, 946.43, 947.015, 948.02 (1) or (2), 948.025,
20 948.03, 948.04, 948.05, 948.06, 948.07, 948.08, 948.085, or 948.30; or, if the victim is
21 a financial institution, as defined in s. 943.80 (2), a felony, or the solicitation,
22 conspiracy, or attempt to commit a felony under s. 943.84 (1) or (2).

23 **SECTION 16.** 941.38 (1) (b) 5r. of the statutes is created to read:

24 941.38 (1) (b) 5r. Battery or threat to a judge or district attorney, as prohibited
25 in s. 940.403.



2009 BILL

8-24-09

SA

regen.

1 AN ACT *to renumber* 940.203 (1) (a); *to amend* 301.048 (2) (bm) 1. a., 939.31,
 2 939.632 (1) (e) 3., 940.203 (title), 940.203 (2) (intro.), 940.203 (2) (a), 940.203 (2)
 3 (b), 941.291 (1) (b), 971.37 (1m) (a) 2. and 973.055 (1) (a) 1.; and *to create* 939.22
 4 (21) (er), 939.22 (21) (kL), 940.203 (1) (ag), 940.41 (1d), 940.435, 941.38 (1) (b)
 5 5r. and 941.38 (1) (b) 11m. of the statutes; **relating to:** battery, intimidation,
 6 or threats to a district attorney, deputy district attorney, or assistant district
 7 attorney and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, no one may intentionally cause or threaten bodily harm to a judge or a member of a judge's family if the person knows that the person harmed or threatened is a judge or a family member of the judge, and the person who causes or threatens harm does so while the judge is acting in his or her official capacity or as a response to an official action by the judge. A person who does so is guilty of a Class H felony and may be fined not more than \$10,000, imprisoned for not more than six years, or both.

This bill attaches the same penalty to a person who knowingly causes or threatens bodily harm to a district attorney or a member of a district attorney's family while the district attorney is acting in an official capacity or as a response to an official action by the district attorney. The bill defines district attorney to include

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any person authorized to prosecute a criminal case or a delinquency petition, or his or her designee.

Under current law, no one may intimidate a witness or a victim in an effort to prevent the witness or victim from reporting or cooperating in the prosecution of a crime. Anyone who intimidates a witness or a victim is guilty of a Class A misdemeanor and may be fined not more than \$10,000, imprisoned for not more than nine months, or both. If the person who intimidates a witness or victim acts in furtherance of a conspiracy, for monetary gain, or injures or harms the property of the victim or witness, the person is guilty of a Class G felony, and may be fined not more than \$25,000, imprisoned for not more than ten years, or both.

This bill attaches the same penalties to a person who intimidates a district attorney in an effort to prevent the district attorney from prosecuting a crime.

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:

1 **SECTION 1.** 301.048 (2) (bm) 1. a. of the statutes is amended to read:

2 301.048 (2) (bm) 1. a. A crime specified in s. 940.19 (3), 1999 stats., s. 940.195
3 (3), 1999 stats., s. 943.23 (1m), 1999 stats., or s. 943.23 (1r), 1999 stats., or s. 940.01,
4 940.02, 940.03, 940.05, 940.06, 940.08, 940.09, 940.10, 940.19 (4) or (5), 940.195 (4)
5 or (5), 940.20, 940.201, 940.203, 940.21, 940.225 (1) to (3), 940.23, 940.285 (2) (a) 1.
6 or 2., 940.29, 940.295 (3) (b) 1g., 1m., 1r., 2., or 3., 940.31, 940.43 (1) to (3), 940.435
7 (2) (a) to (c), 940.45 (1) to (3), 941.20 (2) or (3), 941.26, 941.30, 941.327, 943.01 (2) (c),
8 943.011, 943.013, 943.02, 943.04, 943.06, 943.10 (2), 943.23 (1g), 943.30, 943.32,
9 946.43, 947.015, 948.02 (1) or (2), 948.025, 948.03, 948.04, 948.05, 948.051, 948.06,
10 948.07, 948.08, 948.085, or 948.30.

11 **SECTION 2.** 939.22 (21) (er) of the statutes is created to read:

12 939.22 (21) (er) Battery or threat to a judge or district attorney, as prohibited
13 in s. 940.203.

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1 **SECTION 3.** 939.22 (21) (kL) of the statutes is created to read:

2 939.22 (21) (kL) Intimidation of a district attorney, as prohibited in s. 940.435.

3 **SECTION 4.** 939.31 of the statutes is amended to read:

4 **939.31 Conspiracy.** Except as provided in ss. 940.43 (4), 940.435, 940.45 (4)
5 and 961.41 (1x), whoever, with intent that a crime be committed, agrees or combines
6 with another for the purpose of committing that crime may, if one or more of the
7 parties to the conspiracy does an act to effect its object, be fined or imprisoned or both
8 not to exceed the maximum provided for the completed crime; except that for a
9 conspiracy to commit a crime for which the penalty is life imprisonment, the actor
10 is guilty of a Class B felony.

11 **SECTION 5.** 939.632 (1) (e) 3. of the statutes is amended to read:

12 939.632 (1) (e) 3. Any misdemeanor under s. 940.19 (1), 940.225 (3m), 940.32
13 (2), 940.42, 940.435, 940.44, 941.20 (1), 941.23, 941.235, 941.24 or 941.38 (3).

14 **SECTION 6.** 940.203 (title) of the statutes is amended to read:

15 **940.203 (title) Battery or threat to judge or district attorney.**

16 **SECTION 7.** 940.203 (1) (a) of the statutes, as affected by 2009 Wisconsin Act 28,
17 is renumbered 940.203 (1) (am).

18 **SECTION 8.** 940.203 (1) (ag) of the statutes is created to read:

19 940.203 (1) (ag) “District attorney” has the meaning given in s. 950.02 (2m).

20 **SECTION 9.** 940.203 (2) (intro.) of the statutes is amended to read:

21 940.203 (2) (intro.) Whoever intentionally causes bodily harm or threatens to
22 cause bodily harm to the person or family member of any judge or district attorney
23 under all of the following circumstances is guilty of a Class H felony:

24 **SECTION 10.** 940.203 (2) (a) of the statutes is amended to read:

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1 940.203 (2) (a) At the time of the act or threat, the actor knows or should have
2 known that the victim is a judge or a district attorney or a family member of ~~his or~~
3 ~~her family~~ a judge or a district attorney.

4 **SECTION 11.** 940.203 (2) (b) of the statutes is amended to read:

5 940.203 (2) (b) The judge or district attorney is acting in an official capacity at
6 the time of the act or threat or the act or threat is in response to any action taken in
7 an official capacity.

8 **SECTION 12.** 940.41 (1d) of the statutes is created to read:

9 940.41 (1d) “District attorney” has the meaning given in s. 950.02 (2m).

10 **SECTION 13.** 940.435 of the statutes is created to read:

11 **940.435 Intimidation of a district attorney.** (1) Except as provided in sub.
12 (2), whoever knowingly and maliciously prevents or dissuades a district attorney
13 from prosecuting a crime is guilty of a Class A misdemeanor.

14 (2) Whoever knowingly and maliciously prevents or dissuades a district attorney
15 from prosecuting a crime under any of the following circumstances is guilty of a Class
16 G felony:

17 (a) Where the act is accompanied by force or violence or attempted force or
18 violence, upon the district attorney, or the spouse, child, stepchild, foster child,
19 treatment foster child, parent, sibling, or grandchild of the district attorney.

20 (b) Where the act is accompanied by injury or damage to the real or personal
21 property of any person covered under par. (a).

22 (c) Where the act is accompanied by any express or implied threat of force,
23 violence, injury, or damage described in par. (a) or (b).

24 (d) Where the act is in furtherance of any conspiracy.

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1 (e) Where the act is committed by any person who has suffered any prior
2 conviction for any violation under s. 943.30, 1979 stats., ss. 940.42 to 940.45, or any
3 federal statute or statute of any other state which, if the act prosecuted was
4 committed in this state, would be a violation under ss. 940.42 to 940.45.

5 (f) Where the act is committed by any person for monetary gain or for any other
6 consideration acting on the request of any other person. All parties to the
7 transactions are guilty under this section.

8 **SECTION 14.** 941.291 (1) (b) of the statutes is amended to read:

9 941.291 (1) (b) "Violent felony" means any felony, or the solicitation, conspiracy,
10 or attempt to commit any felony, under s. 943.23 (1m) or (1r), 1999 stats., or s. 940.01,
11 940.02, 940.03, 940.05, 940.06, 940.08, 940.09, 940.10, 940.19, 940.195, 940.20,
12 940.201, 940.203, 940.21, 940.225, 940.23, 940.285 (2), 940.29, 940.295 (3), 940.30,
13 940.305, 940.31, 940.43 (1) to (3), 940.435 (2) (a) to (c), 940.45 (1) to (3), 941.20,
14 941.26, 941.28, 941.29, 941.30, 941.327, 943.01 (2) (c), 943.011, 943.013, 943.02,
15 943.04, 943.06, 943.10 (2), 943.23 (1g), 943.32, 943.81, 943.82, 943.83, 943.85,
16 943.86, 943.87, 943.88, 943.89, 943.90, 946.43, 947.015, 948.02 (1) or (2), 948.025,
17 948.03, 948.04, 948.05, 948.06, 948.07, 948.08, 948.085, or 948.30; or, if the victim is
18 a financial institution, as defined in s. 943.80 (2), a felony, or the solicitation,
19 conspiracy, or attempt to commit a felony under s. 943.84 (1) or (2).

20 **SECTION 15.** 941.38 (1) (b) 5r. of the statutes is created to read:

21 941.38 (1) (b) 5r. Battery or threat to a judge or district attorney, as prohibited
22 in s. 940.403.

23 **SECTION 16.** 941.38 (1) (b) 11m. of the statutes is created to read:

24 941.38 (1) (b) 11m. Intimidation of a district attorney, as prohibited in s.
25 940.435.

Duerst, Christina

From: Rep.Gundrum
Sent: Friday, September 04, 2009 10:53 AM
To: LRB.Legal
Subject: Please Jacket LRB-2773/3 for Introduction

Please jacket LRB-2773/3 for Introduction.