

**2009 DRAFTING REQUEST**

**Assembly Amendment (AA-AB423)**

Received: **01/04/2010**

Received By: **phurley**

Wanted: **As time permits**

Identical to LRB:

For: **Louis Molepske Jr (608) 267-9649**

By/Representing:

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

Drafter: **phurley**

May Contact:

Addl. Drafters:

Subject: **Criminal Law - sentencing**

Extra Copies: **don dyke**

Submit via email: **YES**

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

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Battery of a district attorney

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**Instructions:**

See attached

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**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>
/P1	phurley 01/04/2010	jdyer 01/05/2010	phenry 01/05/2010	_____	cduerst 01/05/2010		
/1	phurley 01/11/2010	kfollett 01/11/2010	phenry 01/11/2010	_____	sbasford 01/11/2010	sbasford 01/11/2010	

FE Sent For:

<END>

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/P1	phurley	A 1/5 jld	1/5 ph	1/5 ph/mo			

FE Sent For:

<END>

:1.

"District Attorney" means, A district attorney, deputy district attorney, assistant district attorney, <sup>or a</sup> special prosecutor appointed under s. 978.045;

2. The attorney general, a deputy attorney general, or an assistant attorney general performing the duties of a district attorney.



## 2009 ASSEMBLY BILL 423

September 22, 2009 - Introduced by Representatives MOLEPSKE JR., JORGENSEN, GUNDRUM, SCHNEIDER, RADCLIFFE, BLACK, TURNER, BERCEAU, KAUFERT, BROOKS, HRAYCHUCK, SINICKI, HINTZ, GUNDERSON, ZEPNICK, ZIGMUNT, NERISON and BALLWEG, cosponsored by Senators HARSORF, DARLING, LEHMAN and LASSA. Referred to Committee on Judiciary and Ethics.

1     **AN ACT** *to renumber* 940.203 (1) (a); *to amend* 940.20 (4), 940.203 (title),  
2             940.203 (2) (intro.), 940.203 (2) (a) and 940.203 (2) (b); and *to create* 940.203  
3             (1) (ac) of the statutes; **relating to:** battery to a district attorney or assistant  
4             district attorney and providing a penalty.

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### *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.

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.

**ASSEMBLY BILL 423**

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:*

1           **SECTION 1.** 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 in s. 950.02 (2m),  
6 is not a public officer for the purpose of this subsection.

7           **SECTION 2.** 940.203 (title) of the statutes is amended to read:

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

9           **SECTION 3.** 940.203 (1) (a) of the statutes is renumbered 940.203 (1) (am).

10          **SECTION 4.** 940.203 (1) (ac) of the statutes is created to read:

11          940.203 (1) (ac) “District attorney” has the meaning given in s. 950.02 (2m).

12          **SECTION 5.** 940.203 (2) (intro.) of the statutes is amended to read:

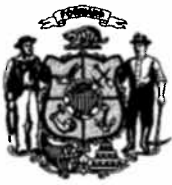
13          940.203 (2) (intro.) Whoever intentionally causes bodily harm or threatens to  
14 cause bodily harm to the person or family member of any judge or district attorney  
15 under all of the following circumstances is guilty of a Class H felony:

16          **SECTION 6.** 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 a district attorney or a member of ~~his or her~~ the  
19 judge’s or district attorney’s family.

20          **SECTION 7.** 940.203 (2) (b) of the statutes is amended to read:





SOON

jld

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION  
ASSEMBLY AMENDMENT,  
TO 2009 ASSEMBLY BILL 423**

1-4-10

1 At the locations indicated, amend the bill as follows:

2 1. Page 1, line 3: delete "district attorney or assistant" and substitute  
3 "prosecutor". ✓

4 2. Page 1, line 4: delete "district attorney". ✓

5 3. Page 2, line 11: delete "has the meaning given in s. 940.02 (2m)" and  
6 substitute "means: any of the following" ✓

7 1. A district attorney, deputy district attorney, assistant district attorney, or a  
8 special prosecutor appointed under s. 978.045. ✓

9 2. The attorney general, a deputy attorney general, or an assistant attorney  
10 general, performing the duties of a district attorney". ✓

11

(END)

move

#. Page 2, line 11: after that line insert:





*lrm*  
*Stays*

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION  
ASSEMBLY AMENDMENT ,  
TO 2009 ASSEMBLY BILL 423**

*by noon*

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2 **1.** Page 1, line 3: delete “district attorney or assistant” and substitute  
3 “prosecutor”.

4 **2.** Page 1, line 4: delete “district attorney”.

5 **3.** Page 2, line 11: delete “has the meaning given in s. 940.02 (2m).” and  
6 substitute “means any of the following.”.

7 **4.** Page 2, line 11: after that line insert:

8 “1. A district attorney, a deputy district attorney, an assistant district attorney,  
9 or a special prosecutor appointed under s. 978.045.

10 2. The attorney general, a deputy attorney general, or an assistant attorney  
11 general, performing the duties of a district attorney.”.

12

(END)