

2011 DRAFTING REQUEST

Assembly Amendment (AA-AB263)

Received: 10/12/2011

Received By: phurley

Wanted: As time permits

Companion to LRB:

For: Daniel Knodl (608) 266-3796

By/Representing:

May Contact:

Drafter: phurley

Subject: Criminal Law - miscellaneous

Addl. Drafters:

Extra Copies:

Submit via email: YES

Requester's email: Rep.Knodl@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Exceptions to prosecution

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>
/1	phurley 10/12/2011	mduchek 10/12/2011	jfrantze 10/12/2011	_____	mbarman 10/12/2011	mbarman 10/12/2011	

FE Sent For:

<END>

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/1	phurley						
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FE Sent For:

11/10/12
11/11/12
10/12

<END>

Hurley, Peggy

From: Dernbach, BJ
Sent: Wednesday, October 12, 2011 11:40 AM
To: Hurley, Peggy
Subject: RE: Amendment to AB 263

Thanks for the catch.

Your right, I wanted to amend the language to say that you can't be assessed costs under 973.06(1)(av) for the listed specific circumstances.

BJ Dernbach
Office of Representative Dan Knodl
24th Assembly District
(608) 266-3796

From: Hurley, Peggy
Sent: Wednesday, October 12, 2011 11:36 AM
To: Dernbach, BJ
Subject: RE: Amendment to AB 263

No problem about the rush. I do have a question about the amendment, though: it appears to amend s. 946.41, which is the "obstruction" statute. That statute isn't in AB 263, but s. 973.06 (1) (av) in AB 263 does call for costs to be assessed against people who are convicted under s. 946.41.

Do you want to amend s. 946.41 to, as the submitted language says, prohibit certain prosecutions under s. 946.41, or do you want to amend s. 973.06 (1) (av) to say that costs may not be assessed a person who violates s. 946.41 if those circumstances (recanting, being a victim of domestic violence, etc.) exist?

From: Dernbach, BJ
Sent: Wednesday, October 12, 2011 11:22 AM
To: Hurley, Peggy
Subject: RE: Amendment to AB 263

Or tomorrow would be great. Thanks for the rush Peggy.

BJ Dernbach
Office of Representative Dan Knodl
24th Assembly District
(608) 266-3796

From: Hurley, Peggy
Sent: Wednesday, October 12, 2011 11:21 AM
To: Dernbach, BJ
Subject: RE: Amendment to AB 263

I can do that. Do you need it by today?

From: Dernbach, BJ
Sent: Wednesday, October 12, 2011 11:19 AM
To: Hurley, Peggy
Subject: Amendment to AB 263
Importance: High

10/12/2011

Could you have this language drafted as a amendment to the bill right away?

Thanks.

BJ Dernbach
Office of Representative Dan Knodl
24th Assembly District
(608) 266-3796

From: Hurley, Peggy
Sent: Wednesday, July 27, 2011 4:05 PM
To: Dernbach, BJ
Subject: RE: Redraft: LRB0949/3 2007-2009

Thanks for clarifying; I think I'll go with a new draft, then, because the focus of the analysis will be on the restitution rather than on the criminal act. I should still be able to get it to you by Monday.

Peggy

From: Dernbach, BJ
Sent: Wednesday, July 27, 2011 1:20 PM
To: Hurley, Peggy
Subject: RE: Redraft: LRB0949/3 2007-2009

Thanks Peggy,

Currently, most police departments charge people with obstruction of an officer if they false report, and the intent was not to create a new crime, but to allow resituion for the law enforcement agency.

If a new bill is easier, that works for me, and changing the clause to "false information" is a good idea.

Thanks.

BJ Dernbach
Office of Representative Dan Knodl
24th Assembly District
(608) 266-3796

From: Hurley, Peggy
Sent: Wednesday, July 27, 2011 12:15 PM
To: Dernbach, BJ
Subject: RE: Redraft: LRB0949/3 2007-2009

Hi BJ,

I'm having a bit of trouble following the instructions you submitted. It appears as though you want to delete the creation of a new crime, "making a false report of a crime," and change the cross-reference in s. 973.06 (1) (av) of the draft to violations of s. 946.41. The problem I see with that is that s. 946.41 doesn't specifically mention making a false report - it defines "obstruction" as "knowingly giving false information to the officer or knowingly placing physical evidence with intent to mislead . . . "

I can change s. 973.06 (1) (av) to refer to the costs of responding to or investigating "false information", but "a report of false information" is not something that is really specified under current s. 946.41.

The relating clause will need to be changed, because this bill would no longer make a new crime or impose a criminal penalty - it appears that your intent is to make someone who resists or obstructs an officer liable for costs associated with certain kinds of obstruction. Is that correct? If that is correct, perhaps it would be better to start

10/12/2011

with a completely new draft, because AB 699 really focused on creating a specific crime of making a false report. Please let me know your thoughts. I will be out of the office for a few hours this afternoon and most of the day Friday, but I will be in all day tomorrow and after 3:30 or so this afternoon.

Peggy J. Hurley
266 8906

From: Dernbach, BJ
Sent: Wednesday, July 27, 2011 11:46 AM
To: Hurley, Peggy
Subject: Redraft: LRB0949/3 2007-2009

Peggy,

I had a bill I worked on with Doc Hines in 2007, it was later presented at 699.

Wanted to get it redrafted right away with some changes.

Line 1: change 946.405 to 946.41

Delete lines 2 through 11

Line 13: change 946.405 to 946.41

Line 13: change "moneys" to "reasonable costs"

Line 15: change "misdemeanor or felony" to "a report of false information,"

If there are any changes that need to be made to make things more consistent, feel free to make those changes.

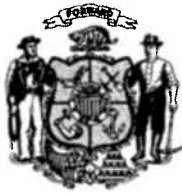
If I could get this back by Monday of next week, that would be great. Thanks.

BJ Dernbach
Office of Representative Dan Knodl
24th Assembly District
(608) 266-3796

(3) A person may not be charged under this section solely because he or she recants a report of abusive conduct, including interspousal battery, as described under s. 940.19 or 940.20 (1m), domestic abuse, as defined under s. 49.165 (1) (a), 813.12 (1) (am), or 968.075 (1) (a), harassment, as defined under s. 813.125 (1), sexual exploitation by a therapist under s. 940.22, sexual assault under s. 940.225, child abuse, as defined under s. 813.122 (1) (a), or child abuse under ss. 948.02 to 948.11.

(4) A person who is a victim of abusive conduct, including interspousal battery, as described under s. 940.19 or 940.20 (1m), domestic abuse, as defined under s. 49.165 (1) (a), 813.12 (1) (am), or 968.075 (1) (a), harassment, as defined under s. 813.125 (1), sexual exploitation by a therapist under s. 940.22, sexual assault under s. 940.225, child abuse, as defined under s. 813.122 (1) (a), or child abuse under ss. 948.02 to 948.11 may not be charged under this section based on an omission or false information provided during the course of the investigation.

(5) A person may not be charged under this section solely because his or her report does not lead to criminal charges against, or a conviction of, another person.



2011 ASSEMBLY BILL 263

September 15, 2011 – Introduced by Representatives KNODL, KRUG, BIES, BROOKS, JACQUE, KERKMAN, KUGLITSCH, MARKLEIN, MURSAU, RIVARD, SINICKI, STRACHOTA and STROEBEL, cosponsored by Senators DARLING, GALLOWAY, LASSA, SCHULTZ and WANGGAARD. Referred to Committee on Criminal Justice and Corrections.

1 **AN ACT to create** 973.06 (1) (av) of the statutes; **relating to:** costs associated
2 with providing false information to a law enforcement officer.

Analysis by the Legislative Reference Bureau

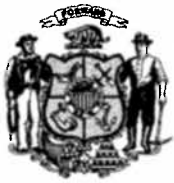
Under current law, a person who is convicted of a crime may be assessed certain costs associated with his or her crime. Current law allows a court to assess costs and fees incurred in connection with the arrest, preliminary examination, and trial of the person, but generally, a person may not be assessed the costs of routine investigations. Under current law, a person who is convicted of certain crimes may be assessed specific costs that are related to those particular crimes.

Under this bill, a person who is convicted of obstructing a law enforcement officer by providing false information to the officer or placing physical evidence with the intent to mislead the officer may be assessed the costs incurred by the law enforcement agency when it investigated or responded to the false information or evidence.

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:

3 **SECTION 1.** 973.06 (1) (av) of the statutes is created to read:



med

**ASSEMBLY AMENDMENT ,
TO 2011 ASSEMBLY BILL 263**

By
10-13 a.m.

At the locations indicated, amend the bill as follows:

1. Page 2, line 1: delete "If" and substitute "1. Except as provided in subd. 2., if".

2. Page 2, line 6: after that line insert: "2. No costs may be taxable against
* a defendant under this paragraph if any of the following apply applies

a. The defendant was charged under s. 946.41 solely because he or she recanted a report of abusive conduct, including interspousal battery, as described under s. 940.19 or 940.20 (1m), domestic abuse, as defined in s. 49.165 (1) (a), 813.12 (1) (am), or 968.075 (1) (a), harassment, as defined in s. 813.125 (1), sexual exploitation by a therapist under s. 940.2^{e 940.22} sexual assault under s. 940.225, child abuse, as defined under s. 813.122 (1) (a), or child abuse under ss. 948.02 to 948.11.

b. The defendant was a victim of abusive conduct, including interspousal battery, as described under s. 940.19 or 940.20 (1m), domestic abuse, as defined in

* s. 49.165 (1) (a), 813.12 (1) (am), or 968.075 (1) (a), harassment, as defined in s.
 * 813.125 (1), sexual exploitation by a therapist under s. 940.2 sexual assault under
 s. 940.225, child abuse, as defined under s. 813.122 (1) (a), or child abuse under ss.
 * 948.02 to 948.11, and he or she was charged under s. 946.41 based on an omission ^{y information he or she omitted}
 * or false information he or she provided during the course of ^{gan} the investigation into the
 crime committed against him or her.

c. The defendant was charged under s. 946.41 solely because his or her report
 did not lead to criminal charges against, or a conviction of, another person.))

(END)