

2017 DRAFTING REQUEST

**Bill**

For: Leah Vukmir (608) 266-2512 Drafter: chanaman  
 By: Ben Secondary Drafters:  
 Date: 10/28/2016 May Contact:  
 Same as LRB:

Submit via email: YES  
 Requester's email: Sen.Vukmir@legis.wisconsin.gov  
 Carbon copy (CC) to:

**Pre Topic:**

No specific pre topic given

**Topic:**

Add other crimes to serious violent crime for the mandatory minimum sentence

**Instructions:**

See attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	chanaman 12/28/2016	kmochal 12/28/2016	mbarman 10/31/2016		State S&L
/P2	chanaman 1/20/2017	kmochal 1/20/2017	hkohn 12/28/2016		State S&L
/P3	chanaman 1/31/2017	jdyer 1/31/2017	hkohn 1/20/2017		State S&L
/1			mbarman 1/31/2017	mbarman 1/31/2017	State S&L

FE Sent For:

<END>

→ At Intro.

From Lis:

Ben from Vukmir's office called wants 2 bills:

#1: Add these to the definition of serious violent crime in 939.619:

- 940.06
- 940.09
- 940.19 (5)
- 940.195 (5)
- 940.21
- 940.305
- 940.31
- 943.02
- 943.10 (2)
- 943.23 (1g)
- 943.32 (2)
- 948.03 (2) (a)
- 948.03 (5)



State of Wisconsin  
2017 - 2018 LEGISLATURE

LRB-0611/P1

CMH...

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

1 AN ACT <sup>Generate catalog</sup>...; relating to: crimes subject to a mandatory minimum sentence.

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***Analysis by the Legislative Reference Bureau***

Current law imposes a mandatory minimum sentence for felony murder or second-degree intentional homicide if the person has been previously convicted of felony murder, second-degree intentional homicide, or a crime punishable by life imprisonment. The court must sentence the person to be confined in prison for at least three years and six months. This bill adds the following crimes to be subject to the same mandatory minimum sentence if the person has been previously convicted of one of the crimes or a crime punishable by life imprisonment: second-degree reckless homicide, homicide by intoxicated use of a vehicle or firearm, aggravated battery, aggravated battery to an unborn child, mayhem, taking hostages, kidnapping, arson of buildings or damage by explosives, burglary under certain circumstances, carjacking, robbery with a dangerous weapon, or intentionally causing great bodily harm to a child.

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:***

2 SECTION 1. 939.619 (1) of the statutes is amended to read:





# MEMORANDUM

Repeat serious violent felony  
Mandatory minimums.

TO Ben Nesvold in the office of Senator Leah Vukmir  
FROM Cathlene Hanaman  
DATE December 13, 2016  
SUBJECT Classified felony offenses

- ✓ - Sex offense Mandatory min.
- - Current law
- - New Additions

The following classifications will be published in January 2017 as an appendix, authored by LFB fiscal analyst Chris Carmichael, to an LFB *Informational Paper*.

## Class A Felonies

1. First-degree intentional homicide [940.01]
2. Intentionally performing a partial-birth abortion [940.16]
3. Treason [946.01]
4. Absconding after being adjudicated delinquent for a Class A felony [946.50]
- ✓ 5. Sexual contact or intercourse with a person under 13 years, if the sexual contact or intercourse resulted in great bodily harm to the person [948.02 (1) (am)]
- ✓ 6. Engaging in repeated sexual contact or intercourse with a person under 13 years, if at least three of the offenses resulted in great bodily harm to the person [948.025 (1) (a)]
- ✓ 7. Engaging in repeated acts of physical abuse of the same child, if at least one violation caused the death of the child [948.03 (5) (a) 1.]

## Class B Felonies

1. Conspiracy to commit a crime for which the penalty is life imprisonment [939.31]
2. Attempt to commit a crime for which the penalty is life imprisonment [939.32]
- ✓ 3. First-degree reckless homicide [940.02] ✓
- ✓ 4. Second-degree intentional homicide [940.05] ✓
- ✓ 5. First-degree sexual assault [940.225(1)]
- ✓ 6. Taking hostages, unless each hostage is released without bodily harm before the hostage taker's arrest [940.305] ✓
- ✓ 7. Kidnapping with intent to cause another to transfer property to obtain the release of the victim, where the victim is not released without permanent physical injury prior to the time the first witness is sworn at trial [940.31] ✓

### Class B Felonies, continued

8. Absconding after being adjudicated delinquent for a Class B felony [946.50(2)]
- ~~9.~~ Sexual intercourse with a person under 12 [948.02(1)(b)]
- ~~10.~~ Sexual intercourse with a person under 16 by use or threat of force or violence [948.02(1)(c)]
- ~~11.~~ Sexual contact with a person under 16 by use or threat of force or violence, if the actor is at least 18 when the sexual contact occurs [948.02(1)(d)]
12. Sexual contact or sexual intercourse with a person under 13 [948.02(1)(e)]
13. Engaging in at least three violations of one of the following: (a) sexual contact or intercourse with a person under 13 years, if resulted in great bodily harm; (b) sexual intercourse with a person under 12; (c) sexual intercourse with a person under 16 by use or threat of force or violence; or (d) sexual contact with a person under 16 by use or threat of force or violence, if the actor is at least 18 when the sexual contact occurs, if fewer than three of the violations were of (a) [948.025(1)(b), (c) or (d)] ✓
14. Engaging in repeated acts of physical abuse of the same child, if at least two violations caused great bodily harm to the child [948.03(5)(a)2.] ✓

### Class C Felonies

1. Attempt to use a computer to facilitate a child sex crime [939.32(1)(de)]
2. First-degree reckless homicide, where drugs are provided or administered ["Len Bias" Law] [940.02]
3. Homicide by intoxicated use of a vehicle, one or more previous convictions, suspension or revocation relating to certain operating under the influence offenses [940.09(1c)(b)] ✓
4. Mayhem [940.21] ✓
- ~~5.~~ Second-degree sexual assault [940.225(2)]
6. Abuse of vulnerable adults under circumstances that cause death by intentional or reckless maltreatment, except for employees of certain institutions, facilities and programs [940.285(2)(b)1g.]
7. Abuse or neglect by employees of certain institutions, facilities or programs of persons at risk under circumstances that cause death by intentional or reckless abuse or neglect [940.295(3)(b)1g.]
8. Taking hostages when, before the time of the hostage taker's arrest, each person who is held as a hostage is released without bodily harm [940.305]
9. Kidnapping [940.31] ✓
10. Causing death to another by tampering with household products [941.327] ✓
11. Arson of a building; damage of property by explosives [943.02] ✓
12. Carjacking [943.23(1g)] ✓
13. Armed robbery [943.32(2)] ✓
14. Robbery of a financial institution [943.87] ✓
15. Absconding after being adjudicated delinquent for a Class C felony [946.50(3)]
16. Second-degree sexual assault of a child [948.02(2)]
- ~~17.~~ Engaging in repeated acts of first- or second-degree sexual assault of a child, if fewer than three violations involved first-degree sexual assault [948.025(1)(c)]
18. Physical abuse of a child (intentionally causing great bodily harm) [948.03(2)(a)]
19. Engaging in repeated acts of physical abuse of the same child, if at least one violation resulted in great bodily harm to the child [948.03(5)(a)3.]
- ~~20.~~ Sexual exploitation of a child [948.05(2p)(b)]
21. Trafficking a child [948.051(1)] ✓

### Class C Felonies, continued

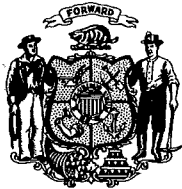
22. Trafficking a child (benefiting in any manner from a violation) [948.051(2)]
23. Using a computer to facilitate a child sex crime [948.075]
24. Sexual assault of a child placed in substitute care [948.085]
25. Incest with a child [948.06]
26. Abduction of another's child by force or threat of force [948.30(2)]
27. Manufacture, distribution or delivery of cocaine or cocaine base, more than 40 grams [961.41(1)(cm)4.]
28. Manufacture, distribution or delivery of heroin, more than 50 grams [961.41(1)(d)4.]
29. Manufacture, distribution or delivery of phencyclidine, amphetamine, methamphetamine or methcathinone, more than 50 grams [961.41(1)(e)4.]
30. Manufacture, distribution or delivery of certain other schedule I controlled substances or ketamine, more than 50 grams [961.41(1)(hm)4.]
31. Manufacture, distribution or delivery of flunitrozepam, more than 50 grams [961.41(1)(im)4.]
32. Possession with intent to manufacture, distribute or deliver cocaine or cocaine base, more than 40 grams [961.41(1m)(cm)4.]
33. Possession with intent to manufacture, distribute or deliver heroin, more than 50 grams [961.41(1m)(d)4.]
34. Possession with intent to manufacture, distribute or deliver phencyclidine, amphetamine, methamphetamine or methcathinone, more than 50 grams [961.41(1m)(e)4.]
35. Possession with intent to manufacture, distribute or deliver certain other schedule I controlled substances or ketamine, more than 50 grams [961.41(1m)(hm)4.]
36. Possession with intent to manufacture, distribute or deliver fluntrazepam, more than 50 grams [961.41(1m)(im)4.]

### Class D Felonies

1. Striking a person or attended or occupied vehicle and not remaining at the scene if the accident involves death [346.74(5)(d)]
2. Second-degree reckless homicide [940.06]
3. Homicide by intoxicated use of a vehicle [940.09(1c)(a)]
4. Homicide by intoxicated use of a firearm [940.09(1g)]
5. Aggravated battery (causing great bodily harm to another by an act done with intent to cause great bodily harm) [940.19(5)]
6. Aggravated battery to an unborn child (causing great bodily harm to an unborn child by an act done with intent to cause great bodily harm) [940.195(5)]
7. First-degree reckless injury [940.23(1)]
8. Abuse of vulnerable adults under circumstances that cause death by negligent maltreatment, except for employees of certain institutions, facilities and programs [940.285(2)(b)1g.]
9. Abuse or neglect by employees of certain institutions, facilities or programs of persons at risk under circumstances that cause death by negligent abuse or neglect [940.295(3)(b)1g.]
10. Human trafficking (knowingly engaging in) [940.302(2)(a)]
11. Human trafficking (benefiting in any manner from a violation) [940.302(2)(b)]
12. Possession of body armor, second or subsequent violation [941.291(3)(b)]
13. Theft of farm raised fish (second or subsequent violation) [943.74]
14. Absconding after being adjudicated delinquent for a Class D felony [946.50(4)]

### Class D Felonies, continued

15. Engaging in repeated acts of physical abuse of the same child, if at least one violation created a high probability of great bodily harm to the child [948.03(5)(a)4.]
16. Child enticement [948.07]
17. Soliciting a child for prostitution [948.08]



State of Wisconsin  
2017 - 2018 LEGISLATURE

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LRB-0611/P1  
CMH:klm

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

*Refer. Act.*

1 AN ACT to amend 939.619 (1) of the statutes; relating to: crimes subject to a  
2 mandatory minimum sentence.

***Analysis by the Legislative Reference Bureau***

Current law imposes a mandatory minimum sentence for felony murder or second-degree intentional homicide if the person has been previously convicted of felony murder, second-degree intentional homicide, or a crime punishable by life imprisonment. The court must sentence the person to be confined in prison for at least three years and six months. This bill adds the following crimes to be subject to the same mandatory minimum sentence if the person has been previously convicted of one of the crimes or a crime punishable by life imprisonment: second-degree reckless homicide, homicide by intoxicated use of a vehicle or firearm, aggravated battery, aggravated battery to an unborn child, mayhem, taking hostages, kidnapping, arson of buildings or damage by explosives, burglary under certain circumstances, carjacking, robbery with a dangerous weapon, or intentionally causing great bodily harm to a child.

For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

→  
UNS  
A

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

3 SECTION 1. 939.619 (1) of the statutes is amended to read:





2017-2018 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-0611/p2ins  
CMH:...

1 Insert A

Current law imposes a mandatory minimum sentence for felony murder or second-degree intentional homicide if the person has been previously convicted of felony murder, second-degree intentional homicide, or a crime punishable by life imprisonment. The court must sentence the person to be confined in prison for at least three years and six months. This bill adds the following crimes to be subject to the same mandatory minimum sentence if the person has been previously convicted of one of the crimes or a crime punishable by life imprisonment: first or second-degree reckless homicide, homicide by intoxicated use of a vehicle or firearm, aggravated battery, mayhem, taking hostages, kidnapping, causing death by tampering with household products, arson of buildings or damage by explosives, carjacking, armed robbery, robbery of a financial institution, physical abuse of a child, child abduction, or child trafficking.

2

and

3

Insert 2-4

4

**SECTION 1.** 939.619 (1) of the statutes is amended to read:

5

939.619 (1) In this section, "serious violent crime" means a violation of s.

6

940.02, 940.03 or, 940.05, 940.06, 940.09, 940.19 (5), 940.21, 940.305, 940.31,

7

940.327, 943.02, 943.23 (1g), 943.32 (2), 943.87, 948.03 (2) (a) or (5), 948.30 (2) or

8

948.051.

move

move

History: 1993 a. 97; 2001 a. 109; 2005 a. 433 s. 17; Stats. 2005 s. 939.619.

\*\*\*\*NOTE: I didn't include s. 940.01 because, as you noted in the meeting, the person is not eligible for release to extended supervision until after he or she has served at least 20 years (973.014 (1g) (a)).

\*\*\*\*NOTE: I didn't include s. 948.025 (1) (b) or (c); see s. 939.616.

see s.



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**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

1 **AN ACT to amend** 939.619(1) of the statutes; **relating to:** crimes subject to a  
2 mandatory minimum sentence.

Regenerate catalog

increases the mandatory minimum sentence to five years and

***Analysis by the Legislative Reference Bureau***

Current law imposes a mandatory minimum sentence for felony murder or second-degree intentional homicide if the person has been previously convicted of felony murder, second-degree intentional homicide, or a crime punishable by life imprisonment. The court must sentence the person to be confined in prison for at least ~~three years and six months~~. This bill adds the following crimes to be subject to the ~~same~~ mandatory minimum sentence if the person has been previously convicted of one of the crimes or a crime punishable by life imprisonment: first-degree or second-degree reckless homicide, homicide by intoxicated use of a vehicle or firearm, aggravated battery, mayhem, taking hostages, kidnapping, causing death by tampering with household products, arson of buildings or damage by explosives, carjacking, armed robbery, robbery of a financial institution, physical abuse of a child, child abduction, and child trafficking.

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.** 939.619 (1) of the statutes is amended to read:



2017-2018 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-0611/p3ins  
CMH:...

1           Insert 2-4

          \*\*\*\*NOTE: I narrowed s. 941.327 to be just s. 941.327 (2) (b) 2., 3., or 4. Section  
941.327 (2) (b) 1. and (3) are Class I felonies so the five-year mandatory minimum  
imprisonment would be greater than the three-and-one-half year maximum sentence.

2           **SECTION 1.** 939.619 (2) of the statutes is amended to read:

3           939.619 (2) If a person has one or more prior convictions for a serious violent  
4           crime or a crime punishable by life imprisonment and subsequently commits a  
5           serious violent crime, the court shall impose a bifurcated sentence under s. 973.01.  
6           The term of confinement in prison portion of a bifurcated sentence imposed under  
7           this subsection may not be less than ~~3~~ 5 years and ~~6~~ months, but otherwise the  
8           penalties for the crime apply, subject to any applicable penalty enhancement. The  
9           court may not place the defendant on probation.

History: 1993 a. 97; 2001 a. 109; 2005 a. 433 s. 17; Stats. 2005 s. 939.619.



State of Wisconsin  
2017 - 2018 LEGISLATURE

LRB-0611/P8  
CMH:klm

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

Regen

✓  
1 AN ACT *to amend* 939.619 (1) and 939.619 (2) of the statutes; **relating to:** crimes  
2 subject to a mandatory minimum sentence.

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***Analysis by the Legislative Reference Bureau***

Current law imposes a mandatory minimum sentence for felony murder or second-degree intentional homicide if the person has been previously convicted of felony murder, second-degree intentional homicide, or a crime punishable by life imprisonment. The court must sentence the person to be confined in prison for at least three years and six months. This bill increases the mandatory minimum sentence to five years and adds the following crimes to be subject to the mandatory minimum sentence if the person has been previously convicted of one of the crimes or a crime punishable by life imprisonment: first-degree or second-degree reckless homicide, homicide by intoxicated use of a vehicle or firearm, aggravated battery, mayhem, taking hostages, kidnapping, causing death by tampering with household products, arson of buildings or damage by explosives, carjacking, armed robbery, robbery of a financial institution, physical abuse of a child, child abduction, and child trafficking.

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:***



**Barman, Mike**

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**From:** LRB.Legal  
**To:** Sen.Vukmir  
**Subject:** Draft review: LRB -0611/1  
**Attachments:** 17-0611/1

**State of Wisconsin - Legislative Reference Bureau**  
**One East Main Street - Suite 200 - Madison**

**The attached draft was prepared at your request. Please review it carefully to ensure that it satisfies your intent.** If you have any questions concerning the draft or would like to have it redrafted, please contact Cathlene M. Hanaman, Deputy Chief and Chief Operating Officer, at (608) 267-9810, at [cathlene.hanaman@legis.wisconsin.gov](mailto:cathlene.hanaman@legis.wisconsin.gov), or at One East Main Street, Suite 200.

**We will jacket this draft for introduction in the Senate.**  
(per Cathlene M. Hanaman, Deputy Chief and Chief Operating Officer)

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will submit a request to DOA when the draft is introduced. You may obtain a fiscal estimate on the draft prior to introduction by contacting our program assistants at [LRB.Legal@legis.wisconsin.gov](mailto:LRB.Legal@legis.wisconsin.gov) or at (608) 266-3561. If you requested a fiscal estimate on an earlier version of this draft and would like to obtain a fiscal estimate on the current version before it is introduced, you will need to request a revised fiscal estimate from our program assistants.

**Please call our program assistants at (608) 266-3561 if you have any questions regarding this email.**