2019 ASSEMBLY BILL 755


AN ACT to create 895.440 and 946.405 of the statutes; relating to: unlawfully Summoning a police officer, creating a civil cause of action, and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill creates the crime of unlawfully summoning a law enforcement officer. Under the bill, it is a Class C misdemeanor to cause a law enforcement officer to arrive at a location to contact another person for a reason other than suspected criminal activity if a reasonable person would not consider the other person to pose a risk to any person or property and if the other person’s contact with the law enforcement officer causes infringement of the other person’s constitutional rights; unlawful discrimination against the other person; a groundless legal process to be initiated against the other person; the other person to feel harassed, humiliated, or embarrassed; or damage to the other person’s reputation or standing within the community. The bill also creates a civil cause of action in which a plaintiff may recover damages from a person who unlawfully summons a law enforcement officer.

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.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:
SECTION 1. 895.440 of the statutes is created to read:

895.440 Unlawfully summoning officer; action for. (1) Any person who suffers, directly or indirectly, a physical injury, emotional distress, loss, or damage caused by, resulting from, or arising out of conduct that is prohibited under s. 946.405 has a civil cause of action against the person who caused the injury.

(2) The burden of proof in a civil action under sub. (1) rests with the person who suffers the physical injury, emotional distress, loss, or damage to prove his or her case by a preponderance of the credible evidence.

(3) If the plaintiff prevails in a civil action under sub. (1), he or she may recover special and general damages, including damages for emotional distress; punitive damages; and costs, including all reasonable attorney fees and other costs of the investigation and litigation that were reasonably incurred.

(4) A person may bring a civil action under sub. (1) regardless of whether there has been a criminal action related to the physical injury, emotional distress, loss, or damage under sub. (1) and regardless of the outcome of any such criminal action.

SECTION 2. 946.405 of the statutes is created to read:

946.405 Unlawfully summoning officer. (1) In this section, “officer” means a peace officer or other public officer or public employee having the authority by virtue of the officer’s or employee’s office or employment to take another into custody.

(2) A person is guilty of a Class C misdemeanor if he or she knowingly causes an officer to arrive at a location to contact another person for a reason other than suspected criminal activity if all of the following apply:

(a) A reasonable person would not consider the other person to pose a risk to any person or property.
(b) The other person’s contact with the law enforcement officer results in one of the following:

1. Infringement of a right of the other person under the Wisconsin or U.S. Constitution.
2. Unlawful discrimination against the other person.
3. A groundless legal process to be initiated against the other person.
4. The other person to suffer physical injury, emotional distress, loss, or damage.
5. Damage to the other person’s reputation or standing within the community.

(END)