



1995 SENATE BILL 571

February 21, 1996 - Introduced by Senators HUELSMAN, ROSENZWEIG and JAUCH.
Referred to Committee on Judiciary.

1 **AN ACT to amend** 767.11 (8) (b) 2., 767.11 (10) (e) 2., 767.24 (2) (b) 2. c., 767.24
2 (5) (i), 939.48 (3), 971.37 (1m) (a) 2. and 973.055 (1) (a) 1.; and **to create** 940.20
3 (7), 940.20 (8) and 940.235 of the statutes; **relating to:** battery or reckless inju-
4 ry to a pregnant female resulting in great bodily harm to or death of her fetus.

Analysis by the Legislative Reference Bureau

Presently, ordinary battery (intentionally causing bodily harm to another person without consent) is a Class A misdemeanor. However, if the battery is against a police officer, probation and parole agent, fire fighter, witness, juror or public official or under other special circumstances, the crime is a felony. This bill makes it a Class D felony to commit a battery against a pregnant female and cause great bodily harm to her fetus and makes it a Class B felony to commit a battery against a pregnant female and cause the death of her fetus.

Also, under current law, recklessly causing great bodily harm to another person is a Class D felony. However, recklessly causing great bodily harm to another human being under circumstances which show utter disregard for human life is a Class C felony. This bill provides that recklessly causing great bodily harm to a pregnant female and causing great bodily harm to or the death of her fetus is a Class C felony.

The maximum penalties for persons convicted of the crime classifications mentioned are:

<u>Crime classification</u>	<u>Maximum imprisonment</u>	<u>Maximum fine</u>
Class B felony	40 years	No fine option
Class C felony	10 years	\$10,000

Class D felony	5 years	\$10,000
Class A misdemeanor	9 months	\$10,000

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

1 **SECTION 1.** 767.11 (8) (b) 2. of the statutes is amended to read:

2 767.11 (8) (b) 2. Interspousal battery as described under s. 940.19 or 940.20 (7)
3 or (8) or domestic abuse as defined in s. 813.12 (1) (a).

4 **SECTION 2.** 767.11 (10) (e) 2. of the statutes is amended to read:

5 767.11 (10) (e) 2. There is evidence of interspousal battery as described under
6 s. 940.19 or 940.20 (7) or (8) or domestic abuse as defined in s. 813.12 (1) (a).

7 **SECTION 3.** 767.24 (2) (b) 2. c. of the statutes is amended to read:

8 767.24 (2) (b) 2. c. The parties will be able to cooperate in the future decision
9 making required under an award of joint legal custody. In making this finding the
10 court shall consider, along with any other pertinent items, any reasons offered by a
11 party objecting to joint legal custody. Evidence that either party engaged in abuse
12 of the child as defined in s. 48.981 (1) (a) and (b) or 813.122 (1) (a) or evidence of inter-
13 spousal battery as described under s. 940.19 or 940.20 (7) or (8) or domestic abuse
14 as defined in s. 813.12 (1) (a) creates a rebuttable presumption that the parties will
15 not be able to cooperate in the future decision making required. This presumption
16 may be rebutted by clear and convincing evidence that the abuse will not interfere
17 with the parties' ability to cooperate in the future decision making required.

18 **SECTION 4.** 767.24 (5) (i) of the statutes is amended to read:

19 767.24 (5) (i) Whether there is evidence of interspousal battery as described
20 under s. 940.19 or 940.20 (7) or (8) or domestic abuse as defined in s. 813.12 (1) (a).

21 **SECTION 5.** 939.48 (3) of the statutes is amended to read:

1 939.48 (3) The privilege of self-defense extends not only to the intentional in-
2 fliction of harm upon a real or apparent wrongdoer, but also to the unintended inflic-
3 tion of harm upon a 3rd person, except that if the unintended infliction of harm
4 amounts to the crime of first-degree or 2nd-degree reckless homicide, homicide by
5 negligent handling of dangerous weapon, explosives or fire, first-degree or 2nd-de-
6 gree reckless injury, reckless injury resulting in fetal death or injury or injury by neg-
7 ligent handling of dangerous weapon, explosives or fire, the actor is liable for which-
8 ever one of those crimes is committed.

9 **SECTION 6.** 940.20 (7) of the statutes is created to read:

10 940.20 (7) BATTERY TO A PERSON RESULTING IN FETAL INJURY. Whoever intentional-
11 ly causes bodily harm to a person who he or she knows or has reason to know is preg-
12 nant, resulting in great bodily harm to the fetus that that person is carrying, without
13 the consent of the injured person, is guilty of a Class D felony.

14 **SECTION 7.** 940.20 (8) of the statutes is created to read:

15 940.20 (8) BATTERY TO A PERSON RESULTING IN FETAL DEATH. Whoever intentional-
16 ly causes bodily harm to a person who he or she knows or has reason to know is preg-
17 nant, resulting in the death of the fetus that that person is carrying, without the con-
18 sent of the injured person, is guilty of a Class B felony.

19 **SECTION 8.** 940.235 of the statutes is created to read:

20 **940.235 Reckless injury resulting in fetal death or injury.** Whoever reck-
21 lessly causes great bodily harm to a person who he or she knows or has reason to
22 know is pregnant, resulting in great bodily harm to or death of the fetus that that
23 person is carrying, is guilty of a Class C felony.

24 **SECTION 9.** 971.37 (1m) (a) 2. of the statutes is amended to read:

