



1995 SENATE BILL 592

February 28, 1996 - Introduced by Senators HUELSMAN, MOORE and PANZER, cosponsored by Representatives SCHNEIDERS, FREESE, BRANDEMUEHL, MUSSER, BALDUS, ALBERS, WILDER, KELSO, WIRCH and GUNDERSON. Referred to Committee on Judiciary.

1 **AN ACT** *to amend* 946.82 (4) and 978.05 (6) (a); *to repeal and recreate* 978.05
2 (6) (a); and *to create* 939.22 (21) (Lt), 939.32 (1) (ct), 941.38 (1) (b) 12m. and
3 942.08 of the statutes; **relating to:** interference with civil rights and providing
4 penalties.

Analysis by the Legislative Reference Bureau

Current law provides various penalties for intimidating witnesses or victims and for harassment of another person. Current law also authorizes courts to issue restraining orders, injunctions and similar orders that require a person to cease or refrain from intimidating witnesses or victims or from harassing another person. Current law also provides various penalties for violations of such restraining orders, injunctions or similar orders.

This bill prohibits a person from interfering with another person who is exercising a right or privilege that is guaranteed by the state or federal constitution or state or federal law (a person's civil rights). Specifically, the bill prohibits a person from using force or violence or the threat of force or violence with the intent to do either of the following: 1) interfere with a person who is exercising his or her civil rights; or 2) prevent or dissuade a person from exercising his or her civil rights. The bill also prohibits a person from using force or violence or the threat of force or violence against a person because the person has exercised his or her civil rights. A person who violates any of these prohibitions may be fined not more than \$10,000 or imprisoned for not more than 10 years or both.

In addition, the bill permits a district attorney or the attorney general to ask a court to issue a restraining order, injunction or similar order requiring a person to cease or refrain from interfering with, or attempting or conspiring to interfere with, a person who is exercising his or her civil rights. A person who violates a restraining

order, injunction or other order issued under the bill may be fined not more than \$10,000 or imprisoned for not more than 2 years or both.

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

1 **SECTION 1.** 939.22 (21) (Lt) of the statutes is created to read:

2 939.22 (21) (Lt) Interference with civil rights, as prohibited in s. 942.08.

3 **SECTION 2.** 939.32 (1) (ct) of the statutes is created to read:

4 939.32 (1) (ct) Whoever attempts to commit a crime under s. 942.08 is subject
5 to the penalty provided in that section for the completed act.

6 **SECTION 3.** 941.38 (1) (b) 12m. of the statutes is created to read:

7 941.38 (1) (b) 12m. Interference with civil rights, as prohibited in s. 942.08.

8 **SECTION 4.** 942.08 of the statutes is created to read:

9 **942.08 Interference with civil rights. (1) CRIMINAL OFFENSES.** (a) Whoever
10 does any of the following is guilty of a Class C felony:

11 1. Uses force or violence against a person, or threatens the use of force or
12 violence against a person, with the intent to interfere with the person's exercise of
13 a right or privilege guaranteed to the person by the constitution or laws of this state
14 or of the United States.

15 2. Uses force or violence against a person, or threatens the use of force or
16 violence against a person, with the intent to prevent or dissuade the person from
17 exercising a right or privilege guaranteed to the person by the constitution or laws
18 of this state or of the United States.

19 3. Uses force or violence against a person, or threatens the use of force or
20 violence against a person, because the person has exercised a right or privilege

1 guaranteed to the person by the constitution or laws of this state or of the United
2 States.

3 (b) Whoever violates a temporary restraining order, injunction or other order
4 issued under sub. (2) is guilty of a Class E felony.

5 **(2) CIVIL REMEDIES.** (a) The attorney general or any district attorney may
6 petition a circuit court specified in par. (b) for a temporary restraining order, an
7 injunction or other appropriate order that requires a person to cease or refrain from
8 violating sub. (1) (a) if the person has engaged in a violation of, or an attempt or
9 conspiracy to violate, sub. (1) (a) or if, based on his or her prior conduct, the person
10 may engage in a violation of, or an attempt or conspiracy to violate, sub. (1) (a).

11 (b) 1. Except as provided in subd. 2, a petition under par. (a) may be filed either
12 in the circuit court for the county of residence of the person who has engaged or may
13 engage in a violation of, or an attempt or conspiracy to violate, sub. (1) (a), or in the
14 circuit court for the county in which a violation of, or an attempt or conspiracy to
15 violate, sub. (1) (a) occurs.

16 2. The attorney general may file a petition under par. (a) in the circuit court for
17 Dane county.

18 (c) In any action brought under this subsection, the circuit court shall proceed
19 as soon as practicable to a hearing and determination. After making due provision
20 for the rights of innocent persons, the circuit court in which the petition is filed may
21 enter appropriate restraining orders, injunctions or other orders or prohibitions.

22 (d) The burden of proof in a proceeding under this subsection is that of
23 satisfying or convincing to a reasonable certainty by a greater weight of the credible
24 evidence that a person against whom the proceeding is brought has engaged in or
25 may engage in a violation of, or an attempt or conspiracy to violate, sub. (1) (a).

1 **(3) REMEDIES NOT EXCLUSIVE.** (a) The application of a civil remedy under sub. (2)
2 against a person does not preclude any of the following:

3 1. Applying any other civil remedy under sub. (2) against the person.

4 2. Filing a criminal charge under sub. (1) against the person.

5 3. Filing against the person any other civil action that is available under any
6 other provision of law.

7 (b) A person charged with a violation of sub. (1) may be subject to any remedy
8 available under sub. (2) or any other civil remedy available under any other provision
9 of law.

10 **SECTION 5.** 946.82 (4) of the statutes, as affected by 1995 Wisconsin Act 133,
11 is amended to read:

12 946.82 (4) "Racketeering activity" means any activity specified in 18 USC 1961
13 (1) in effect as of April 27, 1982 or the attempt, conspiracy to commit, or commission
14 of any of the felonies specified in: chs. 161 and 945 and ss. 49.49, 134.05, 139.44 (1),
15 180.0129, 181.69, 184.09 (2), 185.825, 215.12, 221.17, 221.31, 221.39, 221.40, 551.41,
16 551.42, 551.43, 551.44, 553.41 (3) and (4), 553.52 (2), 940.01, 940.19 (3) to (6), 940.20,
17 940.203, 940.21, 940.30, 940.305, 940.31, 941.20 (2) and (3), 941.26, 941.28, 941.298,
18 941.31, 941.32, ~~942.08~~, 943.01 (2) or (2g), 943.012, 943.013, 943.02, 943.03, 943.04,
19 943.05, 943.06, 943.10, 943.20 (3) (b) to (d), 943.23 (1g), (1m), (1r), (2) and (3), 943.24
20 (2), 943.25, 943.27, 943.28, 943.30, 943.32, 943.34 (1) (b) and (c), 943.38, 943.39,
21 943.40, 943.41 (8) (b) and (c), 943.50 (4) (b) and (c), 943.60, 943.70, 944.21 (5) (c) and
22 (e), 944.32, 944.33 (2), 944.34, 945.03, 945.04, 945.05, 945.08, 946.10, 946.11, 946.12,
23 946.13, 946.31, 946.32 (1), 946.48, 946.49, 946.61, 946.64, 946.65, 946.72, 946.76,
24 947.015, 948.05, 948.08, 948.12 and 948.30.

25 **SECTION 6.** 978.05 (6) (a) of the statutes is amended to read:

1 978.05 (6) (a) Institute, commence or appear in all civil actions or special
2 proceedings under and perform the duties set forth for the district attorney under ss.
3 17.14, 30.03 (2), 48.09 (1), (2) and (5), 48.18, 48.355 (6) (b) and (6g) (a), 59.073, 59.77,
4 70.36, 103.50 (8), 103.92 (4), 109.09, 161.55 (5), 343.305 (9) (a), 453.08, 806.05, 942.08
5 (2), 946.86, 946.87, 971.14 and 973.075 to 973.077, perform any duties in connection
6 with court proceedings in a court assigned to exercise jurisdiction under ch. 48 as the
7 judge may request and perform all appropriate duties and appear if the district
8 attorney is designated in specific statutes, including matters within chs. 782, 976
9 and 979 and ss. 51.81 to 51.85. Nothing in this paragraph limits the authority of the
10 county board to designate, under s. 48.09 (2) or (5), that the corporation counsel
11 provide representation as specified in s. 48.09 (2) or (5) or to designate, under s. 48.09
12 (6), the district attorney as an appropriate person to represent the interests of the
13 public under s. 48.14.

14 **SECTION 7.** 978.05 (6) (a) of the statutes, as affected by 1995 Wisconsin Acts 77
15 and ... (this act), is repealed and recreated to read:

16 978.05 (6) (a) Institute, commence or appear in all civil actions or special
17 proceedings under and perform the duties set forth for the district attorney under ss.
18 17.14, 30.03 (2), 48.09 (5), 59.073, 59.77, 70.36, 103.50 (8), 103.92 (4), 109.09, 161.55
19 (5), 343.305 (9) (a), 453.08, 806.05, 938.09, 938.18, 938.355 (6) (b) and (6g) (a), 942.08
20 (2), 946.86, 946.87, 971.14 and 973.075 to 973.077, perform any duties in connection
21 with court proceedings in a court assigned to exercise jurisdiction under chs. 48 and
22 938 as the judge may request and perform all appropriate duties and appear if the
23 district attorney is designated in specific statutes, including matters within chs. 782,
24 976 and 979 and ss. 51.81 to 51.85. Nothing in this paragraph limits the authority
25 of the county board to designate, under s. 48.09 (5), that the corporation counsel

1 provide representation as specified in s. 48.09 (5) or to designate, under s. 48.09 (6)
2 or 938.09 (6), the district attorney as an appropriate person to represent the interests
3 of the public under s. 48.14 or 938.14.

4 **SECTION 8. Effective dates.** This act takes effect on the day after
5 publication, except as follows:

6 (1) The repeal and recreation of section 978.05 (6) (a) of the statutes takes effect
7 on July 1, 1996, or on the day after publication, whichever is later.

8 (END)