



1997 ASSEMBLY BILL 866

March 2, 1998 - Introduced by Representatives SKINDRUD, JENSEN, HAHN, KELSO and SCHAFER, cosponsored by Senator DARLING. Referred to Committee on Criminal Justice and Corrections.

1 **AN ACT to create** 939.622 of the statutes; **relating to:** committing a serious sex
2 crime while infected with human immunodeficiency virus, acquired
3 immunodeficiency syndrome or a sexually transmitted disease and providing
4 a penalty.

Analysis by the Legislative Reference Bureau

Current law provides various penalty enhancers that apply to persons who commit particular crimes under certain circumstances. One such enhancer provides that, if a person has one or more prior convictions for a serious sex crime and later commits another serious sex crime, the court must sentence the person to not less than 5 years' imprisonment and may not place the defendant on probation. The serious sex crimes covered by this penalty enhancer are first and second degree sexual assault (which involve nonconsensual sexual intercourse or sexual contact), first and second degree sexual assault of a child and repeated sexual assault of a child.

This bill provides that the maximum term of imprisonment for a serious sex crime may be increased by not more than 5 years if the person who commits the serious sex crime knows that he or she is infected with human immunodeficiency virus, acquired immunodeficiency syndrome or a sexually transmitted disease.

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

ASSEMBLY BILL 866

SECTION 1

1 **SECTION 1.** 939.622 of the statutes is created to read:

2 **939.622 Committing a serious sex crime while infected with acquired**
3 **immuno deficiency syndrome, HIV or a sexually transmitted disease. (1)**

4 In this section:

5 (a) "HIV" means any strain of human immunodeficiency virus, which causes
6 acquired immunodeficiency syndrome.

7 (b) "Serious sex crime" means a violation of s. 940.225 (1) or (2), 948.02 (1) or
8 (2) or 948.025.

9 (c) "Sexually transmitted disease" means syphilis, gonorrhea or chlamydia.

10 **(2)** The maximum term of imprisonment for a serious sex crime may be
11 increased by not more than 5 years if all of the following apply to the person convicted
12 of committing the serious sex crime at the time that he or she commits the serious
13 sex crime:

14 (a) The person has a sexually transmitted disease or acquired
15 immunodeficiency syndrome or has had a positive test for the presence of HIV,
16 antigen or nonantigenic products of HIV or an antibody to HIV.

17 (b) The person knows that he or she has a sexually transmitted disease or
18 acquired immunodeficiency syndrome or that he or she has had a positive test for the
19 presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV.

20 **(3)** This section provides for the enhancement of the maximum term of
21 imprisonment provided for the underlying crime. The court shall direct that the trier
22 of fact find a special verdict as to all of the issues specified in sub. (2).

23 **SECTION 2. Initial applicability.**

