



2009 ASSEMBLY BILL 422

September 22, 2009 – Introduced by Representatives GUNDRUM, MASON, SUDER, BERCEAU, PETROWSKI, CULLEN, KNODL, GUNDERSON, LEMAHIEU, A. OTT, BROOKS, TOWNSEND, LOTHIAN, BIES and NASS, cosponsored by Senators HOPPER and HARSDORF. Referred to Committee on Judiciary and Ethics.

1 **AN ACT to renumber** 940.203 (1) (a); **to amend** 301.048 (2) (bm) 1. a., 939.31,
2 939.632 (1) (e) 3., 940.203 (title), 940.203 (2) (intro.), 940.203 (2) (a), 940.203 (2)
3 (b), 941.291 (1) (b), 971.37 (1m) (a) 2. and 973.055 (1) (a) 1.; and **to create** 939.22
4 (21) (er), 939.22 (21) (kL), 940.203 (1) (ag), 940.41 (1d), 940.435, 941.38 (1) (b)
5 5r. and 941.38 (1) (b) 11m. of the statutes; **relating to:** battery, intimidation,
6 or threats to a district attorney, deputy district attorney, or assistant district
7 attorney and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, no one may intentionally cause or threaten bodily harm to a judge or a member of a judge's family if the person knows that the person harmed or threatened is a judge or a family member of the judge, and the person who causes or threatens harm does so while the judge is acting in his or her official capacity or as a response to an official action by the judge. A person who does so is guilty of a Class H felony and may be fined not more than \$10,000, imprisoned for not more than six years, or both.

This bill attaches the same penalty to a person who knowingly causes or threatens bodily harm to a district attorney or a member of a district attorney's family while the district attorney is acting in an official capacity or as a response to an official action by the district attorney. The bill defines district attorney to include

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any person authorized to prosecute a criminal case or a delinquency petition, or his or her designee.

Under current law, no one may intimidate a witness or a victim in an effort to prevent the witness or victim from reporting or cooperating in the prosecution of a crime. Anyone who intimidates a witness or a victim is guilty of a Class A misdemeanor and may be fined not more than \$10,000, imprisoned for not more than nine months, or both. If the person who intimidates a witness or victim acts in furtherance of a conspiracy, for monetary gain, or injures or harms the property of the victim or witness, the person is guilty of a Class G felony, and may be fined not more than \$25,000, imprisoned for not more than ten years, or both.

This bill attaches the same penalties to a person who intimidates a district attorney in an effort to prevent the district attorney from prosecuting a crime.

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 concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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

1 **SECTION 1.** 301.048 (2) (bm) 1. a. of the statutes is amended to read:

2 301.048 (2) (bm) 1. a. A crime specified in s. 940.19 (3), 1999 stats., s. 940.195
3 (3), 1999 stats., s. 943.23 (1m), 1999 stats., or s. 943.23 (1r), 1999 stats., or s. 940.01,
4 940.02, 940.03, 940.05, 940.06, 940.08, 940.09, 940.10, 940.19 (4) or (5), 940.195 (4)
5 or (5), 940.20, 940.201, 940.203, 940.21, 940.225 (1) to (3), 940.23, 940.285 (2) (a) 1.
6 or 2., 940.29, 940.295 (3) (b) 1g., 1m., 1r., 2., or 3., 940.31, 940.43 (1) to (3), 940.435
7 (2) (a) to (c), 940.45 (1) to (3), 941.20 (2) or (3), 941.26, 941.30, 941.327, 943.01 (2) (c),
8 943.011, 943.013, 943.02, 943.04, 943.06, 943.10 (2), 943.23 (1g), 943.30, 943.32,
9 946.43, 947.015, 948.02 (1) or (2), 948.025, 948.03, 948.04, 948.05, 948.051, 948.06,
10 948.07, 948.08, 948.085, or 948.30.

11 **SECTION 2.** 939.22 (21) (er) of the statutes is created to read:

12 939.22 (21) (er) Battery or threat to a judge or district attorney, as prohibited
13 in s. 940.203.

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1 **SECTION 3.** 939.22 (21) (kL) of the statutes is created to read:

2 939.22 (21) (kL) Intimidation of a district attorney, as prohibited in s. 940.435.

3 **SECTION 4.** 939.31 of the statutes is amended to read:

4 **939.31 Conspiracy.** Except as provided in ss. 940.43 (4), 940.435, 940.45 (4)
5 and 961.41 (1x), whoever, with intent that a crime be committed, agrees or combines
6 with another for the purpose of committing that crime may, if one or more of the
7 parties to the conspiracy does an act to effect its object, be fined or imprisoned or both
8 not to exceed the maximum provided for the completed crime; except that for a
9 conspiracy to commit a crime for which the penalty is life imprisonment, the actor
10 is guilty of a Class B felony.

11 **SECTION 5.** 939.632 (1) (e) 3. of the statutes is amended to read:

12 939.632 (1) (e) 3. Any misdemeanor under s. 940.19 (1), 940.225 (3m), 940.32
13 (2), 940.42, 940.435, 940.44, 941.20 (1), 941.23, 941.235, 941.24 or 941.38 (3).

14 **SECTION 6.** 940.203 (title) of the statutes is amended to read:

15 **940.203 (title) Battery or threat to judge or district attorney.**

16 **SECTION 7.** 940.203 (1) (a) of the statutes, as affected by 2009 Wisconsin Act 28,
17 is renumbered 940.203 (1) (am).

18 **SECTION 8.** 940.203 (1) (ag) of the statutes is created to read:

19 940.203 (1) (ag) "District attorney" has the meaning given in s. 950.02 (2m).

20 **SECTION 9.** 940.203 (2) (intro.) of the statutes is amended to read:

21 940.203 (2) (intro.) Whoever intentionally causes bodily harm or threatens to
22 cause bodily harm to the person or family member of any judge or district attorney
23 under all of the following circumstances is guilty of a Class H felony:

24 **SECTION 10.** 940.203 (2) (a) of the statutes is amended to read:

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1 940.203 (2) (a) At the time of the act or threat, the actor knows or should have
2 known that the victim is a judge or a district attorney or a family member of ~~his or~~
3 ~~her family~~ a judge or a district attorney.

4 **SECTION 11.** 940.203 (2) (b) of the statutes is amended to read:

5 940.203 (2) (b) The judge or district attorney is acting in an official capacity at
6 the time of the act or threat or the act or threat is in response to any action taken in
7 an official capacity.

8 **SECTION 12.** 940.41 (1d) of the statutes is created to read:

9 940.41 (1d) “District attorney” has the meaning given in s. 950.02 (2m).

10 **SECTION 13.** 940.435 of the statutes is created to read:

11 **940.435 Intimidation of a district attorney. (1)** Except as provided in sub.
12 (2), whoever knowingly and maliciously prevents or dissuades a district attorney
13 from prosecuting a crime is guilty of a Class A misdemeanor.

14 **(2)** Whoever knowingly and maliciously prevents or dissuades a district
15 attorney from prosecuting a crime under any of the following circumstances is guilty
16 of a Class G felony:

17 (a) Where the act is accompanied by force or violence or attempted force or
18 violence, upon the district attorney, or the spouse, child, stepchild, foster child,
19 treatment foster child, parent, sibling, or grandchild of the district attorney.

20 (b) Where the act is accompanied by injury or damage to the real or personal
21 property of any person covered under par. (a).

22 (c) Where the act is accompanied by any express or implied threat of force,
23 violence, injury, or damage described in par. (a) or (b).

24 (d) Where the act is in furtherance of any conspiracy.

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1 (e) Where the act is committed by any person who has suffered any prior
2 conviction for any violation under s. 943.30, 1979 stats., ss. 940.42 to 940.45, or any
3 federal statute or statute of any other state which, if the act prosecuted was
4 committed in this state, would be a violation under ss. 940.42 to 940.45.

5 (f) Where the act is committed by any person for monetary gain or for any other
6 consideration acting on the request of any other person. All parties to the
7 transactions are guilty under this section.

8 **SECTION 14.** 941.291 (1) (b) of the statutes is amended to read:

9 941.291 (1) (b) "Violent felony" means any felony, or the solicitation, conspiracy,
10 or attempt to commit any felony, under s. 943.23 (1m) or (1r), 1999 stats., or s. 940.01,
11 940.02, 940.03, 940.05, 940.06, 940.08, 940.09, 940.10, 940.19, 940.195, 940.20,
12 940.201, 940.203, 940.21, 940.225, 940.23, 940.285 (2), 940.29, 940.295 (3), 940.30,
13 940.305, 940.31, 940.43 (1) to (3), 940.435 (2) (a) to (c), 940.45 (1) to (3), 941.20,
14 941.26, 941.28, 941.29, 941.30, 941.327, 943.01 (2) (c), 943.011, 943.013, 943.02,
15 943.04, 943.06, 943.10 (2), 943.23 (1g), 943.32, 943.81, 943.82, 943.83, 943.85,
16 943.86, 943.87, 943.88, 943.89, 943.90, 946.43, 947.015, 948.02 (1) or (2), 948.025,
17 948.03, 948.04, 948.05, 948.06, 948.07, 948.08, 948.085, or 948.30; or, if the victim is
18 a financial institution, as defined in s. 943.80 (2), a felony, or the solicitation,
19 conspiracy, or attempt to commit a felony under s. 943.84 (1) or (2).

20 **SECTION 15.** 941.38 (1) (b) 5r. of the statutes is created to read:

21 941.38 (1) (b) 5r. Battery or threat to a judge or district attorney, as prohibited
22 in s. 940.403.

23 **SECTION 16.** 941.38 (1) (b) 11m. of the statutes is created to read:

24 941.38 (1) (b) 11m. Intimidation of a district attorney, as prohibited in s.
25 940.435.

