

State of Misconsin 2021 - 2022 LEGISLATURE

 $\begin{array}{c} LRB\text{--}5637/1 \\ CMH\text{:skw} \end{array}$

2021 SENATE BILL 844

January 13, 2022 - Introduced by Senators Feyen, Marklein, Nass, Stroebel and Cowles, cosponsored by Representatives Callahan, Snyder, Behnke, Born, Brandtjen, Dittrich, Edming, Gundrum, James, Kuglitsch, Murphy, Penterman, Plumer, Sanfelippo, Schraa, Mursau and Tranel. Referred to Committee on Judiciary and Public Safety.

AN ACT *to amend* 973.01 (2) (c) 2. a.; and *to create* 940.20 (2n) of the statutes; relating to: battery of a corrections employee by a person in custody and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, a person who intentionally causes bodily harm to another person commits the crime of simple battery and is guilty of a Class A misdemeanor. Current law provides greater penalties for persons who intentionally cause bodily harm to certain persons. For example, under current law, a person who intentionally causes bodily harm to a probation, extended supervision, and parole agent commits the crime of special circumstances battery and is guilty of a Class H felony. Current law also increases penalties for battery that results in greater bodily harm. For instance, if a person intentionally causes great bodily harm, such as a permanent disfigurement, to another, the person commits the crime of aggravated battery and is guilty of a Class E felony. Under the bill, if a person who is in the custody of DOC commits any type of battery against an employee of DOC, the maximum imprisonment penalty for that level of battery is increased by five years, and, if the person is serving a sentence when the battery is committed, the sentence imposed must run consecutive to the one the person is serving, not concurrent to it.

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

SENATE BILL 844

SECTION 1. 940.20 (2n) of the statutes is created to read:
940.20 (2n) Battery to department of corrections employees. (a) If a person
who is in custody, as defined in s. 968.205 (1) (a) , intentionally causes bodily harm
to an employee of the department of corrections, the maximum term of imprisonment
prescribed by law for that crime shall be increased by 5 years if all of the following
apply:
1. At the time of the act, the person in custody knows or should have known that
the victim is an employee of the department of corrections.
2. The employee is acting in an official capacity at the time of the act or the act
is in response to any action taken in an official capacity.
3. There is no consent by the employee.
(b) Notwithstanding s. 973.15 (2) (a), if the penalty enhancer under par. (a)
could be imposed on a sentence, the sentence, regardless of the length of the term of
imprisonment actually imposed, shall run consecutive to any sentence the person is
currently serving.
Section 2. 973.01 (2) (c) 2. a. of the statutes, as affected by 2021 Wisconsin Act
76, is amended to read:
973.01 (2) (c) 2. a. Sections 939.621, 939.623, 939.632, 939.635, 939.645, <u>940.20</u>

(END)

(2n), 946.42 (4), 961.442, 961.46, and 961.49.