



2023 SENATE BILL 402

September 8, 2023 - Introduced by Senators WANGGAARD, MARKLEIN, BALLWEG and TOMCZYK, cosponsored by Representatives SORTWELL, STEFFEN, BEHNKE, DITTRICH, DONOVAN, EDMING, MICHALSKI, MURPHY, O'CONNOR, TITTL, WICHGERS and BRANDTJEN. Referred to Committee on Judiciary and Public Safety.

1 **AN ACT** *to renumber and amend* 940.20 (3) (title) and 940.20 (3); *to amend*
2 48.685 (2) (bb), 48.685 (5) (bm) 4., 48.686 (1) (c) 9., 48.686 (1) (c) 12., 48.686 (2)
3 (bb), 50.065 (2) (bb), 165.70 (1) (b), 165.84 (7) (ab) 2., 301.048 (2) (bm) 1. a.,
4 767.461 (4), 940.03, 941.29 (1g) (a), 941.291 (1) (b), 941.39 (title), 946.82 (4),
5 949.03 (2), 968.26 (1b) (a) 2. a., 969.08 (10) (b), 973.049 (2) and 973.123 (1); and
6 **to create** 939.22 (21) (es), 940.202 (1) and (3) and 941.38 (1) (b) 5s. of the
7 statutes; **relating to:** battery or threat to jurors and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, the crime of battery is defined as intentionally causing another person bodily harm and is a Class A misdemeanor. Under current law, if the battery is a special circumstance battery—for example, the battery is committed against an individual because of the individual's status as a law enforcement officer, witness in a trial, or juror—the penalty is increased to a Class H felony. Under this bill, a threat or battery against a juror or a threat or battery against a family member of a juror is a Class I felony.

Current law also allows a judge, upon sentencing a person for a crime, to prohibit the person from contacting a victim of or witness to the person's crime during any part of the person's sentence or probation. The bill allows a judge to prohibit a person who is convicted of a crime from contacting, for any part of the person's

SENATE BILL 402

sentence or probation, a juror who served at any proceeding related to the person's 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.

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

1 **SECTION 1.** 48.685 (2) (bb) of the statutes is amended to read:

2 48.685 **(2)** (bb) If information obtained under par. (am), (b), or (ba) indicates a
3 charge of a serious crime, but does not completely and clearly indicate the final
4 disposition of the charge, the department, county department, child welfare agency,
5 or entity shall make every reasonable effort to contact the clerk of courts to determine
6 the final disposition of the charge. If a background information form under sub. (6)
7 (a) or (am) indicates a charge or a conviction of a serious crime, but information
8 obtained under par. (am), (b), or (ba) does not indicate such a charge or conviction,
9 the department, county department, child welfare agency, or entity shall make every
10 reasonable effort to contact the clerk of courts to obtain a copy of the criminal
11 complaint and the final disposition of the complaint. If information obtained under
12 par. (am), (b), or (ba), a background information form under sub. (6) (a) or (am), or
13 any other information indicates a conviction of a violation of s. 940.19 (1), 940.195,
14 940.20, 940.202, 940.204, 941.30, 942.08, 947.01 (1), or 947.013 obtained not more
15 than 5 years before the date on which that information was obtained, the
16 department, county department, child welfare agency, or entity shall make every
17 reasonable effort to contact the clerk of courts to obtain a copy of the criminal
18 complaint and judgment of conviction relating to that violation.

19 **SECTION 2.** 48.685 (5) (bm) 4. of the statutes is amended to read:

SENATE BILL 402

1 48.685 (5) (bm) 4. A violation of s. 940.19 (3), 1999 stats., or of s. 125.075 (1),
2 125.085 (3) (a) 2., 125.105 (2) (b), 125.66 (3), 125.68 (12), 940.09, 940.19 (2), (4), (5),
3 or (6), 940.20, 940.202, 940.203, 940.204, 940.205, 940.207, or 940.25, a violation of
4 s. 346.63 (1), (2), (5), or (6) that is a felony under s. 346.65 (2) (am) 4. to 7., or (f), (2j)
5 (d), or (3m), or an offense under ch. 961 that is a felony, if committed not more than
6 5 years before the date of the investigation under sub. (2) (am).

7 **SECTION 3.** 48.686 (1) (c) 9. of the statutes, as affected by 2023 Wisconsin Act
8 10, is amended to read:

9 48.686 (1) (c) 9. A violation of s. 125.075 (1), 125.085 (3) (a) 2., 125.105 (2) (b),
10 125.66 (3), 125.68 (12), 940.09, 940.19 (2), (4), (5), or (6), 940.20, 940.203, 940.202,
11 940.204, 940.205, 940.207, 940.25, or 943.231 (1), a violation of s. 346.63 (1), (2), (5),
12 or (6) that is a felony under s. 346.65 (2) (am) 4., 5., 6., or 7. or (f), (2j) (d), or (3m), or
13 an offense under ch. 961 that is a felony.

14 **SECTION 4.** 48.686 (1) (c) 12. of the statutes is amended to read:

15 48.686 (1) (c) 12. A violation of the laws of another state or United States
16 jurisdiction that if committed in this state would constitute felony battery under s.
17 940.19 (2), (4), (5), or (6), 940.20, 940.202, or 940.204, a felony offense of domestic
18 abuse, as defined in s. 813.12 (1) (am), a sex offense or a violent crime under ch. 948,
19 or a violation of s. 940.225 if the victim was a child.

20 **SECTION 5.** 48.686 (2) (bb) of the statutes is amended to read:

21 48.686 (2) (bb) If information obtained under par. (am) indicates a charge of a
22 serious crime, but does not completely and clearly indicate the final disposition of the
23 charge, the department shall make every reasonable effort to contact the clerk of
24 courts to determine the final disposition of the charge. If information submitted to
25 the department under par. (ag) indicates a charge or a conviction of a serious crime,

SENATE BILL 402**SECTION 5**

1 but information obtained under par. (am) does not indicate such a charge or
2 conviction, the department shall make every reasonable effort to contact the clerk
3 of courts to obtain a copy of the criminal complaint and the final disposition of the
4 complaint. If information obtained under par. (am), information submitted under
5 par. (ag), or any other information indicates a conviction of a violation of s. 940.19 (1),
6 940.195, 940.20, 940.202, 940.204, 941.30, 942.08, 947.01 (1), or 947.013 obtained
7 not more than 5 years before the date on which that information was obtained, the
8 department shall make every reasonable effort to contact the clerk of courts to obtain
9 a copy of the criminal complaint and judgment of conviction relating to that violation.

10 **SECTION 6.** 50.065 (2) (bb) of the statutes is amended to read:

11 50.065 (2) (bb) If information obtained under par. (am) or (b) indicates a charge
12 of a serious crime, but does not completely and clearly indicate the final disposition
13 of the charge, the department or entity shall make every reasonable effort to contact
14 the clerk of courts to determine the final disposition of the charge. If a background
15 information form under sub. (6) (a) or (am), or any disclosure made pursuant to a
16 disclosure policy described under sub. (6) (am), indicates a charge or a conviction of
17 a serious crime, but information obtained under par. (am) or (b) does not indicate
18 such a charge or conviction, the department or entity shall make every reasonable
19 effort to contact the clerk of courts to obtain a copy of the criminal complaint and the
20 final disposition of the complaint. If information obtained under par. (am) or (b), a
21 background information form under sub. (6) (a) or (am), any disclosure made
22 pursuant to a disclosure policy described under sub. (6) (am), or any other
23 information indicates a conviction of a violation of s. 940.19 (1), 940.195, 940.20,
24 940.202, 940.204, 941.30, 942.08, 947.01 (1), or 947.013 obtained not more than 5
25 years before the date on which that information was obtained, the department or

SENATE BILL 402

1 entity shall make every reasonable effort to contact the clerk of courts to obtain a
2 copy of the criminal complaint and judgment of conviction relating to that violation.

3 **SECTION 7.** 165.70 (1) (b) of the statutes is amended to read:

4 165.70 (1) (b) Except as provided in sub. (1m), enforce chs. 945 and 961 and ss.
5 ~~940.20 (3)~~, 940.201, 940.202, 941.25, 941.26, 943.01 (2) (c), 943.011, 943.27, 943.28,
6 943.30, 944.30 (1m), 944.31, 944.32, 944.33, 944.34, 946.65, 947.02 (3) and (4),
7 948.075, 948.08, and 948.081.

8 **SECTION 8.** 165.84 (7) (ab) 2. of the statutes is amended to read:

9 165.84 (7) (ab) 2. A felony violation of s. 940.02, 940.03, 940.06, 940.07, 940.08,
10 940.09 (1c), 940.10, 940.19 (2), (4), (5), or (6), 940.195 (2), (4), (5), or (6), 940.20,
11 940.201 (2), 940.202, 940.203 (2), 940.204, 940.205 (2), 940.207 (2), 940.208, 940.23,
12 941.30, or 948.03 (3) or (5) (a) 4.

13 **SECTION 9.** 301.048 (2) (bm) 1. a. of the statutes, as affected by 2023 Wisconsin
14 Act 10, is amended to read:

15 301.048 (2) (bm) 1. a. A crime specified in s. 940.19 (3), 1999 stats., s. 940.195
16 (3), 1999 stats., s. 943.23 (1m), 1999 stats., s. 943.23 (1r), 1999 stats., or s. 943.23 (1g),
17 2021 stats., or s. 940.01, 940.02, 940.03, 940.05, 940.06, 940.08, 940.09, 940.10,
18 940.19 (4) or (5), 940.195 (4) or (5), 940.198 (2), 940.20, 940.201, 940.202, 940.203,
19 940.204, 940.21, 940.225 (1) to (3), 940.23, 940.235, 940.285 (2) (a) 1. or 2., 940.29,
20 940.295 (3) (b) 1g., 1m., 1r., 2., or 3., 940.31, 940.43 (1) to (3), 940.45 (1) to (3), 941.20
21 (2) or (3), 941.26, 941.30, 941.327, 943.01 (2) (c), 943.011, 943.013, 943.02, 943.04,
22 943.06, 943.10 (2), 943.231 (1), 943.30, 943.32, 946.43, 947.015, 948.02 (1) or (2),
23 948.025, 948.03, 948.04, 948.05, 948.051, 948.06, 948.07, 948.08, 948.085, or 948.30.

24 **SECTION 10.** 767.461 (4) of the statutes is amended to read:

SENATE BILL 402**SECTION 10**

1 767.461 (4) A term of incarceration, extended supervision, parole, or probation
2 for a violation of s. 940.01, 940.02, 940.03, 940.05, 940.06, 940.08, 940.09, 940.10,
3 940.19, 940.195, 940.20, 940.201 (2), 940.202, 940.203 (2), 940.204, 940.225 (1), (2),
4 or (3), 940.23, 940.235, 940.24 (1), 940.30, 940.302 (2), 940.305, 940.31, 940.32 (2),
5 (2e), or (2m), 940.42, 940.43, 940.44, 940.45, 941.20, 941.29, 941.30, 941.39, 943.011
6 (2), 947.012, 947.013, 948.02 (1) or (2), 948.025, 948.03, 948.04, 948.05, 948.051,
7 948.055, 948.06, 948.07, 948.08, 948.085, 948.095, 948.30, 948.55, or 951.02 or any
8 felony to which the penalty enhancer under s. 939.621 could be imposed, for a
9 violation of a 72-hour no contact order under s. 968.075 (5), for a violation of a
10 domestic abuse restraining order, child abuse restraining order, or harassment
11 restraining order, or for a violation to which a penalty enhancer for the use of a
12 dangerous weapon is applied.

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

14 939.22 (21) (es) Battery or threat to a juror or the family member of a juror, as
15 prohibited in s. 940.202.

16 **SECTION 12.** 940.03 of the statutes, as affected by 2023 Wisconsin Act 10, is
17 amended to read:

18 **940.03 Felony murder.** Whoever causes the death of another human being
19 while committing or attempting to commit a crime specified in s. 940.19, 940.195,
20 940.20, 940.201, 940.202, 940.203, 940.204, 940.225 (1) or (2) (a), 940.30, 940.31,
21 943.02, 943.10 (2), 943.231 (1), or 943.32 (2) may be imprisoned for not more than 15
22 years in excess of the maximum term of imprisonment provided by law for that crime
23 or attempt.

24 **SECTION 13.** 940.20 (3) (title) of the statutes is renumbered 940.202 (title) and
25 amended to read:

SENATE BILL 402

1 **940.202** (title) **Battery or threat to jurors.**

2 **SECTION 14.** 940.20 (3) of the statutes is renumbered 940.202 (2) and amended
3 to read:

4 940.202 (2) Whoever intentionally causes bodily harm or threatens to cause
5 bodily harm to a person who he or she knows or has reason to know is ~~or was a grand~~
6 ~~or petit juror, and by reason of any verdict or indictment assented to by the person,~~
7 for a reason related to the person's service as a juror, without the consent of the
8 person ~~injured~~ harmed or threatened, is guilty of a Class ~~H~~ I felony.

9 **SECTION 15.** 940.202 (1) and (3) of the statutes are created to read:

10 940.202 (1) In this section:

11 (a) "Family member" means a spouse, child, stepchild, foster child, parent,
12 sibling, or grandchild.

13 (b) "Juror" means a person who is or was a grand or petit juror or is a
14 prospective grand or petit juror who has received a summons to appear for jury
15 service.

16 **(3)** Whoever intentionally causes bodily harm or threatens to cause bodily
17 harm to a person who he or she knows or has reason to know is a family member of
18 a juror, for a reason related to the juror's service as a juror, without the consent of
19 the person harmed or threatened, is guilty of a Class I felony.

20 **SECTION 16.** 941.29 (1g) (a) of the statutes, as affected by 2023 Wisconsin Act
21 10, is amended to read:

22 941.29 **(1g)** (a) "Violent felony" means any felony under s. 943.23 (1m), 1999
23 stats., s. 943.23 (1r), 1999 stats., or s. 943.23 (1g), 2021 stats., this section, or s.
24 940.01, 940.02, 940.03, 940.05, 940.06, 940.08, 940.09, 940.10, 940.19, 940.195,
25 940.198, 940.20, 940.201, 940.202, 940.203, 940.204, 940.21, 940.225, 940.23,

SENATE BILL 402**SECTION 16**

1 940.235, 940.285 (2), 940.29, 940.295 (3), 940.30, 940.302, 940.305, 940.31, 940.43
2 (1) to (3), 940.45 (1) to (3), 941.20, 941.26, 941.28, 941.2905, 941.292, 941.30, 941.327
3 (2) (b) 3. or 4., 943.02, 943.04, 943.06, 943.10 (2), 943.231 (1), 943.32, 943.87, 946.43,
4 948.02 (1) or (2), 948.025, 948.03, 948.04, 948.05, 948.051, 948.06, 948.07, 948.08,
5 948.085, or 948.30.

6 **SECTION 17.** 941.291 (1) (b) of the statutes, as affected by 2023 Wisconsin Act
7 10, is amended to read:

8 941.291 (1) (b) “Violent felony” means any felony, or the solicitation, conspiracy,
9 or attempt to commit any felony, under s. 943.23 (1m) or (1r), 1999 stats., or s. 943.23
10 (1g), 2021 stats., or s. 940.01, 940.02, 940.03, 940.05, 940.06, 940.08, 940.09, 940.10,
11 940.19, 940.195, 940.198, 940.20, 940.201, 940.202, 940.203, 940.204, 940.21,
12 940.225, 940.23, 940.285 (2), 940.29, 940.295 (3), 940.30, 940.305, 940.31, 940.43 (1)
13 to (3), 940.45 (1) to (3), 941.20, 941.26, 941.28, 941.29, 941.30, 941.327, 943.01 (2) (c),
14 943.011, 943.013, 943.02, 943.04, 943.06, 943.10 (2), 943.231 (1), 943.32, 943.81,
15 943.82, 943.83, 943.85, 943.86, 943.87, 943.88, 943.89, 943.90, 946.43, 947.015,
16 948.02 (1) or (2), 948.025, 948.03, 948.04, 948.05, 948.06, 948.07, 948.08, 948.085, or
17 948.30; or, if the victim is a financial institution, as defined in s. 943.80 (2), a felony,
18 or the solicitation, conspiracy, or attempt to commit a felony under s. 943.84 (1) or
19 (2).

20 **SECTION 18.** 941.38 (1) (b) 5s. of the statutes is created to read:

21 941.38 (1) (b) 5s. Battery or threat to a juror or the family member of a juror,
22 as prohibited in s. 940.202.

23 **SECTION 19.** 941.39 (title) of the statutes is amended to read:

24 **941.39 (title) Victim, witness, juror, or co-actor contact.**

SENATE BILL 402

1 **SECTION 20.** 946.82 (4) of the statutes, as affected by 2023 Wisconsin Act 10,
2 is amended to read:

3 **946.82 (4)** “Racketeering activity” means any activity specified in 18 USC 1961
4 (1) in effect as of April 27, 1982, or the attempt, conspiracy to commit, or commission
5 of any of the felonies specified in: chs. 945 and 961, subch. V of ch. 551, and ss. 49.49,
6 134.05, 139.44 (1), 180.0129, 181.0129, 185.825, 201.09 (2), 215.12, 221.0625,
7 221.0636, 221.0637, 221.1004, 553.41 (3) and (4), 553.52 (2), 940.01, 940.19 (4) to (6),
8 940.20, 940.201, 940.202, 940.203, 940.21, 940.30, 940.302 (2), 940.305, 940.31,
9 941.20 (2) and (3), 941.26, 941.28, 941.298, 941.31, 941.32, 942.09, 943.01 (2), (2d),
10 or (2g), 943.011, 943.012, 943.013, 943.02, 943.03, 943.04, 943.05, 943.06, 943.10,
11 943.20 (3) (bf) to (e), 943.201, 943.203, 943.23 (2) and (3), 943.231 (1), 943.24 (2),
12 943.27, 943.28, 943.30, 943.32, 943.34 (1) (bf), (bm), and (c), 943.38, 943.39, 943.40,
13 943.41 (8) (b) and (c), 943.50 (4) (bf), (bm), and (c) and (4m), 943.60, 943.70, 943.76,
14 943.81, 943.82, 943.83, 943.84, 943.85, 943.86, 943.87, 943.88, 943.89, 943.90, 944.21
15 (5) (c) and (e), 944.32, 944.34, 945.03 (1m), 945.04 (1m), 945.05 (1), 945.08, 946.10,
16 946.11, 946.12, 946.13, 946.31, 946.32 (1), 946.48, 946.49, 946.61, 946.64, 946.65,
17 946.72, 946.76, 946.79, 947.015, 948.05, 948.051, 948.08, 948.12, and 948.30.

18 **SECTION 21.** 949.03 (2) of the statutes, as affected by 2023 Wisconsin Act 10,
19 is amended to read:

20 **949.03 (2)** The commission or the attempt to commit any crime specified in s.
21 346.62 (4), 346.63 (2) or (6), 940.01, 940.02, 940.03, 940.05, 940.06, 940.07, 940.08,
22 940.09, 940.10, 940.19, 940.198, 940.20, 940.201, 940.202, 940.204, 940.21, 940.22
23 (2), 940.225, 940.23, 940.235, 940.24, 940.25, 940.285, 940.29, 940.30, 940.302 (2),
24 940.305, 940.31, 940.32, 941.327, 942.09, 943.02, 943.03, 943.04, 943.10, 943.20,
25 943.231 (1), 943.32, 943.81, 943.86, 943.87, 948.02, 948.025, 948.03, 948.04, 948.05,

SENATE BILL 402**SECTION 21**

1 948.051, 948.06, 948.07, 948.075, 948.08, 948.085, 948.09, 948.095, 948.20, 948.21
2 (1), 948.30, or 948.51.

3 **SECTION 22.** 968.26 (1b) (a) 2. a. of the statutes is amended to read:

4 968.26 (1b) (a) 2. a. Section 940.04, 940.11, 940.19 (2), (4), (5), or (6), 940.195
5 (2), (4), (5), or (6), 940.198 (2) (b) or (c) or (3), 940.20, 940.201, 940.202, 940.203,
6 940.204, 940.205, 940.207, 940.208, 940.22 (2), 940.225 (3), 940.29, 940.302 (2) (c),
7 940.32, 941.32, 941.38 (2), 942.09 (2), 943.10, 943.205, 943.32 (1), 946.43, 946.44,
8 946.47, 946.48, 948.02 (3), 948.03 (2) (b) or (c), (3), or (4), 948.04, 948.055, 948.095,
9 948.10 (1) (a), 948.11, 948.13 (2) (a), 948.14, 948.20, 948.23 (1), (2), or (3) (c) 2. or 3.,
10 or 948.30 (1).

11 **SECTION 23.** 969.08 (10) (b) of the statutes, as affected by 2023 Wisconsin Act
12 10, is amended to read:

13 969.08 (10) (b) “Serious crime” means any crime specified in s. 943.23 (1m),
14 1999 stats., s. 943.23 (1r), 1999 stats., or s. 943.23 (1g), 2021 stats., or s. 346.62 (4),
15 940.01, 940.02, 940.03, 940.05, 940.06, 940.08, 940.09, 940.10, 940.19 (5), 940.195
16 (5), 940.198 (2) (a) or (c), 940.20, 940.201, 940.202, 940.203, 940.204, 940.21, 940.225
17 (1) to (3), 940.23, 940.24, 940.25, 940.29, 940.295 (3) (b) 1g., 1m., 1r., 2. or 3., 940.302
18 (2), 940.31, 941.20 (2) or (3), 941.26, 941.30, 941.327, 943.01 (2) (c), 943.011, 943.013,
19 943.02, 943.03, 943.04, 943.06, 943.10, 943.231 (1), 943.30, 943.32, 943.81, 943.82,
20 943.83, 943.85, 943.86, 943.87, 943.88, 943.89, 943.90, 946.01, 946.02, 946.43,
21 947.015, 948.02 (1) or (2), 948.025, 948.03, 948.04, 948.05, 948.051, 948.06, 948.07,
22 948.085, or 948.30 or, if the victim is a financial institution, as defined in s. 943.80
23 (2), a crime under s. 943.84 (1) or (2).

24 **SECTION 24.** 973.049 (2) of the statutes is amended to read:

