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State of Misconsin 2011 - 2012 LEGISLATURE



2011 SENATE BILL 127

June 10, 2011 – Introduced by Senators Harsdorf, Kapanke and Darling, cosponsored by Representatives Bernier, Kaufert, A. Ott, E. Coggs, Spanbauer, Krug and Mursau. Referred to Committee on Judiciary, Utilities, Commerce, and Government Operations.

AN ACT to create 948.015 (9), 972.15 (2g) and 973.017 (6m) of the statutes; relating to: aggravating factors for a court to consider when sentencing persons.

Analysis by the Legislative Reference Bureau

Current law requires courts to consider specific factors when sentencing people convicted of certain crimes. For instance, if a person is convicted of first or second degree sexual assault of a child and the person was the child's parent, guardian, or temporary caregiver or another person legally responsible for the child's welfare, the sentencing court must consider as an aggravating factor that the convicted person was responsible for the welfare of the child. Under this bill, if a person is convicted of a crime involving an act of domestic abuse and the crime was committed in the presence of a child, the sentencing court must consider as an aggravating factor that the convicted person committed the crime in the presence of a child.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

Section 1. 948.015 (9) of the statutes is created to read:

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948.015 (9) A crime that involves an act of domestic abuse, as defined in s.
968.075 (1) (a), if the court includes in its reasoning under s. 973.017 (10m) for its
sentencing decision the aggravating factor under s. 973.017 (6m).

Section 2. 972.15 (2g) of the statutes is created to read:

972.15 (**2g**) If the defendant is subject to being sentenced under s. 973.01 and a factor under s. 973.017 is pertinent to the offense, the person preparing the presentence investigation report shall include in the report any such factor.

Section 3. 973.017 (6m) of the statutes is created to read:

973.017 (6m) AGGRAVATING FACTORS; DOMESTIC ABUSE IN PRESENCE OF A CHILD. (a) In this subsection:

- 1. "Child" means an individual who has not attained the age of 18 years.
- 2. "Domestic abuse" has the meaning given in s. 968.075 (1) (a).
- (b) When making a sentencing decision concerning a person convicted of a crime that involves an act of domestic abuse, the court shall consider as an aggravating factor the fact that the act was committed in a place or a manner in which the act was observable by or audible to a child or was in the presence of a child and the actor knew or had reason to know that the act was observable by or audible to a child or was in the presence of a child.

SECTION 4. Initial applicability.

(1) This act first applies to acts committed on the effective date of this subsection.

22 (END)