



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-4884/1
JK/CMH/SWB:all

2023 ASSEMBLY BILL 577

October 31, 2023 - Introduced by Representatives GOEBEN, ROZAR, ORTIZ-VELEZ, BEHNKE, DITTRICH, S. JOHNSON, MAXEY, O'CONNOR and RETTINGER.
Referred to Committee on Campaigns and Elections.

AN ACT *to amend* 165.68 (2) (b); and *to create* 6.47 (1) (ak), 12.09 (4), 19.36 (14), 66.0512, 165.68 (1) (dm), 165.68 (2) (am), 813.125 (5d), 939.624, 940.20 (4m), 947.0125 (2) (g) and (3) (h) and 995.50 (2) (am) 5. and 6. of the statutes; **relating to:** an election official's personal information; battery against election officials; whistleblower protection for municipal clerks, county clerks, and election officials who witness and report election fraud or irregularities; harassing election officials; and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill makes a number of changes to current law regarding election officials.

Public access to records identifying an election official

The bill prohibits public access to records that contain the personally identifiable information of election officials or election registration officials, except that a public records custodian may provide access to the name and city and state of residence of an election official or election registration official. Current law provides a number of similar exceptions for providing public access to records. For

ASSEMBLY BILL 577

example, current law limits access to records containing personal information regarding individuals who hold a state or local public office or the personal information of applicants for a public position.

Current law also allows access to certain records that are not otherwise accessible. For example, state agencies and local units of government may provide records to assist legislative committees. The bill does not affect the operation of that provision nor other similar provisions.

Causing bodily harm to an election official

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 special circumstances battery, which is defined as intentionally causing or threatening to cause bodily harm to certain persons. For example, under current law, a person who intentionally causes bodily harm to a public officer to influence his or her action or as a result of an action he or she took is guilty of a Class I felony. The bill makes it a Class I felony to intentionally cause bodily harm to an election official, election registration official, county clerk, or municipal clerk who is acting in his or her capacity.

Harassing an election official

Current law prohibits an individual from harassing another individual over the phone or over email or other computer messaging system. The penalties for such actions range from a Class B forfeiture to a Class B misdemeanor depending on the act, the intent, and the circumstances. This bill creates a Class B misdemeanor for an actor who, with intent to frighten, intimidate, threaten, or abuse another individual or an individual's family member, distributes via social media the individual's personal identifying information if the actor knows or should know that the distribution would likely result in the individual being subject to unwanted contact, injury, or harassment. The bill creates a Class B forfeiture if the actor distributes an individual's personal identifying information via social media with the intent to harass or annoy the individual or a family member of the individual. This bill increases the penalties for violating these harassment prohibitions (including the ones created in the bill) by one penalty classification if the act is taken against an election official while acting in that role, due to that role, or in response to an action taken by the election official.

Current law provides that no person may personally or through an agent make use of or threaten to make use of force in order to induce or compel a voter to vote or refrain from voting or to vote or refrain from voting for or against a particular candidate. The penalty for such actions is a Class I felony. This bill additionally provides that no person may personally or through an agent make use of or threaten to make use of force in order to induce or compel an election official to act contrary to his or her official duties under current law.

Under current law, the Department of Justice administers an address confidentiality program. Under current law, the program is available to victims of

ASSEMBLY BILL 577**SECTION 1**

of abuse, including child abuse, domestic abuse, sexual abuse, stalking, or human trafficking, or a parent, guardian, or household member of a victim of abuse, if the victim fears for his or her safety or the safety of his or her child or ward. The bill makes the program available to election officials who are victims of stalking or harassment and fear for their safety if the stalking or harassment occurred while the election official was acting in that role, due to that role, or in response to an action taken by the election official.

The bill also allows an election official who files a petition for a harassment restraining order to be able to collect attorney fees and other costs if the petition prevails and the harassment occurred while the petitioner was acting as an election official, due to the petitioner's role as an election official, or in response to an action taken by the petitioner as an election official.

Whistleblower protections

The bill provides whistleblower protection for municipal clerks, county clerks, and election officials who witness and report election fraud or irregularities. Under the bill, "municipal clerk" means a city clerk, town clerk, village clerk, and the executive director of the city election commission and their authorized representatives, as well as, in appropriate circumstances, the clerk of a school district. Under the bill, "county clerk" includes the executive director of the county board of election commissioners and their authorized representatives. Also, under the bill, "election official" means an individual who is charged with any duties relating to the conduct of an election.

The bill prohibits employment discrimination against a municipal clerk, county clerk, or election official, including by being discharged, disciplined, or demoted, as a reprisal because the clerk or election official lawfully reported, or is believed to have reported, witnessing what the clerk or election official reasonably believed to be election fraud or irregularities.

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:

SECTION 1. 6.47 (1) (ak) of the statutes is created to read:

6.47 (1) (ak) "Election official" has the meaning given in s. 5.02 (4e) and includes an "election registration official," as defined in s. 5.02 (4g).

SECTION 2. 12.09 (4) of the statutes is created to read:

12.09 (4) No person may personally or through an agent make use of or threaten to make use of force, violence, or restraint in order to induce or compel an election official or election registration official to act contrary to his or her official duties under this chapter and chs. 5 to 10.

SECTION 3. 19.36 (14) of the statutes is created to read:

19.36 (14) IDENTITIES OF ELECTION OFFICIALS OR ELECTION REGISTRATION OFFICIALS. Unless access is specifically authorized or required by statute, neither a municipal clerk, as defined in s. 5.02 (10), nor a county clerk, as defined in s. 5.02 (2), shall provide access under s. 19.35 (1) to records containing the personally identifiable information of an election official, as defined in s. 5.02 (4e), or an election registration official, as defined in s. 5.02 (4g), during the term for which the individual serves as an election official or election registration official, except that an authority may provide access to the name of an election official or election registration official and the city and state where the official resides.

SECTION 4. 66.0512 of the statutes is created to read:

66.0512 Whistleblower protection for certain disclosures made by municipal clerks. No municipal clerk, as defined in s. 5.02 (10), county clerk, as defined in s. 5.02 (2), or election official, as defined in s. 5.02 (4e), may be discharged, disciplined, demoted, or otherwise discriminated against in regard to his or her employment as a clerk or election official, or threatened with any such treatment, as a reprisal because the clerk or election official lawfully reported, or is believed to have reported, witnessing what the clerk or election official reasonably believed to be election fraud or irregularities during his or her course of

ASSEMBLY BILL 577**SECTION 4**

employment as a clerk or election official. For purposes of this section, “lawfully reported” means a report of information the disclosure of which is not expressly prohibited by state or federal law, rule, or regulation.

SECTION 5. 165.68 (1) (dm) of the statutes is created to read:

165.68 (1) (dm) “Election official” has the meaning given in s. 5.02 (4e) and includes an “election registration official,” as defined in s. 5.02 (4g).

SECTION 6. 165.68 (2) (am) of the statutes is created to read:

165.68 (2) (am) An election official is eligible for participation in the confidentiality program established in this section if he or she attests all of the following:

1. That he or she is a resident of this state.
2. That he or she is an election official and is a victim of a violation under s. 12.09 (4), 940.32, 947.012, 947.0125, or 947.013, or a resident of the household of a victim of such a violation, and the violation occurred while the victim was acting as an election official, due to the victim’s role as an election official, or in response to any action taken by the victim as an election official.
3. That he or she fears for his or her physical safety or for the physical safety of a resident of his or her household.
4. That he or she will not disclose his or her actual address to the person who committed the violation under subd. 2.

SECTION 7. 165.68 (2) (b) of the statutes is amended to read:

165.68 (2) (b) A person is eligible under par. (a) or (am) regardless of whether any criminal charges have been brought relating to any act or threat against the

ASSEMBLY BILL 577**SECTION 7**

person, whether the person has sought any restraining order or injunction relating to any act or threat against the person, or whether the person has reported any act or threat against him or her to a law enforcement officer or agency.

SECTION 8. 813.125 (5d) of the statutes is created to read:

813.125 **(5d)** ELECTIONS OFFICIAL PETITIONER. If the petitioner is an election official, as defined in s. 5.02 (4e), or an election registration official, as defined in s. 5.02 (4g), the court, in its discretion, may allow the prevailing party in the action reasonable attorney fees and costs if the harassment occurred while the petitioner was acting as an election official or election registration official, due to the petitioner's role as an election official or election registration official, or in response to any action taken by the petitioner as an election official or election registration official.

SECTION 9. 939.624 of the statutes is created to read:

939.624 Increased penalty for certain crimes against election officials. (1) In this section, "election official" has the meaning given in s. 5.02 (4e) and includes an "election registration official," as defined in s. 5.02 (4g).

(2) If a person commits, personally or through an agent, a violation of s. 947.012, 947.0125, or 947.013 against an election official while the victim was acting as an election official, due to the victim's role as an election official, or in response to any action taken by the victim as an election official, the penalty may be increased as follows:

(a) A violation under s. 947.012 (2), 947.0125 (3), or 947.013 (1m) may be increased to a Class A forfeiture.

ASSEMBLY BILL 577**SECTION 9**

(b) A violation under s. 947.012 (1) or 947.0125 (2) may be increased to a Class A misdemeanor.

SECTION 10. 940.20 (4m) of the statutes is created to read:

940.20 (4m) BATTERY TO ELECTION OFFICIALS, ELECTION REGISTRATION OFFICIALS, OR CLERKS. (a) In this subsection:

1. “County clerk” has the meaning given in s. 5.02 (2).
2. “Election official” has the meaning given in s. 5.02 (4e).
3. “Election registration official” has the meaning given in s. 5.02 (4g).
4. “Municipal clerk” has the meaning given in s. 5.02 (10).

(b) Whoever intentionally causes bodily harm to an election official, election registration official, county clerk, or municipal clerk who is acting in his or her official capacity is guilty of a Class I felony if the person knows or has reason to know that the victim is an election official, election registration official, county clerk, or municipal clerk and the victim does not consent to the harm.

SECTION 11. 947.0125 (2) (g) and (3) (h) of the statutes are created to read:

947.0125 (2) (g) With intent to frighten, intimidate, threaten, or abuse another person or a person’s family member, as defined in s. 940.201 (1) (a), distributes by means of social media the person’s personal identifying information, as defined in s. 943.201 (1) (b), without the person’s consent if the actor knows or should know that the distribution would be likely to result in the person being subject to unwanted physical contact, injury, or harassment.

(3) (h) With intent to harass or annoy another person or a person’s family member, as defined in s. 940.201 (1) (a), distributes by means of social media the

ASSEMBLY BILL 577**SECTION 11**

person's personal identifying information, as defined in s. 943.201 (1) (b), without the person's consent.

SECTION 12. 995.50 (2) (am) 5. and 6. of the statutes are created to read:

995.50 (2) (am) 5. Conduct that is prohibited under s. 947.0125 (2) (g), regardless of whether there has been a criminal action related to the conduct, and, if there has been a criminal action related to the conduct, regardless of the outcome of the criminal action.

6. Conduct that is prohibited under s. 947.0125 (3) (h), regardless of whether there has been an action related to the conduct, and, if there has been an action related to the conduct, regardless of the outcome of the action.

(END)