



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-3810/1
MLJ:kjf

2019 ASSEMBLY BILL 755

January 21, 2020 - Introduced by Representatives L. MYERS, EMERSON, CROWLEY, FIELDS and SUBECK, cosponsored by Senators L. TAYLOR and LARSON. Referred to Committee on Criminal Justice and Public Safety.

1 **AN ACT** *to create* 895.440 and 946.405 of the statutes; **relating to:** unlawfully
2 summoning a police officer, creating a civil cause of action, and providing a
3 penalty.

Analysis by the Legislative Reference Bureau

This bill creates the crime of unlawfully summoning a law enforcement officer. Under the bill, it is a Class C misdemeanor to cause a law enforcement officer to arrive at a location to contact another person for a reason other than suspected criminal activity if a reasonable person would not consider the other person to pose a risk to any person or property and if the other person's contact with the law enforcement officer causes infringement of the other person's constitutional rights; unlawful discrimination against the other person; a groundless legal process to be initiated against the other person; the other person to feel harassed, humiliated, or embarrassed; or damage to the other person's reputation or standing within the community. The bill also creates a civil cause of action in which a plaintiff may recover damages from a person who unlawfully summons a law enforcement officer.

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:

ASSEMBLY BILL 755**SECTION 1**

1 **SECTION 1.** 895.440 of the statutes is created to read:

2 **895.440 Unlawfully summoning officer; action for.** (1) Any person who
3 suffers, directly or indirectly, a physical injury, emotional distress, loss, or damage
4 caused by, resulting from, or arising out of conduct that is prohibited under s. 946.405
5 has a civil cause of action against the person who caused the injury.

6 (2) The burden of proof in a civil action under sub. (1) rests with the person who
7 suffers the physical injury, emotional distress, loss, or damage to prove his or her case
8 by a preponderance of the credible evidence.

9 (3) If the plaintiff prevails in a civil action under sub. (1), he or she may recover
10 special and general damages, including damages for emotional distress; punitive
11 damages; and costs, including all reasonable attorney fees and other costs of the
12 investigation and litigation that were reasonably incurred.

13 (4) A person may bring a civil action under sub. (1) regardless of whether there
14 has been a criminal action related to the physical injury, emotional distress, loss, or
15 damage under sub. (1) and regardless of the outcome of any such criminal action.

16 **SECTION 2.** 946.405 of the statutes is created to read:

17 **946.405 Unlawfully summoning officer.** (1) In this section, “officer” means
18 a peace officer or other public officer or public employee having the authority by
19 virtue of the officer’s or employee’s office or employment to take another into custody.

20 (2) A person is guilty of a Class C misdemeanor if he or she knowingly causes
21 an officer to arrive at a location to contact another person for a reason other than
22 suspected criminal activity if all of the following apply:

23 (a) A reasonable person would not consider the other person to pose a risk to
24 any person or property.

