

**From:** [Wood, Brenda](#)  
**To:** [Polanco, Joanna](#)  
**Cc:** [Black, Tobie](#)  
**Subject:** Additions to #200218  
**Date:** Wednesday, June 24, 2020 2:28:54 PM  
**Attachments:** [Act 132--Swatting.pdf](#)  
[act132.pdf](#)

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Joanna—

Can you add the attached and the information below to the file please? Thank you.

### **939.645 Penalty; crimes committed against certain people or property.**

If a person does all of the following, the penalties for the underlying crime are increased as provided in sub. [\(2\)](#):

Commits a crime under chs. [939](#) to [948](#).

Intentionally selects the person against whom the crime under par. [\(a\)](#) is committed or selects the property that is damaged or otherwise affected by the crime under par. [\(a\)](#) in whole or in part because of the actor's belief or perception regarding the race, religion, color, disability, sexual orientation, national origin or ancestry of that person or the owner or occupant of that property, whether or not the actor's belief or perception was correct.

If the crime committed under sub. [\(1\)](#) is ordinarily a misdemeanor other than a Class A misdemeanor, the revised maximum fine is \$10,000 and the revised maximum term of imprisonment is one year in the county jail.

If the crime committed under sub. [\(1\)](#) is ordinarily a Class A misdemeanor, the penalty increase under this section changes the status of the crime to a felony and the revised maximum fine is \$10,000 and the revised maximum term of imprisonment is 2 years.

If the crime committed under sub. [\(1\)](#) is a felony, the maximum fine prescribed by law for the crime may be increased by not more than \$5,000 and the maximum term of imprisonment prescribed by law for the crime may be increased by not more than 5 years.

This section provides for the enhancement of the penalties applicable for the underlying crime. The court shall direct that the trier of fact find a special verdict as to all of the issues specified in sub. [\(1\)](#).

[.645\(4\)\(4\)](#) This section does not apply to any crime if proof of race, religion, color, disability, sexual orientation, national origin or ancestry or proof of any person's perception or belief regarding another's race, religion, color, disability, sexual orientation, national origin or ancestry is required for a conviction for that crime.

**History:** [1987 a. 348](#); [1991 a. 291](#); [2001 a. 109](#).

When two penalty enhancers are applicable to the same crime, the length of the

second penalty enhancer is based on the maximum term for the base crime as extended by the first penalty enhancer. State v. Quiroz, [2002 WI App 52](#), [251 Wis. 2d 245](#), [641 N.W.2d 715](#), [01-1549](#).

The "hate crimes" law, s. 939.645, does not unconstitutionally infringe upon free speech. State v. Mitchell, [508 U.S. 476](#), [124 L. Ed. 2d 436](#) (1993); [178 Wis. 2d 597](#), [504 N.W.2d 610](#) (1993).

Hate Crimes: New Limits on the Scope of the 1st Amendment. Resler. 77 MLR 415 (1993).

Put to the Proof: Evidentiary Considerations in Wisconsin Hate Crime Prosecutions. Read. 89 MLR 453 (2005).

Talking about Hate Speech: A Rhetorical Analysis of American and Canadian Regulation of Hate Speech. Moran. 1994 WLR 1425.

Hate Crimes. Kassel. Wis. Law. Oct. 1992.

Brenda Wood  
Intergovernmental Policy Manager  
City of Milwaukee  
414-286-2371 office  
414-339-9054 cell  
[bwood@milwaukee.gov](mailto:bwood@milwaukee.gov)