

Domestic Abuse Surcharges in Wisconsin

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I. When does the court impose a Domestic Abuse surcharge?

1. When the court imposes a sentence on an adult person or places that person on probation, regardless of whether any fine is imposed, the court shall impose this surcharge for each offense if:
 - a. The court convicts the person of a violation of various crimes listed in [§973.055](#) or a municipal ordinance (see list in **III**) and the court finds that the conduct involved an act by the defendant against a spouse or former spouse, against an adult with whom the defendant resides or formerly resided, or against an adult with whom the defendant has created a child.
 - b. The courts convicts a person for violation of a temporary restraining order under [§813.12\(8\)\(a\)](#) or a conforming municipal ordinance.

II. How are the funds distributed?

1. If the surcharge is imposed by a court of record, after the court determines the amount due, the clerk of the court shall collect and transmit the amount to the county treasurer as provided in [§59.40\(2\)\(m\)](#). The county treasurer shall then make payment to the Secretary of Administration as provided in [§59.25\(3\)\(f\)2](#).
2. If the surcharge is imposed by a municipal court, after a determination by the court of the amount due, the court shall collect and transmit the amount to the treasurer of the county, city, town or village, and that treasurer shall make payment to the Secretary of Administration as provided in [§66.0114\(1\)\(bm\)](#).
 - a. All monies collected from domestic abuse surcharges shall be deposited by the secretary of administration in [§20.437\(1\)\(hh\)](#) and utilized in accordance with [§49.165](#).

- b. 100% of the funds shall be distributed to state Department of Health and Family Services, to fund grants to domestic abuse service organization.

III. Crimes for which surcharge can be collected.

A. Criminal Offenses

940.01 First-degree intentional homicide	940.42 Intimidation of witnesses; misdemeanor
940.02 First-degree reckless homicide	940.43 Intimidation of witnesses; felony
940.03 Felony Murder	940.44 Intimidation of victims; misdemeanor
940.05 Second-degree intentional homicide	940.45 Intimidation of victims; felony
940.06 Second-degree reckless homicide	940.48 Violation of court orders
940.19 Battery; substantial battery; aggravated battery	941.20 Endangering safety by use of dangerous weapons
940.20(1m) Battery by persons subject to certain injunctions	941.30 Recklessly endangering safety
940.201 Battery or threat to witnesses	943.01 Damage to property
940.21 Mayhem—intent to disable or disfigure, cut, mutilate	943.011 Damage or threat to property of witness
940.225 Sexual Assault	943.14 Criminal trespass to dwellings
940.23 Reckless injury	943.15 Entry onto a construction site, locked building, dwelling or room
940.285 Abuse of individuals at risk	946.49 Bail jumping
940.30 False imprisonment	947.01(1) Disorderly conduct
940.305 Taking hostages	947.012 Unlawful use of telephone
940.31 Kidnapping	947.0125 Unlawful use of computerized communication systems

B. Municipal ordinances

940.201 Battery or threat to witnesses	943.15 Entry onto a construction site, locked building, dwelling or room
941.20 Endangering safety by use of dangerous weapons	946.49 Bail jumping
941.30 Recklessly endangering safety	947.01 Disorderly conduct
943.01 Damage to property	947.012 Unlawful use of telephone
943.011 Damage or threat to property of witness	947.0125 Unlawful use of computerized communication systems
943.14 943.14 Criminal trespass to dwellings	

[§968.085\(8\)](#) A law enforcement officer may not issue a municipal citation to a person for an offense if the officer is required to arrest the person or that offense under, mandatory arrest law [§968.075\(2\)](#).

Wisconsin circuit court fee, forfeiture, fine and surcharge tables can be found at:

<http://www.wicourts.gov/courts/circuit/docs/fees.pdf>

IV. Deferred prosecution programs for Domestic Abuse

1. [§971.37\(1m\)](#) the district attorney may enter into a deferred prosecution agreement under this section with any of the following:
 - a. A person accused of or charged with sexual abuse [§971.37\(1m\)\(a\)1](#).

b. An adult accused of or charged with a criminal violation of:

940.19 Battery; substantial battery; aggravated battery	940.48 Violation of court orders
940.20(1m) Battery by persons subject to certain injunctions	941.20 Endangering safety by use of dangerous weapons
940.201 Battery or threat to witnesses	941.30 Recklessly endangering safety
940.225 Sexual Assault	943.01 Damage to property
940.23 Reckless injury	943.011 Damage or threat to property of witness
940.285 Abuse of individuals at risk	943.14 Criminal trespass to dwellings
940.30 False imprisonment	943.15 Entry onto a construction site, locked building, dwelling or room
940.42 Intimidation of witnesses; misdemeanor	946.49 Bail jumping
940.43 Intimidation of witnesses; felony	947.01(1) Disorderly conduct
940.44 Intimidation of victims; misdemeanor	947.012 Unlawful use of telephone
940.45 Intimidation of victims; felony	947.0125 Unlawful use of computerized communication systems

and the conduct constituting the violation involved an act by the adult person against his or her spouse or former spouse, against an adult with whom the adult person resides or formerly resided or against an adult with whom the adult person has created a child.

- c. A person accused of or charged with a violation of [§813.12\(8\)\(a\)](#).
1. The agreement may provide as one of its conditions that a person covered under sub. [\(1\)\(b\)](#) or [\(c\)](#) pay the domestic abuse surcharge under s. [973.055](#). Payments and collections under this subdivision are subject to s. [973.055 \(2\)](#) to [\(4\)](#), with exceptions noted in s. [971.37\(1m\)\(c\)1](#).
2. This section does not preclude use of deferred prosecution agreements for any alleged violations not subject to this section.

V. Mandatory Arrest Law under [968.075\(2\)](#)

A law enforcement officer shall arrest and take a person into custody if:

1. The officer has reasonable grounds to believe that the person is committing or has committed domestic abuse and that the person's actions constitute the commission of a crime; and
 2. Any of the following apply:
 - a. The officer has a reasonable basis for believing that continued domestic abuse against the alleged victim is likely.
 - b. There is evidence of physical injury to the alleged victim.
 - c. The person is the predominant aggressor.
- (am) Notwithstanding s. [968.07 \(1\)](#), unless the person's arrest is required under s. [813.12 \(7\)](#), [813.122 \(10\)](#), [813.125 \(6\)](#), or [813.128\(1\)\(b\)](#) or sub. [\(5\) \(e\)](#), if a law enforcement officer identifies the predominant aggressor, it is generally not appropriate for a law enforcement officer to arrest anyone under par. [\(a\)](#) other than the predominant aggressor.

- (ar) In order to protect victims from continuing domestic abuse, a law enforcement officer shall consider all of the following in identifying the predominant aggressor:
1. The history of domestic abuse between the parties, if it can be reasonably ascertained by the officer, and any information provided by witnesses regarding that history.
 2. Statements made by witnesses.
 3. The relative degree of injury inflicted on the parties.
 4. The extent to which each person present appears to fear any party.
 5. Whether any party is threatening or has threatened future harm against another party or another family or household member.
 6. Whether either party acted in self-defense or in defense of any other person under the circumstances described in s. [939.48](#).

(b) If the officer's reasonable grounds for belief under par. [\(a\) 1.](#) are based on a report of an alleged domestic abuse incident, the officer is required to make an arrest under par. [\(a\)](#) only if the report is received, within 28 days after the day the incident is alleged to have occurred, by the officer or the law enforcement agency that employs the officer.