



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-0546/1
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2021 ASSEMBLY BILL 44

February 10, 2021 - Introduced by Representatives MACCO, WITTKE, ARMSTRONG, CALLAHAN, DITTRICH, EDMING, GUNDRUM, HORLACHER, KERKMAN, KUGLITSCH, MAGNAFICI, MILROY, PETRYK, RAMTHUN, SKOWRONSKI, SNYDER, STEFFEN, SUMMERFIELD and ZIMMERMAN, cosponsored by Senators TESTIN, CARPENTER, BALLWEG, FELZKOWSKI, FEYEN and L. TAYLOR. Referred to Committee on Criminal Justice and Public Safety.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT** *to repeal* 940.19 (6) (a); *to renumber* 813.125 (1) (am) 1. and 813.125
2 (1) (am) 2.; *to consolidate, renumber and amend* 940.19 (6) (intro.) and (b);
3 **to amend** 48.57 (3p) (g) 2., 48.685 (1) (c) 2., 50.065 (1) (e) 1., 103.34 (1) (b) 2.,
4 165.84 (7) (ab) 1., 301.048 (2) (bm) 1. a., 302.11 (1g) (a) 2., 303.07 (2), 813.123
5 (1) (eg), 813.125 (1) (am) (intro.), 895.45 (1) (a), 911.01 (4) (c), 938.208 (1) (a),
6 938.34 (4m) (b) 1., 938.355 (2d) (b) 3., 939.62 (2m) (a) 2m. b., 939.632 (1) (e) 1.,
7 941.29 (1g) (a), 941.291 (1) (b), 949.03 (1) (b), 968.20 (title), 968.20 (1), 968.20
8 (1h), 968.26 (1b) (a) 2. a., 969.035 (1), 969.08 (10) (b), 973.01 (2) (c) 2. a., 973.0135
9 (1) (b) 2., 973.06 (1) (av) 2. a., 973.06 (1) (av) 2. b., 973.123 (1) and 980.01 (6) (b);
10 and *to create* 343.12 (7) (c) 9j., 813.12 (1) (ar), 813.12 (5b), 813.123 (6g), 813.125
11 (1) (am) 3., 813.125 (1) (am) 4. (intro.), 813.125 (5b), 939.623, 940.198, 940.225
12 (1) (d) and 971.109 of the statutes; **relating to:** increased penalties for crimes
13 against elder persons; restraining orders for elder persons; freezing assets of a

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1 defendant charged with financial exploitation of an elder person; sexual assault
2 of an elder person; physical abuse of an elder person; and providing a penalty.

Analysis by the Legislative Reference Bureau**SEXUAL ASSAULT OF AN ELDER PERSON**

Under this bill, any act of sexual misconduct that is currently a second degree sexual assault is a first degree sexual assault if the victim is 60 years of age or older. Under current law, if a person engages in any of the specified acts of sexual misconduct, he or she is guilty of a Class C felony. Under the bill, he or she is guilty of a Class B felony if the victim is 60 years of age or older, whether or not he or she knew the victim's age.

PHYSICAL ABUSE OF AN ELDER PERSON

This bill creates the crime of physical abuse of an elder person that is modeled after the current law prohibition of physical abuse of a child. Under the bill, an elder person is anyone who is 60 years of age or older, and a person may be prosecuted irrespective of whether he or she knew the age of the crime victim. Under the bill, the penalties range from a Class C felony for intentionally causing great bodily harm to a Class I felony for recklessly causing bodily harm.

FREEZING OF ASSETS

This bill creates a procedure for a court to freeze or seize assets from a defendant who has been charged with a financial exploitation crime when the victim is an elder person.

Under the bill, if a person is charged with a financial exploitation crime, the crime involves property valued at more than \$2,500, and the crime victim is at least 60 years old, a prosecuting attorney may file a petition with the court to freeze the funds, assets, or property of the person in an amount up to 100 percent of the alleged value of property involved in the person's pending criminal proceeding for purposes of preserving the property for future payment of restitution to the crime victim.

INCREASED PENALTIES

This bill creates a scheme that allows a term of imprisonment that is imposed for a criminal conviction to be increased in length if the crime victim was an elder person. Under the bill, a maximum term of imprisonment of one year or less may be increased to not more than two years; a maximum term of imprisonment of more than one year but not more than ten years may be increased by not more than four years; and a maximum term of imprisonment of more than ten years may be increased by not more than six years. Under the bill, the term of imprisonment may be lengthened irrespective of whether the defendant knew the age of the crime victim.

RESTRAINING ORDERS FOR AN ELDER PERSON

This bill allows an elder person who is seeking a domestic violence, individual-at-risk, or harassment restraining order to appear in a court hearing by

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telephone or live audiovisual means. Under the bill, an elder person is anyone who is 60 years old or older.

Under current law, a person seeking a domestic violence, individual-at-risk, or harassment restraining order must appear in person in the courtroom at a hearing to obtain a restraining order.

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:

1 **SECTION 1.** 48.57 (3p) (g) 2. of the statutes is amended to read:

2 48.57 **(3p)** (g) 2. The person has had imposed on him or her a penalty specified
3 in s. 939.64, 1999 stats., or s. 939.641, 1999 stats., or s. 939.6195, 939.62, 939.621,
4 939.623, 939.63 or 939.645 or has been convicted of a violation of the law of any other
5 state or federal law under circumstances under which the person would be subject
6 to a penalty specified in any of those sections if convicted in this state.

7 **SECTION 2.** 48.685 (1) (c) 2. of the statutes is amended to read:

8 48.685 **(1)** (c) 2. A violation of s. 940.01, 940.02, 940.03, 940.05, 940.12, 940.19
9 (2), (4), (5), or (6), 940.198 (2), 940.22 (2) or (3), 940.225 (1), (2), or (3), 940.285 (2),
10 940.29, 940.295, 942.09 (2), 948.02 (1) or (2), 948.025, 948.03 (2) or (5) (a) 1., 2., 3.,
11 or 4., 948.05, 948.051, 948.055, 948.06, 948.07, 948.08, 948.081, 948.085, 948.11 (2)
12 (a) or (am), 948.12, 948.13, 948.21, 948.215, 948.30, or 948.53.

13 **SECTION 3.** 50.065 (1) (e) 1. of the statutes is amended to read:

14 50.065 **(1)** (e) 1. "Serious crime" means a violation of s. 940.19 (3), 1999 stats.,
15 a violation of s. 940.01, 940.02, 940.03, 940.05, 940.12, 940.19 (2), (4), (5) or (6),
16 940.198 (2), 940.22 (2) or (3), 940.225 (1), (2) or (3), 940.285 (2), 940.29, 940.295,
17 948.02 (1), 948.025 or 948.03 (2) (a) or (5) (a) 1., 2., or 3., or a violation of the law of

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1 any other state or United States jurisdiction that would be a violation of s. 940.19 (3),
2 1999 stats., or a violation of s. 940.01, 940.02, 940.03, 940.05, 940.12, 940.19 (2), (4),
3 (5) or (6), 940.198 (2), 940.22 (2) or (3), 940.225 (1), (2) or (3), 940.285 (2), 940.29,
4 940.295, 948.02 (1), 948.025 or 948.03 (2) (a) or (5) (a) 1., 2., or 3. if committed in this
5 state.

6 **SECTION 4.** 103.34 (1) (b) 2. of the statutes is amended to read:

7 103.34 (1) (b) 2. A violation of s. 940.01, 940.02, 940.03, 940.05, 940.06, 940.07,
8 940.08, 940.09, 940.10, 940.19 (2), (4), (5), or (6), 940.198 (2), 940.21, 940.225 (1), (2),
9 or (3), 940.23, 940.235, 940.24, 940.25, 940.30, 940.302, 940.305, 940.31, 943.02,
10 943.03, 943.04, 943.10, 943.30, 943.31, 943.32, 944.32, 944.34, 946.10, 948.02 (1) or
11 (2), 948.025, 948.03 (2), (3), or (5) (a) 1., 2., 3., or 4., 948.04, 948.05, 948.051, 948.055,
12 948.06, 948.07, 948.075, 948.08, 948.085, 948.11 (2) (a) or (am), 948.12, 948.13,
13 948.21 (2), 948.215, or 948.30 or of a substantially similar federal law or law of
14 another state.

15 **SECTION 5.** 165.84 (7) (ab) 1. of the statutes is amended to read:

16 165.84 (7) (ab) 1. A felony violation of s. 940.01, 940.05, 940.198 (2), 940.21,
17 940.225 (1), (2), or (3), 940.235, 940.30, 940.302 (2), 940.305, 940.31, 940.32 (2), (2e),
18 or (2m), 940.43, 940.45, 941.20, 941.21, 941.327, 943.02, 943.06, 943.10, 943.23 (1g)
19 or (2), 943.32, 948.02 (1) or (2), 948.025, 948.03 (2) (a) or (c) or (5) (a) 1., 2., 3., or 4.,
20 948.05, 948.051, 948.055, 948.07, 948.08, 948.085, 948.095, or 948.30 (2).

21 **SECTION 6.** 301.048 (2) (bm) 1. a. of the statutes is amended to read:

22 301.048 (2) (bm) 1. a. A crime specified in s. 940.19 (3), 1999 stats., s. 940.195
23 (3), 1999 stats., s. 943.23 (1m), 1999 stats., or s. 943.23 (1r), 1999 stats., or s. 940.01,
24 940.02, 940.03, 940.05, 940.06, 940.08, 940.09, 940.10, 940.19 (4) or (5), 940.195 (4)
25 or (5), 940.198 (2), 940.20, 940.201, 940.203, 940.21, 940.225 (1) to (3), 940.23,

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1 940.235, 940.285 (2) (a) 1. or 2., 940.29, 940.295 (3) (b) 1g., 1m., 1r., 2., or 3., 940.31,
2 940.43 (1) to (3), 940.45 (1) to (3), 941.20 (2) or (3), 941.26, 941.30, 941.327, 943.01
3 (2) (c), 943.011, 943.013, 943.02, 943.04, 943.06, 943.10 (2), 943.23 (1g), 943.30,
4 943.32, 946.43, 947.015, 948.02 (1) or (2), 948.025, 948.03, 948.04, 948.05, 948.051,
5 948.06, 948.07, 948.08, 948.085, or 948.30.

6 **SECTION 7.** 302.11 (1g) (a) 2. of the statutes is amended to read:

7 302.11 (1g) (a) 2. Any felony under s. 940.09 (1), 1999 stats., s. 943.23 (1m),
8 1999 stats., s. 948.35 (1) (b) or (c), 1999 stats., or s. 948.36, 1999 stats., or s. 940.02,
9 940.03, 940.05, 940.09 (1c), 940.19 (5), 940.195 (5), 940.198 (2), 940.21, 940.225 (1)
10 or (2), 940.305 (2), 940.31 (1) or (2) (b), 943.02, 943.10 (2), 943.23 (1g), 943.32 (2),
11 946.43 (1m), 948.02 (1) or (2), 948.025, 948.03 (2) (a) or (c) or (5) (a) 1., 2., 3., or 4.,
12 948.05, 948.06, 948.07, 948.08, or 948.30 (2).

13 **SECTION 8.** 303.07 (2) of the statutes is amended to read:

14 303.07 (2) When convicted persons are subject to commitment to the county
15 jail, or to the Wisconsin state prisons under s. 939.62 (1) (a) or 939.623 (2) (a) for a
16 term not exceeding 2 years, the court may instead commit them for equivalent terms
17 to a reforestation camp authorized under sub. (1).

18 **SECTION 9.** 343.12 (7) (c) 9j. of the statutes is created to read:

19 343.12 (7) (c) 9j. Physical abuse of an elder person under s. 940.198 (2).

20 **SECTION 10.** 813.12 (1) (ar) of the statutes is created to read:

21 813.12 (1) (ar) "Elder person" means any individual who is 60 years of age or
22 older.

23 **SECTION 11.** 813.12 (5b) of the statutes is created to read:

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1 813.12 **(5b)** ELDER PERSON PETITIONER. If the petitioner is an elder person, the
2 court shall permit the petitioner to participate in hearings under this section by
3 telephone or live audiovisual means.

4 **SECTION 12.** 813.123 (1) (eg) of the statutes is amended to read:

5 813.123 **(1)** (eg) “Harassment” has the meaning given in s. 813.125 (1) (am) 4.

6 **SECTION 13.** 813.123 (6g) of the statutes is created to read:

7 813.123 **(6g)** ELDER ADULT-AT-RISK PETITIONER. If the petitioner is an elder adult
8 at risk, the court shall permit the petitioner to participate in hearings under this
9 section by telephone or live audiovisual means.

10 **SECTION 14.** 813.125 (1) (am) (intro.) of the statutes is amended to read:

11 813.125 **(1)** (am) (intro.) In this section, ~~“harassment” means any of the~~
12 following:

13 **SECTION 15.** 813.125 (1) (am) 1. of the statutes is renumbered 813.125 (1) (am)

14 4. a.

15 **SECTION 16.** 813.125 (1) (am) 2. of the statutes is renumbered 813.125 (1) (am)

16 4. b.

17 **SECTION 17.** 813.125 (1) (am) 3. of the statutes is created to read:

18 813.125 **(1)** (am) 3. “Elder person” means any individual who is 60 years of age
19 or older.

20 **SECTION 18.** 813.125 (1) (am) 4. (intro.) of the statutes is created to read:

21 813.125 **(1)** (am) 4. (intro.) “Harassment” means any of the following:

22 **SECTION 19.** 813.125 (5b) of the statutes is created to read:

23 813.125 **(5b)** ELDER PERSON PETITIONER. If the petitioner is an elder person, the
24 court shall permit the petitioner to participate in hearings under this section by
25 telephone or live audiovisual means.

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1 **SECTION 20.** 895.45 (1) (a) of the statutes is amended to read:

2 895.45 (1) (a) “Abusive conduct” means domestic abuse, as defined under s.
3 49.165 (1) (a), 813.12 (1) (am), or 968.075 (1) (a), harassment, as defined under s.
4 813.125 (1) (am) 4, sexual exploitation by a therapist under s. 940.22, sexual assault
5 under s. 940.225, child abuse, as defined under s. 813.122 (1) (a), or child abuse under
6 ss. 948.02 to 948.11.

7 **SECTION 21.** 911.01 (4) (c) of the statutes is amended to read:

8 911.01 (4) (c) *Miscellaneous proceedings.* Proceedings for extradition or
9 rendition; sentencing, granting or revoking probation, modification of a bifurcated
10 sentence under s. 302.113 (9g), or adjustment of a bifurcated sentence under s.
11 973.195 (1r) or 973.198; hearings for the freezing of assets of a person charged with
12 financial exploitation of an elder person under s. 971.109; issuance of subpoenas or
13 warrants under s. 968.375, arrest warrants, criminal summonses, and search
14 warrants; hearings under s. 980.09 (2); proceedings under s. 971.14 (1r) (c);
15 proceedings with respect to pretrial release under ch. 969 except where habeas
16 corpus is utilized with respect to release on bail or as otherwise provided in ch. 969;
17 or proceedings under s. 165.76 (6) to compel provision of a biological specimen for
18 deoxyribonucleic acid analysis.

19 **SECTION 22.** 938.208 (1) (a) of the statutes is amended to read:

20 938.208 (1) (a) Probable cause exists to believe that the juvenile has committed
21 a delinquent act that would be a felony under s. 940.01, 940.02, 940.03, 940.05,
22 940.19 (2) to (6), 940.198, 940.21, 940.225 (1), 940.31, 941.20 (3), 943.02 (1), 943.23
23 (1g), 943.32 (2), 947.013 (1t), (1v) or (1x), 948.02 (1) or (2), 948.025, 948.03, or 948.085
24 (2), if committed by an adult.

25 **SECTION 23.** 938.34 (4m) (b) 1. of the statutes is amended to read:

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1 938.34 **(4m)** (b) 1. The juvenile has committed a delinquent act that would be
2 a felony under s. 940.01, 940.02, 940.03, 940.05, 940.19 (2) to (6), ~~940.198~~, 940.21,
3 940.225 (1), 940.31, 941.20 (3), 943.02 (1), 943.23 (1g), 943.32 (2), 947.013 (1t), (1v)
4 or (1x), 948.02 (1) or (2), 948.025, 948.03, or 948.085 (2) if committed by an adult.

5 **SECTION 24.** 938.355 (2d) (b) 3. of the statutes is amended to read:

6 938.355 **(2d)** (b) 3. That the parent has committed a violation of s. 940.19 (3),
7 1999 stats., or s. 940.19 (2), (4), or (5), ~~940.198 (2) (a) or (3) (a)~~, 940.225 (1) or (2),
8 948.02 (1) or (2), 948.025, 948.03 (2) (a), (3) (a), or (5) (a) 1., 2., or 3., or 948.085 or a
9 violation of the law of any other state or federal law, if that violation would be a
10 violation of s. 940.19 (2), (4), or (5), ~~940.198 (2) (a) or (3) (a)~~, 940.225 (1) or (2), 948.02
11 (1) or (2), 948.025, or 948.03 (2) (a), (3) (a), or (5) (a) 1., 2., or 3. if committed in this
12 state, as evidenced by a final judgment of conviction, and that the violation resulted
13 in great bodily harm, as defined in s. 939.22 (14), or in substantial bodily harm, as
14 defined in s. 939.22 (38), to the juvenile or another child of the parent.

15 **SECTION 25.** 939.62 (2m) (a) 2m. b. of the statutes is amended to read:

16 939.62 **(2m)** (a) 2m. b. Any felony under s. 940.09 (1), 1999 stats., s. 943.23 (1m)
17 or (1r), 1999 stats., s. 948.35 (1) (b) or (c), 1999 stats., or s. 948.36, 1999 stats., or s.
18 940.01, 940.02, 940.03, 940.05, 940.09 (1c), 940.16, 940.19 (5), 940.195 (5), ~~940.198~~
19 ~~(2) (a) or (c)~~, 940.21, 940.225 (1) or (2), 940.305, 940.31, 941.327 (2) (b) 4., 943.02,
20 943.10 (2), 943.23 (1g), 943.32 (2), 946.43 (1m), 948.02 (1) or (2), 948.025, 948.03 (2)
21 (a) or (c) or (5) (a) 1., 2., 3., or 4., 948.05, 948.06, 948.07, 948.075, 948.08, 948.081,
22 948.085, or 948.30 (2).

23 **SECTION 26.** 939.623 of the statutes is created to read:

24 **939.623 Increased penalty for elder person victims. (1)** In this section,
25 “elder person” means any individual who is 60 years of age or older.

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1 **(2)** If the crime victim is an elder person, and the present conviction is for any
2 crime for which imprisonment may be imposed, the maximum term of imprisonment
3 prescribed by law for that crime may be increased as follows:

4 (a) A maximum term of imprisonment of one year or less may be increased to
5 not more than 2 years.

6 (b) A maximum term of imprisonment of more than one year but not more than
7 10 years may be increased by not more than 4 years.

8 (c) A maximum term of imprisonment of more than 10 years may be increased
9 by not more than 6 years.

10 **(3)** This section applies irrespective of whether the defendant had actual
11 knowledge of the crime victim's age. A mistake regarding the crime victim's age is
12 not a defense to an increased penalty under this section.

13 **SECTION 27.** 939.632 (1) (e) 1. of the statutes is amended to read:

14 939.632 **(1)** (e) 1. Any felony under s. 940.01, 940.02, 940.03, 940.05, 940.09
15 (1c), 940.19 (2), (4) or (5), 940.198 (2) (a) or (c), 940.21, 940.225 (1), (2) or (3), 940.235,
16 940.305, 940.31, 941.20, 941.21, 943.02, 943.06, 943.10 (2), 943.23 (1g), 943.32 (2),
17 948.02 (1) or (2), 948.025, 948.03 (2) (a) or (c) or (5) (a) 1., 2., 3., or 4., 948.05, 948.051,
18 948.055, 948.07, 948.08, 948.085, or 948.30 (2) or under s. 940.302 (2) if s. 940.302
19 (2) (a) 1. b. applies.

20 **SECTION 28.** 940.19 (6) (intro.) and (b) of the statutes are consolidated,
21 renumbered 940.19 (6) and amended to read:

22 940.19 **(6)** Whoever intentionally causes bodily harm to another by conduct
23 that creates a substantial risk of great bodily harm is guilty of a Class H felony. A
24 rebuttable presumption of conduct creating a substantial risk of great bodily harm
25 arises: ~~(b) If~~ if the person harmed has a physical disability, whether congenital or

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1 acquired by accident, injury or disease, that is discernible by an ordinary person
2 viewing the physically disabled person, or that is actually known by the actor.

3 **SECTION 29.** 940.19 (6) (a) of the statutes is repealed.

4 **SECTION 30.** 940.198 of the statutes is created to read:

5 **940.198 Physical abuse of an elder person. (1) DEFINITIONS.** In this
6 section:

7 (a) "Elder person" means any individual who is 60 years of age or older.

8 (b) "Recklessly" means conduct that creates a situation of unreasonable risk of
9 harm to and demonstrates a conscious disregard for the safety of the elder person.

10 **(2) INTENTIONAL CAUSATION OF BODILY HARM.** (a) Whoever intentionally causes
11 great bodily harm to an elder person is guilty of a Class C felony.

12 (b) Whoever intentionally causes bodily harm to an elder person is guilty of a
13 Class H felony.

14 (c) Whoever intentionally causes bodily harm to an elder person under
15 circumstances or conditions that are likely to produce great bodily harm is guilty of
16 a Class F felony.

17 **(3) RECKLESS CAUSATION OF BODILY HARM.** (a) Whoever recklessly causes great
18 bodily harm to an elder person is guilty of a Class E felony.

19 (b) Whoever recklessly causes bodily harm to an elder person is guilty of a Class
20 I felony.

21 (c) Whoever recklessly causes bodily harm to an elder person under
22 circumstances or conditions that are likely to produce great bodily harm is guilty of
23 a Class H felony.

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1 **(4) KNOWLEDGE OF AGE NOT REQUIRED.** This section applies irrespective of
2 whether the defendant had actual knowledge of the victim's age. A mistake
3 regarding the victim's age is not a defense to a prosecution under this section.

4 **SECTION 31.** 940.225 (1) (d) of the statutes is created to read:

5 940.225 **(1)** (d) Commits a violation under sub. (2) against an individual who
6 is 60 years of age or older. This paragraph applies irrespective of whether the
7 defendant had actual knowledge of the victim's age. A mistake regarding the victim's
8 age is not a defense to a prosecution under this paragraph.

9 **SECTION 32.** 941.29 (1g) (a) of the statutes is amended to read:

10 941.29 **(1g)** (a) "Violent felony" means any felony under s. 943.23 (1m), 1999
11 stats., or s. 943.23 (1r), 1999 stats., this section, or s. 940.01, 940.02, 940.03, 940.05,
12 940.06, 940.08, 940.09, 940.10, 940.19, 940.195, 940.198, 940.20, 940.201, 940.203,
13 940.21, 940.225, 940.23, 940.235, 940.285 (2), 940.29, 940.295 (3), 940.30, 940.302,
14 940.305, 940.31, 940.43 (1) to (3), 940.45 (1) to (3), 941.20, 941.26, 941.28, 941.2905,
15 941.292, 941.30, 941.327 (2) (b) 3. or 4., 943.02, 943.04, 943.06, 943.10 (2), 943.23
16 (1g), 943.32, 943.87, 946.43, 948.02 (1) or (2), 948.025, 948.03, 948.04, 948.05,
17 948.051, 948.06, 948.07, 948.08, 948.085, or 948.30.

18 **SECTION 33.** 941.291 (1) (b) of the statutes is amended to read:

19 941.291 **(1)** (b) "Violent felony" means any felony, or the solicitation, conspiracy,
20 or attempt to commit any felony, under s. 943.23 (1m) or (1r), 1999 stats., or s. 940.01,
21 940.02, 940.03, 940.05, 940.06, 940.08, 940.09, 940.10, 940.19, 940.195, 940.198,
22 940.20, 940.201, 940.203, 940.21, 940.225, 940.23, 940.285 (2), 940.29, 940.295 (3),
23 940.30, 940.305, 940.31, 940.43 (1) to (3), 940.45 (1) to (3), 941.20, 941.26, 941.28,
24 941.29, 941.30, 941.327, 943.01 (2) (c), 943.011, 943.013, 943.02, 943.04, 943.06,
25 943.10 (2), 943.23 (1g), 943.32, 943.81, 943.82, 943.83, 943.85, 943.86, 943.87,

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1 943.88, 943.89, 943.90, 946.43, 947.015, 948.02 (1) or (2), 948.025, 948.03, 948.04,
2 948.05, 948.06, 948.07, 948.08, 948.085, or 948.30; or, if the victim is a financial
3 institution, as defined in s. 943.80 (2), a felony, or the solicitation, conspiracy, or
4 attempt to commit a felony under s. 943.84 (1) or (2).

5 **SECTION 34.** 949.03 (1) (b) of the statutes is amended to read:

6 949.03 (1) (b) The commission or the attempt to commit any crime specified in
7 s. 346.62 (4), 346.63 (2) or (6), 940.01, 940.02, 940.03, 940.05, 940.06, 940.07, 940.08,
8 940.09, 940.10, 940.19, 940.198, 940.20, 940.201, 940.21, 940.22 (2), 940.225, 940.23,
9 940.235, 940.24, 940.25, 940.285, 940.29, 940.30, 940.302 (2), 940.305, 940.31,
10 940.32, 941.327, 942.09, 943.02, 943.03, 943.04, 943.10, 943.20, 943.23 (1g), 943.32,
11 943.81, 943.86, 943.87, 948.02, 948.025, 948.03, 948.04, 948.05, 948.051, 948.06,
12 948.07, 948.075, 948.08, 948.085, 948.09, 948.095, 948.20, 948.21 (1), 948.30 or
13 948.51.

14 **SECTION 35.** 968.20 (title) of the statutes is amended to read:

15 **968.20** (title) **Return of property frozen or seized.**

16 **SECTION 36.** 968.20 (1) of the statutes is amended to read:

17 968.20 (1) Any person claiming the right to possession of property frozen or
18 seized under s. 971.109 or seized pursuant to a search warrant or seized without a
19 search warrant, except for an animal taken into custody under s. 173.13 (1) or
20 withheld from its owner under s. 173.21 (1) (a), may apply for its return to the circuit
21 court for the county in which the property was seized or where the search warrant
22 was returned, except that a court may commence a hearing, on its own initiative, to
23 return property seized under s. 968.26. If an initial appearance under s. 970.01 is
24 scheduled, the application for the return of the property shall be filed within 120 days
25 of the initial appearance.

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1 **SECTION 37.** 968.20 (1h) of the statutes is amended to read:

2 968.20 **(1h)** If a court orders property returned under sub. (1g), the court shall
3 order the person not to sell, transfer, assign, or otherwise encumber the property
4 until the court orders the property either returned under s. 961.55 (3) or 973.075 (5)
5 ~~or~~, forfeited under s. 961.555 or 973.076, or subject to restitution under s. 973.20. If
6 the person is subsequently convicted of or found to have committed the offense, the
7 court shall order the person to surrender the returned property for proceedings
8 under s. 961.555 or 973.076, whichever is appropriate, or for restitution under s.
9 973.20.

10 **SECTION 38.** 968.26 (1b) (a) 2. a. of the statutes is amended to read:

11 968.26 **(1b)** (a) 2. a. Section 940.04, 940.11, 940.19 (2), (4), (5), or (6), 940.195
12 (2), (4), (5), or (6), 940.198 (2) (b) or (c) or (3), 940.20, 940.201, 940.203, 940.205,
13 940.207, 940.208, 940.22 (2), 940.225 (3), 940.29, 940.302 (2) (c), 940.32, 941.32,
14 941.38 (2), 942.09 (2), 943.10, 943.205, 943.32 (1), 946.43, 946.44, 946.47, 946.48,
15 948.02 (3), 948.03 (2) (b) or (c), (3), or (4), 948.04, 948.055, 948.095, 948.10 (1) (a),
16 948.11, 948.13 (2) (a), 948.14, 948.20, 948.23 (1), (2), or (3) (c) 2. or 3., or 948.30 (1).

17 **SECTION 39.** 969.035 (1) of the statutes is amended to read:

18 969.035 **(1)** In this section, “violent crime” means any crime specified in s.
19 940.01, 940.02, 940.03, 940.05, 940.06, 940.07, 940.08, 940.10, 940.19 (5), 940.195
20 (5), 940.198 (2) (a) or (c), 940.21, 940.225 (1), 940.23, 941.327, 948.02 (1) or (2),
21 948.025, 948.03, or 948.085.

22 **SECTION 40.** 969.08 (10) (b) of the statutes is amended to read:

23 969.08 **(10)** (b) “Serious crime” means any crime specified in s. 943.23 (1m),
24 1999 stats., or s. 943.23 (1r), 1999 stats., or s. 346.62 (4), 940.01, 940.02, 940.03,
25 940.05, 940.06, 940.08, 940.09, 940.10, 940.19 (5), 940.195 (5), 940.198 (2) (a) or (c),

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1 940.20, 940.201, 940.203, 940.21, 940.225 (1) to (3), 940.23, 940.24, 940.25, 940.29,
2 940.295 (3) (b) 1g., 1m., 1r., 2. or 3., 940.302 (2), 940.31, 941.20 (2) or (3), 941.26,
3 941.30, 941.327, 943.01 (2) (c), 943.011, 943.013, 943.02, 943.03, 943.04, 943.06,
4 943.10, 943.23 (1g), 943.30, 943.32, 943.81, 943.82, 943.83, 943.85, 943.86, 943.87,
5 943.88, 943.89, 943.90, 946.01, 946.02, 946.43, 947.015, 948.02 (1) or (2), 948.025,
6 948.03, 948.04, 948.05, 948.051, 948.06, 948.07, 948.085, or 948.30 or, if the victim
7 is a financial institution, as defined in s. 943.80 (2), a crime under s. 943.84 (1) or (2).

8 **SECTION 41.** 971.109 of the statutes is created to read:

9 **971.109 Freezing assets of a person charged with financial**
10 **exploitation of an elder person. (1) DEFINITIONS.** In this section:

11 (a) "Elder person" means any individual who is 60 years of age or older.

12 (b) "Financial exploitation" has the meaning given in s. 46.90 (1) (ed).

13 **(2) SEIZURE OF ASSETS.** (a) If a defendant is charged with a crime that is
14 financial exploitation, the crime involves the taking or loss of property valued at
15 more than \$2,500, and the crime victim is an elder person, a prosecuting attorney
16 may file a petition with the court in which the defendant has been charged to freeze
17 the funds, assets, or property of the defendant in an amount up to 100 percent of the
18 alleged value of funds, assets, or property in the defendant's pending criminal
19 proceeding for purposes of restitution to the crime victim. The hearing on the
20 petition may be held ex parte. The rules of evidence do not apply in a hearing under
21 this paragraph.

22 (b) In the hearing under par. (a), if there is a showing of probable cause that
23 the defendant used, was using, is about to use, or is intending to use any funds,
24 assets, or property in a way that constitutes or would constitute financial
25 exploitation, the court shall issue an order to freeze or seize the funds, assets, or

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1 property of the defendant in the amount calculated under par. (a). A copy of the order
2 shall be served upon the defendant whose funds, assets, or property has been frozen
3 or seized.

4 (c) The court's order shall prohibit the sale, gifting, transfer, or wasting of the
5 funds, assets, or real or personal property of the elder person that are owned by or
6 vested in the defendant without the express permission of the court. The court's
7 order shall be binding upon a financial institution, as defined in s. 943.80 (2), and any
8 3rd party that is in possession of the funds, assets, or property.

9 **(3) RELEASE OF FUNDS.** At any time within 30 days after service of the order
10 under sub. (2) (b), the defendant or any person claiming an interest in the funds,
11 assets, or property may file a petition to release the funds, assets, or property. The
12 court shall hold a hearing on the motion within 10 days from the date the motion is
13 filed. The procedure under s. 968.20 applies to a petition under this subsection.

14 **(4) DISMISSAL OR ACQUITTAL.** If the prosecution of a charge of financial
15 exploitation is dismissed or if a judgment of acquittal is entered, the court shall
16 vacate the order issued under sub. (2) (b).

17 **(5) CONVICTION.** If the prosecution of a charge of financial exploitation results
18 in a conviction, the court may order that the funds, assets, or property that were
19 frozen or seized under sub. (2) (b) be released only for the purpose of paying
20 restitution ordered under s. 973.20 (2).

21 **SECTION 42.** 973.01 (2) (c) 2. a. of the statutes is amended to read:

22 973.01 **(2)** (c) 2. a. Sections 939.621, 939.623, 939.632, 939.635, 939.645, 946.42
23 (4), 961.442, 961.46, and 961.49.

24 **SECTION 43.** 973.0135 (1) (b) 2. of the statutes is amended to read:

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1 973.0135 (1) (b) 2. Any felony under s. 940.09 (1), 1999 stats., s. 943.23 (1m)
2 or (1r), 1999 stats., s. 948.35 (1) (b) or (c), 1999 stats., or s. 948.36, 1999 stats., s.
3 940.01, 940.02, 940.03, 940.05, 940.09 (1c), 940.16, 940.19 (5), 940.195 (5), 940.198
4 (2) (a) or (c), 940.21, 940.225 (1) or (2), 940.305, 940.31, 941.327 (2) (b) 4., 943.02,
5 943.10 (2), 943.23 (1g), 943.32 (2), 946.43 (1m), 948.02 (1) or (2), 948.025, 948.03 (2)
6 (a) or (c) or (5) (a) 1., 2., 3., or 4., 948.05, 948.051, 948.06, 948.07, 948.075, 948.08, or
7 948.30 (2).

8 **SECTION 44.** 973.06 (1) (av) 2. a. of the statutes is amended to read:

9 973.06 (1) (av) 2. a. The defendant was charged under s. 946.41 solely because
10 he or she recanted a report of abusive conduct, including interspousal battery, as
11 described under s. 940.19 or 940.20 (1m), domestic abuse, as defined in s. 49.165 (1)
12 (a), 813.12 (1) (am), or 968.075 (1) (a), harassment, as defined in s. 813.125 (1) (am)
13 4., sexual exploitation by a therapist under s. 940.22, sexual assault under s.
14 940.225, child abuse, as defined under s. 813.122 (1) (a), or child abuse under ss.
15 948.02 to 948.11.

16 **SECTION 45.** 973.06 (1) (av) 2. b. of the statutes is amended to read:

17 973.06 (1) (av) 2. b. The defendant was a victim of abusive conduct, including
18 interspousal battery, as described under s. 940.19 or 940.20 (1m), domestic abuse, as
19 defined in s. 49.165 (1) (a), 813.12 (1) (am), or 968.075 (1) (a), harassment, as defined
20 in s. 813.125 (1) (am) 4., sexual exploitation by a therapist under s. 940.22, sexual
21 assault under s. 940.225, child abuse, as defined under s. 813.122 (1) (a), or child
22 abuse under ss. 948.02 to 948.11, and he or she was charged under s. 946.41 based
23 on information he or she omitted or false information he or she provided during the
24 course of an investigation into the crime committed against him or her.

25 **SECTION 46.** 973.123 (1) of the statutes is amended to read:

