2019 ASSEMBLY BILL 807

January 27, 2020 – Introduced by Representatives SANFELIPPO, HUTTON, ALLEN, DITTRICH, DUCHOW, EDMING, GUNDRUM, HORLACHER, JAGLER, JAMES, KNODL, KUGLITSCH, OTT, RAMTHUN, SORTWELL, TITTL and WICHGERS, cosponsored by Senators STROEBEL, JACQUE, MARKLEIN, NASS and CRAIG. Referred to Committee on Criminal Justice and Public Safety.

AUTHORS SUBJECT TO CHANGE

1 AN ACT *to amend* 973.12 (1) and 973.12 (2); and *to create* 939.6197 of the

2 statutes; **relating to:** mandatory minimum sentence for three or more

3 convictions for retail theft and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill imposes a 180-day mandatory minimum jail sentence for the crime of retail theft, if the defendant has previously been convicted two times for retail theft.

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:

4 SECTION 1. 939.6197 of the statutes is created to read:

5 **939.6197 Mandatory minimum sentence for repeat retail theft.** If a

6 person is convicted for a violation of s. 943.50 and has 2 or more prior convictions for

7 a violation of s. 943.50, the court shall impose a bifurcated sentence under s. 973.01.

8 The term of confinement in prison portion of a bifurcated sentence imposed under

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ASSEMBLY BILL 807   **SECTION 1**

1   this section may not be less than 180 days, but otherwise the penalties for the crime

2   apply, subject to any applicable penalty enhancement. The court may not place the

3   defendant on probation.

4   **SECTION 2.** 973.12 (1) of the statutes is amended to read:

5   973.12 **(1)** Whenever a person charged with a crime will be a repeater or a

6   persistent repeater under s. 939.62 or subject to a penalty under s. 939.6195 <u>or</u>

7   <u>939.6197</u> if convicted, any applicable prior convictions may be alleged in the

8   complaint, indictment or information or amendments so alleging at any time before

9   or at arraignment, and before acceptance of any plea. The court may, upon motion

10   of the district attorney, grant a reasonable time to investigate possible prior

11   convictions before accepting a plea. If the prior convictions are admitted by the

12   defendant or proved by the state, he or she shall be subject to sentence under s.

13   939.6195<u>, 939.6197,</u> or 939.62 unless he or she establishes that he or she was

14   pardoned on grounds of innocence for any crime necessary to constitute him or her

15   a repeater or a persistent repeater. An official report of the F.B.I. or any other

16   governmental agency of the United States or of this or any other state shall be prima

17   facie evidence of any conviction or sentence therein reported. Any sentence so

18   reported shall be deemed prima facie to have been fully served in actual confinement

19   or to have been served for such period of time as is shown or is consistent with the

20   report. The court shall take judicial notice of the statutes of the United States and

21   foreign states in determining whether the prior conviction was for a felony or a

22   misdemeanor.

23   **SECTION 3.** 973.12 (2) of the statutes is amended to read:

24   973.12 **(2)** In every case of sentence under s. 939.6195<u>, 939.6197,</u> or 939.62, the

25   sentence shall be imposed for the present conviction, ~~but if.~~ <u>If</u> the court indicates in

1   passing sentence how much thereof is imposed because the defendant is a repeater,

2   it shall not constitute reversible error, but the combined terms shall be construed as

3   a single sentence for the present conviction.

4   **SECTION 4. Initial applicability.**

5   (1) This act first applies to a person who violates s. 943.50 on the effective date

6   of this subsection, but does not preclude counting violations committed before the

7   effective date of this subsection as prior violations for the purposes of sentencing a

8   person under s. 939.6197.

9   **(END)**