

**1987 Assembly Bill 599**

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## **1987 Wisconsin Act 348**

AN ACT *to amend* 165.55 (3), 814.04 (intro.), 943.05, 946.82 (4), 973.075 (1) (b) (intro.) and 973.075 (2) (d); and *to create* 895.75, 939.645 and 943.012 of the statutes, *relating to* crimes against certain persons and property, civil actions by victims of those crimes and providing penalties.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 165.55 (3) of the statutes is amended to read:

165.55 (3) When, in the opinion of the state fire marshal, investigation is necessary, he or she shall take or cause to be taken the testimony on oath of all persons supposed to be cognizant of any facts or to have any means of knowledge in relation to any case of damage to property by fire or explosives, ~~and if he.~~ If the state fire marshal is of the opinion that there is evidence sufficient to charge any person with a crime under s. 941.11, 943.01, 943.012, 943.02, 943.03 or 943.04 or with an attempt to commit any of those crimes, he or she shall cause ~~such~~ the person to be prosecuted, and furnish the prosecuting attorney the names of all witnesses and all the information obtained by him or her, including a copy of all testimony taken in the investigation.

SECTION 2. 814.04 (intro.) of the statutes is amended to read:

**814.04 Items of costs.** (intro.) Except as provided in ss. 814.025, 814.245 ~~and~~, 895.035 (4) ~~and~~ 895.75 (3), when allowed costs shall be as follows:

SECTION 3. 895.75 of the statutes is created to read:

**895.75 Physical injury, emotional distress, loss or damage suffered by members of certain groups.** (1) Any person who suffers physical injury to his or her person or emotional distress or damage to or loss of his or her property by reason of conduct which is prohibited under s. 943.012 or which is grounds for a penalty increase under s. 939.645 has a civil cause of action against the person who caused the physical injury, emotional distress, damage or loss.

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

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

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

(5) This section does not limit the right of a person to recover from any parent or parents under s. 895.035.

SECTION 4. 939.645 of the statutes is created to read:

**939.645 Penalty; crimes committed against certain people or property.** (1) If a person does all of the following, the penalties for the underlying crime are increased as provided in sub. (2):

(a) Commits a crime under chs. 939 to 948.

(b) Intentionally selects the person against whom the crime under par. (a) is committed or selects the

property which is damaged or otherwise affected by the crime under par. (a) because of the race, religion, color, disability, sexual orientation, national origin or ancestry of that person or the owner or occupant of that property.

(2) (a) 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 period of imprisonment is one year in the county jail.

(b) 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 period of imprisonment is 2 years.

(c) 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 period of imprisonment prescribed by law for the crime may be increased by not more than 5 years.

(3) 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).

(4) This section does not apply to any crime if proof of race, religion, color, disability, sexual orientation, national origin or ancestry is required for a conviction for that crime.

SECTION 5. 943.012 of the statutes is created to read:

**943.012 Criminal damage to religious and other property.** Whoever intentionally causes damage to any physical property of another without the person's consent and with knowledge of the character of the property is guilty of a Class E felony if the property consists of one or more of the following:

(1) Any church, synagogue or other building, structure or place primarily used for religious worship or another religious purpose.

(2) Any cemetery, mortuary or other facility used for burial or memorializing the dead.

(3) Any school, educational facility or community center publicly identified as associated with a group of persons of a particular race, religion, color, disability, sexual orientation, national origin or ancestry or by an institution of any such group.

(4) Any personal property contained in any property under subs. (1) to (3) if the personal property has particular significance or value to any group of persons of a particular race, religion, color, disability, sexual orientation, national origin or ancestry and the actor knows the personal property has particular significance or value to that group.

SECTION 6. 943.05 of the statutes is amended to read:

**943.05 Placing of combustible materials an attempt.** Whoever places any combustible or explosive material

or device in or near any property with intent to set fire to or blow up such property is guilty of an attempt to violate either s. 943.01, 943.012, 943.02, 943.03 or 943.04, depending on the facts of the particular case.

SECTION 7. 946.82 (4) of the statutes is amended to read:

946.82 (4) "Racketeering activity" means any activity specified in 18 USC 1961 (1) in effect as of April 27, 1982 or the attempt, conspiracy to commit, or commission of any of the felonies specified in: chs. 161 and 945 and ss. 49.49, 134.05, 139.44 (1), 180.88, 181.69, 184.09 (2), 185.82 (4), 215.12, 221.17, 221.31, 221.39, 221.40, 551.41, 551.42, 551.43, 551.44, 553.41 (3) and (4), 553.52 (2), 940.01, 940.19 (2) and (3), 940.20, 940.203, 940.21, 940.30, 940.305, 940.31, 940.32, 941.20 (2), 941.26, 941.28, 941.31, 941.32, 943.01 (2), 943.012, 943.02, 943.03, 943.04, 943.05, 943.06, 943.10, 943.20 (3) (b) to (d), 943.23 (1), 943.24 (2), 943.25, 943.27, 943.28, 943.30, 943.32, 943.34 (2) and (3), 943.38, 943.39, 943.40, 943.41 (8) (b) and (c), 943.50 (4) (b) and (c), 943.60, 943.70, 944.32, 944.33 (2), 944.34, 945.03, 945.04, 945.05, 945.08, 946.10, 946.11, 946.12, 946.13, 946.31, 946.32 (1), 946.48,

946.49, 946.61, 946.64, 946.65, 946.72, 946.76 and 947.015.

SECTION 8. 973.075 (1) (b) (intro.) of the statutes is amended to read:

973.075 (1) (b) (intro.) All vehicles, as defined in s. 939.22 (44), which are used to transport any property or weapon used or to be used or received in the commission of any felony or which are used to cause more than \$1,000 worth of criminal damage to cemetery property in violation of s. 943.01 (2) (d) or 943.012, but:

SECTION 9. 973.075 (2) (d) of the statutes is amended to read:

973.075 (2) (d) The officer has probable cause to believe that the property was derived from or realized through a crime or that the property is a vehicle which was used to transport any property or weapon used or to be used or received in the commission of any felony or which was used to cause more than \$1,000 worth of criminal damage to cemetery property in violation of s. 943.01 (2) (d) or 943.012.