

1993 Assembly Bill 253

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1993 WISCONSIN ACT 92

AN ACT to repeal 943.23 (4); to amend 48.78 (3), 753.061 (2m), 946.82 (4), 949.03 (1) (b), 969.08 (10) (b), 973.075 (3) (intro.), 973.076 (1) and 978.13 (1) (c); and to create 342.30 (4), 943.23 (1g), 943.23 (1m), 943.23 (1r) and 943.23 (4m) of the statutes, relating to: taking a vehicle without the consent of the owner, seizure and forfeiture of a motor vehicle having an altered or obliterated identification number and providing penalties.

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

SECTION 1. 48.78 (3) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

48.78 (3) If a child adjudged delinquent on the basis of a violation of s. 941.10, 941.11, 941.20, 941.21, 941.23, 941.235, 941.24, 941.26, 941.28, 941.295, 941.298, 941.30, 941.31, 941.32, 941.325, 943.02, 943.03, 943.04, 943.10 (2) (a), 943.23 (1g), (1m) or (1r), 943.32 (2), 948.02, 948.03, 948.05, 948.60, 948.605 or 948.61 or any crime specified in ch. 940 has escaped from a secured correctional facility, has been allowed to leave a secured correctional facility for a specified time period and is absent from the facility for more than 12 hours after the expiration of the specified period or has run away from the child's placement in the community while under corrective sanctions supervision, the department may release the child's name and any information about the child the department determines to be necessary for the protection of the public or to secure the child's return to the facility or placement. The department shall promulgate rules establishing guidelines for the release of the child's name or information about the child to the public.

SECTION 2. 342.30 (4) of the statutes is created to read:

342.30 (4) (a) If a law enforcement agency finds a vehicle or part of a vehicle on which the identification number has been removed, altered or obliterated or made impossible to read, the law enforcement agency may

seize the vehicle or part of a vehicle. If the identification number cannot be identified, the seized vehicle or vehicle part is presumed to be contraband. If the identification number can be identified, the agency may return the vehicle to the registered owner. Except as provided in par. (b), the district attorney shall institute forfeiture proceedings under s. 973.076 regarding any vehicle or vehicle part that is seized under this paragraph and not returned to the owner.

(b) If the district attorney brings a criminal action arising out of the seizure under par. (a), the district attorney shall not institute forfeiture proceedings under s. 973.076 before there is a final determination in the criminal action.

(c) Paragraph (a) does not apply to the obliteration of an identification number that occurs in the process of crushing a vehicle or vehicle part for scrap.

SECTION 3. 753.061 (2m) of the statutes is amended to read:

753.061 (2m) The chief judge of the 1st judicial administrative district is authorized to designate 4 circuit court branches to primarily handle violent crime cases that involve a violation of s. 939.63, if a felony is committed while armed, and of ss. 940.01 to 940.03, 940.05, 940.06, 940.225, 943.23 (1g), (1m) and (1r) and 943.32 (2). If the circuit court branches are designated under this subsection, 2 shall begin to primarily handle violent crime cases on September 1, 1991, and 2 shall begin to primarily handle violent crime cases on August 1, 1992.

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SECTION 4. 943.23 (1g) of the statutes is created to read:

943.23 (1g) Whoever, while possessing a dangerous weapon and by the use of, or the threat of the use of, force or the weapon against another, intentionally takes any vehicle without the consent of the owner is guilty of a Class B felony.

SECTION 5d. 943.23 (1m) of the statutes is created to read:

943.23 (1m) Whoever violates sub. (1g) and causes great bodily harm to another is guilty of a Class B felony and shall be sentenced to not less than 10 years of imprisonment, unless the sentencing court otherwise provides. If the court places the person on probation or imposes a sentence less than the 10-year presumptive minimum sentence, it shall place its reasons for doing so on the record.

SECTION 6. 943.23 (1r) of the statutes is created to read:

943.23 (1r) Whoever violates sub. (1g) and causes the death of another is guilty of a Class A felony.

SECTION 7. 943.23 (4) of the statutes is repealed.

SECTION 8. 943.23 (4m) of the statutes is created to read:

943.23 (4m) Whoever knows that the owner does not consent to the driving or operation of a vehicle and intentionally accompanies, as a passenger in the vehicle, a person while he or she violates sub. (1g), (1m), (1r), (2) or (3) is guilty of a Class A misdemeanor.

SECTION 9. 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), 180.0129, 181.69, 184.09 (2), 185.825, 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, 940.21, 940.30, 940.305, 940.31, 941.20 (2), 941.26, 941.28, 941.298, 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 (1g), (1m), (1r), (2) and (3), 943.24 (2), 943.25, 943.27, 943.28, 943.30, 943.32, 943.34 (1) (b) and (c), 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, 947.015, 948.05, 948.08, 948.12 and 948.30.

SECTION 10. 949.03 (1) (b) of the statutes is amended to read:

949.03 (1) (b) The commission or the attempt to commit any crime specified in s. 346.62 (4), 346.63 (2) or (6), 940.01, 940.02, 940.03, 940.05, 940.06, 940.07, 940.08,

940.09, 940.10, 940.19, 940.20, 940.21, 940.22 (2), 940.225, 940.23, 940.24, 940.25, 940.285, 940.29, 940.30, 940.305, 940.31, 941.327, 943.02, 943.03, 943.04, 943.10, 943.20, 943.23 (1g), (1m) or (1r), 943.32, 948.02, 948.03, 948.04, 948.07, 948.20, 948.30 or 948.51.

SECTION 11. 969.08 (10) (b) of the statutes is amended to read:

969.08 (10) (b) "Serious crime" means any crime specified in s. 346.62 (4), 940.01, 940.02, 940.03, 940.05, 940.06, 940.08, 940.09, 940.10, 940.19 (2), 940.20, 940.21, 940.225 (1) to (3), 940.23, 940.24, 940.25, 940.29, 940.31, 941.20 (2), 941.26, 941.30, 941.327, 943.01 (2) (c), 943.02, 943.03, 943.04, 943.06, 943.10, 943.23 (1g), (1m) or (1r), 943.30, 943.32, 946.01, 946.02, 946.43, 947.015, 948.02 (1) or (2), 948.03, 948.04, 948.05, 948.06, 948.07 or 948.30.

SECTION 12. 973.075 (3) (intro.) of the statutes is amended to read:

973.075 (3) (intro.) If there is a seizure under sub. (2) or s. 342.30 (4) (a), proceedings under s. 973.076 shall be instituted. Property seized under this section or s. 342.30 (4) (a) is not subject to replevin, but is deemed to be in the custody of the sheriff of the county in which the seizure was made subject only to the orders and decrees of the court having jurisdiction over the forfeiture proceedings. When property is seized under this section or s. 342.30 (4) (a), the person seizing the property may do any of the following:

SECTION 13. 973.076 (1) of the statutes is amended to read:

973.076 (1) TYPE OF ACTION; WHERE BROUGHT. In an action brought to cause the forfeiture of any property specified in s. 342.30 (4) (a) or 973.075 (1), the court may render a judgment in rem or against a party personally, or both. The circuit court for the county in which the property was seized shall have exclusive jurisdiction over any proceedings regarding the property.

SECTION 14. 978.13 (1) (c) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

978.13 (1) (c) In counties having a population of 500,000 or more, the salary and fringe benefit costs of clerk positions in the district attorney's office necessary for the prosecution of violent crime cases primarily involving felony violations under s. 939.63, if a felony is committed while armed, and under ss. 940.01 to 940.03, 940.05, 940.06, 940.225, 943.23 (1g), (1m) and (1r) and 943.32 (2). The state treasurer shall pay the amount authorized under this paragraph to the county treasurer pursuant to a voucher submitted by the district attorney to the secretary of administration from the appropriation under s. 20.475 (1) (c). The amount paid under this paragraph may not exceed \$76,800 in the 1993-94 fiscal year and \$79,800 in the 1994-95 fiscal year.

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SECTION 15. Initial applicability. This act first applies to offenses occurring on the effective date of this SECTION.
