

# State of Wisconsin



1997 Assembly Bill 74

Date of enactment: **June 15, 1998**  
Date of publication\*: **June 29, 1998**

## 1997 WISCONSIN ACT 285

AN ACT *to renumber* 973.075 (1) (b) 3.; *to renumber and amend* 814.61 (1) (c), 973.075 (1) (b) (intro.), 973.075 (1) (b) 1. and 973.075 (1) (b) 2.; *to amend* 29.06 (1) (d) and 973.075 (5) (intro.); and *to create* 814.61 (1) (c) 3., 973.075 (1) (b) 1m. f. and 973.075 (1) (bm) of the statutes; **relating to:** forfeiture of property used to commit certain crimes and court fees in property forfeiture proceedings.

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

**SECTION 1.** 29.06 (1) (d) of the statutes is amended to read:

29.06 (1) (d) The provisions of s. 973.075 (1) (b) 1. to 3. 2m. and (5) apply to vehicles other than motor vehicles under this subsection.

**SECTION 2.** 814.61 (1) (c) of the statutes is renumbered 814.61 (1) (c) (intro.) and amended to read:

814.61 (1) (c) (intro.) Paragraphs (a) and (b) do not apply to any of the following:

1. An action to determine paternity brought by the state or its delegate under s. 767.45 (1) (g) or (h) or commenced on behalf of the child by an attorney appointed under s. 767.045 (1) (c) ~~or to an~~.

2. An action under ch. 769.

**SECTION 3.** 814.61 (1) (c) 3. of the statutes is created to read:

814.61 (1) (c) 3. A forfeiture proceeding under ss. 961.55 to 961.56 or 973.075 to 973.077.

**SECTION 4.** 973.075 (1) (b) (intro.) of the statutes is renumbered 973.075 (1) (b) 1m. (intro.) and amended to read:

973.075 (1) (b) 1m. (intro.) ~~All~~ Except as provided in subd. 2m., all vehicles, as defined in s. 939.22 (44), which are used to in any of the following ways:

a. To transport any property or weapon used or to be used or received in the commission of any felony, ~~which are used in.~~

b. In the commission of a crime under s. 946.70, ~~which are used in.~~

c. In the commission of a crime in violation of s. 944.30, 944.31, 944.32, 944.33 or 944.34, ~~which are used in.~~

d. In the commission of a crime relating to a submerged cultural resource in violation of s. 44.47 ~~or which are used to.~~

e. 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 5.** 973.075 (1) (b) 1. of the statutes is renumbered 973.075 (1) (b) 2m. a. and amended to read:

973.075 (1) (b) 2m. a. No vehicle used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under ss. 973.075 to 973.077 unless it appears that the owner or other person in charge of the vehicle had knowledge of or consented to the commission of the crime;.

\* Section 991.11, WISCONSIN STATUTES 1995-96: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

**SECTION 6.** 973.075 (1) (b) 1m. f. of the statutes is created to read:

973.075 (1) (b) 1m. f. In the commission of a crime under s. 813.12 (8), 813.122 (11), 813.123 (10), 813.125 (7), 813.128 (2) or 940.32.

**SECTION 7.** 973.075 (1) (b) 2. of the statutes is renumbered 973.075 (1) (b) 2m. b. and amended to read:

973.075 (1) (b) 2m. b. No vehicle is subject to forfeiture under ss. 973.075 to 973.077 by reason of any act or omission established by the owner of the vehicle to have been committed or omitted without his or her knowledge or consent; ~~and~~.

**SECTION 8.** 973.075 (1) (b) 3. of the statutes is renumbered 973.075 (1) (b) 2m. c.

**SECTION 9.** 973.075 (1) (bm) of the statutes is created to read:

973.075 (1) (bm) Any property used in the commission of a crime under s. 813.12 (8), 813.122 (11), 813.123 (10), 813.125 (7), 813.128 (2) or 940.32, but if the property is encumbered by a bonafide perfected security inter-

est that was perfected before the date of the commission of the current violation and the holder of the security interest neither had knowledge of nor consented to the commission of that violation, the holder of the security interest shall be paid from the proceeds of the forfeiture.

**SECTION 10.** 973.075 (5) (intro.) of the statutes is amended to read:

973.075 (5) (intro.) All forfeitures under ss. 973.075 to 973.077 shall be made with due provision for the rights of innocent persons under sub. (1) (b) ~~1. to 3.~~ 2m. and (d). Any property seized but not forfeited shall be returned to its rightful owner. Any person claiming the right to possession of property seized may apply for its return to the circuit court for the county in which the property was seized. The court shall order such notice as it deems adequate to be given the district attorney and all persons who have or may have an interest in the property and shall hold a hearing to hear all claims to its true ownership. If the right to possession is proved to the court's satisfaction, it shall order the property returned if: