CHAPTER 940

CRIMES AGAINST LIFE AND BODILY SECURITY

LIFE

940.01 First-degree murder. (1) Whoever causes the death of another human being with intent to kill that person or another is guilty of a Class A felony.

(2) In this chapter "intent to kill" means the mental purpose to take the life of another human being.

History: 1977 c. 173.

Conviction of 1st degree murder upheld where, in the course of a robbery, defendant severely and repeatedly hit the victim with a heavy bottle. State v. Wells, 51 W (2d) 477, 187 NW (2d) 328.

Evidence sufficiently supported defendant's conviction of first-degree murder (party to a crime) under proof that the victim was murdered by another with a weapon and ammunition supplied by defendant, who prior thereto, knowing his accomplice was looking for the victim and intended to kill him, not only furnished the murder weapon and demonstrated its use, but supplied his confederate with gasoline money for a car into which defendant, under pretext, lured the victim, and after the murder, defendant caused the weapon to be thrown into a lake in an attempt to hide his involvement. Clark v. State, 62 W (2d) 194, 214 NW (2d) 450.

Evidence warranted the jury in reasonably concluding defendant possessed the requisite intent to kill, contrary to his claim of intoxication based on his prior ingestion of liquor, the record disclosing he later, accompanied by a friend, knocked at the door of the victim's dwelling, and after a short conversation between the two, lunged at the door, pulled it open and fired his gun point-blank at the victim's head, his sobriety being further made manifest by his verbal recognition of his culpable plight and the manner in which he immediately thereafter maneuvered his car when he drove away. State v. Nemoir, 62 W (2d) 206, 214 NW (2d) 297.

Defendant's denial of intent to kill is refuted by the record establishing that after beating his victim about the head with the butt of his gun, defendant almost fatally injured the victim by firing a shot into her abdomen at almost point-blank range. Fells v. State, 65 W (2d) 525, 223 NW (2d) 507.

Trial court omission to instruct on intoxication cannot be urged on appeal to invalidate defendant's 1st-degree murder conviction, absent any request for an instruction on that defense or objections to the instructions given. Lee v. State, 65 W (2d) 648, 223 NW (2d) 455.

Where a person discharges a weapon at a vital body part and death ensues as a natural and probable result, a rebuttable presumption arises that he intended to take a human life, the burden of rebutting which is upon the defendant to bring forth evidence raising a reasonable doubt as to his intention to take life or as to whether such taking was justifiable or excusable. Smith v. State, 69 W (2d) 297, 230 NW (2d) 858.

Person convicted under this section is eligible for probation. State v. Wilson, 77 W (2d) 15, 252 NW (2d) 64.

Conviction of 1st degree murder was upheld where defendant's confession was corroborated by independent evidence in the record, including the defendant's own testimony. Schultz v. State, 82 W (2d) 737, 264 NW (2d) 245.

Where jury was instructed that persons are presumed to intend probable consequences of acts and where defendant was precluded from offering psychiatric testimony as to inability to form intent required for first-degree murder, prosecution was unconstitutionally relieved of proving intent element of crime. Hughes v. Mathews, 576 F (2d) 1250 (1978).

Evidence of diminished capacity inadmissible to show lack of intent. 1976 WLR 623.

940.02 Second-degree murder. Whoever causes the death of another human being under either of the following circumstances is guilty of a Class B felony:

(1) By conduct imminently dangerous to another and evincing a depraved mind, regardless of human life; or

(2) As a natural and probable consequence of the commission of or attempt to commit a felony.

History: 1977 c. 173.

As to 2nd degree murder the reference is to conduct evincing a certain state of mind, not that the state of mind actually exists. Ameen v. State, 51 W (2d) 175, 186 NW (2d) 206.

See note to 940.01, citing State v. Wells, 51 W (2d) 477, 187 NW (2d) 328.

It is not correct that provocation may reduce a homicide to 2nd degree murder even though the provocation is not sufficient to reduce the offense to manslaughter. State v. Anderson, 51 W (2d) 557, 187 NW (2d) 335.

Trial court refusal to give defendant's requested definition of the depraved mind necessary for second-degree murder as defined by the supreme court in State v. Weso, 60 W (2d) 404, did not constitute an abuse of discretion where Weso neither changed the law with respect to this element of the crime nor held that the standard instruction thereon was either unclear or inadequate. Hughes v. State, 68 W (2d) 159, 227 NW (2d) 911.

Beating and kicking smaller, unconscious victim constitutes conduct imminently dangerous and evincing a depraved mind. Wangerin v. State, 73 W (2d) 427, 243 NW (2d) 448.

Where victim, known by defendant to be violent, attacked defendant with a knife and defendant shot victim 5 times, allegedly by accident, trial court did not err in instructing jury on lesser charge of second-degree murder on grounds that defendant did not intend victim's death. McAllister v. State, 74 W (2d) 246, 246 NW (2d) 511.

Sexual molestation of nine year old girl resulting in fatal traumatic shock constituted conduct presenting an apparent and conscious danger of producing death. Turner v. State, 76 W (2d) 1, 250 NW (2d) 706.

Where defendant was drag racing along street while intoxicated but apparently swerved in attempt to avoid hitting victim, the proof was insufficient in respect to conduct imminently dangerous to another. Wagner v. State, 76 W (2d) 30, 250 NW (2d) 331.

See note to 940.05, citing State v. Klimas, 94 W (2d) 288, 288 NW (2d) 157 (Ct. App. 1979).

Where defendant is found guilty of homicide occurring during commission of a felony he may be sentenced for both offenses although separate verdicts were not submitted. Patelski v. Cady, 313 F Supp. 1268.

940.04 Abortion. (1) Any person, other than the mother, who intentionally destroys the life of an unborn child may be fined not more than $5,000 or imprisoned not more than 3 years or both.

(2) Any person, other than the mother, who does either of the following may be imprisoned not more than 15 years:

(a) Intentionally destroys the life of an unborn quick child; or

(b) Causes the death of the mother by an act done with intent to destroy the life of an unborn child. It is unnecessary to prove that the fetus was alive when the act so causing the mother's death was committed.

(3) Any pregnant woman who intentionally destroys the life of her unborn child or who consents to such destruction by another may be fined not more than $200 or imprisoned not more than 6 months or both.

(4) Any pregnant woman who intentionally destroys the life of her unborn quick child or who consents to such destruction by another may be imprisoned not more than 2 years.

(5) This section does not apply to a therapeutic abortion which:

(a) Is performed by a physician; and

(b) Is necessary, or is advised by 2 other physicians as necessary, to save the life of the mother; and

(c) Unless an emergency prevents, is performed in a licensed maternity hospital.

(6) In this section "unborn child" means a human being from the time of conception until it is born alive.

Aborting child against father's wishes does not constitute intentional infliction of emotional distress. Przybyla v. Przybyla, 87 W (2d) 441, 275 NW (2d) 112 (Ct. App. 1978).

This section cited as similar to Texas statute which was held to violate the due process clause of the 14th amendment, which protects against state action the right to privacy, including a woman's qualified right to terminate her pregnancy. Roe v. Wade, 410 US 113.

State may prohibit first trimester abortions by nonphysicians. Connecticut v. Menillo, 423 US 9.

Viability of unborn child discussed. Colautti v. Franklin, 439 US 379 (1979).

Any law requiring parental consent for minor to obtain abortion must ensure that parent does not have absolute, and possibly arbitrary, veto. Bellotti v. Baird, 443 US 622 (1979).

See note to art. I, sec. 1, citing Babbitz v. McCann, 310 F Supp. 293.

Where U.S. supreme court decisions clearly made Wisconsin antiabortion statute unenforceable, issue in physician's action for injunctive relief against enforcement became mooted, and it no longer presented case or controversy over which court could have jurisdiction. Larkin v. McCann, 368 F Supp. 1352.

State regulation of abortion. 1970 WLR 933.

940.05 Manslaughter. Whoever causes the death of another human being under any of the following circumstances is guilty of a Class C felony:

(1) Without intent to kill and while in the heat of passion; or

(2) Unnecessarily, in the exercise of his privilege of self-defense or defense of others or the privilege to prevent or terminate the commission of a felony; or

(3) Because such person is coerced by threats made by someone other than his coconspirator and which cause him reasonably to believe that his act is the only means of preventing imminent death to himself or another; or

(4) Because the pressure of natural physical forces causes such person reasonably to believe that his act is the only means of preventing imminent public disaster or imminent death to himself or another.

History: 1977 c. 173.

Uniform instruction No. 1140 as to self-defense approved Mitchell v. State, 47 W (2d) 695, 177 NW (2d) 833.

Failure to negate the intentional nature of the killing or establish adequate provocation requires the refusal of a manslaughter instruction. State v. Lucynski, 48 W (2d) 232, 179 NW (2d) 889.

Where there was no evidence which would constitute either first or second degree murder a finding that defendant acted in the heat of passion will not sustain a conviction of manslaughter. Boissonneault v. State, 50 W (2d) 662, 184 NW (2d) 846.

A defendant is not entitled to submission of a manslaughter (self-defense) verdict when he testified that he did not intend to do the act which resulted in death. Day v. State, 55 W (2d) 756, 201 NW (2d) 42.

An instruction as to self-defense and one in regard to manslaughter are not mutually exclusive. Self-defense may be either a complete defense or a mitigation of murder. Ross v. State, 61 W (2d) 160, 211 NW (2d) 827.

Driveway incident took place 5 days prior to the shooting. Such anger would not constitute adequate provocation under (1). Marks v. State, 63 W (2d) 769, 218 NW (2d) 328.

Court declines to abandon the established objective test applied in manslaughter-heat of passion cases. Hayzes v. State, 64 W (2d) 189, 218 NW (2d) 717.

Instruction under (2) is proper only if, under some reasonable view, the evidence is sufficient to establish guilt of causing the death of another in the exercise of self-defense. Bedford v. State, 65 W (2d) 357, 222 NW (2d) 658.

Where defendant testified to being beaten continually by 2 officers after dropping gun and repeatedly asking officers to stop, trial court erred in refusing to instruct jury on possible "imperfect self-defense" of defendant in grabbing police revolver used in the beating and shooting both officers. State v. Mendoza, 80 W (2d) 122, 258 NW (2d) 260.

State of mind which distinguishes manslaughter from second-degree murder must necessarily be heat of passion required by (1), not depravity of mind evinced by conduct constituting second-degree murder. State v. Klimas, 94 W (2d) 288, 288 NW (2d) 157 (Ct. App. 1979).

940.06 Homicide by reckless conduct. **(1)** Whoever causes the death of another human being by reckless conduct is guilty of a Class C felony.

(2) Reckless conduct consists of an act which creates a situation of unreasonable risk and high probability of death or great bodily harm to another and which demonstrates a conscious disregard for the safety of another and a willingness to take known chances of perpetrating an injury. It is intended that this definition embraces all of the elements of what was heretofore known as gross negligence in the criminal law of Wisconsin.

History: 1977 c. 173.

When death results from illegal race on public highway, each driver directly commits homicide by reckless conduct, regardless of which automobile causes death. State v. McClose, 95 W (2d) 49, 289 NW (2d) 340 (Ct. App. 1980).

940.07 Homicide resulting from negligent control of vicious animal. Whoever knowing the vicious propensities of any animal intentionally allows it to go at large or keeps it without ordinary care, if such animal, while so at large or not confined, kills any human being who has taken all the precautions which the circumstances may permit to avoid such animal, is guilty of a Class C felony.

History: 1977 c. 173.

940.08 Homicide by negligent use of vehicle or weapon. **(1)** Whoever causes the death of another human being by a high degree of negligence in the operation or handling of a vehicle, firearm, airgun, knife or bow and arrow is guilty of a Class E felony.

(2) A high degree of negligence is conduct which demonstrates ordinary negligence to a high degree, consisting of an act which the person should realize creates a situation of unreasonable risk and high probability of death or great bodily harm to another.

History: 1977 c. 173.

High degree of negligence is determined by objective "reasonable person" test; subjective intent is not an element of the offense. Victim's contributory negligence is no defense. Hart v. State, 75 W (2d) 371, 249 NW (2d) 810.

940.09 Homicide by intoxicated user of vehicle or firearm. Whoever by the negligent operation or handling of a vehicle, firearm or airgun and while under the influence of an intoxicant causes the death of another is guilty of a Class D felony. No person may be convicted under this section except upon proof of causal negligence in addition to such operation or handling while under the influence of an intoxicant.

History: 1977 c. 173.

See note to Art. I, sec. 11, citing State v. Jenkins, 80 W (2d) 426, 259 NW (2d) 109.

See note to Art. I, sec. 11, citing State v. Bentley, 92 W (2d) 860, 286 NW (2d) 153 (Ct. App. 1979).

940.12 Assisting suicide. Whoever with intent that another take his or her own life assists such person to commit suicide is guilty of a Class D felony.

History: 1977 c. 173.

BODILY SECURITY

940.19 Battery; aggravated battery. **(1)** Whoever causes bodily harm to another by an act done with intent to cause bodily harm to that person or another without the consent of the person so harmed is guilty of a Class A misdemeanor.

(1m) Whoever causes great bodily harm to another by an act done with intent to cause bodily harm to that person or another without the consent of the person so harmed is guilty of a Class E felony.

(2) Whoever causes great bodily harm to another by an act done with intent to cause great bodily harm to that person or another with or without the consent of the person so harmed is guilty of a Class C felony.

(3) Whoever intentionally causes bodily harm to another by conduct which creates a high probability of great bodily harm is guilty of a Class E felony. A rebuttable presumption of conduct creating a high probability of great bodily harm arises:

(a) If the person harmed is 62 years of age or older; or

(b) If the person harmed has a physical disability, whether congenital or acquired by accident, injury or disease, which is discernible by an ordinary person viewing the physically disabled person.

History: 1977 c. 173; 1979 c. 111, 113.

See note to 939.22, citing La Barge v. State, 74 W (2d) 327, 246 NW (2d) 794.

Under facts of aggravated battery case, trial court erred both in finding "great bodily harm" as a matter of law and in refusing to instruct jury in lesser included offense of battery. Flores v. State, 76 W (2d) 50, 250 NW (2d) 720.

940.20 Battery: special circumstances. **(1)** BATTERY BY PRISONERS. Any prisoner confined to a state prison or other state, county or municipal detention facility who intentionally causes bodily harm to an officer, employe, visitor or another inmate of such prison or institution, without his or her consent, is guilty of a Class D felony.

(2) BATTERY TO LAW ENFORCEMENT OFFICERS AND FIRE FIGHTERS. Whoever intentionally causes bodily harm to a law enforcement officer or fire fighter, as those terms are defined in s. 102.475 (8) (a) and (c), acting in an official capacity and the person knows or has reason to know that the victim is a law enforcement officer or fire fighter, by an act done

without the consent of the person so injured, is guilty of a Class D felony.

(3) BATTERY TO WITNESSES AND JURORS. Whoever intentionally causes bodily harm to a person who he or she knows or has reason to know is or was a witness as defined in s. 943.30 (3) (b) or a grand or petit juror, and by reason of the person having attended or testified as a witness or by reason of any verdict or indictment assented to by the person, without the consent of the person injured, is guilty of a Class D felony.

(4) BATTERY TO PUBLIC OFFICERS. Whoever intentionally causes bodily harm to a public officer in order to influence the action of such officer or as a result of any action taken within an official capacity, without the consent of the person injured, is guilty of a Class E felony.

History: 1977 c. 173; 1979 c. 30, 113, 221.

Resisting or obstructing an officer (946.41) is not a lesser-included crime of battery to a peace officer. State v. Zdiarstek, 53 W (2d) 776, 193 NW (2d) 833.

Battery to prospective witness is prohibited by 940.206, 1975 stats. [now 940.20 (3)]. McLeod v. State, 85 W (2d) 787, 271 NW (2d) 157 (Ct. App. 1978).

940.201 Abuse of children. Whoever tortures a child or subjects a child to cruel maltreatment, including, but not limited, to severe bruising, lacerations, fractured bones, burns, internal injuries or any injury constituting great bodily harm under s. 939.22 (14), is guilty of a Class E felony. In this section, "child" means a person under 16 years of age.

History: 1977 c. 173, 355.

Section is not unconstitutionally vague or overly broad. State v. Killory, 73 W (2d) 400, 243 NW (2d) 475.

940.203 Sexual exploitation of children. **(1)** No person may knowingly employ, use, persuade, induce, entice or coerce any child to engage in sexually explicit conduct for the purpose of photographing, filming, videotaping, recording the sounds of or displaying in any way the conduct.

(2) No person may photograph, film, videotape, record the sounds of or display in any way a child engaged in sexually explicit conduct.

(3) No parent, legal guardian or other person exercising temporary or permanent control of a child may knowingly permit the child to engage in sexually explicit conduct which is filmed, photographed, videotaped, recorded for sound or displayed in any way.

(4) No person may knowingly produce, perform in, profit from, promote, import, reproduce, advertise, sell, distribute, or possess with intent to sell or distribute, any undeveloped film, photographic negative, photograph, motion picture, videotape, sound recording or other reproduction of a child engaging in sexually explicit conduct.

(5) Whoever violates this section is guilty of a Class C felony.

(6) In this section:

(a) "Child" means any person under the age of 18 years.

(b) "Sexually explicit conduct" means actual or simulated:

1. Sexual intercourse, including genital-genital, oral-genital, anal-genital or oral-anal, whether between persons of the same or opposite sex;

2. Bestiality;

3. Masturbation;

4. Sexual sadism or sexual masochistic abuse, including but not limited to, flagellation, torture or bondage; or

5. Lewd exhibition of the genitals or pubic area of any person.

History: 1977 c. 356.

940.21 Mayhem. Whoever, with intent to disable or disfigure another, cuts or mutilates the tongue, eye, ear, nose, lip, limb or other bodily member of another, is guilty of a Class B felony.

History: 1977 c. 173.

Injury by conduct regardless of life (940.23) and endangering safety by conduct regardless of life (941.30) can be lesser included offenses of mayhem. Kirby v. State, 86 W (2d) 292, 272 NW (2d) 113 (Ct. App. 1978).

940.225 Sexual assault. **(1)** FIRST DEGREE SEXUAL ASSAULT. Whoever does any of the following is guilty of a Class B felony:

(a) Has sexual contact or sexual intercourse with another person without consent of that person and causes pregnancy or great bodily harm to that person.

(b) Has sexual contact or sexual intercourse with another person without consent of that person by use or threat of use of a dangerous weapon or any article used or fashioned in a manner to lead the victim reasonably to believe it to be a dangerous weapon.

(c) Is aided or abetted by one or more other persons and has sexual contact or sexual intercourse with another person without consent of that person by use or threat of force or violence.

(d) Has sexual contact or sexual intercourse with a person 12 years of age or younger.

(2) SECOND DEGREE SEXUAL ASSAULT. Whoever does any of the following is guilty of a Class C felony:

(a) Has sexual contact or sexual intercourse with another person without consent of that person by use or threat of force or violence.

(b) Has sexual contact or sexual intercourse with another person without consent of that person and causes injury, illness, disease or impairment of a sexual or reproductive organ, or

mental anguish requiring psychiatric care for the victim.

(c) Has sexual contact or sexual intercourse with a person who suffers from a mental illness or deficiency which renders that person temporarily or permanently incapable of appraising the person's conduct, and the defendant knows of such condition.

(d) Has sexual contact or sexual intercourse with a person who the defendant knows is unconscious.

(e) Has sexual contact or sexual intercourse with a person who is over the age of 12 years and under the age of 18 years without consent of that person, as consent is defined in sub. (4).

(3) THIRD DEGREE SEXUAL ASSAULT. Whoever has sexual intercourse with a person without the consent of that person is guilty of a Class D felony.

(3m) FOURTH DEGREE SEXUAL ASSAULT. Whoever has sexual contact with a person without the consent of that person is guilty of a Class A misdemeanor.

(4) CONSENT. "Consent", as used in this section, means words or overt actions by a person who is competent to give informed consent indicating a freely given agreement to have sexual intercourse or sexual contact. A person under 15 years of age is incapable of consent as a matter of law. The following persons are presumed incapable of consent but the presumption may be rebutted by competent evidence, subject to the provisions of s. 972.11 (2):

(a) A person who is 15 to 17 years of age.

(b) A person suffering from a mental illness or defect which impairs capacity to appraise personal conduct.

(c) A person who is unconscious or for any other reason is physically unable to communicate unwillingness to an act.

(5) DEFINITIONS. In this section:

(a) "Sexual contact" means any intentional touching of the intimate parts, clothed or unclothed, of a person to the intimate parts, clothed or unclothed, of another, or the intentional touching by hand, mouth or object of the intimate parts, clothed or unclothed, of another, if that intentional touching can reasonably be construed as being for the purpose of sexual arousal or gratification or if the touching contains the elements of actual or attempted battery under s. 940.19 (1).

(b) "Sexual intercourse" includes the meaning assigned under s. 939.22 (36) as well as cunnilingus, fellatio, anal intercourse or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal opening of another, but emission of semen is not required.

(6) NO PROSECUTION OF SPOUSE. No person may be prosecuted under this section if the complainant is his or her legal spouse, unless the parties are living apart and one of them has filed for an annulment, legal separation or divorce.

History: 1975 c. 184, 421; 1977 c. 173; 1979 c. 24, 25, 175, 221.

Failure to resist is not consent under (4). State v. Clark, 87 W (2d) 804, 275 NW (2d) 715 (1979).

Multiplicitous rape charges discussed. Harrell v. State, 88 W (2d) 546, 277 NW (2d) 462 (1979).

Injury by conduct regardless of life is not a lesser-included crime of first-degree sexual assault. Hagenkord v. State, 94 W (2d) 250, 287 NW (2d) 834 (Ct. App. 1979).

Conviction on 2 counts of rape, where offenses occurred 25 minutes apart in same location, did not violate double jeopardy provisions of U.S. Constitution. Harrell v. Israel, 478 F Supp. 752 (1979).

Conviction for attempted first degree sexual assault based on circumstantial evidence did not deny due process. Upshaw v. Powell, 478 F Supp. 1264 (1979).

940.23 Injury by conduct regardless of life. Whoever causes great bodily harm to another human being by conduct imminently dangerous to another and evincing a depraved mind, regardless of human life, is guilty of a Class C felony.

History: 1977 c. 173.

The crime of injury by conduct regardless of life can be a lesser included offense under an information charging first degree murder. Martin v. State, 57 W (2d) 499, 204 NW (2d) 499.

See note to 940.21, citing Kirby v. State, 86 W (2d) 292, 272 NW (2d) 113 (Ct. App. 1978).

See note to 904.04, citing Hammen v. State, 87 W (2d) 791, 275 NW (2d) 709 (1979).

See note to 940.225, citing Hagenkord v. State, 94 W (2d) 250, 287 NW (2d) 834 (Ct. App. 1979).

940.24 Injury by negligent use of weapon. **(1)** Whoever causes bodily harm to another by a high degree of negligence in the operation or handling of a firearm, airgun, knife or bow and arrow, is guilty of a Class E felony.

(2) A high degree of negligence is conduct which demonstrates ordinary negligence to a high degree, consisting of an act which the person should realize creates a situation of unreasonable risk and high probability of death or great bodily harm to another.

History: 1977 c. 173.

940.25 Injury by intoxicated use of a vehicle. Whoever causes great bodily harm to another human being by the negligent operation of a vehicle while under the influence of an intoxicant is guilty of a Class E felony.

History: 1977 c. 193, 272.

940.28 Abandonment of young child. Whoever, with intent to abandon the child, leaves any child under the age of 6 years in a place where the child may suffer because of neglect is guilty of a Class D felony.

History: 1977 c. 173.

940.29 Abuse of inmates of institutions. Any person in charge of or employed in any of the following institutions who abuses, neglects or ill-treats any person confined in or an inmate of any such institution or who knowingly permits another person to do so is guilty of a Class E felony:

(1) A penal or correctional institution or other place of confinement; or

(2) A home for the aged; or

(3) A hospital for the mentally ill; or

(4) A school or institution for the mentally deficient; or

(5) A state school for the blind or deaf; or

(6) An institution operated by a licensed child welfare agency or by a public agency for the care of neglected, dependent, or delinquent children; or

(7) A nursing home as defined in s. 50.01 (3).

(8) An adult group foster home under s. 146.305 (2).

(9) A residential care institution under s. 146.32 (2).

History: 1975 c. 119; 1975 c. 413 s. 18; 1977 c. 173; 1979 c. 124.

940.30 False imprisonment. Whoever intentionally confines or restrains another without the person's consent and with knowledge that he or she has no lawful authority to do so is guilty of a Class E felony.

History: 1977 c. 173.

False imprisonment is not a lesser included offense of the crime of kidnapping. Geitner v. State, 59 W (2d) 128, 207 NW (2d) 837.

940.305 Taking hostages. Whoever by force or threat of imminent force seizes, confines or restrains a person without the person's consent and with the intent to use the person as a hostage in order to influence a person to perform or not to perform some action demanded by the actor is guilty of a Class A felony; but if each person who is held as a hostage is released without bodily harm prior to the time of the defendant's arrest, the defendant is guilty of a Class B felony.

History: 1979 c. 118.

940.31 Kidnapping. (1) Whoever does any of the following is guilty of a Class B felony:

(a) By force or threat of imminent force carries another from one place to another without his consent and with intent to cause him to be secretly confined or imprisoned or to be carried out of this state or to be held to service against his will; or

(b) By force or threat of imminent force seizes or confines another without his consent and with intent to cause him to be secretly confined or imprisoned or to be carried out of this state or to be held to service against his will; or

(c) By deceit induces another to go from one place to another with intent to cause him to be secretly confined or imprisoned or to be carried out of this state or to be held to service against his will.

(2) Whoever violates sub. (1) with intent to cause another to transfer property in order to obtain the release of the victim is guilty of a Class A felony; but if the victim is released without permanent physical injury prior to the time the first witness is sworn at the trial the defendant is guilty of a Class B felony.

History: 1977 c. 173.

940.32 Abduction. Whoever, for any unlawful or immoral purpose, does any of the following is guilty of a Class C felony:

(1) By force or threat of imminent force, takes any child under 18 years of age from his home or the custody of his parent or guardian; or

(2) Entices any child under 18 years of age from his home or the custody of his parent or guardian; or

(3) By force or threat of imminent force, detains any child under 18 years of age who is away from his home or the custody of his parent or guardian.

History: 1977 c. 173.

Cross Reference: See also 946.715 regarding interference by parent with parental rights of other parent.

940.33 Violation of certain restraining orders or injunctions. Whoever knowingly violates an order or injunction issued under s. 813.025 (2) is guilty of a Class C misdemeanor.

History: 1979 c. 111.